

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH10845-LHf-159A (3/11)

Short Title: Reform Bill of 2009.

(Public)

Sponsors: Representative Haire.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO RECLASSIFY STATUTORY RAPE OR SEXUAL OFFENSE OF A PERSON WHO IS THIRTEEN, FOURTEEN, OR FIFTEEN YEARS OLD BY A DEFENDANT WHO IS MORE THAN FOUR YEARS BUT LESS THAN SIX YEARS OLDER; TO PROVIDE FOR THE EXPUNCTION OF CONVICTIONS FOR CERTAIN NONVIOLENT CRIMINAL OFFENSES, TO MAKE CONFORMING CHANGES TO EXISTING EXPUNCTION STATUTES, AND TO REQUIRE STATE AND NATIONAL CRIMINAL RECORD CHECKS WHEN EXPUNGING RECORDS; TO RESTRUCTURE THE PRIOR RECORD LEVEL POINT RANGES IN STRUCTURED SENTENCING IN ORDER TO EXPAND THE POINTS IN PRIOR RECORD LEVEL I AND TO EVEN OUT THE REMAINING RANGES; TO MAKE THE INCREASE IN SENTENCE LENGTHS BETWEEN PRIOR RECORD LEVELS MORE PROPORTIONATE USING A SET PERCENTAGE INCREMENT; TO INCREASE THE PERIOD OF POST-RELEASE SUPERVISION FROM NINE MONTHS TO TWELVE MONTHS; AND TO DIRECT THE DEPARTMENT OF CORRECTION TO MAKE VARIOUS MODIFICATIONS TO THE RULES REGARDING "EARNED TIME."

The General Assembly of North Carolina enacts:

PART I. RECLASSIFY STATUTORY RAPE OR SEXUAL OFFENSE OF A PERSON WHO IS 13, 14, OR 15 YEARS OF OLD

SECTION 1. G.S. 14-27.7A(b) reads as rewritten:

"(b) A defendant is guilty of a ~~Class C~~ Class F felony if the defendant engages in vaginal intercourse or a sexual act with another person who is 13, 14, or 15 years old and the defendant is more than four but less than six years older than the person, except when the defendant is lawfully married to the person."

PART II. EXPUNGE CERTAIN NONVIOLENT CRIMES

SECTION 2. Article 5 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-150. Expunction of records for conviction of certain nonviolent criminal offenses if there are no subsequent criminal convictions for at least 10 years.

(a) For purposes of this section, the term 'nonviolent criminal offense' means a misdemeanor, Class H felony, or Class I felony; however, the term does not include any of the following:

(1) An offense that includes assault as an essential element of the offense.



- 1 (2) An offense for which the offender must register under Article 27A of
2 Chapter 14 of the General Statutes.
- 3 (3) An offense that includes the possession or use of a firearm as an essential
4 element of the offense.
- 5 (4) An offense for which the offender was armed with or used a firearm.
- 6 (5) An offense that is trafficking under G.S. 90-95(h).
- 7 (b) Whenever a person who has not previously been convicted of any felony or
8 misdemeanor other than a traffic violation under the laws of the United States, the laws of this
9 State, or any other state, pleads guilty to or is guilty of a nonviolent criminal offense, the person
10 may file a petition in the court where he or she was convicted for expunction of the nonviolent
11 criminal offense from the person's criminal record. The petition cannot be filed earlier than 10
12 years after the date of the conviction, period of active sentence, period of post-release
13 supervision, or period of probation has been completed, whichever occurs later. The petition
14 shall contain, but not be limited to, the following:
- 15 (1) An affidavit by the petitioner that he or she has been of good behavior for
16 the 10-year period since the date of conviction of the nonviolent criminal
17 offense in question and has not been convicted of any felony or
18 misdemeanor other than a traffic violation under the laws of the United
19 States or the laws of this State or any other state.
- 20 (2) Verified affidavits of two persons who are not related to the petitioner or to
21 each other by blood or marriage, that they know the character and reputation
22 of the petitioner in the community in which the petitioner lives, and that the
23 person's character and reputation are good.
- 24 (3) A statement that the petition is a motion in the cause in the case wherein the
25 petitioner was convicted.
- 26 (4) An application on a form approved by the Administrative Office of the
27 Courts requesting and authorizing a State and national criminal record check
28 by the Department of Justice using any information required by the
29 Administrative Office of the Courts to identify the individual, and a search
30 of the confidential record of expungements maintained by the
31 Administrative Office of the Courts. The application shall be forwarded to
32 the Department of Justice and to the Administrative Office of the Courts,
33 which shall conduct the searches and report their findings to the court.
- 34 (5) An affidavit by the petitioner that no restitution orders or civil judgments
35 representing amounts ordered for restitution entered against the petitioner
36 are outstanding.

