

# Felony Offenses Committed on or after **October 1, 2013**

## MINIMUM SENTENCES AND DISPOSITIONAL OPTIONS

OFFENSE CLASS	PRIOR RECORD LEVEL						DISPOSITION
	I 0-1 Pt	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts	
<b>A</b> Max. Death or Life w/o Parole	Death or Life without Parole Defendant under 18 at Time of Offense: Life with or without Parole						
<b>B1</b> Max. Life w/o Parole	<b>A</b> 240-300	<b>A</b> 276-345	<b>A</b> 317-397	<b>A</b> 365-456	<b>A</b> Life w/o Parole	<b>A</b> Life w/o Parole	Aggravated <b>PRESUMPTIVE</b> Mitigated
	<b>192-240</b>	<b>221-276</b>	<b>254-317</b>	<b>292-365</b>	<b>336-420</b>	<b>386-483</b>	
	144-192	166-221	190-254	219-292	252-336	290-386	
<b>B2</b> Max. 484 (532)	<b>A</b> 157-196	<b>A</b> 180-225	<b>A</b> 207-258	<b>A</b> 238-297	<b>A</b> 273-342	<b>A</b> 314-393	
	<b>125-157</b>	<b>144-180</b>	<b>165-207</b>	<b>190-238</b>	<b>219-273</b>	<b>251-314</b>	
	94-125	108-144	124-165	143-190	164-219	189-251	
<b>C</b> Max. 231 (279)	<b>A</b> 73-92	<b>A</b> 83-104	<b>A</b> 96-120	<b>A</b> 110-138	<b>A</b> 127-159	<b>A</b> 146-182	
	<b>58-73</b>	<b>67-83</b>	<b>77-96</b>	<b>88-110</b>	<b>101-127</b>	<b>117-146</b>	
	44-58	50-67	58-77	66-88	76-101	87-117	
<b>D</b> Max. 204 (252)	<b>A</b> 64-80	<b>A</b> 73-92	<b>A</b> 84-105	<b>A</b> 97-121	<b>A</b> 111-139	<b>A</b> 128-160	
	<b>51-64</b>	<b>59-73</b>	<b>67-84</b>	<b>78-97</b>	<b>89-111</b>	<b>103-128</b>	
	ASR 38-51	ASR 44-59	ASR 51-67	58-78	67-89	77-103	
<b>E</b> Max. 88 (136)	<b>I/A</b> 25-31	<b>I/A</b> 29-36	<b>A</b> 33-41	<b>A</b> 38-48	<b>A</b> 44-55	<b>A</b> 50-63	
	<b>20-25</b>	<b>23-29</b>	<b>26-33</b>	<b>30-38</b>	<b>35-44</b>	<b>40-50</b>	
	ASR 15-20	ASR 17-23	ASR 20-26	ASR 23-30	26-35	30-40	

<b>F</b> Max. 59	<b>I/A</b> 16-20	<b>I/A</b> 19-23	<b>I/A</b> 21-27	<b>A</b> 25-31	<b>A</b> 28-36	<b>A</b> 33-41
	<b>13-16</b>	<b>15-19</b>	<b>17-21</b>	<b>20-25</b>	<b>23-28</b>	<b>26-33</b>
	ASR 10-13	ASR 11-15	ASR 13-17	ASR 15-20	ASR 17-23	20-26
<b>G</b> Max. 47	<b>I/A</b> 13-16	<b>I/A</b> 14-18	<b>I/A</b> 17-21	<b>I/A</b> 19-24	<b>A</b> 22-27	<b>A</b> 25-31
	<b>10-13</b>	<b>12-14</b>	<b>13-17</b>	<b>15-19</b>	<b>17-22</b>	<b>20-25</b>
	ASR 8-10	ASR 9-12	ASR 10-13	ASR 11-15	ASR 13-17	ASR 15-20
<b>H</b> Max. 39	<b>C/I/A</b> 6-8	<b>I/A</b> 8-10	<b>I/A</b> 10-12	<b>I/A</b> 11-14	<b>I/A</b> 15-19	<b>A</b> 20-25
	<b>5-6</b>	<b>6-8</b>	<b>8-10</b>	<b>9-11</b>	<b>12-15</b>	<b>16-20</b>
	ASR 4-5	ASR 4-6	ASR 6-8	ASR 7-9	ASR 9-12	ASR 12-16
<b>I</b> Max. 24	<b>C</b> 6-8	<b>C/I</b> 6-8	<b>I</b> 6-8	<b>I/A</b> 8-10	<b>I/A</b> 9-11	<b>I/A</b> 10-12
	<b>4-6</b>	<b>4-6</b>	<b>5-6</b>	<b>6-8</b>	<b>7-9</b>	<b>8-10</b>
	3-4	3-4	4-5	4-6	5-7	6-8

