

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE DRH80130-LH-92 (02/18)

Short Title: Justice Reinvestment Act.

(Public)

Sponsors: Representatives Guice, Faircloth, Bordsen, and Parmon (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT CERTAIN RECOMMENDATIONS OF THE JUSTICE
3 REINVESTMENT PROJECT, AND TO PROVIDE THAT THE ACT SHALL BE
4 ENTITLED "THE JUSTICE REINVESTMENT ACT OF 2011."

5 The General Assembly of North Carolina enacts:

6
7 **PART I. STRENGTHEN PROBATION SUPERVISION**

8 **SECTION 1.(a)** G.S. 15A-1340.11(2) reads as rewritten:

9 "(2) Community punishment. – A sentence in a criminal case that does not
10 include an active punishment or assignment to a drug treatment court.
11 punishment, an intermediate punishment, or any of the conditions of
12 probation listed in subdivision (6) of this section. It may include any one or
13 more of the conditions set forth in G.S. 15A-1343(a1)."

14 **SECTION 1.(b)** G.S. 15A-1340.11(6) reads as rewritten:

15 "(6) Intermediate punishment. – A sentence in a criminal case that places an
16 offender on supervised probation. probation and includes at least one It may
17 include drug treatment court, in addition to one or more of the following
18 conditions: conditions set forth in G.S. 15A-1343(a1).

19 a. ~~Special probation as defined in G.S. 15A-1351(a).~~

20 b. ~~Assignment to a residential program.~~

21 e. ~~House arrest with electronic monitoring.~~

22 d. ~~Intensive supervision.~~

23 e. ~~Assignment to a day-reporting center.~~

24 f. ~~Assignment to a drug treatment court program."~~

25 **SECTION 1.(c)** G.S. 15A-1343 is amended by adding a new subsection to read:

26 "(a1) Community and Intermediate Probation Conditions. – In addition to any conditions
27 a court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any
28 one or more of the following conditions as part of a community or intermediate punishment:

29 (1) House arrest with electronic monitoring.

30 (2) Special probation as defined in G.S. 15A-1351(a).

31 (3) Perform community service.

32 (4) Submission to a period or periods of confinement in a local confinement
33 facility for a total of no more than six days per month.

34 (5) Substance abuse assessment, monitoring, or treatment.



- 1 (6) Participation in an educational or vocational skills development program,
2 including an evidence-based program.
3 (7) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A
4 of Chapter 14 of the General Statutes, if the defendant is described by
5 G.S. 14-208.40(a)(2)."

6 **SECTION 1.(d)** G.S. 15A-1343.2(e) reads as rewritten:

7 "(e) Delegation to Probation Officer in Community Punishment. – Unless the presiding
8 judge specifically finds in the judgment of the court that delegation is not appropriate, the
9 Division of Community Corrections in the Department of Correction may require an offender
10 sentenced to community punishment ~~to~~ to do any of the following:

- 11 (1) Perform up to 20 hours of community service, and pay the fee prescribed by
12 law for this ~~supervision;~~ supervision.
13 (2) Report to the offender's probation officer on a frequency to be determined by
14 the ~~officer;~~ officer.
15 (3) Submit to substance abuse assessment, monitoring or treatment.
16 (4) Submit to house arrest with electronic monitoring.
17 (5) Submit to a period or periods of confinement in a local confinement facility
18 for a total of no more than six days per month.
19 (6) Submit to a curfew which requires the offender to remain in a specified
20 place for a specified period each day and wear a device that permits the
21 offender's compliance with the condition to be monitored electronically.
22 (7) Participate in an educational or vocational skills development program,
23 including an evidence-based program.

24 If the Division imposes any of the above requirements, then it may subsequently reduce or
25 remove those same requirements.

26 The probation officer may exercise authority delegated to him or her by the court pursuant
27 to subsection (e) of this section after administrative review and approval by a Chief Probation
28 Officer. The offender may file a motion with the court to review the action taken by the
29 probation officer. The offender shall be given notice of the right to seek such a court review.
30 However, the offender shall have no right of review if he or she has signed a written waiver of
31 rights as required by this subsection. The Division may exercise any authority delegated to it
32 under this subsection only if it first determines that the offender has failed to comply with one
33 or more of the conditions of probation imposed by the court or the offender is determined to be
34 high risk based on the results of the risk assessment in G.S. 15A-1343.2. Nothing in this section
35 shall be construed to limit the availability of the procedures authorized under G.S. 15A-1345.

36 ~~If the probation officer exercises authority delegated to him or her by the court pursuant to~~
37 ~~this subsection, the offender may file a motion with the court to review the action taken by the~~
38 ~~probation officer. The offender shall be given notice of the right to seek such a court review.~~
39 ~~The Division may exercise any authority delegated to it under this subsection only if it first~~
40 ~~determines that the offender has failed to comply with one or more of the conditions of~~
41 ~~probation imposed by the court.~~

42 The Department shall adopt guidelines and procedures to implement the requirements of
43 this section, which shall include a supervisor's approval prior to exercise of the delegation of
44 authority authorized by this section. Prior to imposing confinement pursuant to subdivision (5)
45 of this subsection, the probationer must first be presented with a violation report, with the
46 alleged violations noted and advised of the right (i) to a hearing before the court on the alleged
47 violation, with the right to present relevant oral and written evidence; (ii) to counsel, and that
48 one will be appointed if the probationer is indigent; (iii) to request witnesses who have relevant
49 information concerning the alleged violations; and (iv) to examine any witnesses or evidence.
50 Upon the signing of a waiver of rights by the probationer, with both the probation officer and a

1 supervisor signing as witnesses, the probationer may be confined for the period designated on
2 the violation report."

3 **SECTION 1.(e)** G.S. 15A-1343.2(f) reads as rewritten:

4 "(f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding
5 judge specifically finds in the judgment of the court that delegation is not appropriate, the
6 Division of Community Corrections in the Department of Correction may require an offender
7 sentenced to intermediate punishment ~~to~~ to do any of the following:

- 8 (1) Perform up to 50 hours of community service, and pay the fee prescribed by
9 law for this ~~supervision;~~ supervision.
- 10 (2) Submit to a curfew which requires the offender to remain in a specified
11 place for a specified period each day and wear a device that permits the
12 offender's compliance with the condition to be monitored ~~electronically;~~
13 electronically.
- 14 (3) Submit to substance abuse assessment, monitoring or ~~treatment;~~ treatment.
- 15 (4) Participate in an educational or vocational skills development
16 ~~program.~~ program, including an evidence-based program.
- 17 (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
18 Chapter 14 of the General Statutes, if the defendant is described by
19 G.S. 14-208.40(a)(2).
- 20 (6) Submit to a period or periods of confinement in a local confinement facility
21 for a total of no more than six days per month.
- 22 (7) Submit to house arrest with electronic monitoring.
- 23 (8) Report to the offender's probation officer on a frequency to be determined by
24 the officer.

25 If the Division imposes any of the above requirements, then it may subsequently reduce or
26 remove those same requirements.