37 The petition shall be served upon the district attorney of the court where the case was tried
38 resulting in conviction. The district attorney shall have 10 days to file any objection to the
39 petition and shall be notified as to the date of the hearing of the petition.

40 The judge to whom the petition is presented may call upon a probation officer for any
41 additional investigation or verification of the petitioner's conduct during the 10-year period that
42 the judge deems desirable.

43 (c) If the court, after conducting a hearing, finds that the petitioner had remained of
44 good behavior and been free of conviction of any felony or misdemeanor, other than a traffic
45 violation, for 10 years from the date of conviction of the nonviolent criminal offense in
46 question and the petitioner has no outstanding restitution orders or civil judgments representing
47 amounts ordered for restitution entered against the petitioner, then the court shall order that the
48 petitioner be restored, in the contemplation of the law, to the status the petitioner occupied
49 before the arrest, indictment, conviction, or information for the nonviolent criminal offense. No
50 person as to whom such order has been entered shall be held thereafter under any provision of
51 any laws to be guilty of perjury or otherwise giving a false statement by reason of his or her

1 failure to recite or acknowledge such arrest, indictment, conviction, information, trial, or
2 response to any inquiry made of the person for any purpose.

3 (d) The court shall also order that the conviction for the nonviolent criminal offense be
4 expunged from the records of the court and direct all law enforcement agencies bearing record
5 of the same to expunge their records of the conviction. The clerk shall forward a certified copy
6 of the order to the sheriff, chief of police, or other arresting agency. The sheriff, chief, or head
7 of any other arresting agency shall then transmit the copy of the order with a form supplied by
8 the State Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of
9 Investigation shall forward the order to the Federal Bureau of Investigation. Expunction of
10 records may occur only once with respect to any person.

11 (e) Any other applicable State or local government agency shall expunge from its
12 records entries made as a result of the charge or conviction ordered expunged under this
13 section. The agency also shall reverse any administrative actions taken against a person whose
14 record is expunged under this section as a result of the charges or convictions expunged.
15 Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or
16 privilege resulting under this section shall be waived.

17 (f) The clerk of superior court in each county in North Carolina shall, as soon as
18 practicable after each term of court in his or her county, file with the Administrative Office of
19 the Courts the names of those persons granted expunctions under the provisions of this section,
20 and the Administrative Office of the Courts shall maintain a confidential file containing the
21 names of persons granted expunctions. The information contained in the file shall be disclosed
22 only to judges of the General Court of Justice of North Carolina for the purpose of ascertaining
23 whether any person charged with an offense has been previously granted an expunction.

24 (g) A person who files a petition for expunction of a criminal record under this section
25 must pay the clerk of superior court a fee of one hundred dollars (\$100.00) at the time the
26 petition is filed. Fifty dollars (\$50.00) of the fee collected under this subsection shall be
27 remitted to the North Carolina Department of Justice to pay the costs of the State Bureau of
28 Investigation purging records pursuant to receipt of an order of expunction. The remaining fifty
29 dollars (\$50.00) of the fee shall be remitted to the Administrative Office of the Courts to pay
30 the costs associated with implementation of the provisions of this section. This subsection does
31 not apply to petitions filed by an indigent."

