DEFERRED PROSECUTIONS AND CONDITIONAL DISCHARGES

In North Carolina, there are three mechanisms through which a defendant can be placed on probation: 1) conviction of a crime; 2) deferred prosecution; and 3) conditional discharge. The latter two allow a defendant the opportunity to avoid a conviction upon compliance with the terms and conditions of the discharge or deferral.

There are two major types of Deferred Prosecutions — formal and informal. Informal is almost always the better option and provides the opportunity for more tailoring and choice.

The General Statutes contain multiple species of Conditional Discharges, but the differences between them are generally superficial.

The key difference between deferred prosecutions and conditional discharges is that the defendant cannot enter a guilty plea when he is entering a deferred prosecution, but he must enter a guilty plea to obtain a conditional discharge. For this reason, deferred prosecution is almost always going to be more advantageous for your client.

I. DEFERRED PROSECUTIONS

A. Informal deferred prosecutions

- These are anything you can agree to. Get it memorialized. It is helpful to have client acknowledge consent and understanding of the agreement. Have the client sign the memo of agreement or at least something for your file to show that they were informed and consented to the terms.
• Authority- Inherent prosecutorial power and discretion. Article IV, Section 18 of the North Carolina Constitution.

• No time limits; no eligibility requirements other than what State will agree to.

• Cannot be supervised by Community Corrections per State v. Gravette, 327 N.C. 114 (1990). An informal deferred cannot require supervised probation.

• Can be light to heavy- e.g.- pay restitution, stay away, complete driving school, get license, get drug counseling, complete anger management, obtain psychological or psychiatric evaluation or therapy, obtain in-patient or out-patient treatment, complete a parenting class, complete gun safety class, civics class or alcohol sales class, compose an apology letter or essay, demonstrate good behavior, perform community service.

• Completing these steps or others before court is a benefit in negotiation and sometimes disposition. Often by complying with whatever conditions may be sought in a judgment ahead of time, one can influence the DA or prosecuting witness to consent to an informal disposition.

• May include consent to Chapter 50B, 50C, or other restraining order.

• No new crimes is a typical condition- Consider trying to limit this common term to a specific issue or type of crime- e.g. no new assault charges, no new controlled substance/Chapter 90 violations, no new alcohol/Chapter 18B violations, no new domestic violence offenses, etc. Also consider attempting to limit the condition of “No new crimes” to no new convictions. The DA may let you draft the agreement. Be careful not to be misleading, but thinking about the language you use and attempting to get the most helpful phrasing is ok. A similar concern arises with admissions in this context.

• Be specific with the terms and explain them clearly to your client. Inevitably, clients will have performed their non-profit community
service at their uncle’s auto repair shop, their aunt’s day-care business or another for-profit businesses. Online community service, driving schools, and even drug treatment are things that exist, for which clients will often have to pay a fee. Some districts will accept online work for certain things, or it may be an acceptable compromise in a hardship case. However, many prosecutors will not accept online work, at least without prior authorization. Make it clear to the State and your client when, where, and how the step at issue will be done.

- **Be clear on what type of documentation will be required.** Clients may show up with proof of the community service on a balled-up piece of notebook paper with chicken-scratch all over it and no contact information. Documentation of completion of a required step should typically be typed and have contact information for verification purposes. If the client is required to type a letter or essay, specify the length and acceptable format.

- **What happens if it becomes impossible to comply? What if compliance is close but not technically complete?** It is not clear, but likely to be treated like a plea bargain and analyzed under contract principles. The court is typically not involved in informal deferred prosecution agreements. If a legitimate dispute between the parties about compliance arises, perhaps a court could be convinced to weigh in.

- It is helpful, if not mandatory, to get the consent of the arresting officer, victim, prosecuting witness, etc.

- **Many districts have policies in place about informal deferred prosecution agreements.** Find out what the limits are, if any. Some districts allow an informal deferred on minor drug cases and other misdemeanors, and then allow a subsequent formal deferred or conditional discharge as needed. Be prepared to argue for a deviation from the standard policy where appropriate.

- **Pitfalls:** An admission by your client to the elements of the offense may be required as matter of practice. CAUTION: These can be an admission for purposes of immigration and may be treated as such even if the charge is dismissed and/or expunged. Check with an immigration
attorney if you’re unsure when representing noncitizens.

- *If an admission is required, think about how to word it.* Fight against this. Admissions are not required for statutory (formal) deferred by the terms of the statute, although in practice many prosecutors require it. Many DA’s offices attach an admission form (sample provided) to the AOC form (CR-610, attached). An admission in the context of a deferred prosecution should NOT be a formal guilty plea. Think about the language of an admission and the precise wording of it.

- *If you are pleading guilty, it is not a deferred and dismissal is not available.* Although judges do funny things.

- *Watch out for fake documentation such as forged community service, treatment, or apology letters.* Fake documentation will result in loss of the deal, and could potentially expose the client to perjury, forgery, or obstruction of justice charges. Make it a matter of practice to verify any such documentation before submitting it to the State or court to spare you and the client the embarrassment (at least) of being called out on fake documentation.

- If otherwise eligible, client that completes informal deferred prosecution successfully may get a G.S. 15A-146 expunction (never used one before, no felony convictions, age at time of offense doesn’t matter, and if qualified, relief is mandatory- “shall” grant petition). This type of expunction is generally an easier option than some of the others, both in terms of preparing the expunction and in terms of eligibility requirements for it to be granted.

- Even if dismissal as an outcome is not available, the principles here could be used to “earn” a better plea offer, such as a fine only judgment, credit for time-served judgment, etc. The only limitation for the use of these methods is your imagination and ability to get the State (and your client) to consent.

**B. Formal deferred prosecutions under G.S. 15A-1341**
G.S. § 15A-1341 establishes two kinds of deferred prosecutions, “regular” (15A-1341(a1)) and drug treatment court (15A-1341(a2)).

“Regular” deferred prosecution is available to eligible defendants who have “been charged with a Class H or I felony or a misdemeanor.” However, defendants charged with or convicted of DWI are never eligible. Drug treatment court deferred prosecutions are available to anyone, but in practice often involved low-level felony drug charges.

1. **“Regular” deferred prosecutions:**

15A-1341(a1) - Deferred Prosecution. -- A person who has been charged with a Class H or I felony or a misdemeanor may be placed on probation as provided in this Article on motion of the defendant and the prosecutor if the court finds each of the following facts:

1. Prosecution has been deferred by the prosecutor pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct.
2. Each known victim of the crime has been notified of the motion for probation by subpoena or certified mail and has been given an opportunity to be heard.
3. The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude. [See below]
4. The defendant has not previously been placed on probation and so states under oath.
5. The defendant is unlikely to commit another offense other than a Class 3 misdemeanor.

- While not a part of the statute, admissions are often demanded as a matter of policy. AOC form CR-610 does not have an admission built in, but DA offices attach often attach a form for an admission and require the defendant to admit to the elements of the crime as a part of the deal.
Admissions are not the same as guilty pleas. See State v. Ross (discussed below).

Would such an admission be a voluntary statement that is admissible later? There is at least some argument that the statement is compelled and not voluntary. The argument may be stronger if the defendant was pro se.

- What is “moral turpitude”?
  This Court has defined crimes involving moral turpitude to include “act[s] of baseness, vileness, or depravity in the private and social duties that a man owes to his fellowman or to society in general.” Dew v. State ex rel. N.C. Dep’t of Motor Vehicles, 127 N.C. App. 309, 311, 488 S.E.2d 836, 837 (1997) (internal quotations and citation omitted). Moral turpitude may also be defined as “[c]onduct that is contrary to justice, honesty, or morality.” Black's Law Dictionary, 1101 (9th ed. 2009).

- “Crime of Moral Turpitude” (“CMT”) is an important term in immigration law, and is discussed at length in Sejal Zota and John Rubin, Immigration Consequences of a Criminal Conviction in North Carolina (2008), available on the SOG website at (http://defendermanuals.sog.unc.edu/defender-manual/6). CMT is discussed at § 3.4(B). Appendix A lists numerous North Carolina offenses and whether they are a CMT in the immigration context. Fraud or theft of any variety, serious violent felonies, selling or distributing drugs, anything involving malice or a specific intent to harm will almost always be considered as a CMT. Minor misdemeanors not involving fraud or theft, acts of negligence or omission, and regulatory violations will usually not be considered as a CMT.

- Consider potential immigration consequences. Even when charges are dismissed and convictions are expunged, a formal deferred prosecution agreement that requires an admission may result in a client becoming eligible for deportation, removal, or ineligible for reentry in to the country. (Refer to Immigration Consequences of a Criminal Conviction in North Carolina (2008), above).
• **How long can probation last?** N.C.G.S. § 15A-1342(a) says that “[t]he court may place a defendant as to whom prosecution has been deferred or who receives a conditional discharge on probation for a maximum of *two years*.” However, under N.C.G.S. § 15A-1342(a1), probation may be *extended up to three years beyond the original period*.

• **What happens after the client completes probation?** G.S. 15A-1342(i) says the defendant is immune from prosecution on the charges deferred or subject to discharge.

• **The dismissal is not necessarily automatic.** The State has to dismiss the charge/s, unless noted from start in the agreement that the court will. For conditional discharges, the court must dismiss the case. Jamie Markham blogged about limbo status in regards to G.S. 90-96 here: [https://nccriminallaw.sog.unc.edu/g-s-90-96-limbo/](https://nccriminallaw.sog.unc.edu/g-s-90-96-limbo/). A similar situation could arise in the context of deferred prosecution. Where the term of probation is expired, the defendant is not necessarily in full compliance, but no violation was brought in time—What happens? Should the defendant get the benefit of the doubt? Perhaps akin to an unsuccessful termination of probation?

• **License Consequences**- G.S. 143B-708(e) says that community service programs must report to the court and notify court of any significant violation of the community service work requirement, including failure to pay the fee ($250). The defendant must get notice in writing in a way reasonably believed to provide actual notice. Whether they show up at the hearing or not, the court must conduct a hearing on the willfulness of the violation and, if it finds it was willful, it SHALL revoke their license until the community service is done, in addition to any other steps in response to the probation violation.

• **Who can modify the terms of a formal deferred prosecution?** Anyone with jurisdiction can modify, unless judge imposes limit on jurisdiction, per G.S. 15A-1342(h). This provision allows the court to limit who can alter or revoke suspended sentences when UNSUPERVISED probation (only) is imposed. This applies to conditional discharges, and would likely apply to formal deferred prosecution agreements as well. *See also* G.S. 15A-1344- IF the court
limits jurisdiction in this way, the agreement can only be revoked or modified by sentencing judge, or, if sentencing judge no longer available, by any presiding judge in the county of conviction. UNLESS this limitation is imposed, any court with jurisdiction over the matter could hear it, meaning anywhere where the defendant is residing or anywhere a violation is alleged to have occurred. If supervised probation is imposed pursuant to the agreement, no such limitation on jurisdiction is permissible.