27 The probation officer may exercise authority delegated to him or her by the court pursuant
28 to subsection (f) of this section after administrative review and approval by a Chief Probation
29 Officer. The offender may file a motion with the court to review the action taken by the
30 probation officer. The offender shall be given notice of the right to seek such a court review.
31 However, the offender shall have no right of review if he or she has signed a written waiver of
32 rights as required by this subsection. The Division may exercise any authority delegated to it
33 under this subsection only if it first determines that the offender has failed to comply with one
34 or more of the conditions of probation imposed by the court or the offender is determined to be
35 high risk based on the results of the risk assessment in G.S. 15A-1343.2. Nothing in this section
36 shall be construed to limit the availability of the procedures authorized under G.S. 15A-1345.

37 ~~If the probation officer exercises authority delegated to him or her by the court pursuant to~~
38 ~~this subsection, the offender may file a motion with the court to review the action taken by the~~
39 ~~probation officer. The offender shall be given notice of the right to seek such a court review.~~
40 ~~The Division may exercise any authority delegated to it under this subsection only if it first~~
41 ~~determines that the offender has failed to comply with one or more of the conditions of~~
42 ~~probation imposed by the court.~~

43 The Department shall adopt guidelines and procedures to implement the requirements of
44 this section, which shall include a supervisor's approval prior to exercise of the delegation of
45 authority authorized by this section. Prior to imposing confinement pursuant to subdivision (6)
46 of this subsection, the probationer must first be presented with a violation report, with the
47 alleged violations noted and advised of the right (i) to a hearing before the court on the alleged
48 violation, with the right to present relevant oral and written evidence; (ii) to counsel, and that
49 one will be appointed if the probationer is indigent; (iii) to request witnesses who have relevant
50 information concerning the alleged violations; and (iv) to examine any witnesses or evidence.
51 Upon the signing of a waiver of rights by the probationer, with both the probation officer and a

1 supervisor signing as witnesses, the probationer may be confined for the period designated on
2 the violation report."

3 **SECTION 1.(f)** G.S. 15A-1343.2 is amended by adding a new subsection to read:

4 "(b1) Departmental Risk Assessment by Validated Instrument Required. – As part of the
5 probation program developed by the Department of Correction pursuant to subsection (b) of
6 this section, the Department of Correction shall use a validated instrument to assess each
7 probationer for risk of reoffending and shall place a probationer in a supervision level based on
8 the probationer's risk of reoffending and criminogenic needs."

9 **SECTION 1.(g)** G.S. 15A-1343(b1)(3b) is repealed.

10 **SECTION 1.(h)** G.S. 15A-1340.11(3) is repealed.

11 **SECTION 1.(i)** G.S. 15A-1340.11(5) is repealed.

12 **SECTION 1.(j)** G.S. 15A-1340.11(8) is repealed.

13 **SECTION 1.(k)** G.S. 15A-1343.2(c) reads as rewritten:

14 "(c) Probation Caseload Goals. – It is the goal of the General Assembly that, subject to
15 the availability of funds, caseloads for probation officers supervising persons who are
16 determined to be high or moderate risk of rearrest as determined by the Department's validated
17 risk assessment should not exceed an average of 60 offenders per officer.~~sentenced to~~
18 ~~community punishment should not exceed an average of 90 offenders per officer, and caseloads~~
19 ~~for offenders sentenced to intermediate punishments should not exceed an average of 60~~
20 ~~offenders per officer by July 1, 1998."~~

21 **SECTION 1.(l)** This section becomes effective December 1, 2011, and applies to
22 persons placed on probation based on offenses which occur on or after December 1, 2011;
23 however, this section and the provisions of this act requiring the Department of Correction to
24 adopt guidelines and procedures are effective when this act becomes law.

25 **PART II. POST RELEASE SUPERVISION CHANGES**

26 **SECTION 2.(a)** G.S. 15A-1368.1 reads as rewritten:

27 "**§ 15A-1368.1. Applicability of Article 84A.**

28 This Article applies to all felons ~~in Class B1 through Class E~~ sentenced to an active
29 punishment under Article 81B of this Chapter, but does not apply to felons in Class A and
30 Class B1 sentenced to life imprisonment without parole. Prisoners subject to Articles 85 and
31 85A of this Chapter are excluded from this Article's coverage."

32 **SECTION 2.(b)** G.S. 15A-1368.2 reads as rewritten:

33 "**§ 15A-1368.2. Post-release supervision eligibility and procedure.**

34 (a) A prisoner to whom this Article applies shall be released from prison for
35 post-release supervision on the date equivalent to his maximum imposed prison term less ~~nine~~
36 ~~months,~~ 12 months in the case of Class B1 through E felons and less nine months in the case of
37 Class F through I felons, less any earned time awarded by the Department of Correction or the
38 custodian of a local confinement facility under G.S. 15A-1340.13(d). If a prisoner has not been
39 awarded any earned time, the prisoner shall be released for post-release supervision on the date
40 equivalent to his maximum prison term less nine months.

41 (b) A prisoner shall not refuse post-release supervision.

42 (c) A supervisee's period of post-release supervision shall be for a period of ~~nine~~
43 ~~months,~~ 12 months in the case of Class B1 through E felons and nine months in the case of
44 Class F through I felons, unless the offense is an offense for which registration is required
45 pursuant to Article 27A of Chapter 14 of the General Statutes. For offenses subject to the
46 registration requirement of Article 27A of Chapter 14 of the General Statutes, the period of
47 post-release supervision is five years. The conditions of post-release supervision are as
48 authorized in G.S. 15A-1368.5.

49 (c1) Notwithstanding subsection (c) of this section, a person required to submit to
50 satellite-based monitoring pursuant to G.S. 15A-1368.4(b1)(6) shall continue to participate in
51

1 satellite-based monitoring beyond the period of post-release supervision until the Commission
2 releases the person from that requirement pursuant to G.S. 14-208.43.

3 (d) A supervisee's period of post-release supervision may be reduced while the
4 supervisee is under supervision by earned time awarded by the Department of Correction,
5 pursuant to rules adopted in accordance with law. A supervisee is eligible to receive earned
6 time credit toward the period of supervision for compliance with reintegrative conditions
7 described in G.S. 15A-1368.5.

8 (e) Repealed by Session Laws 1997-237, s. 7.

9 (f) When a supervisee completes the period of post-release supervision, the sentence or
10 sentences from which the supervisee was placed on post-release supervision are terminated."

11 **SECTION 2.(c)** G.S. 15A-1368.4(e) is amended by adding a new subdivision to
12 read:

13 "(7a) Not to abscond, by willfully avoiding supervision or by willfully making the
14 supervisee's whereabouts unknown to the supervising probation officer."

