

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 640

Short Title: Fail Comm. Service/Revoke License.

(Public)

Sponsors: Representatives Wilkins; Baddour, Bowie, Brawley, Brown, Buchanan, Clary, Decker, Dockham, Hackney, Hall, Hiatt, Hightower, Hurley, Justus, Kiser, Mitchell, Morris, Mosley, Redwine, Sutton, Thompson, Warner, Wright, and Yongue.

Referred to: Judiciary II.

March 27, 1997

A BILL TO BE ENTITLED

1 AN ACT TO MANDATE THE REVOCATION OF A PERSON'S DRIVERS LICENSE
2 OR LIMITED DRIVING PRIVILEGE FOR WILLFUL FAILURE TO COMPLETE
3 COURT-ORDERED COMMUNITY SERVICE.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 20-179.4 reads as rewritten:

7 "**§ 20-179.4. Community service alternative punishment; responsibilities of the**
8 **Department of Crime Control and Public Safety; fee.**

9 (a) The Department of Crime Control and Public Safety ~~must~~shall conduct a
10 community service alternative punishment program for persons sentenced under G.S. 20-
11 179(i), (j) or (k).

12 (b) The Secretary of Crime Control and Public Safety ~~must~~shall assign at least one
13 coordinator to each district court district as defined in G.S. 7A-133 to assure and report to
14 the court the person's compliance with the community service sentence. The appointment
15 of each coordinator shall be made in consultation with and is subject to the approval of
16 the chief district court judge in the district to which the coordinator is assigned. Each
17 county must provide office space in the courthouse or other convenient place, necessary
18 equipment, and secretarial service for the use of each coordinator assigned to that county.

1 (c) A fee of one hundred dollars (\$100.00) ~~must~~shall be paid by all persons
2 serving a community service sentence. That fee ~~must~~shall be paid to the clerk of court in
3 the county in which the person is convicted. The fee ~~must~~shall be paid in full within two
4 weeks unless the court, upon a showing of hardship by the person, allows additional time
5 to pay the fee. The person may not be required to pay the fee before beginning the
6 community service unless the court specifically orders the person to do so.

7 (d) Fees collected under this section ~~must~~shall be deposited in the general fund.

8 (e) The coordinator ~~must~~shall report to the court in which the community service
9 was ordered a significant violation of the terms of the probation judgment related to
10 community service. ~~In such cases, the~~The court ~~must~~shall then conduct a hearing to
11 determine if there is a willful failure to comply. If the court determines there is a willful
12 failure to pay the prescribed fee or to complete the work as ordered by the coordinator
13 within the applicable time limits, the court ~~must~~shall revoke any limited driving privilege
14 issued in the impaired driving ~~ease, case~~ until the community service requirement has
15 been met and in addition may take any further action authorized by Article 82 of General
16 Statutes Chapter 15A for violation of a condition of probation."

17 Section 2. G.S. 143B-475.1 reads as rewritten:

18 "**§ 143B-475.1. Deferred prosecution, community service restitution, and volunteer**
19 **program.**

20 (a) The Department of Crime Control and Public Safety may conduct a deferred
21 prosecution, community service restitution, and volunteer program for youthful and adult
22 offenders. The Secretary of Crime Control and Public Safety may assign one or more
23 coordinators to each district court district as defined in G.S. 7A-133 to assure and report
24 to the Court the offender's compliance with the requirements of the program. ~~The~~
25 ~~appointment of each coordinator shall be made in consultation with and is subject to the approval~~
26 ~~of the chief district court judge in the district to which the coordinator is assigned.~~ Each county
27 ~~must~~shall provide office space in the courthouse or other convenient place, for the use of
28 each coordinator assigned to that county.

29 (b) Unless a fee is assessed pursuant to G.S. 20-179.4 or G.S. 15A-1371(i), a fee
30 of one hundred dollars (\$100.00) shall be paid by all persons who participate in the
31 program or receive services from the program staff. If the person is convicted in a court
32 in this State, the fee ~~must~~shall be paid to the clerk of court in the county in which he is
33 convicted. If the person is participating in the program as a result of a deferred
34 prosecution or similar program, the fee ~~must~~shall be paid to the clerk of court in the
35 county in which the agreement is filed. Persons participating in the program for any
36 other reason ~~must~~shall pay the fee to the clerk of court in the county in which the
37 services are provided by the program staff. The fee ~~must~~shall be paid in full within two
38 weeks from the date the person is ordered to perform the community service, and before
39 he begins his community service, except that:

40 (1) A person convicted in a court in this State may be given an extension of
41 time or allowed to begin the community service before he pays the fee
42 by the court in which he is convicted; or

1 (2) A person performing community service pursuant to a deferred
2 prosecution or similar agreement may be given an extension of time or
3 allowed to begin his community service before the fee is paid by the
4 official or agency representing the State in the agreement.