2. *Deferred prosecutions through Drug Treatment Court:*

   This is a program where the defendant enters Drug Treatment Court (DTC) and gets dismissal for successful completion. This will be a long-term project best-suited for highly motivated clients. DTC is not easy or quick, and your client can end up getting (effective) dips and dunks there. The requirements of DTC may be more intensive than regular probation (more frequent drug testing, supervision, check-ins, etc.). No special requirements for eligibility other than the agreement of the DA, court, and defendant.

15A-1341 (a2) - Deferred Prosecution for Purpose of Drug Treatment Court Program. -A defendant eligible for a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A of the General Statutes may be placed on probation if the court finds that prosecution has been deferred by the prosecutor, with the approval of the court, pursuant to a written agreement with the defendant, for the purpose of allowing the defendant to participate in and successfully complete the Drug Treatment Court Program.

- One potential pitfall to a deferred for DTC instead of a plea is that upon violation, the defendant will still be subject to entry of judgment and sentencing. Depending on how long it took the client to be removed from DTC, this may substantially increase the defendant’s exposure as far as probation, or result in an active sentence long after the original prosecution. On the other hand. . .

3. *Other deferred prosecution programs:*

- Shea Denning blogged about Orange and Chatham Counties’ deferred program for deferral of NOL charges by unlicensed immigrants that are unable to obtain a license-here-The program requires the defendant to
complete a civics course, obtain an ID card, and complete a driving school for a dismissal. Program details are available here.

- Community Service program, local youthful first offender/diversion programs, mediation programs, veteran’s court or other specialized programs may provide another avenue to obtain a deferred prosecution or other special disposition.

- By the terms of G.S. 14-107.2, worthless check collection programs may be established. These can apply to felony or misdemeanor worthless check cases. The statute approves mediation programs and provides that such programs may charge a fee for their service. May the fee be waived? Where program exists, a defendant SHALL be immune from prosecution if the check, any service charges, and processing charges are all paid pursuant to program.

II. CASELAW DESCRIBING DIFFERENCES BETWEEN DEFERRED PROSECUTION AND CONDITIONAL DISCHARGE


   Background: Defendant was charged with five counts of misdemeanor failure to file or failure to pay withholding tax. Defendant entered into a deferred prosecution agreement where he agreed to comply with various conditions and 1) he acknowledged his “guilt in fact of the offenses charged”; and 2) said he understood that failure to comply with the agreement will cause his “return to court for sentencing of his case(s)”.

   The agreement provided further that, if defendant successfully performed the conditions of the agreement, the State would dismiss all charges. But if the defendant failed to comply with the terms of the agreement, the agreement would be terminated. When the trial court accepted the agreement, it ordered “that the sentencing in the case(s) is . . . stayed during the period of the continuance.”

   Ultimately, the Defendant failed to comply with the agreement. The State dismissed the charges and the Attorney General’s office pursued more serious charges against the Defendant. The Defendant filed a motion to dismiss on double jeopardy grounds or, alternatively, to enforce the deferred
prosecution agreement. The trial court denied the motion and the Defendant was convicted of the more serious charges.

On appeal, the Defendant argued that the deferred prosecution agreement constituted a *de facto* guilty plea to the five misdemeanor offenses. Therefore, he claimed, he would be subject to double jeopardy unless the State had Defendant sentenced on the five misdemeanors.

The Court of Appeals disagreed, holding that the Defendant had *not* entered a *de facto* guilty plea, and so jeopardy had not attached. When the trial court denied Defendant’s motion to dismiss, it found as a fact that “while defendant acknowledged his guilt in fact in the Deferred Prosecution Agreement, a plea of guilty was neither tendered by the defendant nor accepted by the court.” Therefore, if the State pursued the original misdemeanor charges against Defendant after he failed to complete the deferred prosecution, he could have taken his case to trial by pleading not guilty. The Court of Appeals wrote that “[i]t is axiomatic that evidence of defendant’s opportunity to plead not guilty upon failing to meet the conditions of the agreement supports the conclusion that the agreement did not comprehend a plea of guilty.” Moreover, in accepting Defendant’s deferred prosecution agreement, the trial court did not make a determination that there was a factual basis for his plea.

The Court of Appeal concluded, therefore, that since “defendant was neither tried on, nor pled guilty to, the original misdemeanor charges, jeopardy never attached.”

**The Ross takeaway:** A defendant does not plead guilty simply by admitting his guilt in fact to an offense. A guilty plea is a formal process that requires, at a minimum, the formal acceptance of the plea by the court and the judicial determination that there was a factual basis for the plea. In other words, if a defendant can later take his case to trial, he did not plead guilty.


*Background:* Defendant — a former Winston-Salem police officer — was charged with two counts of obtaining property by false pretenses for allegedly submitting false bills, and receiving payment, for hours of off-duty security work that he did not actually perform.
The Defendant entered a guilty plea to the charges in District Court and, at the same time, entered into a deferred prosecution agreement. The court put the defendant on probation pursuant to the deferred prosecution agreement, but did not impose a sentence pursuant to the guilty plea.

This had apparently been standard practice in Forsyth County for years. There was supposedly a problem with defendants entering into deferred prosecution agreements, messing them up, and then taking their cases to trial. So prosecutors started to insist that defendants enter guilty pleas concurrently with deferred prosecution agreements and have judgment on the guilty pleas continued. That way, if the defendant failed to successfully complete his probation under the deferred prosecution, the State could just pray judgment on the guilty plea and have the defendant sentenced.

A probation violation report was filed against the Defendant. On the day the probation violation came on for a hearing, defense counsel filed a “Motion to Set Aside Plea Entry.” The argument was that, since the trial court accepted Defendant’s guilty plea and ordered it recorded, the State could not later dismiss the charges upon Defendant’s successful completion of probation; therefore, the plea was not knowing and voluntary. The trial court denied the motion and imposed sentence. The Defendant appealed.

The Court of Appeals agreed, noting that there was an “inherent inconsistency... [in] combining a guilty plea and a deferred prosecution agreement.” The problem was that, by accepting Defendant’s guilty plea and imposing conditions amounting to punishment (i.e. conditions of probation pursuant to the deferred prosecution agreement), the court entered a final judgment. Since a final judgment can only be vacated upon a writ of habeas corpus or an MAR the terms of Defendant’s plea agreement were unfulfillable:

1) if the Defendant failed to complete the deferred prosecution program, he could not plead not guilty and go to trial because he had already been convicted; or

2) if the Defendant successfully completed the program, the charges could not be dismissed because there was already a final judgment.

Therefore, the Court of Appeals concluded that the trial court erred by
denying Defendant’s motion to withdraw his plea. The Court of Appeals also noted that a plea along the lines of the one Defendant entered into would be permitted as a Conditional Discharge.

**The Baker takeaway:** First, you cannot enter a deferred prosecution agreement simultaneously with a guilty plea. Second, any conviction obtained pursuant to a guilty plea entered along with a deferred prosecution is subject to post-conviction challenge. *Be particularly mindful of this possibility when reviewing convictions used to calculate your client’s prior record level, or as predicate felonies that are used to establish habitual felon status or a recidivist offense (e.g. habitual misdemeanor assault).

### III. CONDITIONAL DISCHARGES

These are effectively the same as a formal deferred prosecution, except that a formal finding of guilt must be established as a condition on the front-end. Because a plea or verdict has been entered before the defendant can be placed on a conditional discharge, revocation of the conditional discharge results in judgment being entered on the conviction. This stands in contrast to a formal deferred prosecution, where, upon revocation, the defendant still has the chance to enter a guilty plea or go to trial.

**A. Conditional discharge under N.C.G.S. § 15A-1341(a4)**

This is probably the next best thing to a formal deferred. Here, there is a guilty plea or verdict of guilt. This can be better than a G.S. 90-96 discharge in some ways, because under this section, ANY H or I felony (and all misdemeanors) are potentially eligible (as opposed to the possession-only offense covered by G.S. 90-96 discharges). If State and defendant make a joint motion for conditional discharge after a finding of guilt, judgment may be withheld for potential discharge and dismissal. These are treated much like a formal deferred prosecution agreement. The defendant is clearly entitled to a hearing on a violation and only the court can revoke.

**(a4) Conditional Discharge.** Whenever a person pleads guilty to or is found guilty of a Class H or I felony or a misdemeanor, the court may, on joint motion of the defendant and the prosecutor, and without entering a judgment of guilt and with the consent of the person, defer further proceedings and place the person on probation as provided in this Article for the purpose of allowing the defendant to demonstrate the defendant's good
conduct if the court finds each of the following facts:

(1) Each known victim of the crime has been notified of the motion for probation by subpoena or certified mail and has been given an opportunity to be heard.

(2) The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude.

(3) The defendant has not previously been placed on probation and so states under oath.

(4) The defendant is unlikely to commit another offense other than a Class 3 misdemeanor.

B. Conditional discharge for prostitution under G.S. 15A-1341(a3)

This is mandatory for first-offenders convicted of prostitution, so long as the defendant consents. It is similar to a regular conditional discharge under 15A-1341(a4), except that this conditional discharge has special conditions of probation, some of which are mandatory and some of which are optional.

(a3) Conditional Discharge for Prostitution. - A defendant for whom the court orders a conditional discharge pursuant to G.S. 14-204(b) may be placed on probation as provided in this Article.

- G.S. § 14-204(b) (reproduced at the end of this document) provides that first offenders shall be deferred.
  - Must be for 12 months.
  - Defendant must consent.
  - 4 mandatory conditions of probation: 1) no new criminal violations; 2) no firearms or dangerous weapons; 3) submit to drug testing with at least 3 tests; 4) attend at least 10 counseling sessions.
  - Court may require other conditions, such as pay fine/cost, report to DSS, residential facility, etc.
  - ‘First offender’ means the defendant 1) cannot have pleaded guilty to or been found guilty of prostitution before; or 2) cannot have been placed on probation pursuant to this statute before.
Minors are immune from prostitution prosecutions under G.S. 14-204(c). They can’t get prosecuted for prostitution and so can’t get benefit of discharge, but what they can get is placement into temporary protective custody of Social Services for the department to begin an Abuse/Neglect/Dependency investigation.

Note that G.S. 14-205.4(a) allows the court to order sexually-transmitted disease testing, and probation “may commence only upon such terms and conditions as shall ensure medical treatment and prevent the spread of the infection.”

G.S. 14-205.4(b) requires that females placed on probation “shall” receive a female probation officer.