32 **SECTION 3.** G.S. 15A-145(a) reads as rewritten:

33 "(a) Whenever any person who has (i) not yet attained the age of 18 years and has not
34 previously been convicted of any felony, or misdemeanor other than a traffic violation, under
35 the laws of the United States, the laws of this State or any other state, pleads guilty to or is
36 guilty of a misdemeanor other than a traffic violation, or (ii) not yet attained the age of 21 years
37 and has not previously been convicted of any felony, or misdemeanor other than a traffic
38 violation, under the laws of the United States, the laws of this State or any other state, pleads
39 guilty to or is guilty of a misdemeanor possession of alcohol pursuant to G.S. 18B-302(b)(1),
40 he may file a petition in the court where he was convicted for expunction of the misdemeanor
41 from his criminal record. The petition cannot be filed earlier than: (i) two years after the date of
42 the conviction, or (ii) the completion of any period of probation, whichever occurs later, and
43 the petition shall contain, but not be limited to, the following:

- 44 (1) An affidavit by the petitioner that he has been of good behavior for the
45 two-year period since the date of conviction of the misdemeanor in question
46 and has not been convicted of any felony, or misdemeanor other than a
47 traffic violation, under the laws of the United States or the laws of this State
48 or any other state.
- 49 (2) Verified affidavits of two persons who are not related to the petitioner or to
50 each other by blood or marriage, that they know the character and reputation

1 of the petitioner in the community in which he lives and that his character
2 and reputation are good.

3 (3) A statement that the petition is a motion in the cause in the case wherein the
4 petitioner was convicted.

5 (4) ~~Affidavits of the clerk of superior court, chief of police, where appropriate,
6 and sheriff of the county in which the petitioner was convicted and, if
7 different, the county of which the petitioner is a resident, showing that the
8 petitioner has not been convicted of a felony or misdemeanor other than a
9 traffic violation under the laws of this State at any time prior to the
10 conviction for the misdemeanor in question or during the two-year period
11 following that conviction.~~

12 (4) An application on a form approved by the Administrative Office of the
13 Courts requesting and authorizing a State and national criminal record check
14 by the Department of Justice using any information required by the
15 Administrative Office of the Courts to identify the individual, and a search
16 of the confidential record of expungements maintained by the
17 Administrative Office of the Courts. The application shall be forwarded to
18 the Department of Justice and to the Administrative Office of the Courts,
19 which shall conduct the searches and report their findings to the court.

20 (5) An affidavit by the petitioner that no restitution orders or civil judgments
21 representing amounts ordered for restitution entered against him are
22 outstanding.

23 The petition shall be served upon the district attorney of the court wherein the case was
24 tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file
25 any objection thereto and shall be duly notified as to the date of the hearing of the petition.

26 The judge to whom the petition is presented is authorized to call upon a probation officer
27 for any additional investigation or verification of the petitioner's conduct during the two-year
28 period that he deems desirable."

29 **SECTION 4.** G.S. 15A-145 is amended by adding a new subsection to read:

30 "(c1) Any other applicable State or local government agency shall expunge from its
31 records entries made as a result of the charge or conviction ordered expunged under this
32 section. The agency also shall reverse any administrative actions taken against a person whose
33 record is expunged under this section as a result of the charges or convictions expunged.
34 Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or
35 privilege resulting under this section shall be waived."

36 **SECTION 5.** G.S. 15A-146 is amended by adding a new subsection to read:

37 "(b3) Any other applicable State or local government agency shall expunge from its
38 records entries made as a result of the charge or conviction ordered expunged under this
39 section. The agency also shall reverse any administrative actions taken against a person whose
40 record is expunged under this section as a result of the charges or convictions expunged.
41 Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or
42 privilege resulting under this section shall be waived."

