

Community Service

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Today's post covers some of the details of community service as a criminal punishment in North Carolina.

The state constitution lists community service as an authorized punishment in North Carolina. N.C. Const. Art XI, sec. 1. It is, generally, work performed for the benefit of the local community, without pay, as a condition of probation. Don't confuse community service with "community punishment" under Structured Sentencing. Not every community punishment (G.S. 15A-1340.11(2)) includes community service, and community service is permissible as part of an intermediate punishment (G.S. 15A-1340.11(6)) or a sentence imposed under G.S. 20-179, too.

North Carolina's community service program is described in [G.S. 143B-708](#). The program falls administratively under the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and covers all defendants ordered to perform community service as part of a sentence to supervised or unsupervised probation. The program is managed locally by DACJJ employees called judicial services coordinators.

The program provides appropriate work site placement for defendants sentenced to perform service hours. Recipient agencies vary from district to district, but they typically include things like roadside trash pickup; work at local nonprofits like food pantries and animal shelters; work for religious organizations (so long as the work benefits the community as a whole and does not advance a particular religion); and work in and around government buildings. [Program policy](#) (p. 423) prohibits a defendant from, among other things, making donations in lieu of performing service hours, performing hours at his or her place of employment or residence, performing hours under the supervision of a family member, or performing hours in a Community Corrections office without direct staff supervision.

Defendants are required to pay a \$250 fee to participate in the community service program, and, with some exceptions, they are required to pay it before their service may begin. G.S. 143B-708(c). I get asked about the fee a lot—specifically, whether it can be waived or otherwise forgiven. I wrote about that [here](#), but let me save you a click: no statute specifically expressly allows the fee to be forgiven, and no statute expressly prohibits a judge from forgiving it. My informal, anecdotal survey suggests that the fee is forgiven as much as half of the time in some districts.

Many statutes require a defendant to complete a certain number of community service hours as punishment for a particular offense. *E.g.*, G.S. 14-399(c) (8–24 hours of community service for noncommercial litter under 15 pounds, with the additional requirement that the specific service be to pick up litter if feasible); G.S. 14-127.1 (24 hours of community service for graffiti vandalism). In the absence of a specific statute the number of hours is in the discretion of the court. I have heard of some cases involving an extremely high numbers of hours—sometimes motivated by a local rule of thumb that requires, for example, an hour of community service for every dollar of unpaid monetary obligations. Judges may wish to talk with local probation officers and judicial services coordinators to get their sense of whether there is a tipping point at which completing additional service hours becomes counterproductive, impractical, or impossible.

The impaired driving law requires an escalating number of community service hours for probationary sentences as you climb into the more serious levels of punishment. G.S. 20-179 (24 hours of service for Level Five, 48 hours for Level Four, and so forth). Until 2009, former G.S. 20-179(n) required the hours to be completed within a particular

timeframe—72 hours or more within 90 days, 48 hours within 60 days, and 24 hours within 30 days. The shoplifting law included similar requirements. In an effort to give Community Corrections and the courts more flexibility in scheduling service hours, those laws were repealed in 2009. [S.L. 2009-372](#). Still, probation officers tell me that judges frequently include completion times in their judgments ordering community service hours. There's nothing legally wrong with setting a deadline, but if judges are doing it out of a sense that it's required—well, it's not. If they are doing it to be helpful, again, it may be worth a conversation between the local probation staff and the judges to weigh the pros and cons of a timeline set by the court.

When a defendant has committed a “significant violation” of the terms of probation related to community service, community service staff shall report the violation to the court in which community service was ordered. They must give the defendant notice, either by personal delivery or by U.S. Mail, of a hearing to determine if the violation was willful. If mailed, the notice must be mailed at least 10 days prior to any hearing. If the court determines that there was a willful failure to comply, then it must, in addition to whatever response may be appropriate as a violation of probation, revoke the person's drivers license until the community service requirement has been met. G.S. 143B-708(e).