Note: Numbers shown are in months. The number shown below each offense class reflects the maximum possible sentence for that class of offense (the highest maximum sentence from the aggravated range in prior record level VI). The maximum sentence for a defendant convicted of a reportable Class B1 through E sex crime is indicated in parentheses.

**A**—Active Punishment  
**I**—Intermediate Punishment  
**C**—Community Punishment

**EM** Extraordinary Mitigation (possible eligibility). See page 4.

**ASR** Advanced Supervised Release (possible eligibility). See page 5.

## MAXIMUM SENTENCES

### FOR OFFENSE CLASSES B1 THROUGH E (*Sex Crimes*)

15-30 (78)	56-80 (128)	97-129 (177)	138-178 (226)	179-227 (275)	220-276 (324)	261-326 (374)	302-375 (423)
16-32 (80)	57-81 (129)	98-130 (178)	139-179 (227)	180-228 (276)	221-278 (326)	262-327 (375)	303-376 (424)
17-33 (81)	58-82 (130)	99-131 (179)	140-180 (228)	181-230 (278)	222-279 (327)	263-328 (376)	304-377 (425)
18-34 (82)	59-83 (131)	100-132 (180)	141-182 (230)	182-231 (279)	223-280 (328)	264-329 (377)	305-378 (426)
19-35 (83)	60-84 (132)	101-134 (182)	142-183 (231)	183-232 (280)	224-281 (329)	265-330 (378)	306-380 (428)
20-36 (84)	61-86 (134)	102-135 (183)	143-184 (232)	184-233 (281)	225-282 (330)	266-332 (380)	307-381 (429)
21-38 (86)	62-87 (135)	103-136 (184)	144-185 (233)	185-234 (282)	226-284 (332)	267-333 (381)	308-382 (430)
22-39 (87)	63-88 (136)	104-137 (185)	145-186 (234)	186-236 (284)	227-285 (333)	268-334 (382)	309-383 (431)
23-40 (88)	64-89 (137)	105-138 (186)	146-188 (236)	187-237 (285)	228-286 (334)	269-335 (383)	310-384 (432)
24-41 (89)	65-90 (138)	106-140 (188)	147-189 (237)	188-238 (286)	229-287 (335)	270-336 (384)	311-386 (434)
25-42 (90)	66-92 (140)	107-141 (189)	148-190 (238)	189-239 (287)	230-288 (336)	271-338 (386)	312-387 (435)
26-44 (92)	67-93 (141)	108-142 (190)	149-191 (239)	190-240 (288)	231-290 (338)	272-339 (387)	313-388 (436)
27-45 (93)	68-94 (142)	109-143 (191)	150-192 (240)	191-242 (290)	232-291 (339)	273-340 (388)	314-389 (437)
28-46 (94)	69-95 (143)	110-144 (192)	151-194 (242)	192-243 (291)	233-292 (340)	274-341 (389)	315-390 (438)
29-47 (95)	70-96 (144)	111-146 (194)	152-195 (243)	193-244 (292)	234-293 (341)	275-342 (390)	316-392 (440)
30-48 (96)	71-98 (146)	112-147 (195)	153-196 (244)	194-245 (293)	235-294 (342)	276-344 (392)	317-393 (441)
31-50 (98)	72-99 (147)	113-148 (196)	154-197 (245)	195-246 (294)	236-296 (344)	277-345 (393)	318-394 (442)
32-51 (99)	73-100 (148)	114-149 (197)	155-198 (246)	196-248 (296)	237-297 (345)	278-346 (394)	319-395 (443)
33-52 (100)	74-101 (149)	115-150 (198)	156-200 (248)	197-249 (297)	238-298 (346)	279-347 (395)	320-396 (444)
34-53 (101)	75-102 (150)	116-152 (200)	157-201 (249)	198-250 (298)	239-299 (347)	280-348 (396)	321-398 (446)
