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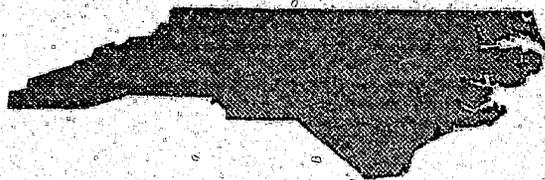
**NORTH CAROLINA  
SENTENCING  
AND  
POLICY ADVISORY  
COMMISSION**



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# **STRUCTURED SENTENCING FOR MISDEMEANORS**

## **TRAINING AND REFERENCE MANUAL**

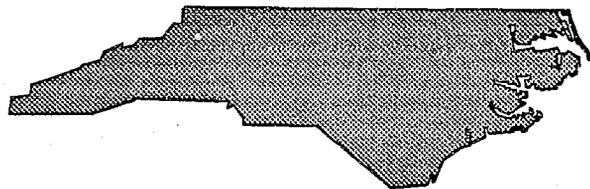


**EFFECTIVE: OCTOBER 1, 1994**

UPDATED 12/29/94

# **STRUCTURED SENTENCING FOR MISDEMEANORS**

## ***TRAINING AND REFERENCE MANUAL***



NCJRS

JUL 21 1995

ACQUISITIONS

***EFFECTIVE: OCTOBER 1, 1994***

**NORTH CAROLINA SENTENCING AND POLICY  
ADVISORY COMMISSION**

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# STRUCTURED SENTENCING FOR MISDEMEANORS: TRAINING AND REFERENCE MANUAL

## INTRODUCTION:

The State's new structured sentencing laws will go into effect on October 1, 1994, and will apply to all misdemeanor offenses committed on or after that date (except for "driving while impaired" and for "failure to comply with control conditions by persons with communicable diseases"). The new laws are codified in Article 81B of Chapter 15A of the North Carolina General Statutes.

This manual describes the substance and application of the new sentencing laws for misdemeanors. The manual is divided into three sections:

- Section I describes the steps required to apply the new sentencing laws.
- Section II describes additional probation provisions.
- Section III provides example exercises, answers, and commentary.

Appendix I includes AOC forms relevant to structured sentencing, and Appendix II describes misdemeanor offense classifications under structured sentencing.

A separate manual has been prepared for felony sentencing. This manual is entitled, "Structured Sentencing for Felonies: Training and Reference Manual", and is available from the North Carolina Sentencing and Policy Advisory Commission.

**FIGURE A  
MISDEMEANOR PUNISHMENT CHART**

CLASS	PRIOR CONVICTION LEVELS		
	I	II	III
	No Prior Convictions	One to Four Prior Convictions	Five or More Prior Convictions
<b>1</b>	1 - 45 days C	1 - 45 days C/I/A	1 - 120 days C/I/A
<b>2</b>	1 - 30 days C	1 - 45 days C/I	1 - 60 days C/I/A
<b>3</b>	1 - 10 days C	1 - 15 days C/I	1 - 20 days C/I/A

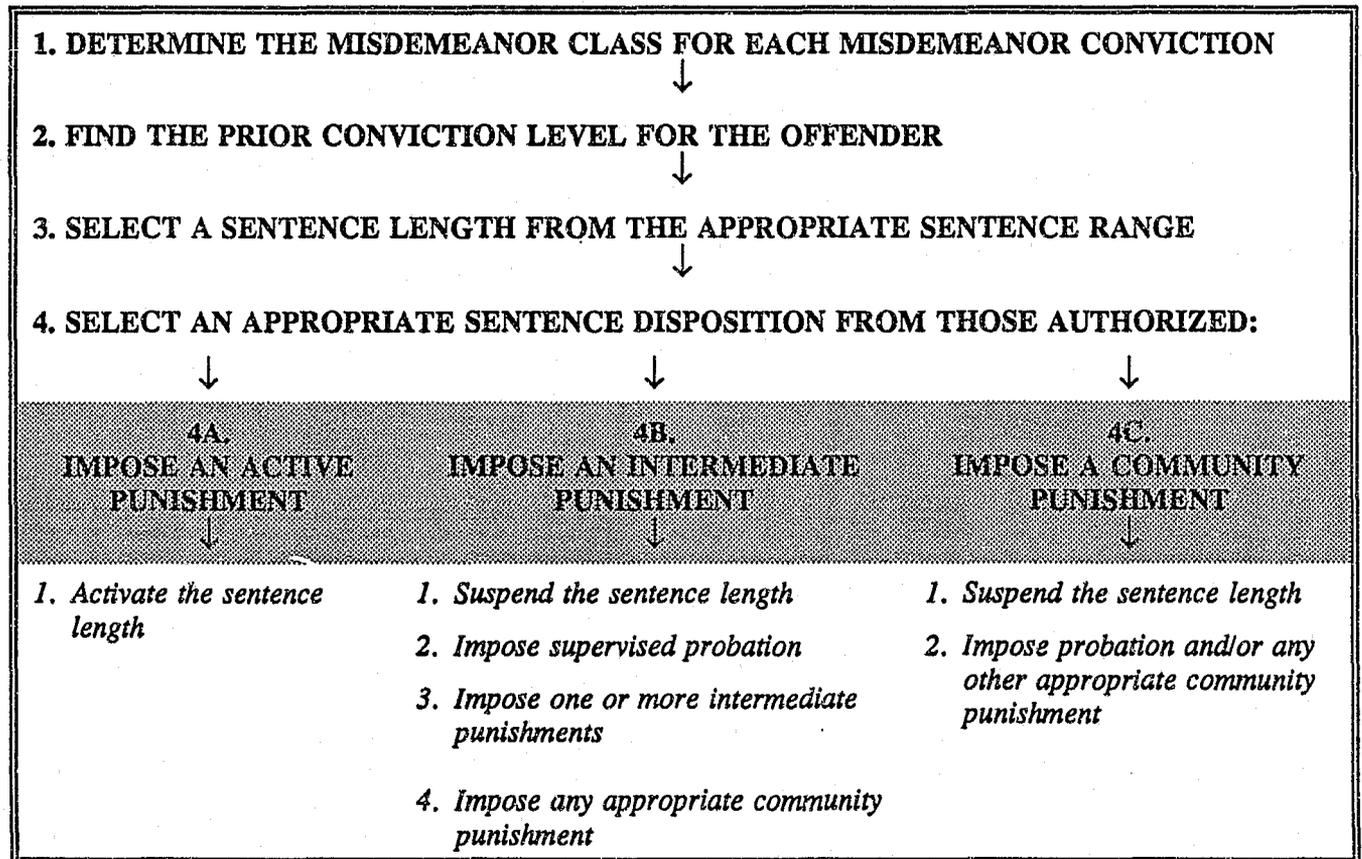
**A - Active Punishment      I - Intermediate Punishment      C - Community Punishment**

**Cells with slash allow either disposition at the discretion of the judge.**

## SECTION I: IMPOSING SENTENCES FOR MISDEMEANOR OFFENSES UNDER STRUCTURED SENTENCING

The new sentencing laws utilize the Misdemeanor Punishment Chart (Figure A and on the inside back cover of the report) which groups misdemeanants based on the class of their misdemeanor conviction and based on the number of their prior criminal convictions. Based on these groupings, the Misdemeanor Punishment Chart prescribes the type of sentence which may be imposed (active, intermediate, or community punishments) and the range of sentence lengths which may be imposed. Following is a detailed description of the steps required to impose misdemeanor sentences under the new structured sentencing laws.

