

## Justice Reinvestment Essentials (S.L. 2011-192, as amended)

<p><b>Felony maximum sentences increased; all felons get post-release supervision</b> <i>Offenses committed on or after December 1, 2011</i></p>	<ul style="list-style-type: none"> <li>• Class B1–E felonies: 12-month PRS (maximum is 120% of minimum + 12 months)</li> <li>• Class F–I felonies: 9-month PRS (maximum is 120% of minimum + 9 months)</li> <li>• Sex offenders: PRS <i>supervised release</i> period is 5 years. For Class B1–E felonies requiring registration, the maximum sentence is 120% of the minimum + 60 months. S.L. 2011-307</li> <li>• Drug trafficking offenses on/after Dec. 1, 2012, receive PRS. S.L. 2012-188</li> </ul>
<p><b>New Advanced Supervised Release (ASR) program created</b> <i>Persons entering a plea or found guilty on or after January 1, 2012</i>  (Note that for Class F–I felonies, only offenses committed on or after December 1, 2011, receive post-release supervision)</p>	<p>If the prosecutor does not object, the sentencing judge may, when imposing an active sentence, order defendants in the following grid cells into to DAC's ASR program:</p> <ul style="list-style-type: none"> <li>• Class D felonies, prior record levels I–III</li> <li>• Class E felonies, prior record levels I–IV</li> <li>• Class F felonies, prior record levels I–V</li> <li>• All Class G and H felonies</li> </ul> <p>Defendants who complete “risk reduction incentives” in prison (or who are unable to do so through no fault of their own) get released onto PRS on their ASR date. The ASR date is the lowest min. sentence in the mitigated range for the defendant’s offense and prior record level (or 80% of the imposed minimum if a mitigated-range sentence). G.S. 15A-1340.18.</p>
<p><b>Intermediate punishment redefined</b> <i>Offenses committed on or after December 1, 2011</i></p>	<p>A sentence that places a defendant on supervised probation and <i>may</i> include drug treatment court, special probation, or other conditions of probation, including the “community and intermediate” conditions set out below. G.S. 15A-1340.11(6).</p>
<p><b>Community punishment redefined</b> <i>Offenses committed on or after December 1, 2011</i></p>	<p>A sentence to supervised or unsupervised probation or a fine that does not include an active punishment, drug treatment court, or special probation. The sentence may include any of the “community and intermediate” conditions described below. G.S. 15A-1340.11(2).</p>
<p><b>New set of “community and intermediate probation conditions”</b> <i>Offenses committed on or after December 1, 2011 (unless otherwise indicated)</i>  (does not apply to DWI)</p>	<p>The following conditions may be ordered in any case, community or intermediate:</p> <ul style="list-style-type: none"> <li>• Electronic house arrest</li> <li>• Community service, and pay the fee prescribed by law</li> <li>• Jail confinement for 2–3 days, for no more than 6 days per month, during any 3 separate months of a probation period. If the defendant is on probation for multiple judgments, confinement periods must run concurrently and may total no more than 6 days/month</li> <li>• Substance abuse assessment, monitoring, or treatment</li> <li>• Abstain from alcohol and submit to continuous alcohol monitoring (CAM) if dependency or abuse identified by a substance abuse assessment (offenses on/after 12/1/12)</li> <li>• Participation in an educational or vocational skills development program</li> <li>• Submission to satellite-based monitoring (if a covered sex offender). G.S. 15A-1343(a1)</li> </ul>
<p><b>Intermediate punishments repealed</b> <i>Offenses committed on or after December 1, 2011</i></p>	<ul style="list-style-type: none"> <li>• Intensive supervision</li> <li>• Residential program</li> <li>• Day reporting center</li> </ul>
<p><b>Delegated authority expanded</b> <i>Offenses committed on or after December 1, 2011</i>  (does not apply to DWI)</p>	<p>Unless the judge finds that delegation is not appropriate, a probation officer can add the following conditions in response to a probationer’s failure to comply with 1 or more conditions imposed by the court <i>or</i> if the probationer is high risk (Supervision Level 1 or 2):</p> <ul style="list-style-type: none"> <li>• Perform up to 20 hours of community service (50 hours in intermediate cases)</li> <li>• Submit to an electronically monitored curfew</li> <li>• Submit to substance abuse assessment, monitoring, or treatment</li> <li>• CAM, if alcohol abstinence is a condition (intermediate only, offenses on/after 12/1/12)</li> <li>• Participate in an educational or vocational skills development program</li> <li>• Electronic house arrest</li> <li>• Report to the probation officer at a frequency determined by the officer</li> <li>• Submit to satellite-based monitoring if a covered sex offender (intermediate only)</li> </ul> <p>In response to a defendant’s failure to comply with one or more conditions imposed by the court (not based on risk level alone), the probation officer may, if the probationer waives the right to a hearing and a lawyer, require jail confinement for 2–3 days, for no more than 6 days per month, during any 3 separate months. G.S. 15A-1343.2.</p>