35-54 (102)	76-104 (152)	117-153 (201)	158-202 (250)	199-251 (299)	240-300 (348)	281-350 (398)	322-399 (447)
36-56 (104)	77-105 (153)	118-154 (202)	159-203 (251)	200-252 (300)	241-302 (350)	282-351 (399)	323-400 (448)
37-57 (105)	78-106 (154)	119-155 (203)	160-204 (252)	201-254 (302)	242-303 (351)	283-352 (400)	324-401 (449)
38-58 (106)	79-107 (155)	120-156 (204)	161-206 (254)	202-255 (303)	243-304 (352)	284-353 (401)	325-402 (450)
39-59 (107)	80-108 (156)	121-158 (206)	162-207 (255)	203-256 (304)	244-305 (353)	285-354 (402)	326-404 (452)
40-60 (108)	81-110 (158)	122-159 (207)	163-208 (256)	204-257 (305)	245-306 (354)	286-356 (404)	327-405 (453)
41-62 (110)	82-111 (159)	123-160 (208)	164-209 (257)	205-258 (306)	246-308 (356)	287-357 (405)	328-406 (454)
42-63 (111)	83-112 (160)	124-161 (209)	165-210 (258)	206-260 (308)	247-309 (357)	288-358 (406)	329-407 (455)
43-64 (112)	84-113 (161)	125-162 (210)	166-212 (260)	207-261 (309)	248-310 (358)	289-359 (407)	330-408 (456)
44-65 (113)	85-114 (162)	126-164 (212)	167-213 (261)	208-262 (310)	249-311 (359)	290-360 (408)	331-410 (458)
45-66 (114)	86-116 (164)	127-165 (213)	168-214 (262)	209-263 (311)	250-312 (360)	291-362 (410)	332-411 (459)
46-68 (116)	87-117 (165)	128-166 (214)	169-215 (263)	210-264 (312)	251-314 (362)	292-363 (411)	333-412 (460)
47-69 (117)	88-118 (166)	129-167 (215)	170-216 (264)	211-266 (314)	252-315 (363)	293-364 (412)	334-413 (461)
48-70 (118)	89-119 (167)	130-168 (216)	171-218 (266)	212-267 (315)	253-316 (364)	294-365 (413)	335-414 (462)
49-71 (119)	90-120 (168)	131-170 (218)	172-219 (267)	213-268 (316)	254-317 (365)	295-366 (414)	336-416 (464)
50-72 (120)	91-122 (170)	132-171 (219)	173-220 (268)	214-269 (317)	255-318 (366)	296-368 (416)	337-417 (465)
51-74 (122)	92-123 (171)	133-172 (220)	174-221 (269)	215-270 (318)	256-320 (368)	297-369 (417)	338-418 (466)
52-75 (123)	93-124 (172)	134-173 (221)	175-222 (270)	216-272 (320)	257-321 (369)	298-370 (418)	339-419 (467)
53-76 (124)	94-125 (173)	135-174 (222)	176-224 (272)	217-273 (321)	258-322 (370)	299-371 (419)	
54-77 (125)	95-126 (174)	136-176 (224)	177-225 (273)	218-274 (322)	259-323 (371)	300-372 (420)	
55-78 (126)	96-128 (176)	137-177 (225)	178-226 (274)	219-275 (323)	260-324 (372)	301-374 (422)	

### FOR OFFENSE CLASSES F THROUGH I

3-13	9-20	15-27	21-35	27-42	33-49	39-56	45-63
4-14	10-21	16-29	22-36	28-43	34-50	40-57	46-65
5-15	11-23	17-30	23-37	29-44	35-51	41-59	47-66
6-17	12-24	18-31	24-38	30-45	36-53	42-60	48-67
7-18	13-25	19-32	25-39	31-47	37-54	43-61	49-68
8-19	14-26	20-33	26-41	32-48	38-55	44-62	

The tables above show the maximum sentence that corresponds to each minimum sentence. For minimum sentences of 340 months or more, the maximum sentence is 120 percent of the minimum sentence, rounded to the next highest month, plus 12 additional months. G.S. 15A-1340.17(e1).