15 **SECTION 2.(d)** G.S. 15A-1368.3(c) reads as rewritten:

16 "(c) Effect of Violation. – If the supervisee violates a condition, described in
17 G.S. 15A-1368.4, at any time before the termination of the supervision period, the Commission
18 may continue the supervisee on the existing supervision, with or without modifying the
19 conditions, or if continuation or modification is not appropriate, may revoke post-release
20 supervision as provided in G.S. 15A-1368.6 and reimprison the supervisee for a term consistent
21 with the following requirements:

22 (1) The supervisee Supervisees who were convicted of an offense for which
23 registration is required under Article 27A of Chapter 14 of the General
24 Statutes and supervisees whose supervision is revoked for a violation of the
25 required controlling condition under G.S. 15A-1368.4(b) or for absconding
26 in violation of G.S. 15A-1368.4(e)(7a) will be returned to prison up to the
27 time remaining on his their maximum imposed term. terms. All other
28 supervisees will be returned to prison for three months and may be returned
29 for three months on each of two subsequent violations, after which
30 supervisees who were B1 through E felons may be returned to prison up to
31 the time remaining on their maximum imposed terms.

32 (2) The supervisee shall not receive any credit for days on post-release
33 supervision against the maximum term of imprisonment imposed by the
34 court under G.S. 15A-1340.13.

35 (3) Pursuant to Article 19A of Chapter 15, the Department of Correction shall
36 award a prisoner credit against any term of reimprisonment for all time spent
37 in custody as a result of revocation proceedings under G.S. 15A-1368.6.

38 (4) The prisoner is eligible to receive earned time credit against the maximum
39 prison term as provided in G.S. 15A-1340.13(d) for time served in prison
40 after the revocation."

41 **SECTION 2.(e)** G.S. 15A-1340.17(d) reads as rewritten:

42 "(d) Maximum Sentences Specified for Class F through Class I Felonies. – Unless
43 provided otherwise in a statute establishing a punishment for a specific crime, for each
44 minimum term of imprisonment in the chart in subsection (c) of this section, expressed in
45 months, the corresponding maximum term of imprisonment, also expressed in months, is as
46 specified in the table below for Class F through Class I felonies. The first figure in each cell in
47 the table is the minimum term and the second is the maximum term.

48 3-413	4-514	5-615	6-817	7-918	8-1019	9-1120	10-1221
49 11-1423	12-1524	13-1625	14-1726	15-1827	16-2029	17-2130	18-2231
50 19-2332	20-2433	21-2635	22-2736	23-2837	24-2938	25-3039	26-3241
51 27-3342	28-3443	29-3544	30-3645	31-3847	32-3948	33-4049	34-4150

1	35-4251	36-4453	37-4554	38-4655	39-4756	40-4857	41-5059	42-5160
2	43-5261	44-5362	45-5463	46-5665	47-5766	48-5867	49-5968 ".	
3	SECTION 2.(f) G.S. 15A-1340.17(e) reads as rewritten:							
4	"e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum							
5	Terms up to 339 Months. – Unless provided otherwise in a statute establishing a punishment							
6	for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of							
7	this section, expressed in months, the corresponding maximum term of imprisonment, also							
8	expressed in months, is as specified in the table below for Class B1 through Class E felonies.							
9	The first figure in each cell of the table is the minimum term and the second is the maximum							
10	term.							
11	15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
12	23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
13	31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55
14	39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
15	47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
16	55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
17	63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
18	71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
19	79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
20	87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122
21	95-123	96-125	97-126	98-127	99-128	100-129	101-131	102-132
22	103-133	104-134	105-135	106-137	107-138	108-139	109-140	110-141
23	111-143	112-144	113-145	114-146	115-147	116-149	117-150	118-151
24	119-152	120-153	121-155	122-156	123-157	124-158	125-159	126-161
25	127-162	128-163	129-164	130-165	131-167	132-168	133-169	134-170
26	135-171	136-173	137-174	138-175	139-176	140-177	141-179	142-180
27	143-181	144-182	145-183	146-185	147-186	148-187	149-188	150-189
28	151-191	152-192	153-193	154-194	155-195	156-197	157-198	158-199
29	159-200	160-201	161-203	162-204	163-205	164-206	165-207	166-209
30	167-210	168-211	169-212	170-213	171-215	172-216	173-217	174-218
31	175-219	176-221	177-222	178-223	179-224	180-225	181-227	182-228
32	183-229	184-230	185-231	186-233	187-234	188-235	189-236	190-237
33	191-239	192-240	193-241	194-242	195-243	196-245	197-246	198-247
34	199-248	200-249	201-251	202-252	203-253	204-254	205-255	206-257
35	207-258	208-259	209-260	210-261	211-263	212-264	213-265	214-266
36	215-267	216-269	217-270	218-271	219-272	220-273	221-275	222-276
37	223-277	224-278	225-279	226-281	227-282	228-283	229-284	230-285
38	231-287	232-288	233-289	234-290	235-291	236-293	237-294	238-295
39	239-296	240-297	241-299	242-300	243-301	244-302	245-303	246-305
40	247-306	248-307	249-308	250-309	251-311	252-312	253-313	254-314
41	255-315	256-317	257-318	258-319	259-320	260-321	261-323	262-324
42	263-325	264-326	265-327	266-329	267-330	268-331	269-332	270-333
43	271-335	272-336	273-337	274-338	275-339	276-341	277-342	278-343
44	279-344	280-345	281-347	282-348	283-349	284-350	285-351	286-353
45	287-354	288-355	289-356	290-357	291-359	292-360	293-361	294-362
46	295-363	296-365	297-366	298-367	299-368	300-369	301-371	302-372
47	303-373	304-374	305-375	306-377	307-378	308-379	309-380	310-381
48	311-383	312-384	313-385	314-386	315-387	316-389	317-390	318-391
49	319-392	320-393	321-395	322-396	323-397	324-398	325-399	326-401
50	327-402	328-403	329-404	330-405	331-407	332-408	333-409	334-410
51	335-411	336-413	337-414	338-415	339-416			

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

42 **SECTION 2.(g)** This section becomes effective December 1, 2011, and applies to
43 offenses committed on or after that date.

44
45 **PART III. STATUS OFFENSE OF HABITUAL BREAKING AND ENTERING**

46 **SECTION 3.(a)** Chapter 14 of the General Statutes is amended by adding a new
47 Article to read:

48 "Article 2D.

49 "Habitual Breaking and Entering Status Offense.

50 **"§ 14-7.25. Definitions.**

51 The following definitions apply in this Article:

- 1 (1) 'Breaking and entering.' – The term means any of the following felony
2 offenses:
3 a. First degree burglary (G.S. 14-51).
4 b. Second degree burglary (G.S. 14-51).
5 c. Breaking out of dwelling house burglary (G.S. 14-53).
6 d. Breaking or entering buildings generally (G.S. 14-54(a)).
7 e. Breaking or entering a building that is a place of religious worship
8 (G.S. 14-54.1).
9 f. Any repealed or superseded offense substantially equivalent to any of
10 the offenses in sub-subdivision a., b., c., d., or e. of this subdivision.
11 g. Any offense committed in another jurisdiction substantially similar to
12 any of the offenses in sub-subdivision a., b., c., d., or e. of this
13 subdivision.
14 (2) 'Convicted.' – The person has been adjudged guilty of or has entered a plea
15 of guilty or no contest to the offense of breaking and entering.
16 (3) 'Status offender.' – A person who is a habitual breaking and entering status
17 offender as described in G.S. 14-7.26.