C. Conditional discharge for Drug Treatment Court under G.S. 15A-1341(a5)

This is very similar to a deferred prosecution for DTC under G.S. 15A-1341(a2), except that a formal finding of guilt has occurred. It is always in the discretion of the court and requires the consent of the defendant.

(a5) Conditional Discharge for Purpose of Drug Treatment Court Program. - When a defendant is eligible for a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A of the General Statutes, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation for the purpose of allowing the defendant to participate in and successfully complete the Drug Treatment Court Program.

- Court must order the discharge and defer judgment without sentencing.
- The prosecutor does not need to consent, but defendant must consent.
- If defendant completes DTC, the case is dismissed and the defendant is discharged.

D. Conditional discharge for gang offenders under 18 years old under G.S. 14-50.29

This is another specialized conditional discharge for first-time offenders charged with certain gang-related offenses that are under 18 years old at the
time of the offense. Like the conditional discharge for prostitution, there are specific terms and requirements of probation for this type of conditional discharge. This disposition is only available for Class H felonies and lower.

- 3 Requirements:
  1) Defendant under 18 years old at the time of the offense.
  2) No previous criminal convictions other than traffic.
  3) Defendant must consent.
- Probation “shall” be supervised and for “at least” one year.
- A defendant may only get this benefit once. A specific expungement statute exists for these discharges (G.S. 15A-145.1)
- This applies to class H offenses and offenses under G.S. 14-50.22 (enhanced offense for criminal gang activity).

  o G.S. 14-50.22 says any person 15 years or older that commits a misdemeanor offense at direction of, in association with, or for benefit of criminal street gang shall be punished at one class higher.

E. Conditional discharge under G.S. 90-96
These are perhaps the most well-known conditional discharges. They come in four types, but practically there are two main categories.

1. “Regular” conditional discharge under G.S. 90-96(a):
After a plea or verdict of guilt, if the defendant has no prior drug or paraphernalia convictions and no prior felony conviction, judgment may be withheld for a conditional discharge.

- A defendant may only benefit from this statute once.
- Probation MAY include Drug Education School.
- Defendant must consent; the State need not.
- G.S. 15A-1342(a1) still limits to 2 years term of probation. Probation may be supervised or unsupervised.
- Per G.S. 90-96(a), probation is authorized for these conditional discharges, even where probation would otherwise not be an option, such as a Class 3 misdemeanor conviction for a defendant with a prior misdemeanor record level I.
- This conditional discharge SHALL be ordered for eligible defendants
UNLESS court makes findings that discharge would not be appropriate AND DA agrees with court. (It used to be mandatory in all cases).
- This can be utilized for ANY possession offense, including Schedules I-VI, or any PDP offense.

2. “Special” conditional discharge under G.S. 90-96(a1):
Similar to regular 90-96 but for purposes of this subsection, a prior drug conviction does not preclude the conditional discharge so long as the prior conviction occurred more than 7 years ago. Other requirements for these include:

- Probation SHALL be for at least one year, and SHALL require Drug Education School to be completed within 150 days of the order (unless the court makes findings of special circumstances warranting more time).
- The defendant cannot have any prior drug or PDP convictions within the last 7 years.
- Willful failure to complete drug education school SHALL be grounds to revoke deal.
- These are completely within discretion of the court. The DA’s consent is not needed, nor does it specifically require the consent of the defendant. But, the court never has to order it, and is not required to make findings to avoid it.

3. Toxic Vapors conditional discharge under G.S. 90-113.14(a) and (a1):
The language of this statute largely tracks G.S. 90-96(a) and (a1), except here, it is for toxic vapors offenses. All requirements under each section are the same for these discharges, including the 7-year lookback provision of G.S. 90-96(a1)) for prior convictions.
With approval of the Court and consent of the defendant, prosecution will be deferred by the prosecutor for the purpose of allowing the defendant to demonstrate good conduct, and subject to the conditions set out below, the defendant is placed on:

(check one)

unsupervised probation.

supervised probation for months (max. of 2 years, G.S. 15A-1342(a)), as provided for a community punishment.

NOTE: AOC-CR-603A, B, C, or D, Page Two, required; select the form appropriate to the date of offense for which prosecution is deferred.

---

The defendant, attorney for the defendant, and undersigned Prosecutor, request the Court to approve this Agreement to defer prosecution and place the defendant on probation on the following offense(s):

<table>
<thead>
<tr>
<th>File No.(s)</th>
<th>Off.</th>
<th>Offense Description</th>
<th>Offense Date</th>
<th>G.S. No.</th>
<th>F/M</th>
<th>CL.</th>
</tr>
</thead>
</table>

---

CONDITIONS OF AGREEMENT TO DEFER PROSECUTION

1. With approval of the Court and consent of the defendant, prosecution will be deferred by the prosecutor for the purpose of allowing the defendant to demonstrate good conduct, and subject to the conditions set out below, the defendant is placed on:

(check one) unsupervised probation. 

(check one) supervised probation for months (max. of 2 years, G.S. 15A-1342(a)), as provided for a community punishment.

NOTE: AOC-CR-603A, B, C, or D, Page Two, required; select the form appropriate to the date of offense for which prosecution is deferred.

2. The Court finds that it is NOT appropriate to delegate to the Section of Community Corrections the authority to impose any of the requirements in G.S. 15A-1343.2(e) for community punishment or G.S. 15A-1343.2(f) for intermediate punishment.

3. The Court finds that a longer shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).

4. The defendant shall comply with the regular conditions of probation applicable to unsupervised or supervised probation, as imposed above, and which are set forth on the following form, incorporated herein by reference:

      (NOTE: Select judgment form appropriate to the date of offense for which prosecution is deferred.)

   AOC-CR-603A
   AOC-CR-603B
   AOC-CR-603C
   AOC-CR-603D
   AOC-CR-604A
   AOC-CR-604B
   AOC-CR-604C
   AOC-CR-604D
   AOC-CR-603E
   AOC-CR-603F
   AOC-CR-603G
   AOC-CR-603H
   AOC-CR-603I
   AOC-CR-603J
   AOC-CR-603K
   AOC-CR-603L
   AOC-CR-603M
   AOC-CR-603N
   AOC-CR-603O
   AOC-CR-603P
   AOC-CR-603Q
   AOC-CR-603R
   AOC-CR-603S
   AOC-CR-603T
   AOC-CR-603U
   AOC-CR-603V
   AOC-CR-603W
   AOC-CR-603X
   AOC-CR-603Y
   AOC-CR-603Z

5. The defendant shall comply with the following special conditions of probation that are set forth on the form cited in No. 4, above, and incorporated herein by reference:

   and/or other Special Conditions:

6. The defendant shall complete ______ hours of community service during the first ______ days of the deferral period, as directed by the judicial service coordinator. The fee prescribed by G.S. 143B-708 is ______ to be paid ______ pursuant to the schedule set out below. ______ within ______ days of this Order and before beginning service.

7. The defendant shall pay to the Clerk of Superior Court the “Total Amount Due” below, plus the probation supervision fee if placed on supervised probation above, pursuant to a schedule determined by the probation officer. ______ set out by the Court as follows:

<table>
<thead>
<tr>
<th>Costs</th>
<th>Fine</th>
<th>Restitution*</th>
<th>Attorney’s Fees</th>
<th>Community Service Fee</th>
<th>EHA Fee</th>
<th>Miscellaneous</th>
<th>Total Amount Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

*See attached “Restitution Worksheet, Notice And Order (Initial Sentencing),” AOC-CR-611, which is incorporated by reference.

8. The Court finds just cause to waive costs, as ordered on the attached AOC-CR-618. Other:

9. The admission of responsibility given by me and any stipulation of facts shall be used against me and admitted into evidence without objection in the State’s prosecution against me for this offense should prosecution become necessary as a result of these terms and conditions of deferred prosecution.

10. Regular reports will be made on my progress to the prosecutor’s office.

11. The prosecutor will:

   a. take a voluntary dismissal with leave upon the Court’s approval of this Agreement, and a voluntary dismissal upon the defendant’s compliance with this Agreement.

   b. take a voluntary dismissal upon the defendant’s compliance with this Agreement.
The defendant after being duly sworn, states under oath:
1. I have not been previously convicted of any felony or of any misdemeanor involving moral turpitude.
2. I have not been previously placed on probation.
3. I hereby waive all of my rights to a speedy trial under the constitution and laws of the State of North Carolina and the United States of America with regard to the above listed charge(s).
4. I have reviewed a copy of this Motion/Agreement And Order To Defer Prosecution and all of the conditions of my probation and I agree to them, and request the Court to approve the agreement.
5. I understand that no person who supervises me or for whom I work while performing community or reparation service is liable to me for any loss or damage which I may sustain unless my injury is caused by that person’s gross negligence or intentional wrongdoing.

<table>
<thead>
<tr>
<th>SWORN AND SUBSCRIBED TO BEFORE ME</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature of Defendant (under oath)</td>
<td>Signature Of Defendant</td>
</tr>
</tbody>
</table>

☐ Deputy CSC  ☐ Assistant CSC  ☐ Clerk Of Superior Court
☐ District Court Judge  ☐ Superior Court Judge

<table>
<thead>
<tr>
<th>ATTORNEYS’ CERTIFICATION/AGREEMENT/MOTION</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature Of Lawyer For Defendant</td>
<td>Signature Of Prosecutor</td>
</tr>
</tbody>
</table>

Based upon the foregoing and a review of the record, the Court finds:
1. Prosecution has been deferred by the prosecutor pursuant to written agreement with the defendant, with the approval of the Court, for the purpose of allowing the defendant to demonstrate good conduct.
2. Each known victim of the crime has been notified of the motion to defer prosecution and place the defendant on probation and has been given an opportunity to be heard.
3. The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude.
4. The defendant has not previously been placed on probation and so states under oath.
5. The defendant is unlikely to commit another offense other than a Class 3 misdemeanor.

| FINDINGS |
| Date |
| Signature Of Lawyer For Defendant | Signature Of Prosecutor |

ORDER
THE COURT HAVING CONSIDERED the Motion and Agreement to Defer Prosecution, related documents and statements of counsel, finds that the prosecutor and defendant have entered into a written agreement to defer prosecution in this case for a period not to exceed two years, and said Motion and Agreement is in compliance with the conditions set forth in G.S. 15A-1341 and specified in the motion.

IT IS ORDERED that the Agreement to Defer Prosecution in this case is approved and all conditions of this Agreement as specified above adopted by the Court and made part of this Order. The defendant is to comply with all the regular conditions of probation and any special conditions as set forth above.