**Sex Crimes:** The maximum sentence for a Class B1 through E felony subject to the registration requirements of G.S. Chapter 14, Article 27A is 120 percent of the minimum sentence, rounded to the next highest month, plus 60 additional months, as indicated in parentheses above. G.S. 15A-1340.17(f).

## Step 1: Determine the Applicable Law

Choose the appropriate sentencing grid based on the defendant's date of offense.

- Offenses committed on or after October 1, 2013.
- Offenses committed December 1, 2011, through September 30, 2013.
- Offenses committed December 1, 2009, through November 30, 2011.
- Offenses committed December 1, 1995, through November 30, 2009.
- Offenses committed October 1, 1994, through November 30, 1995.

### NOTES:

- *Grid applicability.* The defendant must be sentenced under the law that existed at the time of his or her offense. *State v. Whitehead*, 365 N.C. 444 (2012). Subsequent changes to the grid should not be retroactively applied. *State v. Lee*, 228 N.C. App. 324 (2013).
- *Range of offense dates.* If the precise offense date is unknown and the range of possible dates crosses an effective date threshold, use the law most favorable to the defendant. *State v. Poston*, 162 N.C. App. 642 (2004). If a continuing offense occurred over a range of dates, use the law in place when the offense was completed. *State v. Mullaney*, 129 N.C. App. 506 (1998).
- *Older offenses.* Offenses committed before October 1, 1994, are sentenced under the Fair Sentencing Act or other prior law.

## Step 2: Determine the Offense Class

North Carolina felonies are assigned to one of ten offense classes—Class A through Class I, from most to least serious. Identify the offense class of the crime being sentenced. See [APPENDIX A](#), Offense Class Table for Felonies.

### OFFENSE CLASS REDUCTIONS

Unless otherwise provided by law, the following step-down rules apply for attempts, conspiracies, and solicitations to commit a felony and for other participants in crimes.

Principal Offense	A	B1	B2	C	D	E	F	G	H	I
<i>Same classification as principal:</i>										
Aiding and Abetting	A	B1	B2	C	D	E	F	G	H	I
Accessory before the Fact (G.S. 14-5.2)										
<i>One classification lower:</i>										
Attempt (G.S. 14-2.5)	B2	B2	C	D	E	F	G	H	I	Class 1
Conspiracy (G.S. 14-2.4)										Misd.
<i>Two classifications lower:</i>										
Solicitation (G.S. 14-2.6)	C	C	D	E	F	G	H	I	Class 1	Class 2
Accessory after the Fact (G.S. 14-7)									Misd.	Misd.

### OFFENSE CLASS ENHANCEMENTS

With appropriate factual findings, the offense class of certain felonies may be increased under the enhancements set out below. Additional procedural requirements apply.

#### Habitual felon (G.S. 14-7.6)

- Offenses committed before 12/1/2011: Enhance to Class C (unless already Class A, B1, or B2)
- Offenses committed on/after 12/1/2011: Four-class enhancement, capped at Class C (unless already Class A, B1, or B2)

#### Habitual breaking and entering (G.S. 14-7.31)

- Offenses committed on/after 12/1/2011: Enhance to Class E

#### Armed habitual felon (G.S. 14-7.41)

- Offenses committed on/after 10/1/2013: Enhance to Class C, with 120-month mandatory minimum sentence

#### Bullet-proof vest enhancement (G.S. 15A-1340.16C)

- Offenses committed on/after 12/1/1999: One-class enhancement

#### Protective order violation (G.S. 50B-4.1(d))

- Offenses committed on/after 3/1/2002: One-class enhancement

#### Injury to pregnant woman (G.S. 14-18.2(b))

- Repealed for offenses committed on/after 12/1/2011: One-class enhancement

## Step 3: Calculate the Prior Record Level

The defendant is assigned to one of six prior record levels (I through VI) according to a point scale based on his or her criminal history.

