



HOUSE BILL 615: Probation Violation Court Costs

2015-2016 General Assembly

Committee:	House Judiciary I, if favorable, Finance	Date:	May 12, 2015
Introduced by:	Rep. McNeill	Prepared by:	R. Erika Churchill
Analysis of:	PCS to First Edition H615-CSSTf-47		Committee Counsel

SUMMARY: *The proposed committee substitute for House Bill 615 would establish a new \$50 court cost fee to be charged of each probation violator when a court hearing is held and that probationer is found in violation of probation.*

CURRENT LAW: A defendant sentenced to probation is subject to conditions that he or she must follow as part of a sentence following a conviction of a criminal act. A willful failure to comply with those conditions is considered a violation of probation. The courts may respond to a violation of probation, ranging from reinstating probation to revoking probation and activating the defendant's suspended sentence. But before the court can take action, a probationer is entitled to notice and a hearing at which the court will determine whether a violation occurred.

The hearing on probation violation is not a criminal prosecution, nor a formal trial. However, certain procedural requirements apply as a matter of statute and constitutional due process. At the hearing, evidence against the probationer must be disclosed to him or her, and the probationer may appear, speak, and present relevant information. The defendant is entitled to a written statement from the court as to the evidence relied on and reasons for revoking probation.

To activate a suspended sentence for failure to comply with a probation condition, the State must present evidence sufficient to *reasonably satisfy* the judge that the defendant has willfully violated a valid condition of probation or has violated a condition without lawful excuse. A defendant does not plead "guilty" or "not guilty" to a probation violation; rather, he or she admits or denies the violation.

BILL ANALYSIS: The PCS would establish a new court cost to be charged against a probationer whenever a hearing is held pursuant to G.S. 15A-1344 or G.S. 15A-1345 and the probationer is found in violation of probation. No more than one \$50.00 fee may be assessed for the same probation violation.

The monies collected as a result of the court costs are to be remitted to the State Treasurer for support of the General Court of Justice.

EFFECTIVE DATE: December 1, 2015, and applies to probation violations occurring on or after that date.

James M. Markham, with the UNC School of Government and author of the May 2013 Administration of Justice Bulletin, substantially contributed to this summary.

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