18 **"§ 14-7.26. Habitual breaking and entering status offender.**

19 Any person who is 18 years of age or older at the time the person commits a breaking and
20 entering offense, and who has been convicted of or pled guilty to one or more prior felony
21 offenses of breaking and entering in any federal court or state court in the United States or
22 combination thereof, is guilty of the status offense of habitual breaking and entering and is
23 declared to be a habitual breaking and entering status offender. This Article does not apply to a
24 second felony offense of breaking and entering unless it is committed after the conviction of
25 the first felony offense of breaking or entering. Any felony to which a pardon has been
26 extended shall not, for the purposes of this Article, constitute a felony offense of breaking and
27 entering.

28 **"§ 14-7.27. Punishment.**

29 When any person is charged with a felony offense of breaking and entering and is also
30 charged with being a status offender as defined in G.S. 14-7.26, the person must, upon
31 conviction, be sentenced and punished as a status offender as provided by this Article.

32 **"§ 14-7.28. Charge of habitual breaking and entering status offender.**

33 (a) To sustain a conviction of a person as a status offender, the person must be charged
34 separately for the felony offense of breaking and entering and for the habitual breaking and
35 entering status offense. The indictment charging the defendant as a status offender shall be
36 separate from the indictment charging the person with the principal felony offense of breaking
37 and entering.

38 (b) An indictment that charges a person with being a status offender must set forth the
39 date that the prior felony offense of breaking and entering was committed, the name of the state
40 or other sovereign against whom the felony offense of breaking and entering was committed,
41 the dates that the plea of guilty was entered into or conviction returned in the felony offense of
42 breaking and entering, and the identity of the court in which the plea or conviction took place.
43 No defendant charged with being a status offender in a bill of indictment shall be required to go
44 to trial on the charge within 20 days of the finding of a true bill by the grand jury; provided, the
45 defendant may waive this 20-day period.

46 **"§ 14-7.29. Evidence of prior convictions of breaking and entering.**

47 In all cases in which a person is charged under the provisions of this Article with being a
48 status offender, the record of prior conviction of the felony offense of breaking and entering
49 shall be admissible in evidence, but only for the purpose of proving that the person has been
50 convicted of a former felony offense of breaking and entering. A prior conviction may be
51 proved by stipulation of the parties or by the original or a certified copy of the court record of

1 the prior conviction. The original or certified copy of the court record, bearing the same name
2 as that by which the defendant is charged, shall be prima facie evidence that the defendant
3 named therein is the same as the defendant before the court, and shall be prima facie evidence
4 of the facts set out therein.

5 **"§ 14-7.30. Verdict and judgment.**

6 (a) When an indictment charges a person with a felony offense of breaking and entering
7 as provided by this Article and an indictment also charges that the person is a status offender,
8 the defendant shall be tried for the principal offense of breaking and entering as provided by
9 law. The indictment that the person is a status offender shall not be revealed to the jury unless
10 the jury shall find that the defendant is guilty of the principal felony offense of breaking and
11 entering with which the defendant is charged.

12 (b) If the jury finds the defendant guilty of the felony offense of breaking and entering,
13 the bill of indictment charging the defendant as a status offender may be presented to the same
14 jury. Except that the same jury may be used, the proceedings shall be as if the issue of status
15 offender were a principal charge.

16 (c) If the jury finds that the defendant is a status offender, the trial judge shall enter
17 judgment according to the provisions of this Article. If the jury finds that the defendant is not a
18 status offender, the trial judge shall pronounce judgment on the principal felony offense of
19 breaking and entering as provided by law.

20 **"§ 14-7.31. Sentencing of status offenders.**

21 (a) When a status offender as defined in this Article commits a felony offense of
22 breaking and entering under the laws of the State of North Carolina, the status offender must,
23 upon conviction or plea of guilty under indictment as provided in this Article, be sentenced as a
24 Class E felon.

25 (b) In determining the prior record level, any conviction used to establish a person's
26 status as a status offender shall not be used. Sentences imposed under this Article shall run
27 consecutively with and shall commence at the expiration of any sentence being served by the
28 person sentenced under this section.

29 (c) A conviction as a status offender under this Article shall not constitute commission
30 of a felony for the purpose of either Article 2A or Article 2B of Chapter 14 of the General
31 Statutes."

32 **SECTION 3.(b)** G.S. 14-7.3 reads as rewritten:

33 **"§ 14-7.3. Charge of habitual felon.**

34 An indictment which charges a person who is an habitual felon within the meaning of
35 G.S. 14-7.1 with the commission of any felony under the laws of the State of North Carolina
36 must, in order to sustain a conviction of habitual felon, also charge that said person is an
37 habitual felon. The indictment charging the defendant as an habitual felon shall be separate
38 from the indictment charging him with the principal felony. An indictment which charges a
39 person with being an habitual felon must set forth the date that prior felony offenses were
40 committed, the name of the state or other sovereign against whom said felony offenses were
41 committed, the dates that pleas of guilty were entered to or convictions returned in said felony
42 offenses, ~~and~~ the identity of the court wherein said pleas or convictions took ~~place~~ place, the
43 class felony that is being requested as the sentence to be imposed on the defendant if convicted,
44 and the penalties that may be imposed by the court for the offense, without regard to the
45 sentence that is being requested.

46 No defendant charged with being an habitual felon in a bill of indictment shall be required
47 to go to trial on said charge within 20 days of the finding of a true bill by the grand jury;
48 provided, the defendant may waive this 20-day period."

49 **SECTION 3.(c)** G.S. 14-7.6 reads as rewritten:

50 **"§ 14-7.6. Sentencing of habitual felons.**

1 When an habitual felon as defined in this Article commits any felony under the laws of the
2 State of North Carolina, the felon must, upon conviction or plea of guilty under indictment as
3 provided in this Article (~~except where the felon has been sentenced as a Class A, B1, or B2~~
4 ~~felon~~) be sentenced as a ~~Class C felon~~, at a felony class level that is at least one class higher
5 than the principal felony for which the person was convicted, and may be sentenced at a level
6 up to four classes higher than the principal felony for which the person was convicted, within
7 the discretion of the trial judge; but under no circumstances shall an habitual felon be sentenced
8 at a level higher than a Class C felony. When sentencing an habitual felon under this section,
9 the trial judge may consider the sentence requested in the indictment, but is not bound by the
10 requested sentence. In determining the prior record level, convictions used to establish a
11 person's status as an habitual felon shall not be used. Sentences imposed under this Article shall
12 run consecutively with and shall commence at the expiration of any sentence being served by
13 the person sentenced under this section."

14 **SECTION 3.(d)** This section becomes effective December 1, 2011, and applies to
15 any offense that occurs on or after that date and that is the principal felony offense for a charge
16 of either the status offenses of habitual breaking and entering or habitual felon. Prosecutions
17 for offenses committed before the effective date of this act are not abated or affected by this
18 act, and the statutes that would be applicable but for this act remain applicable to those
19 prosecutions.