43 **SECTION 6.** G.S. 90-96(b) reads as rewritten:

44 "(b) Upon the dismissal of such person, and discharge of the proceedings against him
45 under subsection (a) of this section, such person, if he were not over 21 years of age at the time
46 of the offense, may apply to the court for an order to expunge from all official records (other
47 than the confidential file to be retained by the Administrative Office of the Courts under
48 subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of
49 guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the
50 application the following:

- 1 (1) An affidavit by the applicant that he has been of good behavior during the
2 period of probation since the decision to defer further proceedings on the
3 offense in question and has not been convicted of any felony, or
4 misdemeanor, other than a traffic violation, under the laws of the United
5 States or the laws of this State or any other state;
- 6 (2) Verified affidavits by two persons who are not related to the applicant or to
7 each other by blood or marriage, that they know the character and reputation
8 of the petitioner in the community in which he lives, and that his character
9 and reputation are good;
- 10 ~~(3) Affidavits of the clerk of superior court, chief of police, where appropriate,
11 and sheriff of the county in which the petitioner was convicted, and, if
12 different, the county of which the petitioner is a resident, showing that the
13 applicant has not been convicted of a felony or misdemeanor other than a
14 traffic violation under the laws of this State at any time prior to the
15 conviction for the offense in question or during the period of probation
16 following the decision to defer further proceedings on the offense in
17 question.~~
- 18 (3) An application on a form approved by the Administrative Office of the
19 Courts requesting and authorizing a State and national criminal record check
20 by the Department of Justice using any information required by the
21 Administrative Office of the Courts to identify the individual, and a search
22 of the confidential record of expungements maintained by the
23 Administrative Office of the Courts. The application shall be forwarded to
24 the Department of Justice and to the Administrative Office of the Courts,
25 which shall conduct the searches and report their findings to the court.

26 The judge to whom the petition is presented is authorized to call upon a probation officer
27 for any additional investigation or verification of the petitioner's conduct during the
28 probationary period deemed desirable.

29 If the court determines, after hearing, that such person was dismissed and the proceedings
30 against him discharged and that he was not over 21 years of age at the time of the offense, it
31 shall enter such order. The effect of such order shall be to restore such person in the
32 contemplation of the law to the status he occupied before such arrest or indictment or
33 information. No person as to whom such order was entered shall be held thereafter under any
34 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
35 his failures to recite or acknowledge such arrest, or indictment or information, or trial in
36 response to any inquiry made of him for any purpose.

37 The court shall also order that said conviction and the records relating thereto be expunged
38 from the records of the court, and direct all law-enforcement agencies bearing records of the
39 same to expunge their records of the conviction. The clerk shall forward a certified copy of the
40 order to the sheriff, chief of police or other arresting agency, as appropriate, and the sheriff,
41 chief of police or other arresting agency, as appropriate, shall forward such order to the State
42 Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State
43 Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of
44 Investigation."

45 **SECTION 7.** G.S. 90-113.14(b) reads as rewritten:

46 "(b) Upon the dismissal of such person, and discharge of the proceedings against him
47 under subsection (a) of this section, such person, if he were not over 21 years of age at the time
48 of the offense, may apply to the court for an order to expunge from all official records (other
49 than the confidential file to be retained by the Administrative Office of the Courts under
50 subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of

1 guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the
2 application the following:

- 3 (1) An affidavit by the applicant that he has been of good behavior during the
4 period of probation since the decision to defer further proceedings on the
5 misdemeanor in question and has not been convicted of any felony, or
6 misdemeanor, other than a traffic violation, under the laws of the United
7 States or the laws of this State or any other state;
- 8 (2) Verified affidavits by two persons who are not related to the applicant or to
9 each other by blood or marriage, that they know the character and reputation
10 of the petitioner in the community in which he lives, and that his character
11 and reputation are good;
- 12 ~~(3) Affidavits of the clerk of superior court, chief of police, where appropriate,
13 and sheriff of the county in which the petitioner was convicted, and, if
14 different, the county of which the petitioner is a resident, showing that the
15 applicant has not been convicted of a felony or misdemeanor other than a
16 traffic violation under the laws of this State at any time prior to the
17 conviction for the misdemeanor in question or during the period of probation
18 following the decision to defer further proceedings on the misdemeanor in
19 question.~~
- 20 (3) An application on a form approved by the Administrative Office of the
21 Courts requesting and authorizing a State and national criminal record check
22 by the Department of Justice using any information required by the
23 Administrative Office of the Courts to identify the individual, and a search
24 of the confidential record of expungements maintained by the
25 Administrative Office of the Courts. The application shall be forwarded to
26 the Department of Justice and to the Administrative Office of the Courts,
27 which shall conduct the searches and report their findings to the court.