### POINTS FOR PRIOR CONVICTIONS

Class A	10
Class B1	9
Class B2, C, or D	6
Class E, F, or G	4
Class H or I	2
Qualifying misdemeanors ( <i>Class A1 and 1 non-traffic misdemeanors; DWI, commercial DWI, and misdemeanor death by vehicle</i> )	1
If all elements of the present offense are included in a prior offense, whether or not the prior offense was used in determining the defendant's prior record level. A judicial finding is required; a defendant cannot validly stipulate to this point. G.S. 15A-1340.14(b)(6).	1
If the defendant is on supervised or unsupervised probation, parole, or post-release supervision, serving a sentence, or on escape at the time of the offense. The State must provide 30 days' written notice if it intends to seek this point and then must prove it like an aggravating factor if it is not admitted to. G.S. 15A-1340.14(b)(7); -1340.16(a5).	1

### PRIOR RECORD LEVEL POINT SCALE

Level	Points	
	Offenses Committed before 12/1/2009	Offenses Committed on/after 12/1/2009
I	0	0-1
II	1-4	2-5
III	5-8	6-9
IV	9-14	10-13
V	15-18	14-17
VI	19+	18+

### QUALIFYING PRIOR CONVICTIONS

#### COUNT:

- Only the most serious prior conviction from one calendar week of a single superior court. G.S. 15A-1340.14(d).
- Only one conviction from a single session of district court. G.S. 15A-1340.14(d).
- A prayer for judgment continued (PJC). *State v. Canellas*, 164 N.C. App. 775 (2004).
- A conviction resulting in G.S. 90-96 probation, if it has not yet been dismissed. *State v. Hasty*, 133 N.C. App. 563 (1999).
- Convictions in superior court, regardless of a pending appeal to the appellate division. G.S. 15A-1340.11(7).
- Qualifying convictions, regardless of when they arose (there is no statute of limitations). *State v. Rich*, 130 N.C. App. 113 (1998).
- Crimes from other jurisdictions, as described below.
- *For possession of firearm by felon*: The prior felony used to establish the person's status as a felon. *State v. Best*, 214 N.C. App. 39 (2011).
- *For failure to register as a sex offender*: The sex crime that caused the offender to register. *State v. Harrison*, 165 N.C. App. 332 (2004).

#### DO NOT COUNT:

- Class 2 and 3 misdemeanors.
- Misdemeanor traffic offenses other than DWI, commercial DWI, and misdemeanor death by vehicle.
- Infractions.
- Contempt. *State v. Reaves*, 142 N.C. App. 629 (2001).
- Juvenile adjudications.
- District court convictions on appeal or for which the time for appeal to superior court has not yet expired. G.S. 15A-1340.11(7).
- *For habitual felon*: Prior convictions used to establish habitual felon status. G.S. 14-7.6.
- *For habitual breaking and entering*: Prior convictions used to establish habitual breaking and entering status. G.S. 14-7.31.
- *For habitual DWI*: Prior misdemeanor DWI convictions used to support a habitual DWI charge. *State v. Gentry*, 135 N.C. App. 107 (1999).

#### NOTES:

- *Proof*. The State must prove a defendant's record by a preponderance of the evidence. Prior convictions are proved by stipulation, court or administrative records, or any other method found by the court to be reliable. For felony sentencing, the State must make all feasible efforts to obtain and present the defendant's full record. G.S. 15A-1340.14(f).
- *Out-of-state prior convictions*. By default, an out-of-state felony is treated as a Class I felony (2 points), and an out-of-state misdemeanor is treated as a Class 3 misdemeanor (0 points). If the State or defendant proves by a preponderance of the evidence that the out-of-state offense is *substantially similar* to a North Carolina crime, the prior out-of-state conviction may count for points like the similar North Carolina crime. A defendant may stipulate that a crime is a felony or misdemeanor in another state, but not to its substantial similarity, which is a question of law that must be determined by the judge. The judge must compare the elements of the out-of-state crime to the elements of the purportedly similar North Carolina crime. *State v. Hanton*, 175 N.C. App. 250 (2006).

