

# A CITIZEN'S GUIDE TO STRUCTURED SENTENCING

(Revised 2022)

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# STRUCTURED SENTENCING

In 1990, the General Assembly created the North Carolina Sentencing and Policy Advisory Commission to make recommendations to restore rationality, order and truth to the criminal justice system. In 1993, the General Assembly reviewed, amended and adopted the Commission's recommendations. The law was called Structured Sentencing and applies to all felony and misdemeanor crimes (except Driving While Impaired and Drug Trafficking) committed on or after October 1, 1994. Subsequent changes to the law were made during the 1995, 2009, and 2011 legislative sessions.

Structured Sentencing is based on the following principles:

- **Sentencing policies should be truthful:** Sentence length imposed by the judge should bear a close and consistent relationship to the sentence length actually served.
- **Sentencing policies should be consistent:** Offenders convicted of similar offenses, who have similar prior records, should generally receive similar sentences.
- **Sentencing policies should be certain:** Sentence should be clearly mandated based on the severity of the crime as measured by the harm to the victim and the offender's prior record.
- **Sentencing policies should set priorities for the use of correctional resources:** Prisons and jails should be reserved for violent and repeat offenders, and community-based programs should be used for nonviolent offenders with little or no prior record.
- **Sentencing policies should be balanced with correctional resources:** Sentencing policies should be supported by adequate prison, jail, and community resources.

## What is Structured Sentencing?

Structured Sentencing is the method of sentencing and punishing criminals in North Carolina. It classifies offenders on the basis of the severity of their crime and on the extent and gravity of their prior criminal record. Based on these two factors, Structured Sentencing provides judges with sentencing options for the type and length of sentences which may be imposed.

## Why was Structured Sentencing enacted?

Structured Sentencing is designed to help the State maintain control over the criminal justice system and to provide credibility to sentencing. Under the law, there is no early parole release so the sentence is truthful. In addition, the law sets priorities for the use of correctional resources and balances sentencing policies with correctional capacity.

## How are crimes classified?

Felony crimes are classified into letter classes (from Class A through Class I) depending on their seriousness. Crimes which involve victim injury or the risk of victim injury are assigned to the highest classes. Property crimes and other crimes which do not normally involve the risk of victim injury are

assigned to lower classes. Misdemeanor crimes are classified into four classes (Class A1, Class 1, Class 2 and Class 3). The most serious misdemeanor crimes are in Class A1 and the least serious are in Class 3.

### **How are offenders classified?**

Felons are classified into one of six prior record levels (from Prior Record Level I through Level VI) depending on the extent and gravity of their prior record. Felons with violent or extensive prior convictions are assigned to the highest level, while those with minor or no prior convictions are assigned to the lowest level. Misdemeanor offenders are classified into one of three prior conviction levels depending on their number of prior convictions.

### **How is the type of sentence determined?**

Under Structured Sentencing, there are three types of punishment: **active**, **intermediate** and **community**. Judges must impose active punishments for felons convicted of crimes which fall in high offense classes or for felons who have high prior record levels. Judges must impose intermediate or community punishments for felons who are convicted of crimes which fall in the lowest offense classes and who also have low prior record levels. For felons who fall somewhere in between, the judge may elect to impose either an active punishment or an intermediate punishment.

Regardless of the offender's prior record, the judge may impose either an active, intermediate or community punishment for offenders convicted of Class A1 misdemeanors. For offenders convicted of Class 1, 2 or 3 misdemeanors and with no prior convictions, the judge must impose a community punishment. For most other misdemeanants, the judge may impose either an active, intermediate or community punishment.

### **What is an active punishment?**

An active prison sentence requires that felons be **incarcerated** in the state prison system. For misdemeanants, an active punishment requires they be incarcerated in a local confinement facility (jail). A misdemeanant who receives an active punishment of 90 days or less serves the sentence in the local confinement facility. A misdemeanant who receives an active punishment of more than 90 days is committed to the Statewide Misdemeanant Confinement Program and serves the sentence in a local confinement facility designated by the program.

