

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2001**

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**HOUSE BILL 1622**

Short Title: Amend Special Probation Definition.

(Public)

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Sponsors: Representative Haire.

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Referred to: Rules, Calendar, and Operations of the House.

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June 12, 2002

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE DEFINITION OF SPECIAL PROBATION TO REMOVE  
2 THE SIX-MONTH LIMITATION ON THE PERIOD OF IMPRISONMENT.  
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4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 15A-1344(e) reads as rewritten:

6 "(e) Special Probation in Response to Violation. – When a defendant has violated  
7 a condition of probation, the court may modify his probation to place him on special  
8 probation as provided in this subsection. In placing him on special probation, the court  
9 may continue or modify the conditions of his probation and in addition require that he  
10 submit to a period or periods of imprisonment, either continuous or noncontinuous, at  
11 whatever time or intervals within the period of probation the court determines. In  
12 addition to any other conditions of probation which the court may impose, the court  
13 shall impose, when imposing a period or periods of imprisonment as a condition of  
14 special probation, the condition that the defendant obey the Rules and Regulations of  
15 the Department of Correction governing conduct of inmates, and this condition shall  
16 apply to the defendant whether or not the court imposes it as a part of the written order.  
17 If imprisonment is for continuous periods, the confinement may be in either the custody  
18 of the Department of Correction or a local confinement facility. Noncontinuous periods  
19 of imprisonment under special probation may only be served in a designated local  
20 confinement or treatment facility. Except for probationary sentences for impaired  
21 driving under G.S. 20-138.1, the total of all periods of confinement imposed as an  
22 incident of special probation, but not including an activated suspended sentence, may  
23 not exceed ~~six months or~~ one fourth the maximum sentence of imprisonment imposed  
24 for the ~~offense, whichever is less.~~ offense. For probationary sentences for impaired  
25 driving under G.S. 20-138.1, the total of all periods of confinement imposed as an  
26 incident of special probation, but not including an activated suspended sentence, shall  
27 not exceed one-fourth the maximum penalty allowed by law. No confinement other than  
28 an activated suspended sentence may be required beyond the period of probation or  
29 beyond two years of the time the special probation is imposed, whichever comes first."

1           **SECTION 2.** G.S. 15A-1351(a) reads as rewritten:

2           "(a) The judge may sentence to special probation a defendant convicted of a  
3 criminal offense other than impaired driving under G.S. 20-138.1, if based on the  
4 defendant's prior record or conviction level as found pursuant to Article 81B of this  
5 Chapter, an intermediate punishment is authorized for the class of offense of which the  
6 defendant has been convicted. A defendant convicted of impaired driving under G.S.  
7 20-138.1 may also be sentenced to special probation. Under a sentence of special  
8 probation, the court may suspend the term of imprisonment and place the defendant on  
9 probation as provided in Article 82, Probation, and in addition require that the defendant  
10 submit to a period or periods of imprisonment in the custody of the Department of  
11 Correction or a designated local confinement or treatment facility at whatever time or  
12 intervals within the period of probation, consecutive or nonconsecutive, the court  
13 determines. In addition to any other conditions of probation which the court may  
14 impose, the court shall impose, when imposing a period or periods of imprisonment as a  
15 condition of special probation, the condition that the defendant obey the Rules and  
16 Regulations of the Department of Correction governing conduct of inmates, and this  
17 condition shall apply to the defendant whether or not the court imposes it as a part of the  
18 written order. If imprisonment is for continuous periods, the confinement may be in the  
19 custody of either the Department of Correction or a local confinement facility.  
20 Noncontinuous periods of imprisonment under special probation may only be served in  
21 a designated local confinement or treatment facility. Except for probationary sentences  
22 of impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed  
23 as an incident of special probation, but not including an activated suspended sentence,  
24 may not exceed ~~six months or~~ one fourth the maximum sentence of imprisonment  
25 imposed for the offense, ~~whichever is less,~~ and no confinement other than an activated  
26 suspended sentence may be required beyond two years of conviction. For probationary  
27 sentences for impaired driving under G.S. 20-138.1, the total of all periods of  
28 confinement imposed as an incident of special probation, but not including an activated  
29 suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law.  
30 In imposing a sentence of special probation, the judge may credit any time spent  
31 committed or confined, as a result of the charge, to either the suspended sentence or to  
32 the imprisonment required for special probation. The original period of probation,  
33 including the period of imprisonment required for special probation, shall be as  
34 specified in G.S. 15A-1343.2(d), but may not exceed a maximum of five years, except  
35 as provided by G.S. 15A-1342(a). The court may revoke, modify, or terminate special  
36 probation as otherwise provided for probationary sentences."

37           **SECTION 3.** This act becomes effective December 1, 2002, and applies to  
38 offenses committed on or after that date.