28 The judge to whom the petition is presented is authorized to call upon a probation officer
29 for any additional investigation or verification of the petitioner's conduct during the
30 probationary period deemed desirable.

31 If the court determines, after hearing, that such person was dismissed and the proceedings
32 against him discharged and that he was not over 21 years of age at the time of the offense, it
33 shall enter such order. The effect of such order shall be to restore such person in the
34 contemplation of the law to the status he occupied before such arrest or indictment or
35 information. No person as to whom such order was entered shall be held thereafter under any
36 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
37 his failures to recite or acknowledge such arrest, or indictment or information, or trial in
38 response to any inquiry made of him for any purpose.

39 The court shall also order that said conviction and the records relating thereto be expunged
40 from the records of the court, and direct all law-enforcement agencies bearing records of the
41 same to expunge their records of the conviction. The clerk shall forward a certified copy of the
42 order to the sheriff, chief of police or other arresting agency, as appropriate, and the sheriff,
43 chief of police or other arresting agency, as appropriate, shall forward such order to the State
44 Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State
45 Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of
46 Investigation."

47
48 **PART III. RESTRUCTURE PRIOR CRIMINAL RECORD POINTS AND SENTENCE**
49 **LENGTHS FOR STRUCTURED SENTENCING**

50 **SECTION 8.** G.S. 15A-1340.14(c) reads as rewritten:

"(c) Prior Record Levels for Felony Sentencing. – The prior record levels for felony sentencing are:

- (1) Level I – ~~0 points.~~ Not more than 1 point.
- (2) Level II – At least ~~1,2,~~ but not more than ~~4 points.~~ 5 points.
- (3) Level III – At least ~~5,6,~~ but not more than ~~8 points.~~ 9 points.
- (4) Level IV – At least ~~9,10,~~ but not more than ~~14 points.~~ 13 points.
- (5) Level V – At least ~~15,14,~~ but not more than ~~18 points.~~ 17 points.
- (6) Level VI – At least ~~19 points.~~ 18 points.

In determining the prior record level, the classification of a prior offense is the classification assigned to that offense at the time the offense for which the offender is being sentenced is committed."

SECTION 9. G.S. 15A-1340.17(c) reads as rewritten:

"(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. – The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

- (1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.
- (2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.
- (3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.
- (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I	II	III	IV	V	VI	
	0 Pts	1-4 Pts	5-8 Pts	9-14 Pts	15-18 Pts	19+ Pts	
	<u>0-1 Pt</u>	<u>2-5 Pts</u>	<u>6-9 Pts</u>	<u>10-13 Pts</u>	<u>14-17 Pts</u>	<u>18+ Pts</u>	
A	Life Imprisonment Without Parole or Death as Established by Statute						
	A	A	A	A	A	A	DISPOSITION
	240-300	288-360	336-420	384-480	Life Imprisonment	Without Parole	Aggravated
B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated
	<u>240-300</u>	<u>276-345</u>	<u>317-397</u>	<u>365-456</u>	<u>Life Imprisonment</u>	<u>Without Parole</u>	<u>Aggravated</u>

