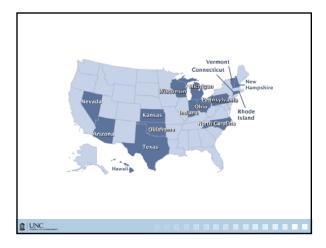
The Justice Reinvestment Act Jamie Markham Assistant Professor, UNC School of Government WWW.50g.unc.edu

"A data-driven justice reinvestment approach . . . to reduce spending on corrections and reinvest in strategies to increase public safety."

- Council of State Governments





Key findings

- Revoked probationers account for too many prison entries (over half)
- Too many inmates leave prison with no supervision in the community
- Treatment and supervision resources not allocated in an evidence-based way
- Lots of misdemeanants in prison

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Legislation

- Justice Reinvestment Act (HB 642)
- Technical Corrections (HB 335)
- Amend Conditions of Probation (HB 270)
- Sex Offender Supervision (SB 684)

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Justice Reinvestment Essentials
5.1.2011-192, as amended by \$1.2011-192

Felony maximum sentences increased:
all felons get post-release supervision
Offenses committed on or properties of the projection of the



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Overview

Changes related to...

- Front-end sentencing
- Probation revocations
- Other changes

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Front-end Sentencing

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Changes to	
Felony Sentencing:	
All felons get post-release	е
supervision	

Offenses committed on or after December 1, 2011

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Post-release supervision (PRS) for all felonies

Class B1-E: 12 months PRS (was 9 months)
 Class F-I: 9 months PRS (was 0 months)
 Corresponding increase in maximum sentences



Post-release supervision (PRS) for all felonies

MAXIMUM SENTENCES UNDER PRIOR LAW

• Class F-I: 120% of minimum

• Class B1-E: 120% of minimum, plus 9

MAXIMUM SENTENCES UNDER NEW LAW

Class F-I: 120% of minimum, plus 9Class B1-E: 120% of minimum, plus 12

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A Prior Record Level II defendant is convicted of a Class H felony.

I/A

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CURRENT LAW

• 8-10 months

NEW LAW

8-19 months

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Special PRS Rules for Sex Offenders

- Post-release supervision period:
 - All sex offenders: 60 months PRS
- Maximum sentence

- Class B1-E: 120% of minimum, plus 60 months- Class F-I: 120% of minimum, plus 9 months



	Maximum Punishments
	Structured Sentencing
	Offenses committed on or after December 1, 2011
	Class A Death or life without parole Class B1 Life without parole Class B2 484 months Class C 231 months Class D 204 months Class E 88 months Class F 59 months Class G 47 months Class H 39 months Class I 24 months Note: For reportable sex crimes in Class B1—E, add 48 months to the maximums listed above.
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Adv	anced Supervised
	ease (ASR)
1	
<u>Pleas</u>	and findings of quilt on or after

Advanced Supervised Release (ASR)

- Early release program for certain felons
- More details tomorrow

January 1, 2012



Probation	
General Themes	

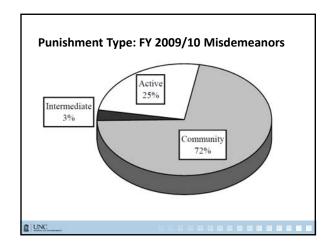
- Blend community and intermediate punishment
- Expand "delegated authority"
- Limit revocations for "technical violations"

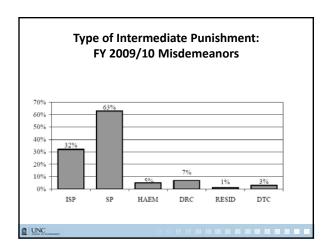
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Community and Intermediate Punishment

For offenses committed on or after December 1, 2011







Intermediate Punishment PRIOR LAW NEW LAW Supervised probation Supervised probation that MUST include: that MAY include: - Special probation - Special probation - Residential program Drug treatment court - "Community and - Intensive supervision Intermediate conditions" - Electronic house arrest - Other conditions in the - Day reporting center court's discretion - Drug treatment court 0 UNC



Repealed Conditions

- Intensive supervision
- Residential program
- Day-reporting center

Effective for offenses committed on/after 12/1/11

Community Punishment

PRIOR LAW

- Not active
- Can't include:
 - Special probation
 - Residential program
 - Intensive supervision
 - Electronic house arrest

 - Day reporting center
- Drug treatment court Fine only permissible

NEW LAW

- Not active
- Can't include:
 - Special probation
 - Drug treatment court
- Fine only permissible
- May include "community and intermediate" conditions