### **What is an intermediate punishment?**

An intermediate punishment requires a sentence of **supervised probation** and may include one or more of the following conditions: special probation (a period of active confinement followed by a period of probation, sometimes referred to as a split sentence), drug treatment court (a judicially monitored treatment program), house arrest with electronic monitoring (confinement to one location and close monitoring through computer technology), community service, period or periods of confinement in a local confinement facility (confinement in a local facility for a total of no more than six days per month during any three separate months during the probation period), substance abuse assessment, monitoring, or treatment, educational or vocational skills development program, or satellite-based monitoring (for certain sex offenders defined by statute). Intermediate punishments are restrictive but less costly than

prison. Generally, offenders must follow strict rules, work, pay restitution, and participate in drug or other types of treatment.

### **What is a community punishment?**

A community punishment is any sentence other than an active punishment, assignment to drug treatment court, or special probation. A judge must designate a community punishment as such. A community punishment may consist of a term of supervised or unsupervised probation which may include, but is not limited to, one or more of the following: house arrest with electronic monitoring, community service, period or periods of confinement in a local confinement facility, substance abuse assessment, monitoring, or treatment, educational or vocation skills development program, or satellite-based monitoring. A community punishment may also include a fine, restitution, or any other condition of probation.

### **How is the length of the active term determined?**

For felony convictions, judges impose both a minimum and a maximum prison term. The length of the minimum and maximum term depends on the offense class, the prior record level, and the presence of any aggravating or mitigating factors. For each combination of felony offense class and prior record level, three sentence ranges are prescribed: a **presumptive range** for typical cases, an **aggravated range** for cases where aggravation is found, and a **mitigated range** for cases where mitigation is found. The judge selects a minimum prison term from one of these three ranges. Once the minimum term is set, a maximum term is dictated by statute (20% longer than the minimum plus a period of post-release supervision). For each combination of misdemeanor offense class and prior conviction level, there is one sentence range. The judge selects a single active term from the appropriate range.

### **How much of the active term must be served?**

Under Structured Sentencing, good time, gain time and parole are eliminated. Felons sentenced to prison **must serve 100% of their minimum term and may serve up to their maximum term** if they do not work or participate in programs. The maximum sentence may be reduced to, but not below, the minimum term by earned time credits awarded to an offender by the Division of Adult Correction of the Department of Public Safety (DAC) or the custodian of the local confinement facility. If the court orders the DAC to admit the offender to the Advanced Supervised Release (ASR) program, the offender may be released on the court-ordered ASR date. Upon release, felony offenders must be placed on post-release supervision. Misdemeanants must serve the full active term unless the sheriff elects to award earned time of up to four days a month for specific activities while the offender is in jail.

### **What is advanced supervised release?**

An offender who is sentenced from certain classes and prior record levels (Class D, Prior Record Level I through III; Class E, Prior Record Level I through IV; Class F, Prior Record Level I through V; Class G or H, Prior Record Level I through VI) is eligible to be considered for ASR. At sentencing the judge may, in his discretion, impose ASR, unless the prosecutor objects. ASR entitles an offender, upon successful completion of DAC-recommended risk-reduction incentives such as treatment, education and rehabilitation programs, while in prison, to be released and placed on post-release supervision at the shortest mitigated sentence if the offender was given a non-mitigated sentence or at 80% of the minimum sentence if the offender was given a mitigated sentence.

## **What is post-release supervision?**

Post-release supervision is **a mandatory term of supervision after release from prison** for all felony offenses; Class F through I offenders receive 9 months of post-release supervision, Class B1 through E offenders receive 12 months of post-release supervision, and Class B1 through E offenders that are subject to the registration requirements of Article 27A of Chapter 14 of the General Statutes (Sex Offender and Public Protection Registration Programs) receive 60 months of post-release supervision. The offender's behavior is monitored in the community, and supervision is provided to help the offender reintegrate into society. The offender may be returned to prison and serve additional time for violating the conditions of supervision.

## **How does post-release supervision differ from parole?**

Unlike parole, the offender is not released from prison early. Post-release supervision begins after the offender has served at least his minimum prison sentence and is released. Offenders convicted of Class D through H felonies who are ordered to and complete the ASR program will be released from prison on their ASR date and will be placed on post-release supervision. Like parole supervision, post-release supervision requires the offender to be supervised and monitored in the community.