### STEPS REQUIRED TO DETERMINE THE SENTENCE FOR MISDEMEANORS\*



*\* Does not apply to Driving While Impaired misdemeanors*



# STEP 1:

## DETERMINE THE MISDEMEANOR CLASS

*The appropriate Misdemeanor Class must be determined for each misdemeanor conviction.*

### MISDEMEANOR OFFENSE CLASSES

Each misdemeanor offense is assigned by statute to one of three misdemeanor classes (Misdemeanor Class 1, Class 2, or Class 3). Generally, the misdemeanor classes are based on maximum punishment prescribed under previous law (prior to structured sentencing) as shown below:

Misdemeanor Class	Law before structured sentencing:
Class 1	Punishable by more than six months up to two years
Class 2	Punishable by more than 30 days up to six months
Class 3	Punishable by 30 days or less

There are exceptions to this general rule which are listed in Appendix II.

### CONSPIRACY TO COMMIT A MISDEMEANOR G.S. §14-2.4

Unless a different classification is expressly stated, a conspiracy to commit a misdemeanor is punishable under the next lower classification of the offense which the offender conspired to commit. However, conspiracy to commit a Class 3 misdemeanor is a Class 3 misdemeanor. Also, conspiracy to commit a Class I felony is a Class 1 misdemeanor.

---

*Example: Communicating threats is a Class 1 misdemeanor. However, conspiracy to communicate threats is a Class 2 misdemeanor.*

### ATTEMPT TO COMMIT A MISDEMEANOR G.S. §14-2.5

Unless a different classification is expressly stated, an attempt to commit a misdemeanor is punishable under the next lower class of the offense which the offender attempted to commit. However, an attempt to commit a Class 3 misdemeanor is a Class 3 misdemeanor. Also, attempts to commit Class I felonies are Class 1 misdemeanors.

---

*Example: Simple assault is a Class 1 misdemeanor. However, an attempt to commit simple assault is a Class 2 misdemeanor.*

## SOLICITATION TO COMMIT A MISDEMEANOR G.S. §14.2-6

Unless a different classification is expressly stated, a person who solicits another person to commit any misdemeanor is guilty of a Class 3 misdemeanor. Also, solicitation to commit a Class H felony is a Class 1 misdemeanor and solicitation to commit a Class I felony is a Class 2 misdemeanor.

---

*Example: Assault by pointing a gun is a Class 1 misdemeanor. However, solicitation to assault by pointing a gun is a Class 3 misdemeanor.*

## STEP 2:

### DETERMINE THE PRIOR CONVICTION LEVEL

#### DETERMINING THE PRIOR CONVICTION LEVEL G.S. §15A-1340.21(b)

For misdemeanants, there are three Prior Conviction Levels (Level I, Level II, and Level III). To determine the Prior Conviction Level, calculate the offender's total number of prior felony and misdemeanor convictions. Prior Conviction Levels are assigned as follows:

Prior Conviction Level	Number of Prior Convictions:
Level I	No prior convictions
Level II	1 to 4 prior convictions
Level III	5 or more prior convictions

---

*Example:* An offender has two prior felony convictions, two prior misdemeanor convictions, and two prior infractions. All occurred in separate years. Only the prior felonies and misdemeanors count. Consequently, the offender has four prior convictions.

#### DEFINITION OF PRIOR CONVICTION G.S. §15A-1340.11(7)

An offender has a prior conviction when, on the date a criminal judgment has been entered:

1. The offender has been convicted of a crime in the District Court and has not given notice of appeal, and the time for appeal has expired; or
  2. The offender has been convicted of a crime in Superior Court, regardless of whether the conviction is on appeal to the appellate division; or
  3. The offender has been convicted of a crime in the courts of the United States, another state, the armed services of the United States, or any other country, regardless of whether the offense would be a crime if it occurred in North Carolina.
- 

*Example:* An offender has a previous conviction in Superior Court for second degree rape in 1992. The conviction is on appeal to the appellate division. This would count as one prior conviction. In this case, the fact that the prior conviction is on appeal to the appellate division does not affect the Prior Conviction Level.

## **CONSIDERING MULTIPLE PRIOR CONVICTIONS G.S. §15A-1340.21(d)**

If an offender has been convicted of more than one offense in a single session of District Court, only one of the convictions count when determining the Prior Conviction Level. If an offender has been convicted of more than one offense in a single week of Superior Court, only one of the convictions count when determining the Prior Conviction Level.

***Example:** An offender has two prior felony convictions (occurring during the same week of Superior Court) and two prior misdemeanor convictions (occurring during the same session of District Court). For purposes of structured sentencing, the offender has two prior convictions (one for the week of Superior Court and one for the session of District Court).*

## **PROOF OF PRIOR CONVICTIONS G.S. §15A-1340.21(c)**

Prior convictions can be proved by:

1. Stipulation of the parties; or
2. Court records; or
3. Copy of records maintained by the Division of Criminal Information, Division of Motor Vehicles, or the Administrative Office of the Courts; or
4. Any other method the court finds reliable.

The original, or a copy of the court records, or a copy of the records maintained by the DCI, DMV, or the AOC bearing the same name as that by which the offender is charged, is prima facie evidence that the offender named is the same as the offender before the court and that the facts set out in the record are true.

A "copy" includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment and a document produced by a facsimile machine.

## **BURDEN OF PROOF G.S. §15A-1340.21(c)**

The State bears the burden of proving, by a preponderance of the evidence, that a prior conviction exists and that the offender before the court is the same person as the offender named in the prior conviction. When sentencing misdemeanants, unlike felony sentencing, there is no statutory language directing the prosecutor to make all feasible efforts to obtain and present to the court the offender's full prior record.

## **SUPPRESSION OF PRIOR RECORD G.A. §15A-1340.21(c)**

If a motion is made pursuant to G.S. §15A-980 during the sentencing stage of the sentencing hearing, the court may grant a continuance of the sentencing hearing.

## STEP 3:

### SELECT THE SENTENCE LENGTH FROM THE SENTENCE RANGE

*The judgment of the court must contain a sentence length that is consistent with the Misdemeanor Class and the Prior Conviction Level for the offender. The sentence length is selected from the sentence range.*

#### **SENTENCE RANGES G.S. §15A-1340.23(c)**

A single sentence range (in days) is prescribed on the Misdemeanor Punishment Chart (Figure A and inside back cover) for each combination of Misdemeanor Class and Prior Conviction Level. The court may select any single sentence length from within the range.