New "Community and Intermediate" Conditions

- Electronic house arrest
- Community service
- Substance abuse assessment, monitoring, or treatment
- Educational or vocational skills development
- SBM, if a covered sex offender
- Short-term jail confinement ("quick dip")



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"Quick Dip" Jail Confinement

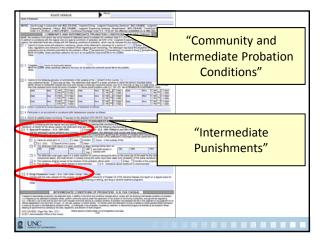
- Maximum of 6 days per month
- Three separate months
- Served in 2-3 day increments
- Total of 18 days per case

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New forms

- "A" Offenses committed before 12/1/09
- "B" Offenses 12/1/09 to 12/1/11
- "C" Offenses on/after 12/1/11

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Delegated Authority

For offenses committed on or after December 1, 2011

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Delegated Authority

- Allows probation officer to add certain conditions
- Structured Sentencing cases only (not DWI)
- Applies unless judge withholds it



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JRA Delegated Authority

- With violation or "high risk," officer can add:
 - Community service, 20/50 hours (comm./intermed.)
 - Increased reporting to officer
 - Substance abuse assessment, monitoring, or treatment
 - Electronic house arrest
 - Curfew with electronic monitoring
 - Educational/vocational skills development
 - SBM for covered sex offenders (intermediate only)
- Offender can petition for court review of officer-imposed conditions

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JRA Delegated Authority

- In response to violation (not based on risk alone), officer can order "Quick dip"
 - Up to 6 days per month
 - In any three separate months
 - Served in 2-3 day periods
 - Must follow detailed procedure

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JRA Delegated Authority

- Procedure:
 - Officer prepares violation report
 - Officer informs probationer of right to counsel and a hearing on the violation
 - Offender waives those rights, in writing, with supervisor signing as witness
 - Go to jail
 - If offender does not waive, proceed with regular (court) violation process

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Limit on Judges' Revocation Authority

For <u>probation violations</u> occurring on or after December 1, 2011

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Limit on Revocation Authority

For <u>probation violations</u> occurring on or after December 1, 2011...

- Court may only revoke probation for:
 - New criminal offense
 - Absconding (under new "absconding" condition)
- For other violations, court may order Confinement in Response to Violation ("CRV")
- After two CRV periods, court may revoke for any violation



Confinement in Response to Violation (CRV)

- Permissible in response to violations other than "commit no criminal offense" and "absconding"
 - Felony CRV: 90 days
 - Misdemeanor CRV: Up to 90 days

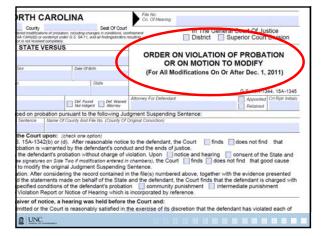
If time remaining on the maximum is 90 days or less, the CRV period is for that remaining period

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Confinement in Response to Violation (CRV)

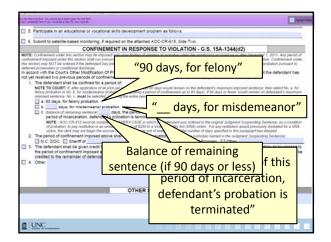
If time remaining on the maximum is 90 days or less, the CRV period is for that remaining period

- Misdemeanant with 60-day suspended sentence
 - CRV must be 60 days exactly
- Misdemeanant with 120-day suspended sentence
 - CRV may be any length between 1 and 90 days





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Confinement in Response to Violation (CRV)

- After two CRV periods, the court may revoke
- Revocation is never required
- Maximum of two CRV periods per case



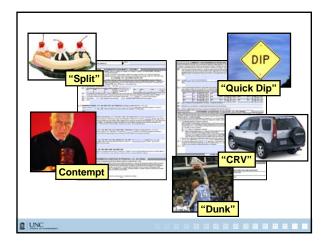
Post-JRA Confinement options

- Special probation ("split"):
 - One-fourth of imposed maximum
- Contempt

- Up to 30 days
- Short-term jail confinement ("quick dip"):
 - 6 days per month, 3 separate months; 2-3 day periods
- Confinement in Response to Violation ("CRV"):
 - 90 days (or "up to 90 days" for misdemeanors)







Confinement in Response to Violation (CRV)

- CRV periods cannot be "stacked"
- Jail credit for time awaiting a violation hearing gets applied to CRV period first
- CRV served where defendant would have served an active sentence
 - Felons: DOC
 - Misdemeanors: Jail or prison, depending on underlying sentence length