## **How are community punishments imposed under Structured Sentencing?**

The active term is suspended if an offender is sentenced to an intermediate or community punishment. However, if these offenders fail to obey conditions required as part of their punishment, the conditions may be increased, the offender may be held in contempt of court and be incarcerated for up to 30 days in jail, the judge may order felons to serve a period of confinement for 90 days and misdemeanants to serve a period of confinement for no more than six days per month during any three separate months, or the judge, in limited circumstances, may revoke probation and impose an active sentence. If the prison terms are activated, felony offenders must serve 100% of the minimum term and may serve up to the maximum term; misdemeanor offenders must serve the entire jail sentence unless the sheriff awards earned time credits. Offenders know that if they fail to abide by the conditions of their non-prison punishments, they face certain imprisonment.

## **How has Structured Sentencing affected prison and jail populations?**

The Sentencing and Policy Advisory Commission uses data on convictions and sentences imposed to estimate the prison population. Prison population projections are prepared on an annual basis using a computerized simulation model (see [www.ncspac.org](http://www.ncspac.org) for reports). The General Assembly has authorized the construction of new prisons and has changed policies as the projections have demonstrated the need. Information regarding jail populations is locally maintained and no statewide-automated information is available. The jail populations depend on local pretrial and sentencing practices.

# PUNISHMENT CHARTS

To determine the punishment options for each offender, the judge refers to either the felony or misdemeanor punishment chart shown on the following pages.

## Felony Punishment Chart

**Offense Class.** Along the left side of the chart are letters from A through I representing the severity of the crime. Class A includes the most serious felonies while Class I includes the least serious felonies.

**Prior Record Level.** Along the top of the chart are six Roman numerals from I to VI representing the extent and gravity of the offender's prior record. An offender with little or no prior record falls into Level I; an offender with a very violent or extensive prior record falls into Level VI.

**Type of Sentence.** For each combination of Offense Class and Prior Record Level, one or more letters are indicated. An "A" stands for an active prison term, an "I" stands for an intermediate punishment, and a "C" stands for a community punishment. If more than one letter is shown, the judge may choose the type of punishment.

**Length of Sentence.** For each combination of Offense Class and Prior Record Level, three sentence ranges are provided. The judge selects a single sentence term from one of the three ranges which establishes the minimum number of months that an offender must serve. The judge also imposes a maximum term which is approximately 20% longer than the minimum term plus a period of post-release supervision.

## Misdemeanor Punishment Chart

A similar chart is used for misdemeanors. However, instead of ten felony classes, there are four misdemeanor classes (A1, 1, 2, and 3); instead of six prior record levels there are three prior conviction levels (I, II, and III); and instead of three sentence ranges, there is only one. The judge selects a single term from the sentence range which specifies the number of days the offender must serve. Like the felony punishment chart, an "A" stands for an active prison term, an "I" stands for an intermediate punishment, and a "C" stands for a community punishment. If more than one letter is shown, the judge may choose the type of punishment.

