

Justice Reinvestment Act Resource Page

<http://www.sog.unc.edu/node/2044>

The Justice Reinvestment Act (JRA) of 2011 made major changes to the law of sentencing and corrections in North Carolina—the biggest changes since the enactment of Structured Sentencing in 1994. This page collects JRA resources prepared by the School of Government at the University of North Carolina at Chapel Hill.

Background. Justice Reinvestment is a national-level project of the nonprofit Council of State Governments (CSG) Justice Center. The goal of the project is to reduce state spending on corrections and to reinvest the savings in community programs that decrease crime and strengthen neighborhoods. The group, which is active in about 15 states, came to North Carolina in 2009. CSG analysts studied the North Carolina criminal justice system and made several key findings including:

- Probation revocations account for more than half of new prison admissions.
- Too many inmates leave the prison system with no community supervision following their period of incarceration.
- Community supervision resources are not allocated in an evidence-based way.
- North Carolina is unusual in the number of misdemeanants housed in its prison system.

A review of the CSG findings is available in the group's [Analysis and Policy Framework to Reduce Spending on Corrections and Reinvest in Strategies to Increase Public Safety](#).

Legislation. In response to those findings and others, the General Assembly passed the Justice Reinvestment Act of 2011. Links to the JRA and several related bills are available below.

[Justice Reinvestment Act, S.L. 2011-192 \(HB 642\)](#)

[Technical Corrections Act, S.L. 2011-412 \(HB 335\)](#)

[Changes to Post-Release Supervision for Sex Offenders, S.L. 2011-307 \(SB 684\)](#)

[Other changes to probation \(including repeal of tolling\), S.L. 2011-62 \(HB 270\)](#)

Summary chart. The chart available [here](#) summarizes the key provisions of the JRA.

Webinar. A free two-hour [webinar](#) provides an overview of the new law, including practical exercises. The webinar was prepared for and presented in collaboration with Community Corrections (probation) personnel from the N.C. Department of Public Safety, Division of Adult Correction. For a small fee, the webinar is available [here](#) for 1.75 hours of CLE (but not CJE) credit.

Sentencing grids. The North Carolina Sentencing and Policy Advisory Commission prepares sentencing grids based on the tables of permissible punishments set out in Structured Sentencing. The latest version of the grid (and prior versions, which are necessary for offenses committed before December 1, 2011) are available [here](#).

North Carolina Criminal Law Blog posts related to Justice Reinvestment. The following aspects of the JRA and related legislative changes have been explored in the following posts on the [North Carolina Criminal Law Blog](#).

Overview of the law:

[Justice Reinvestment Act: An Overview](#) (June 30, 2011)

Changes to front-end sentencing, including the addition of post-release supervision for all felons and the creation of a new early-release program called Advanced Supervised Release:

[Changes to Post-Release Supervision on the Way](#) (July 19, 2011)

[Changes to Post-Release Supervision for Sex Offenders](#) (July 21, 2011)

[Consolidation Across Effective Dates](#) (February 2, 2012)

[Advanced Supervised Release](#) (September 22, 2011)

[Advanced \(Un\)Supervised Release](#) (April 25, 2012)

[New Table of Maximum Permissible Punishments](#) (July 7, 2011)

Changes related to probation:

[Probation Tolling Repealed](#) (May 31, 2011)

[Quick Dips](#) (November 3, 2011)

[Delegated Authority in Probation Cases](#) (July 14, 2011)

[Community Punishment and Intermediate Punishment](#) (October 12, 2011)

[Confinement in Response to Violations \(CRV\) and Limits on Probation Revocation Authority](#) (October 25, 2011)

[FAQs About CRV](#) (February 8, 2012)

[Electing to Serve a Sentence after Justice Reinvestment](#) (January 18, 2012)

[New Criminal Charges as a Violation of Probation](#) (February 8, 2010)

[Justice Reinvestment and the "Commit no Criminal Offense" Probation Condition](#) (May 24, 2012)

Changes related to how a sentence is served:

[Where to Serve a Sentence](#) (October 5, 2011)

[Jail Fees](#) (January 4, 2012)

[The Statewide Misdemeanant Confinement Program](#) (February 23, 2012)

[Changes to the Single Sentence Rule \(how consecutive felony sentences are served\)](#) (March 1, 2012)

Changes to habitual offender statutes, including the creation of a new habitual breaking and entering status offense:

[Changes to the Habitual Felon Law](#) (November 10, 2011)

[Habitual Breaking and Entering](#) (November 22, 2011)

The expansion of drug possession diversions under G.S. 90-96:

[The New G.S. 90-96](#) (November 29, 2011)

Contact. School of Government faculty members [Jamie Markham](#) and [John Rubin](#) can field questions related to Justice Reinvestment.