---

*Example: For an offender convicted of a Class 1 misdemeanor with a Prior Record Level of II, the court may impose any sentence length within the range (from 1 day to 45 days). For example, the court could impose 10 days, 30 days, 38 days, or 45 days.*



## STEP 4:

### DETERMINE THE SENTENCE DISPOSITION

*A sentence disposition must be imposed for each misdemeanor offense.*

#### SENTENCE DISPOSITIONS ON PUNISHMENT CHART G.S. §15A-1340.23(c)

Sentence dispositions are prescribed on the Misdemeanor Punishment Chart (Figure A) for each combination of Misdemeanor Class and Prior Conviction Level. A "C" on the chart indicates that a community punishment is authorized, an "I" indicates that an intermediate punishment is authorized, and an "A" indicates that an active punishment is authorized.

If the disposition is an "A", then the sentence must be activated. If the disposition is a "C" or an "I", then the sentence must be suspended. For some combinations of Offense Class and Prior Conviction Level, the punishment chart authorizes more than one disposition (separated by a slash "/"). In such cases, the court has discretion to impose any of the authorized dispositions.

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*Example: An offender is convicted of a Class 1 misdemeanor and has no prior convictions. The court may only impose a Community Punishment "C". If, however, the offender has five or more prior convictions, the court, in its discretion, is authorized to impose either an Active Punishment "A", an Intermediate Punishment "I", or a Community Punishment "C".*

#### ACTIVE PUNISHMENT G.S. §1340.11(1)

An active punishment requires the offender to serve the specified term of imprisonment in a local confinement facility (jail) or in a state prison. Misdemeanants receiving active punishments of 90 days or less must serve their sentence in local confinement facilities.<sup>1</sup>

#### INTERMEDIATE PUNISHMENTS G.S. §1340.11(6)

An intermediate punishment places an offender on supervised probation and includes at least one of the following conditions:

- a. Special Probation as defined in G.S. §15A-1351(a). This sanction is sometimes referred to as a split sentence.

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<sup>1</sup> Except as provided in G.S. §148-32.1(b).

- b. Residential Program assignment that requires the offender to reside in a facility for a specified period of time and to participate in activities such as counseling, treatment, social skills training, or employment training conducted at the residential facility or at other specified locations.
- c. Electronic Monitoring that requires the offender to remain in one or more specified places for a specified period or periods each day, and in which the offender shall wear a device which permits the supervising agency to monitor the offender's compliance with the conditions electronically.
- d. Intensive Probation that requires the offender to submit to supervision by officers assigned to the Intensive Probation Program established pursuant to G.S. §143B-262(c), and to comply with the rules adopted for that program.
- e. Day Reporting Center assignment that requires the offender to report on a daily or other regular basis at specified times for a specified length of time to participate in activities such as counseling, treatment, social skills training, or employment training.

An intermediate punishment may also include other special conditions and/or any sanction listed as a community punishment. In addition, a sentence imposed pursuant to a community penalties plan as defined in G.S. §7A-771(2) is an intermediate punishment providing it is accepted by the court. The plan does not have to include any of the above intermediate conditions.

---

*Example: If the authorized disposition includes an "I", the court could place the offender on supervised probation for a specific term and require the offender to submit to electronic monitoring for a specified period. The offender could also be required to pay a fine, pay restitution, receive outpatient drug treatment, and perform community service.*

#### **COMMUNITY PUNISHMENTS G.S. §15A-1340.11(2)**

A community punishment is any authorized sentence that does not include an active punishment or an intermediate punishment. Community punishments may include, but are not limited to, one or more of the following:

1. Supervised or unsupervised probation
2. Any authorized condition of probation (except those defined as an Intermediate Punishment)
3. Outpatient drug alcohol treatment
4. Community service
5. Referral to T.A.S.C. (Treatment Alternatives to Street Crime)
6. Restitution and/or fines

---

*Example: If the authorized disposition includes a "C", the court could place an offender on supervised or unsupervised probation for a specific term. In addition, the court may require the offender to pay a fine, pay restitution, receive outpatient drug treatment, perform community service, or abide by any other authorized condition of probation except those specifically defined as intermediate punishments. The court could also impose a fine only.*

**FINES G.S. §15A-1340.23(b)**

A fine may be imposed in combination with any disposition. Unless otherwise provided by statute, the amount of the fine is as follows:

- Misdemeanor Class 1 - Amount in the discretion of the court
- Misdemeanor Class 2 - Not more than \$1,000
- Misdemeanor Class 3 - Not more than \$200

If a community punishment is authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only.



## **STEP 4A:**

### **IMPOSING AN ACTIVE PUNISHMENT**

*If the court activates the sentence length, the sentence must be served in prison or jail.*

#### **AMOUNT OF TIME TO BE SERVED G.S. §15A-1340.20(b)**

Under structured sentencing, a misdemeanant sentenced to an active punishment must serve the term of imprisonment imposed (the sentence length), less up to 4 days per month "earned time." Parole is eliminated.

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*Example: An offender with five prior convictions is given an active sentence of 90 days for a Class 1 misdemeanor. The offender will serve 90 days if no earned time credits are awarded. If all possible "earned time" credits are awarded, the offender will serve 78 days (90 days minus 4 days "earned time" credits for each month served).*

#### **EARNED TIME G.S. §15A-1340.20(d)**

Good time and gain time are eliminated for offenders sentenced under structured sentencing. The Secretary of Correction is responsible for adopting rules to specify the rates at, and circumstances under, which earned time may be earned or forfeited. Earned time may also be awarded under G.S. §162-60 (reduction in sentence allowed for work). However, under structured sentencing, the total amount of earned time awarded cannot exceed 4 days per month.

#### **MULTIPLE CONVICTIONS G.S. §15A-1340.22**

In the event of multiple convictions, the court may, in its discretion, consolidate sentences or impose concurrent sentences. Subject to certain limitations, the court may also impose consecutive sentences.

##### **Consolidated sentences**

If an offender is convicted of more than one offense at a single time, the court may consolidate the offenses for judgment and impose a single judgment for the consolidated offenses. The judgment must contain a sentence disposition specified for the Misdemeanor Class and Prior Conviction Level of the most serious misdemeanor, and a sentence of imprisonment must be within the range specified for that Misdemeanor Class and Prior Conviction Level.

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Example: An offender is convicted of three misdemeanor offenses (Class 1, Class 2, and Class 3) and the court finds that the offender has six prior convictions which places the offender in Prior Conviction Level III. If the court elects to consolidate judgment, the sentence imposed must conform to the sentence disposition and the sentence range prescribed for the most serious misdemeanor (the Class 1 misdemeanor). For example, the longest consolidated imprisonment sentence the court could impose would be 120 days.

