

PLACE OF CONFINEMENT FOR SENTENCES IMPOSED ON/AFTER OCTOBER 1, 2014

	Felony	Misdemeanor ≤ 90 Days	Misdemeanor > 90 Days ¹	DWI ²
Active (continuous) ³	DAC ⁴	Local jail, ⁵ unless the court is ordering work release from a particular facility ⁶	SMCP, ⁷ unless the court is ordering work release from a particular facility ⁸	<p>Sentences imposed on/after 1/1/2015: SMCP, unless the court is ordering work release from a particular facility⁹</p> <p>Sentences imposed before 1/1/2015:¹⁰</p> <ul style="list-style-type: none"> Defendants with no prior DWI or jail imprisonment for a Chapter 20 offense: Local jail Defendants with a prior DWI or prior jail imprisonment for a Chapter 20 offense: <ul style="list-style-type: none"> 90 days or less: Local jail 91–180 days: Local jail or DAC, in court's discretion More than 180 days: DAC
Active (noncontinuous)	N/A	N/A	N/A	SMCP ¹¹
Split sentence at sentencing (continuous) ¹²	Local jail or DAC	Local jail or treatment facility	Local jail or treatment facility	<p>Sentences imposed on/after 1/1/2015: Local jail or treatment facility</p> <p>Sentences imposed before 1/1/2015: Local jail or DAC</p>
Split sentence at sentencing (noncontinuous) ¹³	Local jail or treatment facility			
Split sentence as a modification of probation (continuous) ¹⁴	Local jail or DAC			
Split sentence as a modification of probation (noncontinuous) ¹⁵	Local jail or treatment facility			
CRV ¹⁶	<p>Probation violations on or after 10/1/14: DAC</p> <p>Probation violations before 10/1/14: Place of confinement indicated in the judgment suspending sentence</p>	Place of confinement indicated in the judgment suspending sentence	Place of confinement indicated in the judgment suspending sentence	Place of confinement indicated in the judgment suspending sentence
Quick dip ¹⁷	Local jail	Local jail	Local jail	N/A
Nonpayment of fine ¹⁸	DAC	Local jail	Local jail ¹⁹	N/A

Prepared by James M. Markham. Unless otherwise indicated, when two options are shown, the judge has discretion to choose between them.

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1. It is unclear to what extent the sentencing judge should take consecutive sentences into account when determining whether a misdemeanor sentence exceeds 90 days. The statutory provision setting out the place-of-confinement rule makes no mention of multiple sentences. To the contrary, it refers to “a misdemeanor” in the singular, suggesting that consecutive sentences should not be aggregated when determining where a sentence will be served.
 2. “DWI” here refers to all offenses sentenced under G.S. 20-179, not just misdemeanor impaired driving under G.S. 20-138.1. This includes commercial impaired driving (G.S. 20-138.2) and second or subsequent convictions of operating a commercial vehicle after consuming alcohol (G.S. 20-138.2A) or operating a school bus, activity bus, child care vehicle, or emergency/law enforcement vehicle after consuming alcohol (G.S. 20-138.2B).
 3. G.S. 15A-1352.
 4. Division of Adult Correction of the N.C. Department of Public Safety.
 5. When the jail is overcrowded or otherwise unable to accommodate additional prisoners, inmates may be transferred to another jail or, in certain circumstances, to DAC, as provided in G.S. 148-32.1(b). A judge also has authority to sentence an inmate to the jail of an adjacent county when the local jail is unfit or insecure (G.S. 162-38) or has been destroyed by fire or other accident (G.S. 162-40).
 6. Notwithstanding any other provision of law, the court may, with the defendant’s consent, order that the defendant be granted work release. The court may commit the defendant to a particular prison or jail facility in the county or to a jail in another county to facilitate the work release arrangement. If the commitment is to a jail in another county, the sentencing court must first get the consent of the sheriff or the board of commissioners there. G.S. 15A-1352(d).
 7. Statewide Misdemeanant Confinement Program.
 8. *See supra* note 6.
 9. *See supra* note 6.
 10. G.S. 20-176(c1).
 11. G.S. 20-179(s).
 12. G.S. 15A-1351(a).
 13. *Id.*
 14. G.S. 15A-1344(e).
 15. *Id.*
 16. Confinement in response to violation. G.S. 15A-1344(d2).
 17. G.S. 15A-1343(a1)(3) (short-term confinement ordered by a judge); G.S. 15A-1343.2 (short-term confinement ordered by a probation officer through delegated authority).
 18. G.S. 15A-1352.
 19. This confinement is for cases in which the law provides no term of imprisonment for the offense or for cases in which no suspended sentence was imposed (G.S. 15A-1364(b)), and so no distinction is to be made based on sentence length. In other words, the rule is the same for all misdemeanors other than DWI (for which a fine-only sentence is not permitted).