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Confinement in Response to Violation (CRV)

No statutory appeal provision for CRV



Statutory "Absconding" condition For offenses committed on or after December 1, 2011	
Statutory Absconding Regular condition: "Not to abscond, by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown." G.S. 15A-1343(b)(3a) Offenses committed on or after December 1, 2011	
Putting it all together	



	1
A prior conviction level III defendant is convicted of communicating threats (Class 1) and given a	
120-day suspended sentence.	
Technical violation: CRV (30 days)	
Technical violation: CRV (90 days)	
If the time remaining on the defendant's maximum	-
imposed sentence is 90 days or less, then the CRV is for the remaining period of the sentence. G.S. 15A-1344(d2)	
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Wind of Processing	
Felony breaking or entering (Class H), committed	
after December 1, 2011. Prior record level II.	
I/A 6 month minimum	
o month minimum	
8 - 10 17 month maximum Suspended	
6 - 8 What conditions is the	
court required to add to make it an intermediate	
punishment?	
O LINY	
Q UNC	
The court imposes a 6-17 month sentence, suspended.	
 Technical violation #1: 90-day CRV 	-
Technical violation #2: 90-day CRV	
Violation #3: Revocation	
Credit for 6 months served during CRV periods	
 11 months remaining on sentence; mandatory release onto post-release supervision when 9 months from maximum 	
 In prison for approximately 2 months, then release 	
onto post-release supervision for 9 months	



Limit on Parole Commission Authority to Revoke

Offenses committed on or after December 1, 2011

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Parole Commission Revocation Authority

- Parole Commission may only revoke for:
 - New criminal offense
 - Statutory absconding
 - Any violation by a sex offender
- Other violations: Return to prison for 3 months, then re-release

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The court imposes a 6-17 month sentence, suspended.

- Technical violation #1: 90-day CRV
- Technical violation #2: 90-day CRV
- Violation #3: Revocation
 - Credit for 6 months served during CRV periods
 - 11 months remaining on sentence; mandatory release onto post-release supervision when 9 months from maximum
- In prison for approximately 2 months, then release onto post-release supervision for 9 months
- Technical violation #1: Return to prison for 3 months
- Technical violation #2: Return to prison for 3 months
- Violation #3: Return to prison for 3 months





Other	
Changes	•

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Conditional discharge under G.S. 90-96

Pleas entered or findings of guilt on or after January 1, 2012

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90-96, generally

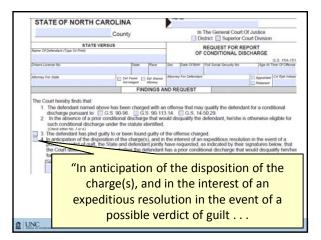
- Deferral for first-time drug offenders
 - -Probation without entry of judgment
 - -Discharge and dismissal if successful
 - Upon violation, court may enter judgment and sentence
 - -If under 22, opportunity to expunge



90-96(a): JRA Changes

- Defendant eligibility narrowed:
 - No prior felonies (of any kind); no prior drug convictions
- Offense eligibility expanded:
 - All simple possession offenses (felony and misdemeanor)
 - Possession of drug paraphernalia
- "May" becomes "shall"
 - 90-96(a) made mandatory for eligible defendants (who consent)

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90-96, generally

- Unless otherwise stated, ordinary probation rules apply.
 - State v. Burns, 171 N.C. App. 759 (2005)
- May be supervised or unsupervised
- Suspended on such reasonable terms and conditions as the court may require
- Violation hearings: County of origin makes sense



Habitual	felon	law
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Principal felonies occurring on/after December 1, 2011

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Habitual Felon

- 4-class enhancement, capped at Class C
 - -Class I → Class E
 - -Class H → Class D
 - All others Class C

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Habitual breaking and entering status offense created

Principal felonies occurring on/after December 1, 2011



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Habitual	B	/E
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- Second "felony B/E" can be sentenced as Class E
 - 1st/2nd degree burglary
 - Breaking out of a dwelling
 - Breaking or entering buildings (felony)
 - Breaking or entering place of worship
 - Substantially similar out-of-state offense
- Operationally similar to habitual felon law

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Place of Confinement

Sentences imposed on or after January 1, 2012

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Place of Confinement

- All felons to DOC
- Misdemeanants:
 - 90 days or less: Local jail
 - 91 to 180 days (except DWI): Statewide Misdemeanant Confinement Program
 - 181 days or more: DOC