### Consecutive or concurrent sentences

If the court elects to impose consecutive sentences for two or more misdemeanors and the most serious misdemeanor is a Class 1 or Class 2 misdemeanor, the cumulative length of imprisonment cannot exceed twice the longest term of imprisonment authorized for the most serious misdemeanor offense. Consecutive sentences cannot be imposed if all convictions are for Class 3 misdemeanors.

---

Example: An offender is convicted of three misdemeanor offenses (Class 1, Class 2, and Class 3) and the court finds that the offender has six prior convictions which places the offender in Prior Conviction Level III. If the court elects to impose consecutive sentences, the cumulative length of imprisonment cannot exceed 240 days (twice the longest possible term for the most serious misdemeanor). In this case, however, the longest sentence which could be imposed would be 200 days (120 days for the Class 1 misdemeanor, 60 days for the Class 2 misdemeanor, and 20 days for the Class 3 misdemeanor).

### FINES G.S. §15A-1340.23(b)

A fine may be imposed in conjunction with any active sentence.

## **STEP 4B:**

### **IMPOSING INTERMEDIATE PUNISHMENTS**

*If the court imposes an intermediate punishment, the term of imprisonment must be suspended and the court must impose a period of supervised probation which includes at least one condition of probation which is defined as an intermediate punishment.*

#### **IMPOSING A TERM OF SUPERVISED PROBATION G.S. §15A-1343.2(d) and 1342.**

Unless the court makes a specific finding that a longer or shorter term of probation is necessary, the court should impose a term of supervised probation which shall not be less than 12 months nor greater than 24 months. In no instance, however, can the length of probation exceed five years. The court, with the consent of the defendant, may extend the period of probation beyond five years for the purpose of allowing the defendant to complete a period of restitution or to continue medical or psychiatric treatment ordered as a condition of probation. The extension cannot exceed three years. The court may also delegate certain powers to the Division of Adult Probation and Parole as described in Section II.

#### **SELECTING INTERMEDIATE PUNISHMENTS/SETTING LENGTHS G.S. §15A-1340.11(6)**

For intermediate punishments, a term of supervised probation must be imposed. In addition to a term of supervised probation, at least one of the following intermediate punishments must be imposed.

- a. Special Probation (split sentence). The active portion of special probation cannot exceed one-fourth of the term of imprisonment imposed for the misdemeanor offense.
- b. Residential Program. The length of assignment to a residential program is in the discretion of the court. The length can be less than, but not greater than, the total term of probation imposed. The current average length of residential programs are from 10 months to two years depending on the specific program. Following release from the residential program, the offender must continue to serve any remaining period of probation.
- c. Electronic Monitoring. The length of assignment to an electronic monitoring program is in the discretion of the court. The length can be less than, but not greater than, the total term of probation imposed. The current average length of electronic monitoring is 90 days or less. Following completion of electronic monitoring, the offender must continue to serve any remaining period of probation.

- d. Intensive Probation. The length of intensive probation is in the discretion of the court. The length can be less than, but not greater than, the total term of probation imposed. The current average length of intensive probation is from six to nine months. Following completion of intensive probation, the offender must continue to serve any remaining period of probation.
- e. Day Reporting Center. The length of assignment to a day reporting center is in the discretion of the court. The length can be less than, but not greater than, the total term of probation imposed. Following completion of the assignment to the day reporting center, the offender must continue to serve any remaining period of probation.

An intermediate punishment can include any regular condition of probation and may include fines, outpatient treatment, restitution, community service, or any other statutorily authorized sanction or condition of probation.

---

*Example: An offender is convicted of a Class 2 misdemeanor and the court finds the offender has one prior conviction which places the offender in Prior Conviction Level II. Since an Intermediate Punishment "I" is authorized, the court may impose special probation. However, the term of confinement for the special probation cannot be greater than 11 days (one-quarter of the longest term of imprisonment which could be imposed which is 45 days).*

**FINES G.S. §15A-1340.23(b)**

A fine may be imposed in conjunction with any intermediate punishment.

## **STEP 4C:**

### **IMPOSING COMMUNITY PUNISHMENTS**

*If the court imposes a community punishment, the term of imprisonment must be suspended and either a supervised or unsupervised term of probation imposed or a fine only may be imposed.*

#### **SETTING THE LENGTH OF PROBATION G.S. §15A-1342 and 1343.2(d)**

Unless the court makes a specific finding that a longer or shorter term of probation is necessary, the court shall impose a single term of supervised or unsupervised probation which shall not be less than 6 months nor greater than 18 months. In no instance, however, can the length of probation exceed five years. The court, with the consent of the defendant, may extend the period of probation beyond five years for the purpose of allowing the defendant to complete a period of restitution or to continue medical or psychiatric treatment ordered as a condition of probation. The extension cannot exceed three years. The court may also delegate certain powers to the Division of Adult Probation and Parole as described in Section II.

#### **SELECTING THE COMMUNITY PUNISHMENT G.S. §15A-1340.11(2)**

For community punishments, a term of supervised probation or unsupervised probation may be imposed at the discretion of the court consistent with statute. The court may also impose a fine only. A community punishment can include any regular condition of probation and may include fines, outpatient treatment, restitution, community service, or any other statutorily authorized sanction or condition which is not defined as an intermediate punishment.

#### **FINES G.S. §15A-1340.23(b)**

A fine may be imposed in conjunction with any community punishment or may be imposed as the only punishment.



## SECTION II: ADDITIONAL PROVISIONS RELATING TO PROBATION

### DELEGATION OF AUTHORITY TO DIVISION OF ADULT PROBATION AND PAROLE G.S. §15A-1343.2(e) and (f)

If the court imposes a Community Punishment, it may delegate to the Division of Adult Probation and Parole the authority to require an offender to:

- a. *Perform up to 20 hours of community service and pay the fee prescribed for this supervision;*
- b. *Report to the offender's probation officer on a frequency to be determined by the officer; or*
- c. *Submit to substance abuse monitoring and treatment.*

If an Intermediate Punishment is imposed, the court may delegate to the Division of Adult Probation and Parole the authority to require an offender to:

- a. *Perform up to 50 hours of community service and pay the fee prescribed for this supervision;*
- b. *Submit to electronic monitoring;*
- c. *Submit to substance abuse monitoring and treatment;*
- d. *Participate in an educational or vocational skills development program.*

The Division may exercise the above authority only if it first determines that the offender has failed to comply with one or more conditions of probation imposed by the court. If the Division imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

If the probation officer exercises the above authority, the offender may file a motion with the court to review the action taken. The offender must be given notice of the right to seek such review.

### RESPONSE TO VIOLATIONS OF PROBATION

If the court finds that the offender has failed to abide by the conditions of probation, the court may:

- Modify probation, or
- Find the offender in "criminal contempt of court", or
- Revoke probation and impose an active sentence.