20 **PART IV. LIMIT TIME/CERTAIN VIOLATIONS OF PROBATION**

21 **SECTION 4.(a)** G.S. 15A-1343(b) is amended by adding a new subdivision to
22 read:

23 "(3a) Not to abscond, by willfully avoiding supervision or by willfully making the
24 defendant's whereabouts unknown to the supervising probation officer."

25 **SECTION 4.(b)** G.S. 15A-1344(a) reads as rewritten:

26 "(a) Authority to Alter or Revoke. – Except as provided in subsection (a1) or (b),
27 probation may be reduced, terminated, continued, extended, modified, or revoked by any judge
28 entitled to sit in the court which imposed probation and who is resident or presiding in the
29 district court district as defined in G.S. 7A-133 or superior court district or set of districts as
30 defined in G.S. 7A-41.1, as the case may be, where the sentence of probation was imposed,
31 where the probationer violates probation, or where the probationer resides. Upon a finding that
32 an offender sentenced to community punishment under Article 81B has violated one or more
33 conditions of probation, the court's authority to modify the probation judgment includes the
34 authority to require the offender to comply with conditions of probation that would otherwise
35 make the sentence an intermediate punishment. The court shall only revoke probation for a
36 violation of G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a). Imprisonment may be imposed
37 pursuant to G.S. 15A-1344(d2) for a violation of a requirement other than G.S. 15A-1343(b)(1)
38 or G.S. 15A-1343(b)(3a). The district attorney of the prosecutorial district as defined in
39 G.S. 7A-60 in which probation was imposed must be given reasonable notice of any hearing to
40 affect probation substantially."

41 **SECTION 4.(c)** G.S. 15A-1344 is amended by adding a new subsection to read:

42 "(d2) Confinement in Response to Violation. – When a defendant has violated a condition
43 of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a
44 90-day period of confinement. If the time remaining on the defendant's maximum imposed
45 sentence is less than 90 days, then the term of confinement is for the remaining period of the
46 sentence. Confinement under this section shall be credited pursuant to G.S. 15-196.1."

47 **SECTION 4.(d)** This section is effective December 1, 2011, and applies to
48 probation violations occurring on or after that date.

49 **PART V. DIVERSION PROGRAM/FELONY DRUG POSSESSION**

1 **SECTION 5.(a)** G.S. 90-96 reads as rewritten:

2 "**§ 90-96. Conditional discharge for first offense.**

3 (a) Whenever any person who has not previously been convicted of any felony offense
4 under this Article or under any statute of the United States or any state relating to those
5 substances included in Article 5 or 5A of Chapter 90 or to that paraphernalia included in Article
6 5B of Chapter 90 pleads guilty to or is found guilty of (i) a misdemeanor under this Article by
7 possessing a controlled substance included within Schedules ~~H-I~~ through VI of this Article or
8 by possessing drug paraphernalia as prohibited by G.S. 90 113.22, or (ii) a felony under
9 ~~G.S. 90-95(a)(3), G.S. 90-95(a)(3) by possessing less than one gram of cocaine,~~ the court may,
10 shall, without entering a judgment of guilt and with the consent of such person, defer further
11 proceedings and place him on probation upon such reasonable terms and conditions as it may
12 require. Notwithstanding the provisions of G.S. 15A 1342(c) or any other statute or law,
13 probation may be imposed under this section for an offense under this Article for which the
14 prescribed punishment includes only a fine. To fulfill the terms and conditions of probation the
15 court may allow the defendant to participate in a drug education program approved for this
16 purpose by the Department of Health and Human ~~Services.~~ Services or in the Treatment for
17 Effective Community Supervision Program under Article 6B of Chapter 143B of the General
18 Statutes. Upon violation of a term or condition, the court may enter an adjudication of guilt and
19 proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall
20 discharge such person and dismiss the proceedings against him. Discharge and dismissal under
21 this section shall be without court adjudication of guilt and shall not be deemed a conviction for
22 purposes of this section or for purposes of disqualifications or disabilities imposed by law upon
23 conviction of a crime including the additional penalties imposed for second or subsequent
24 convictions under this Article. Discharge and dismissal under this section or G.S. 90 113.14
25 may occur only once with respect to any person. Disposition of a case to determine discharge
26 and dismissal under this section at the district court division of the General Court of Justice
27 shall be final for the purpose of appeal. Prior to taking any action to discharge and dismiss
28 under this section the court shall make a finding that the defendant has no record of previous
29 convictions under the "North Carolina Controlled Substances Act", Article 5, Chapter 90, the
30 "North Carolina Toxic Vapors Act", Article 5A, Chapter 90, or the "Drug Paraphernalia Act",
31 Article 5B, Chapter 90.

32 ...

33 (d) Whenever any person is charged with a misdemeanor under this Article by
34 possessing a controlled substance included within Schedules ~~H-I~~ through VI of this Article or a
35 felony under ~~G.S. 90-95(a)(3) by possessing less than one gram of cocaine,~~ G.S. 90-95(a)(3),
36 upon dismissal by the State of the charges against such person, upon entry of a nolle prosequi,
37 or upon a finding of not guilty or other adjudication of innocence, the person may be eligible to
38 apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.2(b).

39 (e) Whenever any person who has not previously been convicted of an offense under
40 this Article or under any statute of the United States or any state relating to controlled
41 substances included in any schedule of this Article or to that paraphernalia included in Article
42 5B of Chapter 90 of the General Statutes pleads guilty to or has been found guilty of (i) a
43 misdemeanor under this Article by possessing a controlled substance included within Schedules
44 ~~H-I~~ through VI of this Article, or by possessing drug paraphernalia as prohibited by
45 G.S. 90-113.22 or (ii) a felony under ~~G.S. 90-95(a)(3) by possessing less than one gram of~~
46 ~~cocaine,~~ G.S. 90-95(a)(3), the person may be eligible to apply for cancellation of the judgment
47 and expunction of certain records related to the offense pursuant to G.S. 15A-145.2(c).

48 "

49 **SECTION 5.(b)** G.S. 15A-145.2 reads as rewritten:

50 "**§ 15A-145.2. Expunction of records for first offenders not over 21 years of age at the**
51 **time of the offense of certain drug offenses.**

1 ...
2 (b) Whenever any person is charged with a misdemeanor under Article 5 of Chapter 90
3 of the General Statutes by possessing a controlled substance included within Schedules ~~H-I~~
4 through VI of Article 5 of Chapter 90 of the General Statutes or a felony under
5 ~~G.S. 90-95(a)(3) by possessing less than one gram of cocaine, G.S. 90-95(a)(3)~~, upon dismissal
6 by the State of the charges against the person, upon entry of a nolle prosequi, or upon a finding
7 of not guilty or other adjudication of innocence, such person may apply to the court for an order
8 to expunge from all official records all recordation relating to his or her arrest, indictment or
9 information, or trial. If the court determines, after hearing, that such person was not over 21
10 years of age at the time the offense for which the person was charged occurred, it shall enter
11 such order. The clerk shall notify State and local agencies of the court's order as provided in
12 G.S. 15A-150. No person as to whom such order has been entered shall be held thereafter under
13 any provision of any law to be guilty of perjury or otherwise giving a false statement by reason
14 of the person's failures to recite or acknowledge such arrest, or indictment or information, or
15 trial in response to any inquiry made of him or her for any purpose.