☐ Except as ordered to appear earlier for a hearing on alleged violation(s) or as otherwise ordered by the Court, the defendant shall return to this Court on (date) for a hearing to determine fulfillment of the terms and conditions of probation.

| SIGNATURE OF JUDGE |
| Date |
| Name Of Presiding Judge (Type Or Print) | Signature Of Presiding Judge |

CERTIFICATION
I certify that this Motion/Agreement and Order and the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

1. Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)
2. Additional File No.(s) And Offense(s) (AOC-CR-626)
3. Other:

| Date |
| Name (Type Or Print) | Signature Of Clerk |
| Deputy CSC  Asst. CSC  Clerk Of Superior Court |

Material opposite unmarked squares is to be disregarded as surplusage.

AOC-CR-610, Side Two, Rev. 12/16
© 2016 Administrative Office of the Courts
DA FORM 3 Revised 2-09

NORTH CAROLINA
PITT COUNTY

FILE NO. ____________________
FILM NO. ____________________

IN THE GENERAL COURT OF JUSTICE
_________ COURT DIVISION

STATE OF NORTH CAROLINA

Vs. 

ADMISSION OF RESPONSIBILITY

________________________________

STIPULATIONS AND STATEMENT AS TO FACTS

The STATE OF NORTH CAROLINA, by and through the undersigned Assistant District Attorney, and the defendant, _________________, hereby agree and stipulate that all facts and matters of law recited herein are admitted and consented to by the defendant without objection, in that he/she did unlawfully, willfully

________________________________

________________________________

________________________________

This the _____ day of __________________, 20__

________________________________

DEFENDANT

________________________________

ASSISTANT DISTRICT ATTORNEY

________________________________

ATTORNEY FOR DEFENDANT
DA Form 2 Revised 7/97

NORTH CAROLINA  FILE NO.__________________
PITT COUNTY  FILM NO.__________________

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA

vs.

AGREEMENT FOR DEFERRED PROSECUTION

It is alleged that you have committed an offense against the State of North Carolina on or about the _____ day of _____________, 200___, to wit:

And it appears after an investigation of the offense and your background that at this time the interest of the State of North Carolina and your interest will be best served by the following procedures; therefore, on the authority of _____________, District Attorney for the 3rd Judicial District, Pitt County, North Carolina, prosecution in this matter for the above violation(s) will be deferred for the period of one year from this date, provided you abide by the following conditions:

1. You shall refrain from violation of any federal, state or local law and be of general good behavior.

2. You shall associate only with law-abiding persons.

3. You shall work regularly at a lawful occupation and/or participate and complete other programs established for you under supervision of the Division of Adult Probation and Parole.

4. You shall report to the Adult Probation/Parole Officer as directed, truthfully answer all inquiries by the Probation/Parole Officer, and allow your Probation/Parole Officer to visit your home, employment, school or elsewhere.

5. You shall immediately inform your Probation/Parole Officer of any change in address, phone numbers, employment, re-arrest for any reason, court dates, or any changes in legal representation.

6. You shall remain a resident of the State of North Carolina for the term of this agreement.

7. You shall make restitution in the amount of $__________ beginning on or before

at the rate of $__________ per month, and payable to the Clerk of Superior Court, Pitt County, North Carolina, for the use and benefit of ____________

8. You shall successfully complete _______ hours of community service within a period of _______ days/months, and under the direction and upon the terms of established by the Probation/Parole Office.

9. You shall at all times cooperate with your probation officer.

Other Conditions:
The District Attorney may, during the period of Deferred Prosecution, revoke or modify conditions of your probation as follows:

1. Change the period of Deferred Prosecution.

2. Prosecute you for this offense if you violate any of the following conditions set out herein.

3. Void this agreement should it be determined that you have a prior record of adult criminal conviction(s) or have given false information.

If you comply with these conditions set out herein during this period of Deferred Prosecution, no criminal prosecution concerning this charge will be instituted in this count.

District Attorney

Date

I hereby state that the above was read to me this date. I understand the terms and conditions of my Deferred Prosecution and agree to comply with these terms and conditions as stated herein above.

I understand that regular reports will be made on my progress to the District Attorney's Office.

I fully understand the charges against me and I agree that the admission or responsibility given by me and any stipulation of fact shall be used against me and admitted into evidence without objection in the State's prosecution against me for this offense should prosecution become necessary as a result of my violation of these terms and conditions of Deferred Prosecution.

I hereby waive all of my rights to a speedy trial under the Constitution and laws of the State of North Carolina and the United States of America with regard to this charge.

I state that I have never previously been placed on probation and that I have never been convicted of any felony. I further state that I have not been convicted of any misdemeanor as an adult except as revealed on any criminal record attached to my application for deferred prosecution.

I have received a copy of this agreement containing all of the conditions of my probation and I understand each condition. I further understand that persons supervision community or reparation service performed by me as a condition of probation may not be held liable for damage or any injury or loss sustained by me in performing such service.

Defendant

Attorney for Defendant

Probation Officer
The undersigned Judge Presiding based upon the above document and the sworn statement of the defendant finds the following facts:

1. Prosecution in this case has been deferred by the District Attorney pursuant to a written agreement with the defendant for the purpose of allowing the defendant to demonstrate good conduct.

2. Each known victim of the alleged crime has been notified of this hearing by subpoena or otherwise and given the opportunity to be heard.

3. The defendant has not previously been convicted of any felony or misdemeanor involving moral turpitude. The defendant has not been convicted by any other misdemeanor except as revealed on the application attached hereto.

4. The defendant states under oath that he/she has never been placed on probation previously.

5. The defendant is unlikely to commit another offense punishable by term of imprisonment greater than thirty (30) days.

The Court hereby approves the written agreement, directs the Division of Adult Probation and Parole supervise the defendant pursuant to the Agreement; and further orders that the period of delay during which prosecution is deferred by the District Attorney pursuant to this Agreement be excluded in computing the time within which the trial of the criminal offense must begin, in accordance with G.S. 15A-801 (b)(2).

Furthermore, the Clerk of Superior Court is hereby directed to remove the above-captioned case(s) from the active criminal docket of Pitt County for a period of one (1) is completed. If no request is made sooner, at the end of said year, the Clerk is further directed to place said case on the calendar for disposition.

This the _______ day of ___________________, 20____.

____________________________________
Judge Presiding
STATE OF NORTH CAROLINA

In The General Court Of Justice

District ☐ Superior Court Division ☐

NOTE: Use this form for all modifications, revocations, and dismissal/discharge upon successful completion for probation imposed pursuant to deferred prosecution or conditional discharge.

Name Of Defendant

Drivers License No.

State Race Sex

Date Of Birth Full Social Security No.

Attorney For State ☐ Def. Found Not Indigent ☐ Def. Waived Attorney

Attorney For Defendant ☐ Appointed Off Rptr Initials

The defendant was placed on probation pursuant to ☐ deferred prosecution under G.S. 15A-1341. ☐ conditional discharge under:


by Order of the Court in:

Date Of Original Order Placing Defendant On Probation Name Of County And File No. (County Of Original Proceeding)

Pursuant to the defendant's fulfillment of the terms and conditions of probation imposed in the original Order cited above, the undersigned prosecutor hereby enters a voluntary dismissal of all charges included in the original Order. The Court hereby dismisses all charges included in the original Order and discharges the defendant.

NOTE TO CLERK: See routing instruction at bottom of Side Two.

Date Name (type or print) Signature

Prosecutor District Court Judge Superior Court Judge

PROCEEDINGS UPON VIOLATION OR MOTION TO MODIFY

This matter is before the Court upon:

☐ 1. review under G.S. 15A-1342(b) or (d). After reasonable notice to the defendant, the Court ☐ finds ☐ does not find that termination of probation is warranted by the defendant's conduct and the ends of justice.

☐ 2. motion to modify the defendant's probation without charge of violation. Upon ☐ notice and hearing ☐ consent of the State and the defendant, the Court ☐ finds ☐ does not find that good cause has been shown to modify the original Judgment Suspending Sentence.

☐ 3. allegation of violation of the conditions of the defendant's probation.

Upon due notice of the alleged violation(s) or waiver of such notice, a hearing was held before the Court. After considering the record in the above-captioned case, the evidence presented, and any statements of the State and the defendant, the Court finds that the defendant admitted or in the above-captioned case, the evidence presented, and any statements of the State and the defendant, the Court finds that the defendant admitted or found ☐ guilty of contempt beyond a reasonable doubt.

☐ 2. the defendant violated the condition(s) of probation set forth in ☐ a. Paragraph(s) ______ in the Violation Report or Notice of Hearing dated ☐ b. Paragraph(s) ______ in the Violation Report or Notice of Hearing dated ☐ c. the attached sheet. Such violation(s) was willful and without valid excuse and occurred at a time prior to the expiration or termination of the period of the probation.

☐ 3. the defendant has not violated any of the conditions of the defendant's probation except those found above, if any.

☐ 4. the defendant is guilty of contempt beyond a reasonable doubt.

ORDER

It is ORDERED that:

☐ 1. the original Order is modified as set forth below and, except as specifically so modified, shall remain in full force and effect.

☐ 2. the original Order is not modified, but remains in full force and effect.

☐ 3. the defendant's probation under the original Order is terminated. Therefore (check one)

☐ a. the State shall enter a voluntary dismissal of all charges included in the original Order.

☐ b. the Court hereby dismisses all charges included in the original Order and discharges the defendant.

☐ 4. all charges of probation violation in this case, which are not specifically found above, are dismissed.

☐ 5. the disposition of this matter is continued until ____________________.

☐ 6. the defendant for willful contempt:

☐ a. be imprisoned for ________ days in the custody of the Sheriff. ☐ as provided in AOC-CR-609, Page Two, attached.

☐ b. pay of fine of $ ______________. ☐ Other: ______________.

☐ 7. pursuant to the Finding No. 1 above, the Court concludes that the defendant has violated a valid condition of probation upon which prosecution was deferred or discharge was conditioned and that continuation, modification or special probation or criminal contempt is not appropriate. The Court therefore ORDERS that the defendant's probation be revoked, and that (check one)

☐ the State shall be permitted to reinstate the charges or resume the prosecution that was deferred in the original Order.

☐ the Court shall proceed to the entry of judgment in the county in which the defendant was placed on probation, pursuant to the defendant's plea or finding of guilt as provided in the original Order for conditional discharge.

☐ 8. (offenses committed on or after October 31, 1998) the defendant's drivers license is revoked whether the defendant is present or not. G.S. 143B-708.

(Note: Select this option whenever the Court finds a willful violation of a community service condition of probation. If this option is selected, complete AOC-CR-317, Side One, and notify DMV.)
STATE VERSUS

Name Of Defendant

Drivers License No. State Race Sex

Date Of Birth Full Social Security No. Age At Time Of Offense

Attorney For State

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant Appointed Retained

Ct Rptr Initials

The defendant was found guilty/responsible, pursuant to [Alford, no contest]) (date)                     for                months (max. of 2 years, G.S. 15A-1342(a) as provided for a [community punishment. [intermediate punishment. (AOC-CR-603D, Page Two, required).

