

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1445

Short Title: Reform Bill of 2009. (Public)

Sponsors: Representatives Haire; and Harrison.

Referred to: Judiciary III, if favorable, Finance, if favorable, Appropriations.

April 13, 2009

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.

(2) An offense for which the offender must register under Article 27A of Chapter 14 of the General Statutes.



- 1           (3)    An offense that includes the possession or use of a firearm as an essential  
2                element of the offense.  
3           (4)    An offense for which the offender was armed with or used a firearm.  
4           (5)    An offense that is trafficking under G.S. 90-95(h).

5       (b)    Whenever a person who has not previously been convicted of any felony or  
6    misdemeanor other than a traffic violation under the laws of the United States, the laws of this  
7    State, or any other state, pleads guilty to or is guilty of a nonviolent criminal offense, the person  
8    may file a petition in the court where he or she was convicted for expunction of the nonviolent  
9    criminal offense from the person's criminal record. The petition cannot be filed earlier than 10  
10   years after the date of the conviction, period of active sentence, period of post-release  
11   supervision, or period of probation has been completed, whichever occurs later. The petition  
12   shall contain, but not be limited to, the following:

- 13           (1)    An affidavit by the petitioner that he or she has been of good behavior for  
14                the 10-year period since the date of conviction of the nonviolent criminal  
15                offense in question and has not been convicted of any felony or  
16                misdemeanor other than a traffic violation under the laws of the United  
17                States or the laws of this State or any other state.  
18           (2)    Verified affidavits of two persons who are not related to the petitioner or to  
19                each other by blood or marriage, that they know the character and reputation  
20                of the petitioner in the community in which the petitioner lives, and that the  
21                person's character and reputation are good.  
22           (3)    A statement that the petition is a motion in the cause in the case wherein the  
23                petitioner was convicted.  
24           (4)    An application on a form approved by the Administrative Office of the  
25                Courts requesting and authorizing a State and national criminal record check  
26                by the Department of Justice using any information required by the  
27                Administrative Office of the Courts to identify the individual, and a search  
28                of the confidential record of expungements maintained by the  
29                Administrative Office of the Courts. The application shall be forwarded to  
30                the Department of Justice and to the Administrative Office of the Courts,  
31                which shall conduct the searches and report their findings to the court.  
32           (5)    An affidavit by the petitioner that no restitution orders or civil judgments  
33                representing amounts ordered for restitution entered against the petitioner  
34                are outstanding.

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

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

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

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

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

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

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

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

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

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

- 1 (3) A statement that the petition is a motion in the cause in the case wherein the  
2 petitioner was convicted.
- 3 (4) ~~Affidavits of the clerk of superior court, chief of police, where appropriate,  
4 and sheriff of the county in which the petitioner was convicted and, if  
5 different, the county of which the petitioner is a resident, showing that the  
6 petitioner has not been convicted of a felony or misdemeanor other than a  
7 traffic violation under the laws of this State at any time prior to the  
8 conviction for the misdemeanor in question or during the two year period  
9 following that conviction.~~
- 10 (4) An application on a form approved by the Administrative Office of the  
11 Courts requesting and authorizing a State and national criminal record check  
12 by the Department of Justice using any information required by the  
13 Administrative Office of the Courts to identify the individual, and a search  
14 of the confidential record of expungements maintained by the  
15 Administrative Office of the Courts. The application shall be forwarded to  
16 the Department of Justice and to the Administrative Office of the Courts,  
17 which shall conduct the searches and report their findings to the court.
- 18 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
19 representing amounts ordered for restitution entered against him are  
20 outstanding.

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

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

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

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

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

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

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

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

- 49 (1) An affidavit by the applicant that he has been of good behavior during the  
50 period of probation since the decision to defer further proceedings on the  
51 offense in question and has not been convicted of any felony, or

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

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

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

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

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

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

- 50 (1) An affidavit by the applicant that he has been of good behavior during the  
51 period of probation since the decision to defer further proceedings on the

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

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

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

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

### 43

## 44 **PART III. RESTRUCTURE PRIOR CRIMINAL RECORD POINTS AND SENTENCE**

### 45 **LENGTHS FOR STRUCTURED SENTENCING**

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

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

- 49 (1) Level I – ~~0 points.~~ Not more than 1 point.
- 50 (2) Level II – At least ~~1,2,~~ but not more than ~~4 points.~~ 5 points.
- 51 (3) Level III – At least ~~5,6,~~ but not more than ~~8 points.~~ 9 points.

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

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

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

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

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

33  
 34 **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	
	0-1 Pt	2-5 Pts	6-9 Pts	10-13 Pts	14-17 Pts	18+ Pts	
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		Aggravated
					Without Parole		
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>	Life Imprisonment		Aggravated
					Without Parole		
B1	<u>192-240</u>	<u>221-276</u>	<u>254-317</u>	<u>292-365</u>	<u>336-420</u>	<u>386-483</u>	PRESUMPTIVE
	<u>144-192</u>	<u>166-221</u>	<u>190-254</u>	<u>219-292</u>	<u>252-336</u>	<u>290-386</u>	Mitigated
	A	A	A	A	A	A	DISPOSITION
	157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
B2	125-157	151-189	176-220	201-251	225-282	251-313	PRESUMPTIVE

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

48  
49 **PART IV. INCREASE POST-RELEASE SUPERVISION PERIOD TO TWELVE**  
50 **MONTHS**



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

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

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

10        "**§ 15A-1368.2. Post-release supervision eligibility and procedure.**

11        (a) A prisoner to whom this Article applies shall be released from prison for  
12        post-release supervision on the date equivalent to his maximum imposed prison term less ~~nine~~  
13        12 months, less any earned time awarded by the Department of Correction or the custodian of a  
14        local confinement facility under G.S. 15A-1340.13(d). If a prisoner has not been awarded any  
15        earned time, the prisoner shall be released for post-release supervision on the date equivalent to  
16        his maximum prison term less ~~nine~~12 months.

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

18        (c) A supervisee's period of post-release supervision shall be for a period of ~~nine~~12  
19        months, unless the offense is an offense for which registration is required pursuant to Article  
20        27A of Chapter 14 of the General Statutes. For offenses subject to the registration requirement  
21        of Article 27A of Chapter 14 of the General Statutes, the period of post-release supervision is  
22        five years. The conditions of post-release supervision are as authorized in G.S. 15A-1368.5.

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

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

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

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

35  
36        **PART V. DEPARTMENT OF CORRECTION TO MODIFY RULES REGARDING**  
37        **"EARNED TIME"**

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

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

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

45        The Department shall prorate "earned time" for offenders who are incarcerated in  
46        the Department of Correction but have served a period of their sentence in the custody of a  
47        local jail or another confinement facility. "Earned time" for these offenders shall be weighted as  
48        though they were incarcerated within a Department of Correction facility for the entire time  
49        served.

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

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

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