**Effective for Offenses Committed on or after October 1, 2013**

**Felony Punishment Chart**

Offense Class	Prior Record Level					
	I 0-1 Pt	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts
<b>A</b>	<b>Death or Life Without Parole</b>					
	<b>Defendant Under 18 at Time of Offense: Life With or Without Parole</b>					
<b>B1</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>
	240 - 300	276 - 345	317 - 397	365 - 456	Life Without Parole	Life Without Parole
	<b>192 - 240</b>	<b>221 - 276</b>	<b>254 - 317</b>	<b>292 - 365</b>	<b>336 - 420</b>	<b>386 - 483</b>
	144 - 192	166 - 221	190 - 254	219 - 292	252 - 336	290 - 386
<b>B2</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>
	157 - 196	180 - 225	207 - 258	238 - 297	273 - 342	314 - 393
	<b>125 - 157</b>	<b>144 - 180</b>	<b>165 - 207</b>	<b>190 - 238</b>	<b>219 - 273</b>	<b>251 - 314</b>
	94 - 125	108 - 144	124 - 165	143 - 190	164 - 219	189 - 251
<b>C</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>
	73 - 92	83 - 104	96 - 120	110 - 138	127 - 159	146 - 182
	<b>58 - 73</b>	<b>67 - 83</b>	<b>77 - 96</b>	<b>88 - 110</b>	<b>101 - 127</b>	<b>117 - 146</b>
	44 - 58	50 - 67	58 - 77	66 - 88	76 - 101	87 - 117
<b>D</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>
	64 - 80	73 - 92	84 - 105	97 - 121	111 - 139	128 - 160
	<b>51 - 64</b>	<b>59 - 73</b>	<b>67 - 84</b>	<b>78 - 97</b>	<b>89 - 111</b>	<b>103 - 128</b>
	38 - 51	44 - 59	51 - 67	58 - 78	67 - 89	77 - 103
<b>E</b>	<b>I/A</b>	<b>I/A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>
	25 - 31	29 - 36	33 - 41	38 - 48	44 - 55	50 - 63
	<b>20 - 25</b>	<b>23 - 29</b>	<b>26 - 33</b>	<b>30 - 38</b>	<b>35 - 44</b>	<b>40 - 50</b>
	15 - 20	17 - 23	20 - 26	23 - 30	26 - 35	30 - 40
<b>F</b>	<b>I/A</b>	<b>I/A</b>	<b>I/A</b>	<b>A</b>	<b>A</b>	<b>A</b>
	16 - 20	19 - 23	21 - 27	25 - 31	28 - 36	33 - 41
	<b>13 - 16</b>	<b>15 - 19</b>	<b>17 - 21</b>	<b>20 - 25</b>	<b>23 - 28</b>	<b>26 - 33</b>
	10 - 13	11 - 15	13 - 17	15 - 20	17 - 23	20 - 26
<b>G</b>	<b>I/A</b>	<b>I/A</b>	<b>I/A</b>	<b>I/A</b>	<b>A</b>	<b>A</b>
	13 - 16	14 - 18	17 - 21	19 - 24	22 - 27	25 - 31
	<b>10 - 13</b>	<b>12 - 14</b>	<b>13 - 17</b>	<b>15 - 19</b>	<b>17 - 22</b>	<b>20 - 25</b>
	8 - 10	9 - 12	10 - 13	11 - 15	13 - 17	15 - 20
<b>H</b>	<b>C/I/A</b>	<b>I/A</b>	<b>I/A</b>	<b>I/A</b>	<b>I/A</b>	<b>A</b>
	6 - 8	8 - 10	10 - 12	11 - 14	15 - 19	20 - 25
	<b>5 - 6</b>	<b>6 - 8</b>	<b>8 - 10</b>	<b>9 - 11</b>	<b>12 - 15</b>	<b>16 - 20</b>
	4 - 5	4 - 6	6 - 8	7 - 9	9 - 12	12 - 16
<b>I</b>	<b>C</b>	<b>C/I</b>	<b>I</b>	<b>I/A</b>	<b>I/A</b>	<b>I/A</b>
	6 - 8	6 - 8	6 - 8	8 - 10	9 - 11	10 - 12
	<b>4 - 6</b>	<b>4 - 6</b>	<b>5 - 6</b>	<b>6 - 8</b>	<b>7 - 9</b>	<b>8 - 10</b>
	3 - 4	3 - 4	4 - 5	4 - 6	5 - 7	6 - 8

<b>RANGE</b>
Aggravated
<b>PRESUMPTIVE</b>
Mitigated

<b>DISPOSITION</b>
A – Active
I – Intermediate
C – Community

Numbers shown are in months and represent the range of minimum sentences

## MINIMUM AND MAXIMUM SENTENCES

The corresponding maximum sentence for each minimum sentence is shown in the tables below. In each column, the number to the left of the dash represents the minimum sentence (in months) and the number to the right of the dash represents the corresponding maximum sentence (in months).