**Modify Probation G.S. 15A-1344(a)**

Probation may be reduced, terminated, continued, extended or modified if the court finds that an offender has violated probation. Upon a finding that an offender sentenced to community punishment has violated one or more conditions of probation, the court's authority to modify probation includes the authority to require the offender to comply with conditions of probation which otherwise make the sentence an intermediate punishment (including the imposition of special probation).

**Find Offender in Criminal Contempt of Court G.S. §15A-1344(e1)**

If an offender sentenced to an intermediate or community punishment willfully fails to comply with a condition of probation, the court may hold the offender in criminal contempt as provided by Article 1 of Chapter 5A of the General Statutes. An offender punished under this subsection may be imprisoned for up to 30 days and/or fined up to \$500, but no other punishment may be imposed. Furthermore, the conduct resulting in contempt may not also be the basis for revoking probation.

**Revoke Probation G.S. §15A-1344**

If the court revokes probation, the suspended term of imprisonment must be activated or a modified term of imprisonment may be imposed. If a modified term of imprisonment is imposed, the term cannot be greater than the suspended term.

### SECTION III: EXAMPLE EXERCISES

*Each exercise presents a brief hypothetical case (misdemeanor class and prior criminal record). A list of questions follow the hypothetical case. Please answer the questions in the space provided. The answers to the questions and additional commentary are shown on the reverse side of this page. Assume that all crimes were committed on or after October 1, 1994.*

#### EXAMPLE #1: QUESTIONS

**OFFENSE:** The offender is convicted of simple assault (Class 1 Misdemeanor).

**PRIOR RECORD:** The court finds that the offender has three prior misdemeanor convictions and two prior felony convictions. The three prior misdemeanor convictions occurred during the same session of court.

- 1. What is the offender's Prior Conviction Level?*
- 2. What is the longest active sentence length which can be imposed?*
- 3. Could the court suspend the sentence and impose an Intermediate Punishment?*
- 4. Could the court suspend the sentence and impose a Community Punishment?*

## EXAMPLE #1: ANSWERS AND COMMENTARY

1. *What is the offender's Prior Conviction Level?*

Answer: Level II

Commentary: The offender has three prior convictions. Since the three misdemeanor convictions occurred during the same session of court, they only count as one conviction.

2. *What is the longest active sentence length which can be imposed?*

Answer: 45 days

Commentary: Since the disposition includes an "A", an active sentence can be imposed. Since the sentence range is from 1 to 45 days, the longest sentence length which can be imposed is 45 days.

3. *Could the court suspend the sentence and impose an Intermediate Punishment?*

Answer: Yes

Commentary: An intermediate punishment "I" is authorized for this Misdemeanor Class and this Prior Conviction Level.

4. *Could the court suspend the sentence and impose a Community Punishment?*

Answer: Yes

Commentary: A Community Punishment "C" is authorized for this Misdemeanor Class and this Prior Conviction Level.

**EXAMPLE #2: QUESTIONS**

**OFFENSE:** The offender is convicted of carrying a concealed weapon (Class 2 Misdemeanor).

**PRIOR RECORD:** The court finds that the offender has two prior infractions.

1. *What is the offender's Prior Conviction Level?*
  
2. *Can an active sentence be imposed?*
  
3. *Can an intermediate punishment be imposed?*
  
4. *If probation was revoked, what is the longest active sentence which the offender could be required to serve (assume the suspended sentence was 30 days)?*
  
5. *What is the maximum imprisonment time the offender could serve if the court found the offender in violation of probation and held the offender in contempt of court?*

## EXAMPLE #2: ANSWERS AND COMMENTARY

1. *What is the offender's Prior Conviction Level?*

Answer: Level I

Commentary: Prior infractions do not count in determining the prior conviction level.

2. *Can an active sentence be imposed?*

Answer: No

Commentary: The only authorized disposition is a Community Punishment "C". An active sentence could only be imposed upon revocation of probation.

3. *Can an intermediate punishment be imposed?*

Answer: No

Commentary: The only authorized disposition is a Community Punishment "C".

4. *If probation was revoked, what is the longest active sentence which the offender could be required to serve (assume the suspended sentence was 30 days)?*

Answer: 30 days

Commentary: The suspended sentence was 30 days. Therefore, upon revocation of probation, the longest active sentence which could be imposed is 30 days.

5. *What is the maximum term of imprisonment the offender could serve if the court found the offender in contempt of court for a probation violation?*

Answer: 30 days

Commentary: The court may hold the offender in contempt of court for willfully failing to comply with a condition of probation and may confine the offender for up to 30 days.



### EXAMPLE #3: ANSWERS AND COMMENTARY

1. *What is the offender's Prior Conviction Level?*

Answer: Level III

Commentary: The out-of-state conviction counts if the court finds that it is proved by a preponderance of the evidence. Since the offender has four additional in-state prior convictions, the offender falls in Prior Conviction Level III.

2. *Could an active sentence be imposed?*

Answer: Yes

Commentary: An active sentence is authorized for all misdemeanor classes if the offender falls into Prior Conviction Level III.

3. *What is the longest active sentence which can be imposed if the sentences are consolidated?*

Answer: 120 days

Commentary: When consolidating offenses, the sentence must be consistent with the disposition and sentence range prescribed for the most serious misdemeanor conviction (that carrying the highest Misdemeanor Class). The most serious offense is the Class 1 misdemeanor larceny and the sentence range is from 1 to 120 days. Therefore, assuming the sentences are consolidated, the longest active sentence which can be imposed is 120 days.

4. *What is the longest active sentence which can be imposed if the sentences are run consecutively?*

Answer: 180 days

Commentary: When running sentences consecutively, the sentence is separately determined for each conviction. For the Class 1 misdemeanor, the sentence range is from 1 to 120 days; for the Class 2 misdemeanor, the sentence range is from 1 to 60 days. Therefore, assuming the sentences are run consecutively, the longest active sentence which can be imposed is 180 days (120 days for the Class 1 misdemeanor and 60 days for the Class 2 misdemeanor).

5. *Could the court suspend the sentence, impose a community punishment and impose five years of supervised probation?*

Answer: Yes, providing the court finds that a probation term greater than 18 months is necessary.

Commentary: A community disposition is always an authorized sentence for misdemeanors. Statutes specify that if a community punishment is imposed, the term of probation should not be less than 6 months nor greater than 18 months. However, a longer or shorter term can be imposed if the court finds that such a term is necessary.



#### EXAMPLE #4: ANSWERS AND COMMENTARY

1. *What is the offender's Prior Conviction Level?*

Answer: Level I

Commentary: The offender has no prior convictions.

2. *Can an active sentence be imposed?*

Answer: No

Commentary: A community punishment is the only authorized sentence for misdemeanants with no prior convictions.

3. *What is the longest suspended sentence which can be imposed if the sentences are consolidated?*

Answer: 30 days

Commentary: When consolidating offenses, the sentence must be consistent with the disposition and sentence range prescribed for the most serious misdemeanor conviction (that carrying the highest Misdemeanor Class). All three convictions are Class 2 misdemeanors, and the sentence range is from 1 to 30 days. Therefore, assuming the sentences are consolidated, the longest suspended sentence which can be imposed is 30 days.