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1	<u>B1</u>	<u>192-240</u>	<u>221-276</u>	<u>254-317</u>	<u>292-365</u>	<u>336-420</u>	<u>386-483</u>	<u>PRESUMPTIVE</u>
2		<u>144-192</u>	<u>166-221</u>	<u>190-254</u>	<u>219-292</u>	<u>252-336</u>	<u>290-386</u>	<u>Mitigated</u>
3		A	A	A	A	A	A	DISPOSITION
4		<u>157-196</u>	<u>189-237</u>	<u>220-276</u>	<u>251-313</u>	<u>282-353</u>	<u>313-392</u>	<u>Aggravated</u>
5	<u>B2</u>	<u>125-157</u>	<u>151-189</u>	<u>176-220</u>	<u>201-251</u>	<u>225-282</u>	<u>251-313</u>	<u>PRESUMPTIVE</u>
6		<u>94-125</u>	<u>114-151</u>	<u>132-176</u>	<u>151-201</u>	<u>169-225</u>	<u>188-251</u>	<u>Mitigated</u>
7		<u>157-196</u>	<u>180-225</u>	<u>207-258</u>	<u>238-297</u>	<u>273-342</u>	<u>314-393</u>	<u>Aggravated</u>
8	<u>B2</u>	<u>125-157</u>	<u>144-180</u>	<u>165-207</u>	<u>190-238</u>	<u>219-273</u>	<u>251-314</u>	<u>PRESUMPTIVE</u>
9		<u>94-125</u>	<u>108-144</u>	<u>124-165</u>	<u>143-190</u>	<u>164-219</u>	<u>189-251</u>	<u>Mitigated</u>
10		A	A	A	A	A	A	DISPOSITION
11		<u>73-92</u>	<u>100-125</u>	<u>116-145</u>	<u>133-167</u>	<u>151-188</u>	<u>168-210</u>	<u>Aggravated</u>
12	<u>C</u>	<u>58-73</u>	<u>80-100</u>	<u>93-116</u>	<u>107-133</u>	<u>121-151</u>	<u>135-168</u>	<u>PRESUMPTIVE</u>
13		<u>44-58</u>	<u>60-80</u>	<u>70-93</u>	<u>80-107</u>	<u>90-121</u>	<u>101-135</u>	<u>Mitigated</u>
14		<u>73-92</u>	<u>83-104</u>	<u>96-120</u>	<u>110-138</u>	<u>127-159</u>	<u>146-182</u>	<u>Aggravated</u>
15	<u>C</u>	<u>58-73</u>	<u>67-83</u>	<u>77-96</u>	<u>88-110</u>	<u>101-127</u>	<u>117-146</u>	<u>PRESUMPTIVE</u>
16		<u>44-58</u>	<u>50-67</u>	<u>58-77</u>	<u>66-88</u>	<u>76-101</u>	<u>87-117</u>	<u>Mitigated</u>
17		A	A	A	A	A	A	DISPOSITION
18		<u>64-80</u>	<u>77-95</u>	<u>103-129</u>	<u>117-146</u>	<u>133-167</u>	<u>146-183</u>	<u>Aggravated</u>
19	<u>D</u>	<u>51-64</u>	<u>61-77</u>	<u>82-103</u>	<u>94-117</u>	<u>107-133</u>	<u>117-146</u>	<u>PRESUMPTIVE</u>
20		<u>38-51</u>	<u>46-61</u>	<u>61-82</u>	<u>71-94</u>	<u>80-107</u>	<u>88-117</u>	<u>Mitigated</u>
21		<u>64-80</u>	<u>73-92</u>	<u>84-105</u>	<u>97-121</u>	<u>111-139</u>	<u>128-160</u>	<u>Aggravated</u>
22	<u>D</u>	<u>51-64</u>	<u>59-73</u>	<u>67-84</u>	<u>78-97</u>	<u>89-111</u>	<u>103-128</u>	<u>PRESUMPTIVE</u>
23		<u>38-51</u>	<u>44-59</u>	<u>51-67</u>	<u>58-78</u>	<u>67-89</u>	<u>77-103</u>	<u>Mitigated</u>
24		I/A	I/A	A	A	A	A	DISPOSITION