### FOR OFFENSE CLASSES B1 THROUGH E

15-30	52-75	89-119	126-164	163-208	200-252	237-297	274-341	311-386
16-32	53-76	90-120	127-165	164-209	201-254	238-298	275-342	312-387
17-33	54-77	91-122	128-166	165-210	202-255	239-299	276-344	313-388
18-34	55-78	92-123	129-167	166-212	203-256	240-300	277-345	314-389
19-35	56-80	93-124	130-168	167-213	204-257	241-302	278-346	315-390
20-36	57-81	94-125	131-170	168-214	205-258	242-303	279-347	316-392
21-38	58-82	95-126	132-171	169-215	206-260	243-304	280-348	317-393
22-39	59-83	96-128	133-172	170-216	207-261	244-305	281-350	318-394
23-40	60-84	97-129	134-173	171-218	208-262	245-306	282-351	319-395
24-41	61-86	98-130	135-174	172-219	209-263	246-308	283-352	320-396
25-42	62-87	99-131	136-176	173-220	210-264	247-309	284-353	321-398
26-44	63-88	100-132	137-177	174-221	211-266	248-310	285-354	322-399
27-45	64-89	101-134	138-178	175-222	212-267	249-311	286-356	323-400
28-46	65-90	102-135	139-179	176-224	213-268	250-312	287-357	324-401
29-47	66-92	103-136	140-180	177-225	214-269	251-314	288-358	325-402
30-48	67-93	104-137	141-182	178-226	215-270	252-315	289-359	326-404
31-50	68-94	105-138	142-183	179-227	216-272	253-316	290-360	327-405
32-51	69-95	106-140	143-184	180-228	217-273	254-317	291-362	328-406
33-52	70-96	107-141	144-185	181-230	218-274	255-318	292-363	329-407
34-53	71-98	108-142	145-186	182-231	219-275	256-320	293-364	330-408
35-54	72-99	109-143	146-188	183-232	220-276	257-321	294-365	331-410
36-56	73-100	110-144	147-189	184-233	221-278	258-322	295-366	332-411
37-57	74-101	111-146	148-190	185-234	222-279	259-323	296-368	333-412
38-58	75-102	112-147	149-191	186-236	223-280	260-324	297-369	334-413
39-59	76-104	113-148	150-192	187-237	224-281	261-326	298-370	335-414
40-60	77-105	114-149	151-194	188-238	225-282	262-327	299-371	336-416
41-62	78-106	115-150	152-195	189-239	226-284	263-328	300-372	337-417
42-63	79-107	116-152	153-196	190-240	227-285	264-329	301-374	338-418
43-64	80-108	117-153	154-197	191-242	228-286	265-330	302-375	339-419
44-65	81-110	118-154	155-198	192-243	229-287	266-332	303-376	
45-66	82-111	119-155	156-200	193-244	230-288	267-333	304-377	
46-68	83-112	120-156	157-201	194-245	231-290	268-334	305-378	
47-69	84-113	121-158	158-202	195-246	232-291	269-335	306-380	
48-70	85-114	122-159	159-203	196-248	233-292	270-336	307-381	
49-71	86-116	123-160	160-204	197-249	234-293	271-338	308-382	
50-72	87-117	124-161	161-206	198-250	235-294	272-339	309-383	
51-74	88-118	125-162	162-207	199-251	236-296	273-340	310-384	

To calculate a maximum sentence when the minimum sentence is 340 months or more, multiply the minimum sentence by 1.20 (rounding to the next highest month) and add 12. See G.S. 15A-1340.17(e1).

**Sex Offenses:** To calculate a maximum sentence for a Class B1 through E felony that is subject to the registration requirements of G.S. Chapter 14, Article 27A, multiply the minimum sentence by 1.20 (rounding to the next highest month) and add 60. See G.S. 15A-1340.17(f).

### FOR OFFENSE CLASSES F THROUGH I

3-13	8-19	13-25	18-31	23-37	28-43	33-49	38-55
4-14	9-20	14-26	19-32	24-38	29-44	34-50	39-56
5-15	10-21	15-27	20-33	25-39	30-45	35-51	40-57
6-17	11-23	16-29	21-35	26-41	31-47	36-53	41-59
7-18	12-24	17-30	22-36	27-42	32-48	37-54	



**Effective for Offenses Committed on or after December 1, 2013**

**Misdemeanor Punishment Chart**

Offense Class	Prior Conviction Level			
	I No Prior Convictions	II One to Four Prior Convictions		III Five or More Prior Convictions
A1	C/I/A 1 - 60 days	C/I/A 1 - 75 days		C/I/A 1 - 150 days
1	C 1 - 45 days	C/I/A 1 - 45 days		C/I/A 1 - 120 days
2	C 1 - 30 days	C/I 1 - 45 days		C/I/A 1 - 60 days
3	C Fine Only* 1 - 10 days	One to Three Prior Convictions	Four Prior Convictions	C/I/A 1 - 20 days
		C Fine Only* 1-15 days	C/I 1 - 15 days	

<b>DISPOSITION</b> C – Community I – Intermediate A – Active
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Cells with a slash allow either disposition at the discretion of the judge.

\*Unless otherwise provided for a specific offense, the judgment for a person convicted of a Class 3 misdemeanor who has no more than three prior convictions shall consist only of a fine.