4. *What is the longest suspended sentence which can be imposed if the sentences are run consecutively?*

Answer: 60 days

Commentary: When running sentences consecutively, the sentence is separately determined for each conviction. For each of the three misdemeanors, the sentence range is from 1 to 30 days. However, if sentences are imposed consecutively, the cumulative length of imprisonment cannot exceed twice that authorized for the most serious conviction (two times 30 days). Therefore, the longest suspended sentence would be 60 days. The third misdemeanor conviction would have to be consolidated with the other convictions or run concurrently.

## EXAMPLE #5: QUESTIONS

**OFFENSE:** The offender is convicted of two counts of theft of cable television service (Class 3 misdemeanor).

**PRIOR RECORD:** The court finds that the offender has three prior misdemeanor convictions for Driving While Impaired and has two prior felony convictions for worthless checks.

1. *What is the offender's Prior Conviction Level?*
  
  
  
  
  
  
  
  
  
  
2. *What is the longest suspended sentence which can be imposed if the sentences are consolidated?*
  
  
  
  
  
  
  
  
  
  
3. *Can the court impose consecutive sentences for these offenses?*
  
  
  
  
  
  
  
  
  
  
4. *If the offender is sentenced to special probation (as part of an intermediate punishment), what is the longest period of confinement which may be imposed?*

## EXAMPLE #5: ANSWERS AND COMMENTARY

1. *What is the offender's Prior Conviction Level?*

Answer: Level III

Commentary: The offender has five prior convictions.

2. *What is the longest active sentence which can be imposed if the sentences are consolidated?*

Answer: 20 days

Commentary: When consolidating offenses, the sentence must be consistent with the disposition and sentence range prescribed for the most serious misdemeanor conviction (that carrying the highest Misdemeanor Class). Both convictions are for Class 3 misdemeanors and the sentence range is from 1 to 20 days. Therefore, the longest active sentence which can be imposed is 20 days, assuming the sentences are consolidated.

3. *Can the court impose consecutive sentences for these offenses?*

Answer: No

Commentary: Consecutive sentences are not authorized if the only convictions are for Class 3 misdemeanors. Therefore, the longest active sentence which can be imposed is 20 days. The second misdemeanor conviction would have to be consolidated or run concurrently.

4. *If the offender is sentenced to special probation (as part of an intermediate punishment), what is the longest period of confinement which may be imposed?*

Answer: 5 days

Commentary: The confinement portion of special probation cannot exceed one-fourth the period of imprisonment which the court imposes. Since 20 days is the longest authorized active sentence, the period of confinement for special probation cannot exceed 5 days.

## APPENDIX I: COPIES OF RELEVANT AOC FORMS

Following are copies of selected AOC forms related to structured sentencing. These forms are to be used for the sentencing of misdemeanor offenses (except DWI) for crimes committed on or after October 1, 1994. All forms are available from the Administrative Office of the Courts. The following forms have been included in this manual:

### SELECTED NEW FORMS:

- |                                      |   |
|--------------------------------------|---|
| <b>AOC-CR-602</b>                    | Judgment and Commitment - Active Punishment - Misdemeanors  |
| <b>AOC-CR-603</b><br><i>Page Two</i> | Special Conditions of Probation - Intermediate Punishments - Contempt                             |
| <b>AOC-CR-604</b>                    | Judgment Suspending Sentencing - Misdemeanors   |
| <b>AOC-CR-608</b>                    | Judgment and Commitment Upon Revocation of Probation or Election To Serve Sentence - Misdemeanors |

### EXAMPLES OF REVISED FORMS:

- |                                      |                              |
|--------------------------------------|------------------------------|
| <b>AOC-CR-100</b><br><i>Side Two</i> | Warrant for Arrest           |
| <b>AOC-CR-113</b><br><i>Side Two</i> | Misdemeanor Criminal Summons |
| <b>AOC-CR-116</b><br><i>Side Two</i> | Magistrate's Order           |



STATE OF NORTH CAROLINA

File No.

County

Seat Of Court

NOTE: [This form is to be used for misdemeanor offense(s). Use AOC-CR-301 (or CR-310) for DWI offense(s) or for G.S. 130A-25 offense(s).]

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

Defendant

JUDGMENT AND COMMITMENT
ACTIVE PUNISHMENT
MISDEMEANOR(S)
(STRUCTURED SENTENCING)
G.S. 15A-1301, 15A-1340.20

Race

Sex

DOB

Attorney For State

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendants

Appointed Retained

The defendant pled guilty to: was found guilty/responsible by the Court of: was found guilty by a jury of: pled no contest to:

File No.(s) And Offense(s)

Date Of Offense

G.S. No.

CL

The Court has determined, pursuant to G.S. 15A-1340.20, the number of prior convictions to be Level: I (0) II (1-4) III (5+)

- 1. The Court imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
2. The Court finds: (a) enhanced punishment from a Class 2 or Class 3 misdemeanor to a Class 1 misdemeanor.
(b) enhanced punishment from required suspended sentence to Class 2 misdemeanor. G.S. 90-95(e)(7).

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a term of days. in the custody of the: N.C. DOC. Sheriff County. Other

The defendant shall be given credit for days spent in confinement prior to the date of this Judgment as a result of this charge(s)

- The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.
The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:
(NOTE: List the case number, date, county and court in which prior sentence imposed.)

(check all that apply)

- 1. The defendant shall pay the costs.
- 2. The defendant shall pay a fine of \$ \_\_\_\_\_
- 3. The Court finds that the defendant  is  is not suitable for placement in a county satellite jail/work release unit. G.S. 15A-1352(a)
- 4. With the consent of the defendant, work release is ordered and the defendant, after any required processing, shall be committed to: (check (a) or (b))
  - (a) \_\_\_\_\_ (specify prison facility within this county/out of county)
  - (b) \_\_\_\_\_ (local confinement facility or satellite jail/work release unit within this county/out of county)

The sheriff, Board of County Commissioners or Department of Correction has consented to the commitment to the above described facility, that is not within this county. G.S. 15A-1352(d).

The Court recommends:

- 5. Substance Abuse Treatment Unit pursuant to G.S. 15A-1351(h).
- 6. Psychiatric and/or psychological counseling.
- 7. Work release.
- 8. Payment from work release earnings, if applicable, the items and amounts set out below.

Fine \$	Costs \$	Restitution* \$	Reimbursement For Attorney Fee And Other Expenses \$	Total Amount Due \$
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\*Name(s), address(es), amount(s) & social security number(s) of aggrieved party(ies) to receive restitution:

The Court further recommends:

The Court does not recommend:

- 1. Restitution as a condition of work release.
- 2. Work release.