16 (c) Whenever any person who has not previously been convicted of an offense under
17 Article 5 of Chapter 90 of the General Statutes or under any statute of the United States or any
18 state relating to controlled substances included in any schedule of Article 5 of Chapter 90 of the
19 General Statutes or to that paraphernalia included in Article 5B of Chapter 90 of the General
20 Statutes pleads guilty to or has been found guilty of (i) a misdemeanor under Article 5 of
21 Chapter 90 of the General Statutes by possessing a controlled substance included within
22 Schedules ~~H-I~~ through VI of Article 5 of Chapter 90 of the General Statutes or by possessing
23 drug paraphernalia as prohibited by G.S. 90-113.22 or (ii) a felony under ~~G.S. 90-95(a)(3) by~~
24 ~~possessing less than one gram of cocaine, G.S. 90-95(a)(3)~~, the court may, upon application of
25 the person not sooner than 12 months after conviction, order cancellation of the judgment of
26 conviction and expunction of the records of the person's arrest, indictment or information, trial,
27 and conviction. A conviction in which the judgment of conviction has been canceled and the
28 records expunged pursuant to this subsection shall not be thereafter deemed a conviction for
29 purposes of this subsection or for purposes of disqualifications or liabilities imposed by law
30 upon conviction of a crime, including the additional penalties imposed for second or
31 subsequent convictions of Article 5 of Chapter 90 of the General Statutes. Cancellation and
32 expunction under this subsection may occur only once with respect to any person. Disposition
33 of a case under this subsection at the district court division of the General Court of Justice shall
34 be final for the purpose of appeal.

35 The granting of an application filed under this subsection shall cause the issue of an order to
36 expunge from all official records, other than the confidential files retained under G.S. 15A-151,
37 all recordation relating to the petitioner's arrest, indictment or information, trial, finding of
38 guilty, judgment of conviction, cancellation of the judgment, and expunction of records
39 pursuant to this subsection.

40 The judge to whom the petition is presented is authorized to call upon a probation officer
41 for additional investigation or verification of the petitioner's conduct since conviction. If the
42 court determines that the petitioner was convicted of (i) a misdemeanor under Article 5 of
43 Chapter 90 of the General Statutes for possessing a controlled substance included within
44 Schedules ~~H-I~~ through VI of Article 5 of Chapter 90 of the General Statutes or for possessing
45 drug paraphernalia as prohibited in G.S. 90-113.22 or (ii) a felony under ~~G.S. 90-95(a)(3) for~~
46 ~~possession of less than one gram of cocaine, G.S. 90-95(a)(3)~~, that the petitioner was not over
47 21 years of age at the time of the offense, that the petitioner has been of good behavior since his
48 or her conviction, that the petitioner has successfully completed a drug education program
49 approved for this purpose by the Department of Health and Human Services, and that the
50 petitioner has not been convicted of a felony or misdemeanor other than a traffic violation
51 under the laws of this State at any time prior to or since the conviction for the offense in

1 question, it shall enter an order of expunction of the petitioner's court record. The effect of such
2 order shall be to restore the petitioner in the contemplation of the law to the status the petitioner
3 occupied before arrest or indictment or information or conviction. No person as to whom such
4 order was entered shall be held thereafter under any provision of any law to be guilty of perjury
5 or otherwise giving a false statement by reason of the person's failures to recite or acknowledge
6 such arrest, or indictment or information, or conviction, or trial in response to any inquiry made
7 of him or her for any purpose. The judge may waive the condition that the petitioner attend the
8 drug education school if the judge makes a specific finding that there was no drug education
9 school within a reasonable distance of the defendant's residence or that there were specific
10 extenuating circumstances which made it likely that the petitioner would not benefit from the
11 program of instruction.

12 The court shall also order all law enforcement agencies, the Department of Correction, the
13 Division of Motor Vehicles, and any other State or local agencies identified by the petitioner as
14 bearing records of the conviction and records relating thereto to expunge their records of the
15 conviction. The clerk shall notify State and local agencies of the court's order as provided in
16 G.S. 15A-150."

17 **SECTION 5.(c)** Article 81B of Chapter 15A of the General Statutes is amended by
18 adding new section to read:

19 **"§ 15A-1340.18. Advanced supervised release.**

20 (a) Definitions. – For the purposes of this section, the following definitions apply:

21 (1) "Advanced supervised release" or "ASR" means release from prison and
22 placement on post-release supervision under this section.

23 (2) "Eligible defendant" means a defendant convicted and sentenced based upon
24 any of the following felony classes and prior record levels:

25 a. Class D, Prior Record Level I-III.

26 b. Class E, Prior Record Level I-IV.

27 c. Class F, Prior Record Level I-V.

28 d. Class G, Prior Record Level I-VI.

29 e. Class H, Prior Record Level I-VI.

30 (3) "Risk reduction incentive" is a sentencing condition which, upon successful
31 completion during incarceration, results in a prisoner being placed on ASR.

32 (b) The Department of Correction is authorized to create risk reduction incentives
33 consisting of treatment, education, and rehabilitative programs. The incentives shall be
34 designed to reduce the likelihood that the prisoner who receives the incentive will reoffend.

35 (c) The court, in its discretion and without objection from the prosecutor, may include a
36 risk reduction incentive or incentives in sentencing an eligible defendant.

37 (d) The court shall impose a sentence calculated pursuant to Article 81B of the General
38 Statutes. The ASR date shall be the shortest mitigated sentence for the offense at the offender's
39 prior record level. If the court utilizes the mitigated range in sentencing the defendant, then the
40 ASR date shall be eighty percent (80%) of the minimum sentence imposed.

41 (e) The defendant shall be notified at sentencing that if the defendant completes the risk
42 reduction incentives as identified by the Department, then he or she will be released on the
43 ASR date. If the Department determines that the defendant is unable to complete the incentives
44 by the ASR date, through no fault of the defendant, then the defendant shall be released at the
45 ASR date.

46 (f) Termination from the risk reduction incentive program shall result in the
47 nullification of the ASR date, and the defendant's release date shall be calculated based upon
48 the adjudged sentence. A prisoner who has completed the risk reduction incentives prior to the
49 ASR date may have the ASR date nullified due to noncompliance with Department rules or
50 regulations.

- 1 (2) Received a nonincarcerative sentence of an intermediate punishment.
2 (3) Is serving a term of parole or post-release supervision after serving an active
3 sentence of imprisonment.
4 (b) The priority populations for programs funded under this Article shall be offenders:
5 (1) Convicted of a felony or offenders sentenced under G.S. 90-96 conditional
6 discharge for a felony offense; and
7 (2) Identified by the Department of Correction using a validated risk assessment
8 instrument to have a high likelihood of reoffending and a moderate to high
9 need for substance abuse treatment.