25		<u>25-31</u>	<u>29-36</u>	<u>34-42</u>	<u>46-58</u>	<u>53-66</u>	<u>59-74</u>	<u>Aggravated</u>
26	<u>E</u>	<u>20-25</u>	<u>23-29</u>	<u>27-34</u>	<u>37-46</u>	<u>42-53</u>	<u>47-59</u>	<u>PRESUMPTIVE</u>
27		<u>15-20</u>	<u>17-23</u>	<u>20-27</u>	<u>28-37</u>	<u>32-42</u>	<u>35-47</u>	<u>Mitigated</u>
28		<u>25-31</u>	<u>29-36</u>	<u>33-41</u>	<u>38-48</u>	<u>44-55</u>	<u>50-63</u>	<u>Aggravated</u>
29	<u>E</u>	<u>20-25</u>	<u>23-29</u>	<u>26-33</u>	<u>30-38</u>	<u>35-44</u>	<u>40-50</u>	<u>PRESUMPTIVE</u>
30		<u>15-20</u>	<u>17-23</u>	<u>20-26</u>	<u>23-30</u>	<u>26-35</u>	<u>30-40</u>	<u>Mitigated</u>
31		I/A	I/A	I/A	A	A	A	DISPOSITION
32		<u>16-20</u>	<u>19-24</u>	<u>21-26</u>	<u>25-31</u>	<u>34-42</u>	<u>39-49</u>	<u>Aggravated</u>
33	<u>F</u>	<u>13-16</u>	<u>15-19</u>	<u>17-21</u>	<u>20-25</u>	<u>27-34</u>	<u>31-39</u>	<u>PRESUMPTIVE</u>
34		<u>10-13</u>	<u>11-15</u>	<u>13-17</u>	<u>15-20</u>	<u>20-27</u>	<u>23-31</u>	<u>Mitigated</u>
35		<u>16-20</u>	<u>19-23</u>	<u>21-27</u>	<u>25-31</u>	<u>28-36</u>	<u>33-41</u>	<u>Aggravated</u>
36	<u>F</u>	<u>13-16</u>	<u>15-19</u>	<u>17-21</u>	<u>20-25</u>	<u>23-28</u>	<u>26-33</u>	<u>PRESUMPTIVE</u>
37		<u>10-13</u>	<u>11-15</u>	<u>13-17</u>	<u>15-20</u>	<u>17-23</u>	<u>20-26</u>	<u>Mitigated</u>
38		I/A	I/A	I/A	I/A	A	A	DISPOSITION
39		<u>13-16</u>	<u>15-19</u>	<u>16-20</u>	<u>20-25</u>	<u>21-26</u>	<u>29-36</u>	<u>Aggravated</u>
40	<u>G</u>	<u>10-13</u>	<u>12-15</u>	<u>13-16</u>	<u>16-20</u>	<u>17-21</u>	<u>23-29</u>	<u>PRESUMPTIVE</u>
41		<u>8-10</u>	<u>9-12</u>	<u>10-13</u>	<u>12-16</u>	<u>13-17</u>	<u>17-23</u>	<u>Mitigated</u>
42		<u>13-16</u>	<u>14-18</u>	<u>17-21</u>	<u>19-24</u>	<u>22-27</u>	<u>25-31</u>	<u>Aggravated</u>
43	<u>G</u>	<u>10-13</u>	<u>12-14</u>	<u>13-17</u>	<u>15-19</u>	<u>17-22</u>	<u>20-25</u>	<u>PRESUMPTIVE</u>
44		<u>8-10</u>	<u>9-12</u>	<u>10-13</u>	<u>11-15</u>	<u>13-17</u>	<u>15-20</u>	<u>Mitigated</u>
45		C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
46		<u>6-8</u>	<u>8-10</u>	<u>10-12</u>	<u>11-14</u>	<u>15-19</u>	<u>20-25</u>	<u>Aggravated</u>
47	<u>H</u>	<u>5-6</u>	<u>6-8</u>	<u>8-10</u>	<u>9-11</u>	<u>12-15</u>	<u>16-20</u>	<u>PRESUMPTIVE</u>
48		<u>4-5</u>	<u>4-6</u>	<u>6-8</u>	<u>7-9</u>	<u>9-12</u>	<u>12-16</u>	<u>Mitigated</u>
49		C	C/I	I	I/A	I/A	I/A	DISPOSITION
50		<u>6-8</u>	<u>6-8</u>	<u>6-8</u>	<u>8-10</u>	<u>9-11</u>	<u>10-12</u>	<u>Aggravated</u>