Def. Found

Def. Waived

defendant's person and of the defendant's vehicle and premises while the defendant is present, for purposes directly related to the probation supervision, but the defendant may equip the defendant for suitable employment, and abide by all rules of the institution. (4) Satisfy child support and family obligations, as required by the Court. (5) Submit to the explosive device, or other deadly weapon listed in G.S. 14-269. (3) Remain gainfully and suitably employed or faithfully pursue a course of study or vocational training, that will

3. The Court finds that it is NOT appropriate to delegate to the Section of Community Corrections the authority to impose any of the requirements in G.S. 15A-1343.2(e) for community punishment or G.S. 15A-1343.2(f) for intermediate punishment.

4. The Court finds that a [longer [shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).

5. The defendant shall provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319 required)

6. Upon violation of a term or condition of probation by the defendant, the Court reserves the authority to enter an adjudication of guilt and proceed as otherwise provided against the defendant. Upon fulfillment of the terms and conditions by the defendant, the Court shall discharge the defendant and dismiss the proceedings against the defendant.

7. Except as ordered to appear earlier for a hearing on alleged violation(s) or as otherwise ordered by the Court, the defendant shall return to this Court for [date] for a hearing to determine fulfillment of the terms and conditions of probation.

8. If the defendant is on supervised probation, the defendant shall also: (6) Not abscond, by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation officer. (7) Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. (8) Report as directed by the Court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. (9) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (10) Submit at reasonable times to warrantless searches by a probation officer of the defendant's person and of the defendant's vehicle and premises while the defendant is present, for purposes directly related to the probation supervision, but the defendant may not be required to submit to any other search that would otherwise be unlawful. (11) Submit to warrantless searches by a law enforcement officer of the defendant's person and of

NOTE: Any probationary judgment may be extended pursuant to G.S. 15A-1342. The defendant shall: (1) Commit no criminal offense in any jurisdiction. (2) Possess no firearm, explosive device, or other deadly weapon listed in G.S. 14-269. (3) Remain gainfully and suitably employed or faithfully pursue a course of study or vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) Satisfy child support and family obligations, as required by the Court. (5) Submit to the taking of digitized photographs, including photographs of the defendant's face, scars, marks, and tattoos, to be included in the defendant's records. If the defendant is on supervised probation, the defendant shall also: (6) Not abscond, by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation officer. (7) Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. (8) Report as directed by the Court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. (9) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (10) Submit at reasonable times to warrantless searches by a probation officer of the defendant's person and of the defendant's vehicle and premises while the defendant is present, for purposes directly related to the probation supervision, but the defendant may not be required to submit to any other search that would otherwise be unlawful. (11) Submit to warrantless searches by a law enforcement officer of the defendant's person and of

Material opposite unmarked squares is to be disregarded as surplusage.

AOC-CR-633D, New 12/16
© 2016 Administrative Office of the Courts
the defendant’s vehicle, upon a reasonable suspicion that the defendant is engaged in criminal activity or is in possession of a firearm, explosive device, or other deadly weapon listed in G.S. 14-269 without written permission of the court. (12) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used. (13) Supply a breath, urine, or blood specimen for analysis of the possible presence of prohibited drugs or alcohol when instructed by the defendant’s probation officer for purposes directly related to the probation supervision. If the results of the analysis are positive, the probationer may be required to reimburse the Division of Adult Correction for the actual costs of drug or alcohol screening and testing. (14) (applies only if judgment deferred for felony) Waive all rights relating to extradition proceedings if taken into custody outside of this State for failing to comply with the conditions imposed by the court.

SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1)

The defendant shall also comply with the following special conditions which the Court finds are reasonably related to the defendant’s rehabilitation:

15. Surrender the defendant’s driver’s license to the Clerk of Superior Court for transmittal/notification to the Division of Motor Vehicles and not operate a motor vehicle for a period of ______________, or until relicensed by the Division of Motor Vehicles, whichever is later.

16. Successfully pass the General Education Development Test (G.E.D.) during the first __________ months of the period of probation.

17. Complete __________ hours of community service during the first __________ days of the period of probation, as directed by the judicial services coordinator. The fee prescribed by G.S. 143B-708 is not due because it is assessed in a case adjudicated during the same term of court. to be paid pursuant to the schedule set out under Monetary Conditions on the reverse. within __________ days of this Conditional Discharge and before beginning service.

18. Report for initial evaluation by participate in all further evaluation, counseling, treatment, or education programs recommended as a result of that evaluation, and comply with all other therapeutic requirements of those programs until discharged.

19. Not assault, threaten, harass, be found in or on the premises or workplace of, or have any contact with __________________________“Contact” includes any defendant-initiated contact, direct or indirect, by any means, including, but not limited to, telephone, personal contact, e-mail, pager, gift-giving, telefacsimile machine or through any other person, except __________________________.

20. Abstain from alcohol consumption and submit to continuous alcohol monitoring for a period of __________ days, __________ months, the Court having found that a substance abuse assessment has identified defendant’s alcohol dependency or chronic abuse.

21. Other:

22. Comply with the Special Conditions Of Probation which are set forth on AOC-CR-603D, Page Two.

SIGNATURE OF DEFENDANT

By signing below, the defendant consents to the foregoing Order deferring further proceedings and placing the defendant on probation.

Date Signature Of Defendant

SIGNATURE OF JUDGE

Date Name Of Presiding Judge (type or print) Signature Of Presiding Judge

CERTIFICATION BY CLERK

I certify that this Conditional Discharge Under G.S. 15A-1341(a5) and the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

1. Judgment Suspending Sentence (AOC-CR-603D, Page Two) (additional conditions of probation)
2. Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)
3. Additional File No.(s) And Offense(s) (AOC-CR-626)
4. Other: __________________________

Date Name (type or print) Signature Of Clerk Deputy CSC Asst. CSC SEAL

Clerk Of Superior Court

NOTE TO CLERK: Upon entry of a final order discharging the defendant and dismissing the charge(s) against him/her, do not forward copies of the discharge to the Administrative Office of the Courts. Successful discharges under G.S. 15A-1341(a5) are not to be reported to the AOC. G.S. 15A-150.
COMMUNITY AND INTERMEDIATE PROBATION CONDITIONS - G.S. 15A-1343(a1)

In addition to complying with the regular and any special conditions of probation set forth in the “Judgment Suspending Sentence” entered in the above case(s), the defendant shall also comply with the following conditions of probation, which may be imposed for any community or intermediate punishment.

1. Submit to house arrest with electronic monitoring, remain at the defendant’s residence for a period of __________ days, __________ months, abide by all rules, regulations, and directions of the probation officer regarding such monitoring, and pay the fees prescribed in G.S. 15A-1343(c) as provided under Monetary Conditions. The defendant may leave the residence for the following purpose(s) and as otherwise permitted by the probation officer:
   - employment
   - counseling
   - a course of study
   - vocational training.
   Other: __________

2. Complete __________ hours of community service during the first __________ days of the period of probation, as directed by the judicial services coordinator. The fee prescribed by G.S. 143B-708 is not due because it is assessed in a case adjudicated during the same term of court.
   - to be paid __________ pursuant to the schedule set out under Monetary Conditions in the “Judgment Suspending Sentence.” within __________ days of this judgment and before beginning service.
   Other: __________

3. Submit to the following period(s) of confinement in the custody of the __________ Sheriff of this County. __________ (other
   local confinement facility) __________ and pay jail fees. The defendant shall report in a sober condition to serve the term(s) indicated below.
   NOTE: Periods of confinement imposed here must be for two-day or three-day consecutive periods, only, for no more than six days in a single month, and in no more than three separate months during the period of probation. To impose special probation under G.S. 15A-1351, see INTERMEDIATE PUNISHMENTS, below.

<table>
<thead>
<tr>
<th>Date</th>
<th>Hour AM/PM</th>
<th>for</th>
<th>2 days</th>
<th>3 days</th>
<th>2 days</th>
<th>3 days</th>
<th>2 days</th>
<th>3 days</th>
<th>2 days</th>
<th>3 days</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4. Obtain a substance abuse assessment, monitoring, or treatment as follows:

5. Abstain from alcohol consumption and submit to continuous alcohol monitoring for a period of __________ days, __________ months, the Court having found that a substance abuse assessment has identified defendant’s alcohol dependency or chronic abuse.

6. Participate in an educational or vocational skills development program as follows:

7. Submit to satellite-based monitoring, if required on the attached AOC-CR-615, Side Two.

INTERMEDIATE PUNISHMENTS

In addition to complying with the regular and any special, community, or intermediate conditions of probation set forth in the “Judgment Suspending Sentence” or herein for the above case(s), the defendant shall also comply with the following intermediate punishment(s) under G.S. 15A-1340.11(6).

1. Special Probation - G.S. 15A-1351

   For the defendant’s active sentence as a condition of special probation, the defendant shall comply with these additional regular conditions of probation:
   - Obey the rules and regulations of the Division of Adult Correction governing the conduct of inmates while imprisoned.
   - Serve an active term of __________ days __________ months in the custody of the N.C. DAC. __________ Sheriff of this County. __________ Other:
   - Serve the sentence imposed as a special condition of probation as provided in G.S. 143B-708, but no fee shall be due if the Court imposed the sentence as a special condition of probation and assessed the fee in this judgment or any judgment for an offense adjudicated in the same term of court.
   - Not use, possess, or control alcohol.
   - Remain within the defendant’s county of residence unless granted written permission to leave by the court or the defendant’s probation officer.
   - Participate in any evaluation, counseling, treatment, or educational program as directed by the probation officer, keeping all appointments by abiding by the rules, regulations, and direction of each program.
   - Pay jail fees.
   - Work release is recommended.
   - Substance abuse treatment is recommended.
   - Other:

2. Drug Treatment Court - G.S. 15A-1340.11(3a); 15A-1340.11(6)

   Comply with the rules adopted for the program as provided for in Article 62 of Chapter 7A of the General Statutes and report on a regular basis for a specified time to participate in court supervision, drug screening or testing, and drug or alcohol treatment programs.
   Other:

INTERMEDIATE CONDITIONS OF PROBATIONS - G.S. 15A-1343(b4)

If subject to intermediate punishment, the defendant shall, in addition to the terms and conditions imposed above, comply with the following intermediate conditions of probation:
   - (1) If required by the defendant’s probation officer, perform community service under the supervision of the Section of Community Corrections, and pay the fee required by G.S. 143B-708, but no fee shall be due if the Court imposed the sentence as a special condition of probation and assessed the fee in this judgment or any judgment for an offense adjudicated in the same term of court.
   - (2) Not use, possess, or control alcohol.
   - (3) Remain within the defendant’s county of residence unless granted written permission to leave by the court or the defendant’s probation officer.
   - (4) Participate in any evaluation, counseling, treatment, or educational program as directed by the probation officer, keeping all appointments by abiding by the rules, regulations, and direction of each program.