Justice Reinvestment Essentials (S.L. 2011-192, as amended by S.L. 2011-412)

Felony maximum sentences increased; all felons get post-release supervision <i>Offenses committed on or after December 1, 2011</i>	Class B1–E felonies: 12-month PRS (maximum is 120% of minimum + 12 months) Class F–I felonies: 9-month PRS (maximum is 120% of minimum + 9 months) Note: For all felonies requiring sex offender registration, the PRS supervised release period is 5 years. For Class B1–E felonies requiring registration, the max sentence is 120% of the minimum + 60 months. S.L. 2011-307.
New Advanced Supervised Release (ASR) program created <i>Persons entering a plea or found guilty on or after January 1, 2012</i> <i>(Note that for Class F–I felonies, only offenses committed on or after December 1, 2011 receive post-release supervision)</i>	If the prosecutor does not object, the sentencing judge may, when imposing an <u>active</u> sentence, order defendants in the following grid cells into to DOC’s ASR program: <ul style="list-style-type: none">• Class D felonies, prior record levels I–III• Class E felonies, prior record levels I–IV• Class F felonies, prior record levels I–V• All Class G and H felonies 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 lowest minimum 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.
Intermediate punishment redefined <i>Offenses committed on or after December 1, 2011</i>	A sentence that places a defendant on supervised probation and <u>may</u> include drug treatment court, special probation, or other conditions of probation, including the “community and intermediate” conditions set out below. An intermediate sentence no longer <u>requires</u> one or more of the six intermediate conditions (intensive, special probation, EHA, drug treatment court, day reporting center, residential program). G.S. 15A-1340.11(6).
Community punishment redefined <i>Offenses committed on or after December 1, 2011</i>	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).
New set of “community and intermediate probation conditions” (Structured Sentencing cases only) <i>Offenses committed on or after December 1, 2011</i>	The following conditions may be ordered in any case, community or intermediate: <ul style="list-style-type: none">• Electronic house arrest• Community service• 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.• Substance abuse assessment, monitoring, or treatment• Participation in an educational or vocational skills development program• Submission to satellite-based monitoring (if a covered sex offender). G.S. 15A-1343(a1).
Certain intermediate punishments repealed <i>Offenses committed on or after December 1, 2011</i>	The following intermediate punishments are repealed: <ul style="list-style-type: none">• Intensive supervision• Residential program• Day reporting center
Delegated authority expanded (Structured Sentencing cases only) <i>Offenses committed on or after December 1, 2011</i>	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 <u>or</u> if the probationer is high risk (Supervision Level 1 or 2): <ul style="list-style-type: none">• Perform up to 20 hours of community service (50 hours in intermediate cases)• Submit to an electronically monitored curfew• Submit to substance abuse assessment, monitoring, or treatment• Participate in an educational or vocational skills development program• Electronic house arrest• Report to the probation officer at a frequency determined by the officer• Submit to satellite-based monitoring if a covered sex offender (intermediate only). Defendant can file a motion for court review if the officer adds any of the conditions above. 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. There is no right to court review of the confinement condition after it is imposed. G.S. 15A-1343.2.

New “absconding” condition
*Offenses committed on or after
December 1, 2011*

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).

Revocation authority limited
*Probation violations occurring on or
after December 1, 2011*

Under G.S. 15A-1344(a) and -1344(d2), the court may revoke probation only for:

- Violations of the “commit no criminal offense” condition
- Violations of the new statutory “absconding” condition
- Defendants who have previously received two CRV periods in the case.

Note: The Parole Commission’s authority to revoke PRS is similarly limited. G.S. 15A-1368.3.

**New Confinement in Response
to Violation (CRV) authorized**
*Probation violations occurring on or
after December 1, 2011*

In response to probation violations other than a new criminal offense or absconding, the court may impose confinement of 90 days for a felony or up to 90 days for a misdemeanor.

- If the time remaining on the defendant’s maximum sentence is 90 days or less, then the CRV period is for the remainder of the sentence
- A defendant may receive only two CRV periods in a particular case
- Jail credit for time spent awaiting a violation hearing must be applied to any CRV ordered
- CRV periods must run concurrently with one another
- CRV confinement is immediate unless otherwise specified by the court
- CRV is served where defendant would have served an active sentence. G.S. 15A-1344(d2)

**G.S. 90-96 conditional discharge
amended, made mandatory**
*Persons entering a plea or found guilty
on or after January 1, 2012*

When any eligible defendant who pleads guilty to or is found guilty of:

- Misdemeanor possession of a controlled substance (any schedule or amount);
- Possession of drug paraphernalia under G.S. 90-113.22; or
- Felony drug possession under G.S. 90-95(a)(3) (any schedule or amount)

The court shall (was, “may”), 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.

G.S. 90-96(a1) provides for a discretionary discharge and dismissal of the same offenses listed in subsection (a) for first-time offenders (7-year look-back for prior offenses).

Habitual felon a 4-class enhancement
*Principal felonies occurring on or after
December 1, 2011*

Class I → Class E
Class H → Class D
All other felonies → Class C
G.S. 14-7.6.

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

Defendant charged with felony “breaking and entering” (listed offenses) who has 1 or more prior B/E convictions can, in DA’s discretion, be charged as habitual B/E status offender and, if convicted, sentenced as a Class E felon:

- First- and second-degree burglary (G.S. 14-51)
- Breaking out of a dwelling house burglary (G.S. 14-53)
- Breaking or entering buildings generally, felony (G.S. 14-54(a))
- Breaking or entering a place of religious worship (G.S. 14-54.1)
- Any repealed or superseded offense substantially similar to the offenses above
- Any offense from another jurisdiction substantially similar to the offenses above

- A second B/E offense only qualifies if committed after conviction of the first offense.
 - The principal offense must occur after the defendant turns 18
 - Conviction used to establish habitual status doesn’t count toward prior record level
 - Habitual B/E sentences must run consecutively to any sentence being served
- G.S. 14-7.25 through -7.31.

**Changes to proper place of
confinement**
*Sentences imposed on or after
January 1, 2012*

Misdemeanors:

- 90 days or less: Local jail except as provided in G.S. 148-32.1(b)
- 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
- Sentence or sentences totaling 181 days or more: To DOC

Felons: DOC.

G.S. 15A-1352; 148-32.1.