1	I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
2		3-4	3-4	4-5	4-6	5-7	6-8	Mitigated"

3
4 **PART IV. INCREASE POST-RELEASE SUPERVISION PERIOD TO TWELVE**
5 **MONTHS**

6 **SECTION 10.** G.S. 15A-1368(a)(5) reads as rewritten:

7 "(5) Maximum imposed term. – The maximum term of imprisonment imposed on
8 an individual prisoner by a court judgment, as described in
9 G.S. 15A-1340.13(c). When a prisoner is serving consecutive prison terms,
10 the maximum imposed term, for purposes of this Article, is the sum of all
11 maximum terms imposed in the court judgment or judgments, less ~~nine~~12
12 months for each of the second and subsequent sentences imposed for Class B
13 through Class E felonies."

14 **SECTION 11.** G.S. 15A-1368.2 reads as rewritten:

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

16 (a) A prisoner to whom this Article applies shall be released from prison for
17 post-release supervision on the date equivalent to his maximum imposed prison term less ~~nine~~
18 12 months, less any earned time awarded by the Department of Correction or the custodian of a
19 local confinement facility under G.S. 15A-1340.13(d). If a prisoner has not been awarded any
20 earned time, the prisoner shall be released for post-release supervision on the date equivalent to
21 his maximum prison term less ~~nine~~12 months.

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

23 (c) A supervisee's period of post-release supervision shall be for a period of ~~nine~~12
24 months, unless the offense is an offense for which registration is required pursuant to Article
25 27A of Chapter 14 of the General Statutes. For offenses subject to the registration requirement
26 of Article 27A of Chapter 14 of the General Statutes, the period of post-release supervision is
27 five years. The conditions of post-release supervision are as authorized in G.S. 15A-1368.5.

28 (c1) Notwithstanding subsection (c) of this section, a person required to submit to
29 satellite-based monitoring pursuant to G.S. 15A-1368.4(b1)(6) shall continue to participate in
30 satellite-based monitoring beyond the period of post-release supervision until the Commission
31 releases the person from that requirement pursuant to G.S. 14-208.43.

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

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

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

40
41 **PART V. DEPARTMENT OF CORRECTION TO MODIFY RULES REGARDING**
42 **"EARNED TIME"**

43 **SECTION 12.** The Department of Correction shall adjust rules and regulations
44 governing "earned time" so that it is possible for every category of offender currently
45 incarcerated to earn time at each "earned time" level at a rate at which they may be released at
46 their minimum sentence, but in no case earlier than their minimum sentence.

47 The Department shall create an "earned time" category for offenders who have no
48 infractions.

49 The Department may add days onto the minimum sentence for infractions.

50 The Department shall prorate "earned time" for offenders who are incarcerated in
51 the Department of Correction but have served a period of their sentence in the custody of a

1 local jail or another confinement facility. "Earned time" for these offenders shall be weighted as
2 though they were incarcerated within a Department of Correction facility for the entire time
3 served.

4 All new rules and regulations shall apply to offenders who are currently incarcerated
5 as well as those who are sentenced in the future.

6 **SECTION 13.** The headings to the parts and sections of this act are a convenience
7 to the reader and are for reference only.

8 **SECTION 14.** This act becomes effective December 1, 2009, and applies to
9 offenses committed on or after that date and to applications for expunction of records made on
10 or after that date.