Material opposite unmarked squares is to be disregarded as surplusage.


(Over)
NOTE: The following are not defined as intermediate punishments under G.S. 15A-1340.11(6).
NOTE: Select only one of the three sets of conditions below.

1. Special Conditions For Reportable Convictions - G.S. 15A-1343(b2)

   NOTE: Impose only for a reportable conviction under G.S. 14-208.6.

   The defendant has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4) and must
   a. Register as a sex offender and enroll in satellite-based monitoring if required on the attached AOC-CR-615, Side Two.
   b. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other
      rehabilitative treatment as ordered by the court.
   c. Not communicate with, to be in the presence of, or found in or on the premises of the victim of the offense.
   d. (If the Court finds physical, mental, or sexual abuse of a minor) Not reside in a household with
      (1) (for sexual abuse) any minor child.
      (2) (for physical or mental abuse) any minor child other than the child(ren) named below, for whom the court expressly finds that it is
      unlikely that the defendant’s harmful or abusive conduct will recur and that it would be in the best interest of the child(ren) named
      below to reside in the same household with the probationer. (Name minor child(ren) with whom the probationer may reside in the same
      household):
   e. Submit at reasonable times to warrantless searches by a probation officer of the defendant’s person, of the defendant’s vehicle
      and premises, and of the defendant’s computer or other electronic mechanism which may contain electronic data, while the defendant
      is present, for the following purposes which are reasonably related to the defendant’s probation supervision:
      child pornography
   f. Other:

2. Special Conditions For Offenses Involving The Sexual Abuse Of A Minor - G.S. 15A-1343(b2)

   NOTE: Impose if offense involved sexual abuse of a minor but is not a reportable conviction.

   The defendant has been convicted of an offense involving the sexual abuse of a minor and must
   a. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other
      rehabilitative treatment as ordered by the court.
   b. Not communicate with, to be in the presence of, or found in or on the premises of the victim of the offense.
   c. Not reside in a household with any minor child. (G.S. 15A-1343(b2)(4))
   d. Submit at reasonable times to warrantless searches by a probation officer of the defendant’s person, of the defendant’s vehicle
      and premises, and of the defendant’s computer or other electronic mechanism which may contain electronic data, while the defendant
      is present, for the following purposes which are reasonably related to the defendant’s probation supervision:
      child pornography
   e. Other:

3. Special Conditions For Offenses Involving The Physical Or Mental Abuse Of A Minor - G.S. 15A-1343(b2)

   NOTE: Impose if offense involved physical or mental abuse of a minor but is not a reportable conviction and did not involve sexual abuse.

   The defendant has been convicted of an offense involving the physical or mental abuse of a minor and must
   a. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other
      rehabilitative treatment as ordered by the court.
   b. Not communicate with, to be in the presence of, or found in or on the premises of the victim of the offense.
   c. Not reside in a household with (1) any minor child:
      (2) any minor child other than the child(ren) named below, for whom the court expressly finds that it is unlikely that the defendant’s
      harmful or abusive conduct will recur and that it would be in the best interest of the child(ren) named below to reside in the same
      household with the probationer. (Name minor child(ren) with whom the probationer may reside in the same household):
   d. Submit at reasonable times to warrantless searches by a probation officer of the defendant’s person, of the defendant’s vehicle
      and premises, and of the defendant’s computer or other electronic mechanism which may contain electronic data, while the defendant
      is present, for the following purposes which are reasonably related to the defendant’s probation supervision:
      child pornography
   e. Other:

ADDITIONAL CONDITIONS FOR DOMESTIC VIOLENCE

1. Pursuant to its finding that the defendant is responsible for acts of domestic violence, the Court further finds that:
   a. there is an abuser treatment program, approved by the Domestic Violence Commission, reasonably available to the defendant, who shall:
      (1) (for supervised probation) attend and complete (check one) (program name)
      a program to be identified by the probation officer, and abide by the program’s rules. The probation officer shall send a copy of
      this judgment to the program, which shall notify the officer if the defendant fails to participate or is discharged for violating any
      of its rules.
      (2) (for unsupervised probation) attend and complete (check one) (program name)
      a program chosen by the defendant, who shall notify the program and the district attorney of that choice within ten (10) days
      of the entry of this judgment, and abide by the program’s rules. The district attorney shall send a copy of this judgment to the
      program, which shall notify the district attorney if the defendant fails to participate or is discharged for failure to comply with
      the program or its rules.
   b. there is no approved abuser treatment program reasonably available. c. it would not be in the best interests of justice to order the
      defendant to complete an abuser treatment program because

2. As additional Special Conditions of Probation, the defendant shall:
   a. not come within feet of at any time.
   b. comply fully with any G.S. Chapter 50B Domestic Violence Protective Order in effect.

The above conditions are incorporated in the “Judgment Suspending Sentence” in the above case(s) and made a part thereof.

Date ____________________________ Name Of Presiding Judge (type or print) ____________________________
Signature Of Presiding Judge ____________________________
The Court finds

1. The defendant has not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state.

2. The defendant pled guilty to or was found guilty of
   a. a Class H felony under Article 13A of Chapter 14 of the General Statutes.
   b. a misdemeanor enhanced pursuant to G.S. 14-50.22.

3. The offense was committed before the defendant attained the age of 18 years.

The Court finds

1. The defendant has not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state.

2. The defendant pled guilty to or was found guilty of
   a. a Class H felony under Article 13A of Chapter 14 of the General Statutes.
   b. a misdemeanor enhanced pursuant to G.S. 14-50.22.

3. The offense was committed before the defendant attained the age of 18 years.

FINDINGS

1. The Court, without entering a judgment of guilt and with the consent of the defendant as indicated by the defendant’s signature on the reverse, Orders that further proceedings in this matter be deferred and places the defendant on supervised probation for months as provided for a community punishment.

   (NOTE: Duration of probation shall be not less than one year, G.S. 14-50.29(b), and not more than two years, G.S. 15A-1342(a).)

2. The Court finds that it is NOT appropriate to delegate to the Section of Community Corrections the authority to impose any of the requirements in G.S. 15A-1343.2(e) for community punishment or G.S. 15A-1343.2(f) for intermediate punishment.

3. The Court finds that a longer shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).

4. The defendant shall provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319 required)

5. Upon violation of a term or condition of probation by the defendant, the Court reserves the authority to enter an adjudication of guilt and proceed as otherwise provided against the defendant. Upon fulfillment of the terms and conditions by the defendant, the Court shall discharge the defendant and dismiss the proceedings against the defendant.

6. Except as ordered to appear earlier for a hearing on alleged violation(s) or as otherwise ordered by the Court, the defendant shall return to this Court on (date) for a hearing to determine fulfillment of the terms and conditions of probation.

DEFERRAL OF PROCEEDINGS AND PLACEMENT ON PROBATION

1. The Court, without entering a judgment of guilt and with the consent of the defendant as indicated by the defendant’s signature on the reverse, Orders that further proceedings in this matter be deferred and places the defendant on supervised probation for months as provided for a community punishment.

   (NOTE: Duration of probation shall be not less than one year, G.S. 14-50.29(b), and not more than two years, G.S. 15A-1342(a).)

2. The Court finds that it is NOT appropriate to delegate to the Section of Community Corrections the authority to impose any of the requirements in G.S. 15A-1343.2(e) for community punishment or G.S. 15A-1343.2(f) for intermediate punishment.

3. The Court finds that a longer shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).

4. The defendant shall provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319 required)

5. Upon violation of a term or condition of probation by the defendant, the Court reserves the authority to enter an adjudication of guilt and proceed as otherwise provided against the defendant. Upon fulfillment of the terms and conditions by the defendant, the Court shall discharge the defendant and dismiss the proceedings against the defendant.

6. Except as ordered to appear earlier for a hearing on alleged violation(s) or as otherwise ordered by the Court, the defendant shall return to this Court on (date) for a hearing to determine fulfillment of the terms and conditions of probation.

MONETARY CONDITIONS

The defendant shall pay to the Clerk of Superior Court the “Total Amount Due” shown below, plus the probation supervision fee, pursuant to a schedule determined by the probation officer. The defendant is not entitled to a refund of any amount paid.

<table>
<thead>
<tr>
<th>Costs</th>
<th>Fine</th>
<th>Restitution*</th>
<th>Attorney’s Fees</th>
<th>Comm Serv Fee</th>
<th>EHA Fee</th>
<th>Appt Fee/Misc</th>
<th>Total Amount Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

*See attached “Restitution Worksheet, Notice And Order (Initial Sentencing)” AOC-CR-611, which is incorporated by reference.

The Court finds just cause to waive costs, as ordered on the attached AOC-CR-618. Other:

Upon payment of the “Total Amount Due,” the probation officer may transfer the defendant to unsupervised probation.

REGULAR CONDITIONS OF PROBATION - G.S. 15A-1343(b)

NOTE: Any probationary judgment may be extended pursuant to G.S. 15A-1342.

The defendant shall: (1) Commit no criminal offense in any jurisdiction. (2) Possess no firearm, explosive device, or other deadly weapon listed in G.S. 14-269. (3) Remain gainfully and suitably employed or faithfully pursue a course of study or vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) Satisfy child support and family obligations, as required by the Court. The defendant is on supervised probation, the defendant shall: (5) Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. (6) Report as directed by the Court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. (7) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (8) At a time to be designated by the probation officer, visit with the probation officer a facility maintained by the Section of Prisons.

Material opposite unmarked squares is to be disregarded as surplusage.
**SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1), 143B-704(c)**

The defendant shall also comply with the following special conditions which the Court finds are reasonably related to the defendant’s rehabilitation:

- [ ] 9. Surrender the defendant’s driver’s license to the Clerk of Superior Court for transmittal/notification to the Division of Motor Vehicles and not operate a motor vehicle for a period of _______________ or until relicensed by the Division of Motor Vehicles, whichever is later.

- [ ] 10. Submit at reasonable times to warrantless searches by a probation officer of the defendant’s person, and of the defendant’s vehicle and premises while the defendant is present, for the following purposes which are reasonably related to the defendant’s probation supervision:
  - [ ] stolen goods
  - [ ] controlled substances
  - [ ] contraband
  - [ ] child pornography

- [ ] 11. Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any illegal drugs or controlled substances; and not knowingly be present at or frequent any place where illegal drugs or controlled substances are sold, kept, or used.