- *Date of determination.* Prior record level is determined on the date a criminal judgment is entered, G.S. 15A-1340.11(7), and may include convictions for offenses that occurred after the offense now being sentenced, *State v. Threadgill*, 227 N.C. App. 175 (2013).
- *Prior offense classifications.* If the offense class of a prior conviction has changed over time, use the classification assigned to the prior conviction as of the offense date of the crime now being sentenced. G.S. 15A-1340.14(c).
- *Habitualized prior felonies.* Prior offenses that were sentenced under the habitual felon law count for points according to their original offense class, not the elevated habitual felon offense class. *State v. Vaughn*, 130 N.C. App. 456 (1998).
- *Ethical considerations.* The State and the defendant may not agree to intentionally underreport a defendant's record to the court. Council of the N.C. State Bar, 2003 Formal Ethics Op. 5. A defendant may not misrepresent his or her record but may remain silent on the issue, even during the presentation of an inaccurate record, provided he or she was not the source of the inaccuracy. 1998 Formal Ethics Op. 5.
- *Suppression.* The defendant may move to suppress a prior conviction obtained in violation of the right to counsel. G.S. 15A-980.

## Step 4: Consider Aggravating and Mitigating Factors

With findings of aggravating or mitigating factors, the court may depart from the presumptive range of sentence durations.

See **APPENDIX C**, Aggravating Factors, and **APPENDIX D**, Mitigating Factors.

### NOTES:

- *Notice.* The State must provide written notice of its intent to prove specific aggravating factors at least thirty days before trial or plea, unless the defendant waives the right to notice. G.S. 15A-1340.16(a6). (Use form AOC-CR-614.)
- *Pleading.* Statutory aggravating factors need not be pled. Non-statutory (ad hoc) factors must be pled by indictment or other instrument. G.S. 15A-1340.16(a4).
- *Proof.* Aggravating factors (except for factors 12a and 18a) must be proved to the jury beyond a reasonable doubt, unless admitted to. G.S. 15A-1340.16(a). Admitted aggravating factors must be pled to under G.S. 15A-1022.1; a mere stipulation is insufficient. The defendant bears the burden of proving mitigating factors to the judge by a preponderance of the evidence.
- *Jury procedure.* The jury impaneled for trial may in the same trial determine aggravating factors, unless the court determines that the interests of justice require a separate proceeding. A defendant may admit to aggravating factors but plead not guilty to the underlying felony. Conversely, a defendant may plead guilty to a felony but contest aggravating factors. G.S. 15A-1340.16. If aggravating factors are not addressed at the charge conference held before the guilt-innocence phase of the trial, the trial court must hold a separate charge conference before instructing the jury during the sentencing phase. G.S. 15A-1231; *State v. Hill*, 235 N.C. App. 166 (2014).
- *Prohibited aggravating factors.* Evidence necessary to prove an element of the offense may not be used to prove an aggravating factor. The same item of evidence may not be used to prove more than one aggravating factor. The defendant's exercise of the right to a jury trial is not an aggravating factor. G.S. 15A-1340.16.
- *Findings.* Written findings of aggravating and mitigating factors are required only when the court departs from the presumptive range. G.S. 15A-1430.16(c). (Use form AOC-CR-605.)
- *Uncontroverted mitigating factors.* If the court gives a sentence from the aggravated range, it must also make written findings of any presented mitigating factor supported by uncontroverted and manifestly credible evidence. *State v. Wilkes*, 225 N.C. App. 233 (2013).
- *Opportunity to prove.* The court must allow the defendant an opportunity to present evidence of mitigating factors. *State v. Knott*, 164 N.C. App. 212 (2004).
- *Weighing of factors.* Weighing aggravating and mitigating factors is a matter of judicial discretion and not a mathematical balance. *State v. Vaughters*, 219 N.C. App. 356 (2012) (no error to find that one aggravating factor outweighed nineteen mitigating factors).
- *Judge's discretion.* The trial court must consider evidence of aggravating and mitigating factors offered by the parties, *State v. Kemp*, 153 N.C. App. 231 (2002), but the decision to depart from the presumptive range is entirely within the court's discretion. The court may enter a presumptive sentence even after finding that mitigating factors outweigh aggravating factors. *State v. Bivens*, 155 N.C. App. 645 (2002).