5 Fees collected pursuant to this subsection shall be deposited in the General Fund.

6 (c) The Secretary ~~is authorized to~~ may designate the same person to serve as a
7 coordinator under this section and under G.S. 20-179.4.

8 (d) A person is not liable for damages for any injury or loss sustained by an
9 individual performing community or reparation service under this section unless the
10 injury is caused by the person's gross negligence or intentional wrongdoing. As used in
11 this subsection, 'person' includes any governmental unit or agency, nonprofit corporation,
12 or other nonprofit agency that is supervising the individual, or for whom the individual is
13 performing community service work, as well as any person employed by the agency or
14 corporation while acting in the scope and course of the person's employment. This
15 subsection does not affect the immunity from civil liability in tort available to local
16 governmental units or agencies. Notice of the provisions of this subsection ~~must~~ shall be
17 furnished to the individual at the time of assignment of community service work by the
18 community service coordinator.

19 (e) In order to maximize the efficiency and effectiveness of the community service
20 program, (i) beginning September 1, 1995, community service program districts shall
21 have the same boundaries as the district court districts established in G.S. 7A-133 and (ii)
22 beginning with persons hired on or after September 1, 1995, all community service
23 program district supervisors employed by the Department of Crime Control and Public
24 Safety to supervise each of the community service program districts shall reside in the
25 district in which the supervisor works.

26 (f) The Community Service Staff shall report to the court in which the community
27 service was ordered, a significant violation of the terms of the probation, or deferred
28 prosecution, related to community service. The community service staff shall give notice
29 of the hearing to determine if there is a willful failure to comply to the person who was
30 ordered to perform the community service. This notice shall be given by either personal
31 delivery to the person to be notified or by depositing the notice in the United States Mail
32 in an envelope with postage prepaid, addressed to the person at the address shown on the
33 records of the community service staff. The notice shall be mailed at least ten days prior
34 to any hearing and shall state the basis of the alleged willful failure to comply. The court
35 shall then conduct a hearing, even if the person ordered to perform the community
36 service fails to appear, to determine if there is a willful failure to complete the work as
37 ordered by the community service staff within the applicable time limits. If the court
38 determines there is a willful failure to comply, it shall revoke any drivers license issued to
39 the person and notify the Division of Motor vehicles to revoke any drivers license issued
40 to the person until the community service requirement has been met. In addition, if the
41 person is present, the court may take any further action authorized by Article 82 of
42 Chapter 15A of the General Statutes for violation of a condition of probation."

43 Section 3. G.S. 20-17(b) reads as rewritten:

1 "(b) On the basis of information provided by the child support enforcement agency
2 or the clerk of court, the Division ~~shall~~ shall:

3 (1) ~~ensure~~ Ensure that no license or right to operate a motor vehicle under
4 this Chapter is renewed or issued to an obligor who is delinquent in
5 making child support payments when a court of record has issued a
6 revocation order pursuant to G.S. 110-142.2 or G.S. 50-13.12. The
7 obligor shall not be entitled to any other hearing before the Division as a
8 result of the revocation of his license pursuant to G.S. 110-142.2 or ~~G.S.~~
9 ~~50-13.12.~~ G.S. 50-13.12; or

10 (2) Revoke the drivers license of any person who has willfully failed to
11 complete court-ordered community service and a court has issued a
12 revocation order. This revocation shall continue until the Division
13 receives certification from the clerk of court that the person has
14 completed the court-ordered community service. No person whose
15 drivers license is revoked pursuant to this subdivision shall be entitled
16 to any other hearing before the Division as a result of this revocation."

17 Section 4. This act becomes effective October 1, 1997, and applies to any
18 person notified of a hearing to determine if the person has willfully failed to perform
19 community service on or after that date.