- [ ] 12. Supply a breath, urine, and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol, when instructed by the defendant’s probation officer.

- [ ] 13. Successfully pass the General Education Development Test (G.E.D.) during the first ___________ months of the period of probation.

- [ ] 14. Complete ___________ hours of community or reparation service during the first ___________ days of the period of probation, as directed by the judicial services coordinator and pay the fee prescribed by G.S. 143B-708. [ ] pursuant to the schedule set out under Monetary Conditions on the reverse. [ ] within ___________ days of this Conditional Discharge and before beginning service.

- [ ] 15. Report for initial evaluation by participate in all further evaluation, counseling, treatment, or education programs recommended as a result of that evaluation, and comply with all other therapeutic requirements of those programs until discharged.

- [ ] 16. Not assault, threaten, harass, be found in or on the premises or workplace of, or have any contact with __________________________. “Contact” includes any defendant-initiated contact, direct or indirect, by any means, including, but not limited to, telephone, personal contact, e-mail, pager, gift-giving, telefacsimile machine or through any other person, except __________________________.

- [ ] 17. Other:

- [ ] 18. Comply with the Special Conditions Of Probation which are set forth on AOC-CR-603A, Page Two.

**SIGNATURE OF DEFENDANT**

By signing below, the defendant consents to the foregoing Order deferring further proceedings and placing the defendant on probation.

<table>
<thead>
<tr>
<th>Date</th>
<th>Signature Of Defendant</th>
</tr>
</thead>
</table>

**SIGNATURE OF JUDGE**

<table>
<thead>
<tr>
<th>Date</th>
<th>Name Of Presiding Judge (type or print)</th>
<th>Signature Of Presiding Judge</th>
</tr>
</thead>
</table>

**CERTIFICATION BY CLERK**

I certify that this Conditional Discharge and the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

- [ ] 1. Judgment Suspending Sentence (AOC-CR-603A, Page Two) (additional conditions of probation)
- [ ] 2. Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)
- [ ] 3. Additional File No.(s) And Offense(s) (AOC-CR-626)
- [ ] 4. Other: ___________

<table>
<thead>
<tr>
<th>Date</th>
<th>Name (type or print)</th>
<th>Signature Of Clerk</th>
<th>Deputy CSC</th>
<th>Asst. CSC</th>
<th>Clerk Of Superior Court</th>
</tr>
</thead>
</table>

**NOTE TO CLERK:** Upon entry of a final order discharging the defendant and dismissing the charge(s) against him/her, forward a certified copy of this Conditional Discharge and the dismissal order (AOC-CR-622 or other order) to the Administrative Office of the Courts in the same manner as expunction orders.

Material opposite unmarked squares is to be disregarded as surplusage.
### INTERMEDIATE PUNISHMENTS


#### 1. Special Probation - G.S. 15A-1351

For the defendant's active sentence as a condition of special probation, the defendant shall comply with these additional regular conditions of probation: (1) Obey the rules and regulations of the Division of Adult Correction governing the conduct of inmates while imprisoned. (2) Report to a probation officer in the State of North Carolina within seventy-two (72) hours of the defendant’s discharge from the active term of imprisonment.

- **A.** Serve an active term of ________ days ________ months ________ hours in the custody of the
- **B.** The defendant shall report in a sober condition to begin serving his/her term on:
  - Day __________
  - Date __________
  - Hour __________ AM/PM
  - and shall remain in custody until:
  - Day __________
  - Date __________
  - Hour __________ AM/PM

#### 2. Residential Program - G.S. 15A-1340.11(8); 15A-1343(b1)(2)

Attend or reside in ________ (name program) residential program for a period of ________ days, ________ months, and abide by all rules and after care regulations of that program.

**Other:**

#### 3. House Arrest With Electronic Monitoring - G.S. 15A-1340.11(4a); 15A-1343(b1)(3c)

Be assigned to house arrest with electronic monitoring for a period of ________ days, ________ months, and submit to electronic monitoring and abide by all rules, regulations, and directions of the probation officer, regarding electronic monitoring, and pay the fees prescribed under G.S. 15A-1343(c2) pursuant to the schedule set out under Monetary Conditions.

**Other:**

#### 4. Intensive Supervision Program - G.S. 15A-1340.11(5); 15A-1343(b1)(3b); 143B-704(c)

Submit to supervision by officers assigned to the Intensive Probation Program established pursuant to G.S. 143B-704(c), for a period of ________ months (6 to 9 months recommended by the Section of Community Corrections), and comply with the rules adopted by that program.

**Other:**

#### 5. Day Reporting Center - G.S. 15A-1340.11(3); 15A-1343(b1)(10); 15A-1340.11(6)

Report as directed by the probation officer to the Day Reporting Center for a period of ________ days, ________ months, and abide by all rules and regulations of that program.

**Other:**

#### 6. Drug Treatment Court - G.S. 15A-1340.11(3a); 15A-1340.11(6)

Comply with the rules adopted for the program as provided for in Article 62 of Chapter 7A of the General Statutes and report on a regular basis for a specified time to participate in court supervision, drug screening or testing, and drug or alcohol treatment programs.

**Other:**
MANDATORY SPECIAL CONDITIONS FOR SEX OFFENDERS AND PERSONS CONVICTED OF
OFFENSES INVOLVING PHYSICAL, MENTAL, OR SEXUAL ABUSE OF A MINOR - G.S. 15A-1343(b2)

NOTE: The following are not defined as intermediate punishments under G.S. 15A-1340.11(6).
NOTE: Select only one of the three sets of conditions below.

1. Special Conditions For Reportable Convictions - G.S. 15A-1343(b2)
NOTE: Impose only for a reportable conviction under G.S. 14-208.6.
The defendant has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4) and must
a. Register as a sex offender and enroll in satellite-based monitoring if required on the attached AOC-CR-615, Side Two.
b. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other
rehabilitative treatment as ordered by the court.
c. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
d. (If the Court finds physical, mental, or sexual abuse of a minor) Not reside in a household with
   1. (for sexual abuse) any minor child.
   2. (for physical or mental abuse) any minor child other than the child(ren) named below, for whom the court expressly finds that it is
      unlikely that the defendant’s harmful or abusive conduct will recur and that it would be in the best interest of the child(ren) named
      below to reside in the same household with the probationer. (Name minor child(ren) with whom the probationer may reside in the same
      household):
   e. Submit at reasonable times to warrantless searches by a probation officer of the defendant’s person, of the defendant’s vehicle and
      premises, and of the defendant’s computer or other electronic mechanism which may contain electronic data, while the defendant is
      present, for the following purposes which are reasonably related to the defendant’s probation supervision:
      □ child pornography
      □ [check one]
   f. Other:

2. Special Conditions For Offenses Involving The Sexual Abuse Of A Minor - G.S. 15A-1343(b2)
NOTE: Impose if offense involved sexual abuse of a minor but is not a reportable conviction.
The defendant has been convicted of an offense involving the sexual abuse of a minor and must
a. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other
rehabilitative treatment as ordered by the court.
b. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
c. Not reside in a household with any minor child. (G.S. 15A-1343(b2)(4))
d. Submit at reasonable times to warrantless searches by a probation officer of the defendant’s person, of the defendant’s vehicle and
   premises, and of the defendant’s computer or other electronic mechanism which may contain electronic data, while the defendant is
   present, for the following purposes which are reasonably related to the defendant’s probation supervision:
   □ child pornography
   □ [check one]
e. Other:

3. Special Conditions For Offenses Involving The Physical Or Mental Abuse Of A Minor - G.S. 15A-1343(b2)
NOTE: Impose if offense involved physical or mental abuse of a minor but is not a reportable conviction and did not involve sexual abuse.
The defendant has been convicted of an offense involving the physical or mental abuse of a minor and must
a. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other
rehabilitative treatment as ordered by the court.
b. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
c. Not reside in a household with
   1. any minor child.
   2. any minor child other than the child(ren) named below, for whom the court expressly finds that it is unlikely that the defendant’s
      harmful or abusive conduct will recur and that it would be in the best interest of the child(ren) named below to reside in the same
      household with the probationer. (Name minor child(ren) with whom the probationer may reside in the same household):
   d. Submit at reasonable times to warrantless searches by a probation officer of the defendant’s person, of the defendant’s vehicle and
      premises, and of the defendant’s computer or other electronic mechanism which may contain electronic data, while the defendant is
      present, for the following purposes which are reasonably related to the defendant’s probation supervision:
      □ child pornography
      □ [check one]
e. Other:

ADDITIONAL CONDITIONS FOR DOMESTIC VIOLENCE

1. Pursuant to its finding that the defendant is responsible for acts of domestic violence, the Court further finds that:
   a. there is an abuser treatment program, approved by the Domestic Violence Commission, reasonably available to the defendant, who shall:
      1. (for supervised probation) attend and complete (check one) (program name)
      □ a program to be identified by the probation officer, and abide by the program’s rules. The probation officer shall send a copy of
         this judgment to the program, which shall notify the officer if the defendant fails to participate or is discharged for violating any of
         its rules.
      □ a program chosen by the defendant, who shall notify the program and the district attorney of that choice within ten (10) days
         of the entry of this judgment, and abide by the program’s rules. The district attorney shall send a copy of this judgment to the
         program, which shall notify the district attorney if the defendant fails to participate or is discharged for failure to comply with the
         program or its rules.
      □ there is no approved abuser treatment program reasonably available.
      □ □ c. it would not be in the best interests of justice to order the
      defendant to complete an abuser treatment program because
   b. comply fully with any G.S. Chapter 50B Domestic Violence Protective Order in effect.

The above conditions are incorporated in the “Judgment Suspending Sentence” in the above case(s) and made a part thereof.

Date Name Of Presiding Judge (type or print) Signature Of Presiding Judge

Material opposite unmarked squares is to be disregarded as surplusage.

AOC-CR-603A, Page Two, Side Two, Rev. 12/16, © 2016 Administrative Office of the Courts
STATE OF NORTH CAROLINA

In The General Court Of Justice

County Seat Of Court

District Superior Court Division

STATE VERSUS

CONCLUSIVE DISCHARGE UNDER G.S. 14-204(b)
(For Offenses Committed On Or After Dec. 1, 2016)

G.S. 14-204(b)

The defendant shall pay to the Clerk of Superior Court the “Total Amount Due” shown below, plus the probation supervision fee if placed on supervised probation above, pursuant to a schedule set out by the court as follows:

1. Not violate any criminal statute in any jurisdiction.
2. Refrain from possessing a firearm or other dangerous weapon.
3. Submit to periodic drug testing, with cost of testing to be paid by defendant, as follows: (Specify the time and manner, no less than 3 times during course of probation.)
4. Obtain a vocational assessment administered by ________________________________, a program approved by the court.
5. Attend _________ counseling sessions administered by a program approved by the court during the course of probation. (Specify number, no less than 10 sessions.)
The defendant shall also comply with the following additional conditions:

1. Report to and participate with this or other courts, persons, or social service agencies as follows:

2. Pay a fine and costs as calculated in the Monetary Conditions section on Side One of this Order.

3. Attend or reside in the ______________ facility for probationer instruction.

4. Support his/her dependents.

5. Refrain from having in the person’s body the presence of any illicit drug prohibited by the North Carolina Controlled Substances Act unless prescribed by physician.