## Step 5: Select a Sentence of Imprisonment

The court imposes a sentence of imprisonment as part of every sentence, including probationary sentences. The court then determines (in Step 6) whether the defendant will be incarcerated for that term (Active punishment) or whether the sentence will be suspended and served only upon revocation of probation (Intermediate or Community punishment). The only exception to the requirement for the court to select a sentence of imprisonment is a sentence to a fine only, which is permissible as a Community punishment. G.S. 15A-1340.17(b).

### MINIMUM SENTENCE (G.S. 15A-1340.17(c))

The court selects a minimum sentence from the desired range (presumptive, aggravated, or mitigated) of the appropriate cell of the sentencing grid. The range of permissible minimum sentences is set out on the left-hand page of each sentencing grid.

#### Firearm/Deadly Weapon Enhancement

If a defendant actually possessed and used, displayed, or threatened the use or display of a firearm or deadly weapon in committing a felony, the State may seek an enhancement of the minimum sentence as provided in G.S. 15A-1340.16A. The facts supporting the enhancement must be set out in the indictment or information charging the underlying felony. The enhancement may apply only to a defendant sentenced to Active punishment (see Step 6 below) and may not apply if the evidence necessary to prove the enhancement is needed to prove an element of the felony.

#### Offenses committed before 10/1/2013

Class B1–E Felonies                  60-month enhancement

#### Offenses committed on or after 10/1/2013

Class B1–E felonies                  72-month enhancement

Class F and G felonies              36-month enhancement

Class H and I felonies              12-month enhancement

### MAXIMUM SENTENCE (G.S. 15A-1340.17(d)–(f))

The maximum sentence corresponding to each minimum sentence is displayed in the table on the right-hand page of each sentencing grid. Use the portion of the table applicable to the offense class being sentenced (Class F–I at the bottom; Class B1–E at the top), and the maximum in parentheses for Class B1–E felonies that require sex offender registration.

## Step 6: Choose a Sentence Disposition

The court must choose a disposition for each sentence. There are three possible sentence dispositions under Structured Sentencing: Active, Intermediate, and Community. The letters shown in each grid cell (A, I, and/or C) indicate which dispositions are permissible in that cell.

### EM Extraordinary Mitigation

Although they fall in “A”-only grid cells, certain Class B2–D felons with fewer than 5 prior record points are eligible for Intermediate punishment if the court finds extraordinary mitigation under G.S. 15A-1340.13(g)–(h). (Use form AOC-CR-606.)

### ACTIVE PUNISHMENT (G.S. 15A-1340.11(1))

An Active punishment requires that the defendant serve the imposed sentence of imprisonment in prison, in the custody of the Division of Adult Correction (DAC).

#### Post-Release Supervision (PRS) (G.S. 15A-1368.2)

All felonies committed on or after December 1, 2011, and sentenced to an Active punishment require post-release supervision (PRS). Defendants subject to PRS are automatically released from prison a certain number of months (indicated in the table below) before attaining their maximum sentence. The remaining term of imprisonment operates as a suspended sentence during a period of PRS, the length of which varies depending on the offense date, offense class, and whether or not the crime requires registration as a sex offender, as shown in the table below. The remaining imprisonment is subject to activation upon certain findings of violation by the Post-Release Supervision and Parole Commission. G.S. 15A-1368.3.

		Release to Post-Release Supervision (months before maximum)	Post-Release Supervision Period
<b>Offenses Committed before 12/1/2011</b>			
Class B1–E felonies	Nonreportable crimes	9 months	9 months
	Reportable sex crimes	9 months	60 months
Class F–I felonies	All crimes	N/A (no PRS)	N/A (no PRS)
<b>Offenses Committed on/after 12/1/2011</b>			
Class B1–E felonies	Nonreportable crimes	12 months	12 months
	Reportable sex crimes	60 months	60 months
Class F–I felonies	Nonreportable crimes	9 months	9 months
	Reportable sex crimes	9 months	60 months



**Advanced Supervised Release (ASR) (G.S. 15A-1340.18)**

If the prosecutor does not object, the sentencing judge may, when imposing an Active sentence, also order some defendants into the Advanced Supervised Release (ASR) program. Defendants ordered to ASR who complete “risk reduction incentives” in prison are released onto post-release supervision on their ASR date. Defendants who do not complete the ASR program are released according to their regular sentence.