<p><b>Statutory “absconding” condition</b> <i>Offenses committed on or after December 1, 2011</i></p>	<p>It is a regular condition of probation that a defendant not “abscond, by willfully avoiding supervision or by willfully making the defendant’s whereabouts unknown to the supervising probation officer.” G.S. 15A-1343(b)(3a).</p>
<p><b>Revocation authority limited</b> <i>Probation violations occurring on or after December 1, 2011</i> (all probation cases, including DWI)</p>	<p>Under G.S. 15A-1344(a) and -1344(d2), the court may revoke probation only for:</p> <ul style="list-style-type: none"> <li>• Violations of the “commit no criminal offense” condition</li> <li>• Violations of the new statutory “absconding” condition</li> <li>• Defendants who have previously received two CRV periods in the case.</li> </ul> <p>Note: The Parole Commission’s authority to revoke PRS is similarly limited. G.S. 15A-1368.3.</p>
<p><b>New Confinement in Response to Violation (CRV) authorized</b> <i>Probation violations occurring on or after December 1, 2011</i> (all probation cases, including DWI)</p>	<p>In response to probation violations other than a new criminal offense or absconding, the court <i>may</i> impose confinement of <i>90 days for a felony or up to 90 days for a misdemeanor</i>.</p> <ul style="list-style-type: none"> <li>• Felonies: If time remaining on the defendant’s sentence is 90 days or less, then CRV is for the remainder of the sentence (after 7/16/12, not applicable to misdemeanors)</li> <li>• A defendant may receive only two CRV periods in a particular case</li> <li>• Jail credit for time spent awaiting a violation hearing must be applied to any CRV ordered</li> <li>• CRV periods must run concurrently with one another</li> <li>• CRV confinement is immediate unless otherwise specified by the court</li> <li>• CRV is served where defendant would have served an active sentence. G.S. 15A-1344(d2)</li> </ul>
<p><b>G.S. 90-96 conditional discharge amended, made mandatory</b> <i>Persons entering a plea or found guilty on or after January 1, 2012</i></p>	<p>When any eligible defendant who pleads guilty to or is found guilty of:</p> <ul style="list-style-type: none"> <li>• Misdemeanor possession of a controlled substance (any schedule or amount);</li> <li>• Possession of drug paraphernalia under G.S. 90-113.22; or</li> <li>• Felony drug possession under G.S. 90-95(a)(3) (any schedule or amount)</li> </ul> <p>The court shall, with the consent of the defendant, place the defendant on probation without entering judgment under G.S. 90-96(a). An eligible defendant is any person who has not previously been convicted of any felony, any offense under the Controlled Substances Act, or any state/federal controlled substance/paraphernalia offense.</p> <p>For offenses committed on or after Dec. 1, 2013, G.S. 90-96(a) is not mandatory if the court determines that the offender is inappropriate for a conditional discharge.</p>
<p><b>Habitual felon a 4-class enhancement</b> <i>Principal felonies occurring on or after December 1, 2011</i></p>	<p>Class I → Class E Class H → Class D All other felonies → Class C G.S. 14-7.6.</p>
<p><b>Habitual breaking and entering status offense created</b> <i>Principal felonies occurring on or after December 1, 2011</i></p>	<p>Defendant charged with felony “breaking and entering” (listed offenses) who has 1 or more prior B/E convictions (listed offenses) can, in DA’s discretion, be charged as habitual B/E status offender and, if convicted, sentenced as a <i>Class E felon</i>:</p> <ul style="list-style-type: none"> <li>– 1st/2nd deg. burglary (G.S. 14-51); breaking out of dwelling house burglary (G.S. 14-53)</li> <li>– Felony breaking/entering bldgs. (G.S. 14-54(a)); B/E place of worship (G.S. 14-54.1)</li> <li>– Any repealed, superseded offense substantially similar to the offenses above</li> <li>– Any offense from another jurisdiction substantially similar to the offenses above</li> </ul> <ul style="list-style-type: none"> <li>• A second B/E offense only qualifies if committed after conviction of the first offense.</li> <li>• The principal offense must occur after the defendant turns 18</li> <li>• Conviction used to establish habitual status doesn’t count toward prior record level</li> <li>• Habitual B/E sentences must run consecutively to any sentence being served</li> </ul> <p>G.S. 14-7.25 through -7.31.</p>
<p><b>Changes to proper place of confinement</b> <i>Sentences imposed on or after January 1, 2012</i></p>	<p>Misdemeanors:</p> <ul style="list-style-type: none"> <li>• 90 days or less: Local jail except as provided in G.S. 148-32.1(b)</li> <li>• 91–180 days (except for DWI): Statewide Misdemeanant Confinement Program (MCP), through which place of confinement will be determined by the N.C. Sheriffs’ Ass’n</li> <li>• Sentence or sentences totaling 181 days or more: To DAC</li> </ul> <p>Felons: DAC. G.S. 15A-1352; 148-32.1.</p> <p>Note: Different rules apply for split sentences (G.S. 15A-1351(a)) and DWI (G.S. 20-176(c1)).</p>

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