AWARD OF FEE TO COUNSEL FOR DEFENDANT

- A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT/APPEAL ENTRIES

- It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- The defendant gives notice of appeal from the judgment of the District Court to the Superior Court.
- The current pretrial release order is modified as follows:
- The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appellate entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
------	---	------------------------------

ORDER OF COMMITMENT AFTER APPEAL

Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified
-----------------------	---------------------------------	----------------------------------

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
------	--------------------	--

CERTIFICATION

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which is on file in this case.  Appeal Entries (AOC-CR-350)

Date	Signature And Seal
------	--------------------

Date Certified Copies Delivered To Sheriff	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
--	---

STATE VERSUS

File No.

Defendant

SPECIAL CONDITIONS OF PROBATION - INTERMEDIATE PUNISHMENTS - CONTEMPT

NOTE: Use this page in conjunction with ACC-CR-603, "Judgment Suspending Sentence - Felony"; or ACC-CR-604, "Judgment Suspending Sentence - Misdemeanor(s)"; or ACC-CR-609, "Order On Violation Of Probation Or On Motion To Modify".

In addition to complying with the regular and any special conditions of probation set forth in the "Judgment Suspending Sentence" entered in the above case(s), the defendant shall also comply with the following special conditions of probation and conditions of special probation, which are defined as intermediate punishments by G.S. 15A-1340.11(6):

- 1.  Special Probation - G.S. 15A-1351  Contempt - G.S. 15A-1344(e1) and 5A-11(a)
  - a. Serve an active term of \_\_\_\_\_  days  months in the custody of the  N.C. DOC.  Sheriff of this County.
    - (1) The defendant shall report in a sober condition to begin serving his term on:
 

Day	Date	Hour	<input type="checkbox"/> AM <input type="checkbox"/> PM	and shall remain in custody until:	Day	Date	Hour	<input type="checkbox"/> AM <input type="checkbox"/> PM
-----	------	------	--	------------------------------------	-----	------	------	--
    - (2) The defendant shall again report in a sober condition to continue serving this term on the same day of the week for the next \_\_\_\_\_ consecutive weeks, and shall remain in custody during the same hours each week.
    - (3) The defendant shall serve the active term above as an inpatient in \_\_\_\_\_ and shall follow the rules of that facility until discharged and not leave its premises except as authorized under those rules.
    - (4) This sentence shall be served at the direction of the probation officer within \_\_\_\_\_  days  months of this Judgment.
    - (5) Pay jail fees.
    - (6) Work release is recommended.
    - (7) Substance abuse treatment unit is recommended. G.S. 15A-1351(h).

- b. IMPACT - Submit as directed by the probation officer to a medical evaluation by a physician approved by the officer and, if certified to be medically fit for participation in the Intensive Motivation Program of Alternative Correctional Treatment (IMPACT), further submit, as ordered by the officer, on the date and at the place specified, to imprisonment in a facility for youthful offenders for a minimum of 90 days or a maximum of 120 days from that date, and abide by all rules and regulations as provided in conjunction with the IMPACT program; provided, if, within \_\_\_\_\_ days from the date of this judgment, the defendant is not certified to be medically fit for program participation or for any other reason is not ordered to submit to imprisonment as provided above then  the defendant shall reappear before the Court as directed by the probation officer for a hearing to determine what modifications, if any, should be made to this Judgment.  Other:

- 2. **Electronic Monitoring/Electronic House Arrest**
  - Be assigned to the Electronic House Arrest Program for a period of \_\_\_\_\_  days,  months, submit to electronic monitoring and abide by all rules, regulations and directions of the program until discharged.
  - Other conditions:

3. Intensive Probation Supervision Program

Be assigned to the Intensive Probation Supervision Program for a period of \_\_\_\_\_ months (not less than six months), obey all rules, regulations and directions of the program until discharged, and

- a. Submit at reasonable times to warrantless searches by a probation officer of the defendant, and of the defendant's vehicle and premises while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision:
  - stolen goods
  - controlled substances
  - contraband
  - \_\_\_\_\_
- b. Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any illegal drugs or controlled substances; and not knowingly be present at or frequent any place where illegal drugs or controlled substances are sold, kept or used.
- c. Supply a breath, urine and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol, when instructed by the probation officer.
- d. Complete not less than \_\_\_\_\_ hours or more than \_\_\_\_\_ hours of community or reparation service, as determined by the probation officer, and under the direction of the community service coordinator and pay the fee prescribed by G.S. 143B-475.1(b)  within \_\_\_\_\_ days of this Judgment and before beginning service.
- e. Participate in any evaluation, counseling, treatment or education program as directed by the probation officer, faithfully keep all scheduled appointments, and abide by all rules, regulations and directions of each program.
- f. Not be away from the defendant's place of residence between the hours of \_\_\_\_\_ p.m. and \_\_\_\_\_ a.m. unless authorized in writing by the probation officer.
- g. Not leave the defendant's county of residence without prior approval of the probation officer.
- h. Other:

4. Residential Program

Attend or reside in \_\_\_\_\_ residential program for a period of \_\_\_\_\_  days,  months, and abide by all rules and regulations of that program.

5. Day-Reporting Center

Report as directed by the probation officer to \_\_\_\_\_ for a period of \_\_\_\_\_  days,  months, and abide by all rules and regulations of that program. The Court finds that this condition is reasonably related to the defendant's rehabilitation.

6. Community Penalties Plan

The defendant is placed on supervised probation as set forth on the attached AOC-CR-603 or CR-604 pursuant to a community penalties plan.

7. Other special conditions of probation which the Court finds are reasonably related to the defendant's rehabilitation.

The above conditions are incorporated in the "Judgment Suspending Sentence" in the above case(s) and made a part thereof.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
------	---	------------------------------

I have received a copy of this Page Two of this Judgment which contains additional conditions of my probation and I agree to them. I understand that no person who supervises me or for whom I work while performing community or reparation service is liable to me for any loss or damage which I may sustain unless my injury is caused by that person's gross negligence or intentional wrongdoing.

Date	Signature Of Defendant	Witnessed By:
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# STATE OF NORTH CAROLINA

File No.  

County   Seat Of Court    
 NOTE: [This form is to be used for misdemeanor offense(s). Use AOC-CR-301 (or CR-310) for DWI offense(s).]

In The General Court Of Justice  
 District  Superior Court Division

## STATE VERSUS

Defendant  

Race   Sex   DOB  

Attorney For State  

JUDGMENT SUSPENDING SENTENCE - MISDEMEANOR(S)  
 IMPOSING AN INTERMEDIATE PUNISHMENT  
 IMPOSING A COMMUNITY PUNISHMENT (STRUCTURED SENTENCING)  
 G.S. 15A-1341, -1342, -1343, -1343.2, -1346  
 Def: Found  Def: Waived   
 Not Indigent  Attorney  Appointed  Retained

The defendant  pled guilty to:  was found guilty/responsible by the Court of:  was found guilty by a jury of:  pled no contest to:

File No.(s) And Offense(s)	Date Of Offense	G.S. No.	CL

The Court has determined, pursuant to G.S. 15A-1340.20, the number of prior convictions to be  . Level:  I (0)  II (1-4)  III (5+)

- 1. The Court imposes the punishment term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
- 2. The Court finds:  (a) enhanced punishment from a Class 2 or Class 3 misdemeanor to a Class 1 misdemeanor.  
 G.S. 90-95(e)(4) (drugs);  G.S. 14-3(c) (race).  
 (b) enhanced punishment from required suspended sentence to Class 2 misdemeanor. G.S. 90-95(e)(7).