6. Submit to regular blood or urine tests to determine the presence of any illicit drug.

7. Other:

8. Comply with the Special Conditions of Probation as set forth on AOC-CR-603D, Page Two.

By signing below, the defendant consents to the foregoing Order deferring further proceedings and placing the defendant on probation.

Date ___________________________ Signature Of Defendant

SIGNATURE OF JUDGE

Date ___________________________ Signature Of Presiding Judge

CERTIFICATION BY CLERK

Date ___________________________ Signature Of Clerk

NOTE TO CLERK: Upon entry of a final order discharging the defendant and dismissing the charge(s) against him/her, forward a certified copy of this Conditional Discharge and the dismissal order (AOC-CR-622 or other order) to the Administrative Office of the Courts in the same manner as expunction orders.
COMMUNITY AND INTERMEDIATE PROBATION CONDITIONS - G.S. 15A-1343(a1)

In addition to complying with the regular and any special conditions of probation set forth in the “Judgment Suspending Sentence” entered in the above case(s), the defendant shall also comply with the following conditions of probation, which may be imposed for any community or intermediate punishment.

1. Submit to house arrest with electronic monitoring, remain at the defendant’s residence for a period of _________ days, _________ months, abide by all rules, regulations, and directions of the probation officer regarding such monitoring, and pay the fees prescribed in G.S. 15A-1343(c) as provided under Monetary Conditions. The defendant may leave the residence for the following purpose(s) and as otherwise permitted by the probation officer:
   - employment
   - counseling
   - a course of study
   - vocational training.
   Other:

2. Complete _________ hours of community service during the first _________ days of the period of probation, as directed by the judicial services coordinator.
   - not due because it is assessed in a case adjudicated during the same term of court.
   - to be paid _________ pursuant to the schedule set out under Monetary Conditions in the “Judgment Suspending Sentence.” _________ days of this Judgment and before beginning service.
   Other:

3. Submit to the following period(s) of confinement in the custody of the _________ Sheriff of this County.
   _______ (other local confinement facility).
   _______ and pay jail fees. The defendant shall report in a sober condition to serve the term(s) indicated below.
   NOTE: Periods of confinement imposed here must be for two-day or three-day consecutive periods, only, for no more than six days in a single month, and in no more than three separate months during the period of probation. To impose special probation under G.S. 15A-1351, see INTERMEDIATE PUNISHMENTS, below.

4. Obtain a substance abuse assessment, monitoring, or treatment as follows:

5. Abstain from alcohol consumption and submit to continuous alcohol monitoring for a period of _________ days, _________ months, the Court having found that a substance abuse assessment has identified defendant’s alcohol dependency or chronic abuse.

6. Participate in an educational or vocational skills development program as follows:

7. Submit to satellite-based monitoring, if required on the attached AOC-CR-615, Side Two.

INTERMEDIATE PENALTIES

In addition to complying with the regular and any special, community, or intermediate conditions of probation set forth in the “Judgment Suspending Sentence” or herein for the above case(s), the defendant shall also comply with the following intermediate punishment(s) under G.S. 15A-1340.11(6).

1. Special Probation - G.S. 15A-1351

For the defendant’s active sentence as a condition of special probation, the defendant shall comply with these additional regular conditions of probation:

   A. Serve an active term of _________ days, _________ months of _________ hours in the custody of the _________ N.C. DAC. _________ Sheriff of this County. _________ Other:

   B. The defendant shall report in a sober condition to begin serving his/her term on _________ Day _________ Date _________ Hour _________ AM _________ PM and shall remain in _________ custody until _________ Day _________ Date _________ Hour _________ AM _________ PM.

   C. The defendant shall again report in a sober condition to continue serving this term on the same day of the week for the next _________ consecutive weeks, and shall remain in custody during the same hours each week until completion of the active term ordered.

   D. This term shall be served at the direction of the probation officer within _________ days _________ months of this judgment.

   E. Pay jail fees. _________ F. Work release is recommended. _________ G. Substance abuse treatment is recommended.

   H. Other:

2. Drug Treatment Court - G.S. 15A-1340.11(3a); 15A-1340.11(6)

Comply with the rules adopted for the program as provided for in Article 62 of Chapter 7A of the General Statutes and report on a regular basis for a specified time to participate in court supervision, drug screening or testing, and drug or alcohol treatment programs.

INTERMEDIATE CONDITIONS OF PROBATIONS - G.S. 15A-1343(b4)

If subject to intermediate punishment, the defendant shall, in addition to the terms and conditions imposed above, comply with the following intermediate conditions of probation.

   1. If required by the defendant’s probation officer, perform community service under the supervision of the Section of Community Corrections, and pay the fee required by G.S. 143B-708, but no fee shall be due if the Court imposed community service as a special condition of probation and assessed the fee in this judgment or any judgment for an offense adjudicated in the same term of court.

   2. Not use, possess, or control alcohol. _________ Remain within the defendant’s county of residence unless granted written permission to leave by the court or the defendant’s probation officer.

   3. Participate in any evaluation, counseling, treatment, or educational program as directed by the probation officer, keeping all appointments by abiding by the rules, regulations, and direction of each program.

Material opposite unmarked squares is to be disregarded as surplusage.
MANDATORY SPECIAL CONDITIONS FOR SEX OFFENDERS AND PERSONS CONVICTED OF
OFFENSES INVOLVING PHYSICAL, MENTAL, OR SEXUAL ABUSE OF A MINOR - G.S. 15A-1343(b2)

NOTE: The following are not defined as intermediate punishments under G.S. 15A-1341.11(6).
NOTE: Select only one of the three sets of conditions below.

1. Special Conditions For Reportable Convictions - G.S. 15A-1343(b2)
   NOTE: Impose only for a reportable conviction under G.S. 14-208.6.
   The defendant has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4) and must
   a. Register as a sex offender and enroll in satellite-based monitoring if required on the attached AOC-CR-615, Side Two.
   b. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other
      rehabilitative treatment as ordered by the court.
   c. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
      (if the Court finds physical, mental, or sexual abuse of a minor) Not reside in a household with
      (1) any minor child.
      (2) any minor child other than the child(ren) named below, for whom the court expressly finds that it is
         unlikely that the defendant’s harmful or abusive conduct will recur and that it would be in the best interest of the child(ren) named
         below to reside in the same household with the probationer. (Name minor child(ren) with whom the probationer may reside in the same
         household);
   d. Submit at reasonable times to warrantless searches by a probation officer of the defendant’s person, of the defendant’s vehicle and
      premises, and of the defendant’s computer or other electronic mechanism which may contain electronic data, while the defendant is
      present, for the following purposes which are reasonably related to the defendant’s probation supervision:  child pornography
      Other:
   e. Other:

2. Special Conditions For Offenses Involving The Sexual Abuse Of A Minor - G.S. 15A-1343(b2)
   NOTE: Impose if offense involved sexual abuse of a minor but is not a reportable conviction.
   The defendant has been convicted of an offense involving the sexual abuse of a minor and must
   a. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other
      rehabilitative treatment as ordered by the court.
   b. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
   c. Not reside in a household with any minor child. (G.S. 15A-1343(b2)(4))
   d. Submit at reasonable times to warrantless searches by a probation officer of the defendant’s person, of the defendant’s vehicle and
      premises, and of the defendant’s computer or other electronic mechanism which may contain electronic data, while the defendant is
      present, for the following purposes which are reasonably related to the defendant’s probation supervision:  child pornography
      Other:

3. Special Conditions For Offenses Involving The Physical Or Mental Abuse Of A Minor - G.S. 15A-1343(b2)
   NOTE: Impose if offense involved physical or mental abuse of a minor but is not a reportable conviction and did not involve sexual abuse.
   The defendant has been convicted of an offense involving the physical or mental abuse of a minor and must
   a. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other
      rehabilitative treatment as ordered by the court.
   b. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
   c. Not reside in a household with
      (1) any minor child.
      (2) any minor child other than the child(ren) named below, for whom the court expressly finds that it is unlikely that the defendant’s
         harmful or abusive conduct will recur and that it would be in the best interest of the child(ren) named below to reside in the same
         household with the probationer. (Name minor child(ren) with whom the probationer may reside in the same household):
   d. Submit at reasonable times to warrantless searches by a probation officer of the defendant’s person, of the defendant’s vehicle and
      premises, and of the defendant’s computer or other electronic mechanism which may contain electronic data, while the defendant is
      present, for the following purposes which are reasonably related to the defendant’s probation supervision:  child pornography
      Other:

ADDITIONAL CONDITIONS FOR DOMESTIC VIOLENCE

1. Pursuant to its finding that the defendant is responsible for acts of domestic violence, the Court further finds that:
   a. there is an abuser treatment program, approved by the Domestic Violence Commission, reasonably available to the defendant, who shall:
      (1) (for supervised probation) attend and complete (check one)(program name)
          a program to be identified by the probation officer, and abide by the program’s rules. The probation officer shall send a copy of
          this judgment to the program, which shall notify the officer if the defendant fails to participate or is discharged for violating any
          of its rules.
      (2) (for unsupervised probation) attend and complete (check one)(program name)
          a program chosen by the defendant, who shall notify the program and the district attorney of that choice within ten (10) days
          of the entry of this judgment, and abide by the program’s rules. The district attorney shall send a copy of this judgment to the
          program, which shall notify the district attorney if the defendant fails to participate or is discharged for failure to comply with
          the program or its rules.
   b. there is no approved abuser treatment program reasonably available.
   c. it would not be in the best interests of justice to order the
defendant to complete an abuser treatment program because
2. As additional Special Conditions of Probation, the defendant shall:
   a. not come within feet of____at any time.
   b. comply fully with any G.S. Chapter 50B Domestic Violence Protective Order in effect.
   The above conditions are incorporated in the “Judgment Suspending Sentence” in the above case(s) and made a part thereof.

Date Name Of Presiding Judge (type or print) Signature Of Presiding Judge

Material opposite unmarked squares is to be disregarded as surplusage.

AOC-CR-603D, Page Two, Side Two, New 12/16, © 2016 Administrative Office of the Courts