



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 369: Community Corrections and Probations.

2017-2018 General Assembly

Committee:	House Judiciary III	Date:	April 11, 2017
Introduced by:	Rep. McNeill	Prepared by:	Susan Sitze
Analysis of:	PCS to First Edition H369-CSSA-9		Staff Attorney

OVERVIEW: *The proposed committee substitute (PCS) for House Bill 369 would make various changes to probation conditions and the powers of probation officers as follows:*

- *Provide the power of peace officers on prison property and when aiding law enforcement at the request of law enforcement.*
- *Require probationers to submit to a curfew set by the probation officer.*
- *Require probationers, post-release supervisees, and parolees to submit to warrantless and suspicionless searches of their person, property, place of residence, vehicle, and personal effects.*
- *Require probationers, post-release supervisees, and parolees to submit to warrantless searches of their cell phone, computer, or other electronic device, for purposes reasonably related to the probation supervision.*
- *Amend delegated authority to allow probation officers to require a sex offender assessment or mental health assessment and compliance with recommended treatment.*
- *Authorize delegated authority for probationers on conditional discharge or a deferred prosecution, and for persons sentenced pursuant to G.S. 20-179.*

BILL ANALYSIS:

Section 1 of the PCS would grant probation officers the following additional authority:

- The authority of peace officers on prison property for the following purposes:
 - Protecting life and property.
 - Transferring prisoners from place to place
 - Apprehending, arresting, and returning escaped prisoners.
- The authority to assist law enforcement officers in effecting arrests and preventing escapes when requested to do so by the law enforcement officer or when, in the judgment of the probation officer, assistance is necessary and the same authority as the law enforcement officer to make an arrest or prevent escape.

Section 2 of the PCS would amend the statutory conditions of probation as follows:

Karen Cochran-Brown
Director



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Division
919-733-2578

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- To allow the court to require a person on probation for a community or intermediate punishment to submit to a curfew determined by the probation officer and to have that monitored electronically.
- To modify the warrantless search provision as follows:
 - Remove the "at reasonable times" requirement.
 - Provide that searches can be warrantless and suspicionless.
 - Provide searches can be conducted by a probation officer, or a law enforcement officer assisting a probation officer.
 - Provide searches can be of the probationer's person, property, place of residence, vehicle, and personal effects (previously person, vehicle, and premises).
 - Remove the requirement that the search be for "purposes directly related to the probation supervision".
 - Provide that searches of the probationer's cell phone, computer, or other electronic device may be warrantless (but not suspicionless) and must be for purposes reasonably related to the probation supervision.

Sections 3 and 4 of the PCS would make the same modifications contained in Section 2 of the PCS to the warrantless search provisions applicable to persons on post-release supervision and parole.

Section 5 of the PCS would modify the definition of electronic monitoring.

Section 6 of the PCS would amend the delegated authority of probation officers to allow them to require a probationer to obtain a specific sex offender assessment or a mental health assessment and follow all recommended treatment of either assessment. It would further amend delegated authority to allow the authority to be exercised when a probationer violates any condition of probation, instead of only conditions imposed by the court.

This section would also grant delegated authority to probation officers for probationers on probation under a conditional discharge or a deferred prosecution agreement.

Section 7 of the PCS would grant delegated authority to probation officers for probationers sentenced pursuant to G.S. 20-179, which includes persons sentenced for the following offenses:

- G.S. 20-138.1 (Impaired driving).
- G.S. 20-138.2 (Impaired driving in a commercial vehicle).
- A second or subsequent offense of G.S. 20-138.2A (Operating a commercial vehicle after consuming alcohol)
- A second or subsequent offense of G.S. 20-138.2B (Operating a school bus, school activity bus, child care vehicle, ambulance, other EMS vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol).

EFFECTIVE DATE: Sections 2, 3, 4, 6, and 7 of this act would become effective December 1, 2017, and apply to offenses committed on or after that date. The remainder of this act would be effective when it becomes law.