

The Justice Reinvestment Act

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

– Council of State Governments





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



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

I/A
8 - 10
6 - 8
4 - 6

CURRENT LAW

- 8-10 months

NEW LAW

- 8-19 months



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.




Advanced Supervised Release (ASR)

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




Advanced Supervised Release (ASR)

- Early release program for certain felons
- More details tomorrow




Probation



General Themes

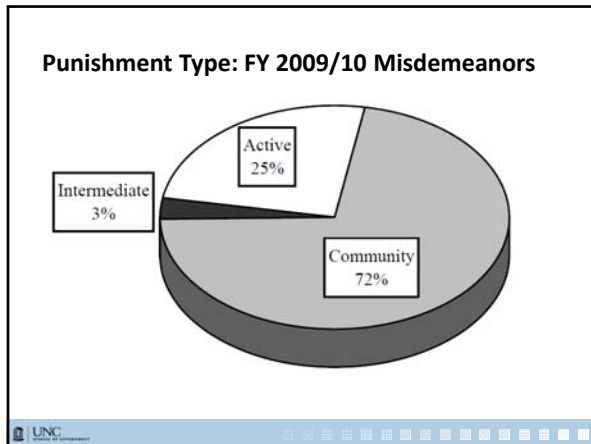
- Blend community and intermediate punishment
- Expand “delegated authority”
- Limit revocations for “technical violations”

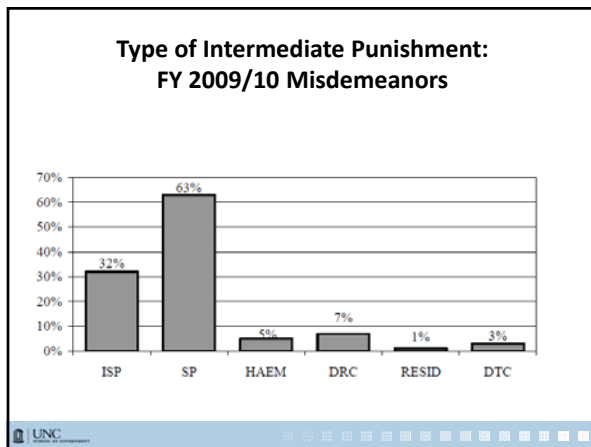


Community and Intermediate Punishment

For offenses committed on or after December 1, 2011







Intermediate Punishment

PRIOR LAW	NEW LAW
<ul style="list-style-type: none"> • Supervised probation that MUST include: <ul style="list-style-type: none"> – Special probation – Residential program – Intensive supervision – Electronic house arrest – Day reporting center – Drug treatment court 	<ul style="list-style-type: none"> • Supervised probation that MAY include: <ul style="list-style-type: none"> – Special probation – Drug treatment court – “Community and Intermediate conditions” – Other conditions in the court’s discretion

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")



“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



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



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



Limit on Judges' Revocation Authority

For probation violations occurring on or after December 1, 2011



Limit on Revocation Authority

For probation violations 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



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



NORTH CAROLINA File No. _____ Co. Of Hearing _____

County _____ Seat Of Court _____ in the General Court of Justice
 District Superior Court Division

STATE VERSUS

Defendant Name: _____ Date Of Birth: _____ State: _____

Attorney For Defendant: _____ Appointed Retained CRF Rptr Initials: _____

ORDER ON VIOLATION OF PROBATION OR ON MOTION TO MODIFY
 (For All Modifications On Or After Dec. 1, 2011)

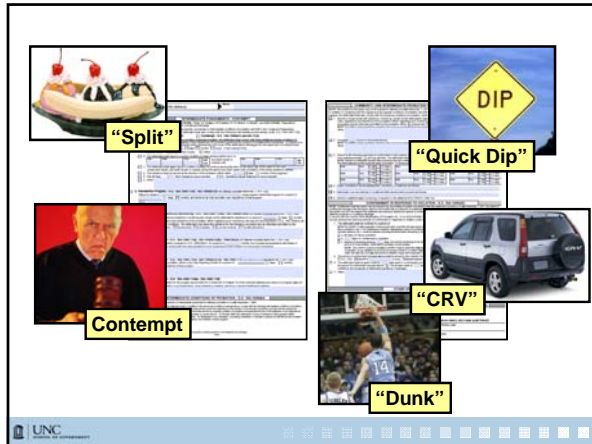
Based on probation pursuant to the following Judgment Suspending Sentence:
 Sentence: _____ (Name Of County And File No. (Country Of Original Conviction))

The Court upon: (check one option)
 S. 15A-1342(b) or (d). After reasonable notice to the defendant, the Court finds does not find that probation is warranted by the defendant's conduct and the ends of justice.

the defendant's probation without charge of violation. Upon notice and hearing consent of the State and the signature on Side Two if modification entered in chambers), the Court finds does not find that good cause to modify the original Judgment Suspending Sentence.

tion. After considering the record contained in the file(s) numbered above, together with the evidence presented of the statements made on behalf of the State and the defendant, the Court finds that the defendant is charged with specified conditions of the defendant's probation community punishment intermediate punishment Violation Report or Notice of Hearing which is incorporated by reference.

waiver of notice, a hearing was held before the Court and:
 admitted or the Court is reasonably satisfied in the exercise of its discretion that the defendant has violated each of



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




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...



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)




Felony breaking or entering (Class H), committed after December 1, 2011. Prior record level II.

I/A	6 month minimum 17 month maximum Suspended
<i>8 - 10</i>	
6 - 8	
<i>4 - 6</i>	What conditions is the court required to add to make it an intermediate punishment?




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




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




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




Conditional discharge under G.S. 90-96

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



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)



STATE OF NORTH CAROLINA
County: _____ In The General Court Of Justice
 District Superior Court Division

STATE VERSUS
Name Of Defendant (Type Or Print): _____ REQUEST FOR REPORT OF CONDITIONAL DISCHARGE

Cherry License No. _____ State _____ Plant _____ Sex _____ State Of Birth _____ POF Social Security No. _____ G.S. 15A-111
Appr At Time Of Offense _____

Attorney For State Not Present Not Waived Attorney For Defendant Appointed Cf Rpt Initials _____
Not Appointed Retained

FINDINGS AND REQUEST

The Court hereby finds that:

1. The defendant named above has been charged with an offense that may qualify the defendant for a conditional discharge pursuant to: G.S. 90-96 G.S. 90-113.14 G.S. 14-50.29
2. In the absence of a prior conditional discharge that would disqualify the defendant, he/she is otherwise eligible for such conditional discharge under the statute identified.
3. The defendant has pled guilty to or been found guilty of the offense charged.
4. **In anticipation of the disposition of the charge(s), and in the interest of an expeditious resolution in the event of a possible verdict of guilt, the State and defendant jointly have requested, as indicated by their signatures below, that the Court**

“In anticipation of the disposition of the charge(s), and in the interest of an expeditious resolution in the event of a possible verdict of guilt . . .



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 amended
Principal felonies occurring on/after December 1, 2011



Habitual Felon

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



Habitual breaking and entering status offense created
Principal felonies occurring on/after December 1, 2011



Habitual B/E

- 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



Place of Confinement

*Sentences imposed on or after
January 1, 2012*



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