10 **§ 143B-274.5. Duties of Department of Correction.**

11 (a) In addition to those otherwise provided by law, the Department of Correction shall
12 have the following duties:

- 13 (1) To enter into contractual agreements with eligible entities for the operation
14 of community-based corrections programs and monitor compliance with
15 those agreements.
16 (2) To develop the minimum program standards, policies, and rules for
17 community-based corrections programs and to consult with the Department
18 of Health and Human Services on those standards, policies, and rules that are
19 applicable to licensed and credentialed substance abuse services.
20 (3) To monitor, oversee, and evaluate contracted service providers.
21 (4) To act as an information clearinghouse regarding community-based
22 corrections programs.
23 (5) To collaborate with the Department of Health and Human Services on
24 focusing treatment resources on high-risk and moderate to high need
25 offenders on probation, parole, and post-release supervision.

26 (b) The Department of Correction Division of Community Corrections shall develop
27 and publish a recidivism reduction plan for the State that accomplishes the following:

- 28 (1) Articulates a goal of reducing revocations among people on probation and
29 post-release supervision by twenty percent (20%) from the rate in the
30 2009-2010 fiscal year.
31 (2) Identifies the number of people on probation and post-release supervision in
32 each county that are in the priority population and have a likely need for
33 substance abuse and/or mental health treatment, employment, education,
34 and/or housing.
35 (3) Identifies the program models that research has shown to be effective at
36 reducing recidivism for the target population and ranks those programs
37 based on their cost-effectiveness.
38 (4) Propose a plan to fund the provision of the most cost-effective programs and
39 services across the State. The plan shall describe the number and types of
40 programs and/or services to be funded in each region of the State, and how
41 that program capacity compares with the needs of the target population in
42 that region.

43 (c) The Department of Correction shall report by March 1 of each year to the Chairs of
44 the Senate and House Appropriations Committees, the Senate and House Appropriations
45 Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime
46 Control, and Juvenile Justice Oversight Committee on the status of the Treatment for Effective
47 Community Supervision Program. The report shall include the following information:

- 48 (1) The dollar amount and purpose of funds provided on a contractual basis to
49 service providers for the previous fiscal year.
50 (2) An analysis of offender participation data received, including the following:

- a. The number of people on probation and post-release supervision that are in the priority population that received services.
- b. The number of people on probation and post-release supervision that are in the priority population that did not receive services.
- c. The number of people on probation and post-release supervision outside of the priority population that received services.
- d. The type of services provided to these populations.
- e. The rate of revocations and successful completions for people who received services.
- f. Other measures as determined appropriate.

(3) The dollar amount needed to provide additional services to meet the needs of the priority population in the upcoming budget year.

(4) Details of personnel, travel, contractual, operating, and equipment expenditures for each program type.

"§ 143B-274.6. Contract for services.

(a) The Department of Correction shall contract with service providers through a competitive procurement process to provide community-based services to offenders on probation, parole, or post-release supervision.

(b) Contracts for substance abuse treatment services shall be awarded to certified or licensed substance abuse professionals and appropriately licensed agencies to provide services and use practices that have a demonstrated evidence base.

(c) The Department of Correction, in partnership with the Department of Health and Human Services, shall develop standard service definitions and performance measures for substance abuse and aftercare support services for inclusion in the contracts.

(d) The percentage of funds received by a service provider that may be used for administrative purposes is up to fifteen percent (15%).

"§ 143B-274.7. State Community Corrections Advisory Board.

(a) The State Board shall act as an advisory body to the Secretary with regard to this Article. The State Board shall consist of 23 members as follows, to be appointed as provided in subsection (b) of this section:

- (1) A member of the Senate.
- (2) A member of the House of Representatives.
- (3) A judge of the Superior Court.
- (4) A judge of the district court.
- (5) A district attorney.
- (6) A criminal defense attorney.
- (7) A county sheriff.
- (8) A chief of a city police department.
- (9) Two county commissioners, one from a predominantly urban county and one from a predominantly rural county.
- (10) A representative of an existing community-based corrections program.
- (11) A member of the public who has been the victim of a crime.
- (12) Two rehabilitated ex-offenders.
- (13) A member of the business community.
- (14) Three members of the general public, one of whom is a person recovering from chemical dependency or who is a previous consumer of substance abuse treatment services.
- (15) A victim service provider.
- (16) A member selected from each of the following service areas: mental health, substance abuse, and employment and training.
- (17) A clerk of superior court.

1 **(b)** The membership of the State Board shall be selected as follows:

2 **(1)** The Governor shall appoint the following members: the county sheriff, the
3 chief of a city police department, the member of the public who has been the
4 victim of a crime, a rehabilitated ex-offender, and the members selected
5 from each of the service areas.

6 **(2)** The Lieutenant Governor shall appoint the following members: the member
7 of the business community, one member of the general public who is a
8 person recovering from chemical dependency or who is a previous consumer
9 of substance abuse treatment services, and the victim service provider.

10 **(3)** The Chief Justice of the North Carolina Supreme Court shall appoint the
11 following members: the superior court judge, the district court judge, the
12 district attorney, the clerk of superior court, the criminal defense attorney,
13 and the representative of an existing community-based corrections program.

14 **(4)** The President Pro Tempore of the Senate shall appoint the following
15 members: the member of the Senate, the county commissioner from a
16 predominantly urban county, and one member of the general public.

17 **(5)** The Speaker of the House of Representatives shall appoint the following
18 members: the member of the House of Representatives, the county
19 commissioner from a predominantly rural county, and one member of the
20 general public.

21 In appointing the members of the State Board, the appointing authorities shall make every
22 effort to ensure fair geographic representation of the State Board membership and to ensure that
23 minority persons and women are fairly represented.

24 **(c)** The initial members shall serve staggered terms, one-third shall be appointed for a
25 term of one year, one-third shall be appointed for a term of two years, and one-third shall be
26 appointed for a term of three years. The members identified in subdivisions (1) through (7) of
27 subsection (a) of this section shall be appointed initially for a term of one year. The members
28 identified in subdivisions (8) through (13) in subsection (a) of this section shall be appointed
29 initially for a term of two years. The members identified in subdivisions (14) through (16) of
30 subsection (a) of this section shall each be appointed for a term of three years. The additional
31 member identified in subdivision (17) in subsection (a) of this section shall be appointed
32 initially for a term of three years.

33 At the end of their respective terms of office their successors shall be appointed for terms of
34 three years. A vacancy occurring before the expiration of the term of office shall be filled in the
35 same manner as original appointments for the remainder of the term. Members may be
36 reappointed without limitation.

37 **(d)** Each appointing authority shall have the power to remove a member it appointed
38 from the State Board for misfeasance, malfeasance, or nonfeasance.

39 **(e)** The members of the State Board shall, within 30 days after the last initial
40 appointment is made, meet and elect one member as Chair and one member as Vice-Chair.