**ELIGIBLE GRID CELLS:**

- Class D, Prior Record Levels I–III
- Class E, Prior Record Levels I–IV
- Class F, Prior Record Levels I–V
- All Class G and H felonies

**ASR DATE:**

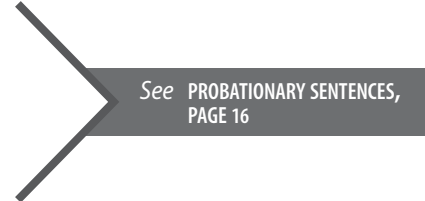
- Presumptive or Aggravated sentences: The ASR date is the lowest permissible minimum sentence in the mitigated range for the defendant’s offense class and prior record level.
- Mitigated sentences: The ASR date is 80 percent of the imposed minimum sentence.

**INTERMEDIATE PUNISHMENT (G.S. 15A-1340.11(6))**

Intermediate punishment requires that the court suspend the sentence of imprisonment and impose SUPERVISED probation.

**COMMUNITY PUNISHMENT (G.S. 15A-1340.11(2))**

Community punishment requires that the court suspend the sentence of imprisonment and impose SUPERVISED or UNSUPERVISED probation. A Community punishment also may consist of a fine only.



**Step 7: Review Additional Issues, as Appropriate**

*The section of this handbook on “Additional Issues” includes information on the following matters that may arise at sentencing:*

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Fines, costs, and other fees</li> <li>• Restitution</li> <li>• Sex crimes</li> <li>• Sentencing multiple convictions</li> <li>• Jail credit</li> <li>• Sentence reduction credits</li> <li>• DNA sample</li> </ul> | <ul style="list-style-type: none"> <li>• Deferrals (deferred prosecution, prayer for judgment continued (PJC), and conditional discharge)</li> <li>• Work release</li> <li>• Purposes of sentencing</li> <li>• Obtaining additional information for sentencing</li> </ul> |
|---|---|



## Misdemeanor Offenses Committed on or after **December 1, 2013**

OFFENSE CLASS	PRIOR CONVICTION LEVEL		
	I No Prior Convictions	II One to Four Prior Convictions	III Five or More Prior Convictions
<b>A1</b>	C/I/A	C/I/A	C/I/A
	1-60 days	1-75 days	1-150 days
<b>1</b>	C	C/I/A	C/I/A
	1-45 days	1-45 days	1-120 days
<b>2</b>	C	C/I	C/I/A
	1-30 days	1-45 days	1-60 days
<b>3</b>	C	One to Three Prior Convictions	Four Prior Convictions
	Fine Only* 1-10 days	C Fine Only* 1-15 days	C/I 1-15 days
			C/I/A 1-20 days

\*Unless otherwise provided for a specific offense, the judgment for a person convicted of a Class 3 misdemeanor who has no more than three prior convictions shall consist only of a fine.

**A**—Active Punishment **I**—Intermediate Punishment **C**—Community Punishment

## Misdemeanor Offenses Committed before **December 1, 2013**

OFFENSE CLASS	PRIOR CONVICTION LEVEL		
	I No Prior Convictions	II One to Four Prior Convictions	III Five or More Prior Convictions
<b>A1</b>	C/I/A	C/I/A	C/I/A
	1-60 days	1-75 days	1-150 days
<b>1</b>	C	C/I/A	C/I/A
	1-45 days	1-45 days	1-120 days
<b>2</b>	C	C/I	C/I/A
	1-30 days	1-45 days	1-60 days
<b>3</b>	C	C/I	C/I/A
	1-10 days	1-15 days	1-20 days

**A**—Active Punishment **I**—Intermediate Punishment **C**—Community Punishment