41 **(f)** The State Board shall meet at least quarterly and may also hold special meetings at
42 the call of the Chair. For purposes of transacting business, a majority of the membership shall
43 constitute a quorum.

44 **(g)** Any member who has an interest in a governmental agency or unit or private
45 nonprofit agency which is applying for a Treatment for Effective Community Supervision
46 Program contract or which has received a contract and which is the subject of an inquiry or
47 vote by a contract oversight committee, shall publicly disclose that interest on the record and
48 shall take no part in discussion or have any vote in regard to any matter directly affecting that
49 particular grant applicant or grantee. "Interest" in a grant applicant or grantee means a formal
50 and direct connection to the entity, including, but not limited to, employment, partnership,

1 serving as an elected official, board member, director, officer, or trustee, or being an immediate
2 family member of someone who has such a connection to the grant applicant or grantee.

3 (h) The members of the State Board shall serve without compensation but shall be
4 reimbursed for necessary travel and subsistence expenses.

5 **"§ 143B-274.8. State Community Corrections Advisory Board; powers and duties.**

6 (a) The State Community Corrections Advisory Board, as defined under this Article has
7 the following duties and responsibilities:

8 (1) To review the criteria for monitoring and evaluating community-based
9 corrections programs.

10 (2) To recommend community-based corrections program priorities.

11 (3) To review the minimum program standards, policies, and rules for
12 community-based corrections programs.

13 (4) To review the evaluation of programs funded by this Article.

14 **"§ 143B-274.9. Sentencing and Policy Advisory Commission report.**

15 The Sentencing and Policy Advisory Commission shall report by April 30 of each
16 even-numbered year to the General Assembly and the Governor on recidivism rates for
17 offenders on probation, parole, and post-release supervision participating in programming
18 funded through this Article according to risk level.

19 **"§ 143B-274.10. Program types eligible for funding; community-based corrections**
20 **programs.**

21 Based on the prioritized populations in G.S. 143B-274.4(b), program types eligible for
22 funding may include, but are not limited to, the following:

23 (1) Substance abuse treatment services, to include co-occurring substance abuse
24 and mental health disorder services, residential, intensive outpatient,
25 outpatient, peer support, and relapse prevention.

26 (2) Cognitive behavioral programming and other evidence-based programming
27 deemed to be the most cost-effective method to reduce criminogenic needs
28 identified by the risk/needs assessment."

29 **SECTION 6.(c)** This section becomes effective July 1, 2011.

30
31 **PART VII. MISDEMEANANTS TO SERVE SENTENCES IN JAIL**

32 **SECTION 7.(a)** Article 81B of Chapter 15A of the General Statutes is amended by
33 adding a new section to read:

34 **"§ 15A-1340.24. Local government confinement facility; sentence.**

35 A defendant convicted solely on a misdemeanor or misdemeanor charges under this Article,
36 with an imposed sentence less any time credited for time served that results in a period of
37 confinement of six months or less, shall serve the period of confinement in a local confinement
38 facility."

39 **SECTION 7.(b)** G.S. 148-32.1(b) reads as rewritten:

40 "(b) In the event that the custodian of the local confinement facility certifies in writing to
41 the clerk of the superior court in the county in which said local confinement facility is located
42 that the local confinement facility is filled to capacity, or that the facility cannot reasonably
43 accommodate any more prisoners due to segregation requirements for particular prisoners, or
44 that the custodian anticipates, in light of local experiences, an influx of temporary prisoners at
45 that time, or if the local confinement facility does not meet the minimum standards published
46 pursuant to G.S. 153A-221, any judge of the district court in the district court district as defined
47 in G.S. 7A-133 where the facility is located, or any superior court judge who has jurisdiction
48 pursuant to G.S. 7A-47.1 or G.S. 7A-48 in a district or set of districts as defined in
49 G.S. 7A-41.1 where the facility is located may order that the prisoner be transferred to any
50 other qualified local confinement facility within that district or within another such district
51 where space is available, including a satellite jail unit operated pursuant to G.S. 153A-230.3 if

1 the prisoner is a non-violent misdemeanor, which local facility shall accept the transferred
2 prisoner, if the prison population has exceeded a manageable level as provided for in
3 G.S. 148-4.1(a). If no such local confinement facility is available, then any such judge may
4 order the prisoner transferred to such camp or facility as the proper authorities of the
5 Department of Correction shall designate, notwithstanding that the term of imprisonment of the
6 prisoner is ~~90 days~~ six months or less. In no event, however, shall a prisoner whose term of
7 imprisonment is less than ~~30~~90 days be assigned or ordered transferred to any such camp or
8 facility."

9 **SECTION 7.(c)** G.S. 15A-1352(a) reads as rewritten:

10 "(a) A person sentenced to imprisonment for a misdemeanor under this Article or for
11 nonpayment of a fine under Article 84 of this Chapter shall be committed for the term
12 designated by the court to the custody of the Department of Correction or to a local
13 confinement facility. If the sentence imposed for a misdemeanor less any time credited for time
14 served that results in a period of confinement of is for a period of 90 days six months or less,
15 the commitment must be to a facility other than one maintained by the Department of
16 Correction, except as provided in G.S. 148-32.1(b).

17 If a person is sentenced to imprisonment for a misdemeanor under this Article or for
18 nonpayment of a fine under Article 84 of this Chapter, the sentencing judge shall make a
19 finding of fact as to whether the person would be suitable for placement in a county satellite
20 jail/work release unit operated pursuant to G.S. 153A-230.3. If the sentencing judge makes a
21 finding of fact that the person would be suitable for placement in a county satellite jail/work
22 release unit and the person meets the requirements listed in G.S. 153A-230.3(a)(1), then the
23 custodian of the local confinement facility may transfer the misdemeanor to a county satellite
24 jail/work release unit."
25

26 **PART VIII. ANNUAL REPORT**

27 **SECTION 8.** Article 4 of chapter 164 of the General Statutes is amended to add a
28 new section to read:

29 **"§ 164-50. Annual report on implementation of Justice Reinvestment Project.**

30 The Judicial Department, through the North Carolina Sentencing and Policy Advisory
31 Commission, and the Department of Correction shall jointly conduct ongoing evaluations
32 regarding the implementation of the recommendations of the Justice Reinvestment Project. The
33 commission shall present the first evaluation report to the Joint Legislative Correction, Crime
34 Control, and Juvenile Justice Oversight Committee and to the Chairs of the Senate and House
35 of Representatives Appropriations Subcommittees on Justice and Public Safety by April 15,
36 2012, and future reports shall be made annually by April 15 of each year."
37

38 **PART IX. TITLE**

39 **SECTION 9.** This act shall be known as "The Justice Reinvestment Act of 2011."
40

41 **PART X. EFFECTIVE DATE**

42 **SECTION 10.** Except as otherwise provided in this act, this act is effective when it
43 becomes law. Prosecutions for offenses committed before the effective date of this act are not
44 abated or affected by this act, and the statutes that would be applicable but for this act remain
45 applicable to those prosecutions.