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a term of   days. in the custody of the:  N.C. DOC.  Sheriff  Other   County.

The defendant shall be given credit for   days spent in confinement prior to the date of this Judgment as a result of this charge(s), to be applied toward the  sentence imposed above.  imprisonment required for special probation below.

### SUSPENSION OF SENTENCE

- With the consent of the defendant and subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on  supervised  unsupervised probation for   months.
- 1. The Court finds that a  longer  shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).
  - 2. The Court delegates to the Division of Adult Probation and Parole in the Department of Correction the authority to impose any of the requirements in G.S. 15A-1343.2(e) if the offender is sentenced to a community punishment, or G.S. 15A-1343.2(f) if the offender is sentenced to an intermediate punishment.
  - 3. The above period of probation shall begin when the defendant is released from incarceration in the case referred to below.
  - 4. The above period of probation shall begin at the expiration of the sentence in the case referred to below.  
 (NOTE: List case number, date, county and court in which prior sentence imposed.)

### MONETARY CONDITIONS

The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below, plus the probation supervision fee set by law  pursuant to a schedule determined by the probation officer.  at the rate of \$   per   beginning on   and continuing on the same day of each   thereafter until paid in full.  
 Other:  

Fine	Costs	Restitution *	Attorney's Fee	Community Service Fee	Total Amount Due
\$ <span style="border: 1px solid black; padding: 2px;"> </span>	\$ <span style="border: 1px solid black; padding: 2px;"> </span>	\$ <span style="border: 1px solid black; padding: 2px;"> </span>	\$ <span style="border: 1px solid black; padding: 2px;"> </span>	\$ <span style="border: 1px solid black; padding: 2px;"> </span>	\$ <span style="border: 1px solid black; padding: 2px;"> </span>

\* Name(s), address(es), amounts & social security no.(s) of aggrieved party(ies) to receive restitution:

- After payment of community service fee and probation supervision fee, all payments received by the Clerk shall first be disbursed pro rata among the persons entitled to restitution. [G.S. 7A-304(d)]
- Upon payment of the "Total Amount Due", the probation officer may transfer the defendant to unsupervised probation.

**REGULAR CONDITIONS OF PROBATION - G.S. 15A-1343(b)**

The defendant shall: (1) Commit no criminal offense in any jurisdiction. (2) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269. (3) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) Satisfy child support and family obligations, as required by the Court. If the defendant is on supervised probation, the defendant shall also: (5) Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. (6) Report as directed by the Court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. (7) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (8) At a time to be designated by the probation officer, visit with the probation officer a facility maintained by the Division of Prisons. If the defendant is to serve an active sentence as a condition of special probation, the defendant shall also: (9) Obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned. (10) Report to a probation officer in the State of North Carolina within 72 hours of the defendant's discharge from the active term of imprisonment.

**SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1), 143B-262(c)**

The defendant shall also comply with the following special conditions which the Court finds are reasonably related to the defendant's rehabilitation:

- 11. Surrender the defendant's drivers license to the Clerk of Superior Court for transmittal/notification to the Division of Motor Vehicles and not operate a motor vehicle for a period of \_\_\_\_\_ or until relicensed by the Division of Motor Vehicles, whichever is later.
- 12. Submit at reasonable times to warrantless searches by a probation officer of the defendant's person, and of the defendant's vehicle and premises while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision:
  - stolen goods
  - controlled substances
  - contraband
  - \_\_\_\_\_
- 13. Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any illegal drugs or controlled substances; and not knowingly be present at or frequent any place where illegal drugs or controlled substances are sold, kept or used.
- 14. Supply a breath, urine and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol, when instructed by the probation officer.
- 15. Successfully pass the General Education Development Test (G.E.D.) during the first \_\_\_\_\_ months of the period of probation.
- 16. Complete \_\_\_\_\_ hours of community or reparation service during the first \_\_\_\_\_ days of the period of probation, as directed by the community service coordinator and pay the fee prescribed by G.S. 143B-475.1(b)  pursuant to the schedule set out under monetary conditions above.  within \_\_\_\_\_ days of this Judgment and before beginning service.
- 17. Report for initial evaluation by \_\_\_\_\_, participate in all further evaluation, counseling, treatment or education programs recommended as a result of that evaluation, and comply with all other therapeutic requirements of those programs until discharged.
- 18. Not assault, communicate with, be in the presence of, or be found in or on the premises of \_\_\_\_\_
- 19. Other: \_\_\_\_\_
- 20. Comply with the Special Conditions Of Probation - Intermediate Punishments - Contempt which are set forth on AOC-CR-603, Page Two.
- A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

**ORDER OF COMMITMENT/APEAL ENTRIES**

- It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- The defendant gives notice of appeal from the judgment of the District Court to the Superior Court.
- The current pretrial release order is modified as follows:
- The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appellate entries and any conditions of post conviction release are set forth on form AOC-CR-350.

**SIGNATURE OF JUDGE**

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
------	---	------------------------------

**CERTIFICATION**

I certify that this Judgment with the attachment marked below is a true and complete copy of the original which is on file in this case.

- Appeal Entries (AOC-CR-350)
- Judgment Suspending Sentence, Page Two [Special Conditions of Probation - Intermediate Punishments - Contempt (AOC-CR-603, Page Two)]

Date	Date Certified Copies Delivered To Sheriff	Signature And Seal
		<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

NOTE: (Defendant signs below in all cases except unsupervised probation without community or reparation service.) I have received a copy of this Judgment which contains all of the conditions of my probation and I agree to them. I understand that no person who supervises me or for whom I work while performing community or reparation service is liable to me for any loss or damage which I may sustain unless my injury is caused by that person's gross negligence or intentional wrongdoing. I understand that my probation may be extended pursuant to G.S. 15A-1342(a) or 15A-1343.2(d).

Date Signed	Signature Of Defendant	Witnessed By
-------------	------------------------	--------------

**STATE OF NORTH CAROLINA**

File No. County Of Hearing

County \_\_\_\_\_ Seat Of Court \_\_\_\_\_  
 (NOTE: There must be a separate revocation judgment for each sentence which is activated, but one revocation judgment is sufficient where the original sentence was imposed on offenses consolidated for purposes of judgment. This form is to be used in conjunction with AOC-CR-604.)

In The General Court Of Justice  
 District  Superior Court Division

<b>STATE VERSUS</b>			<b>JUDGMENT AND COMMITMENT UPON REVOCATION OF PROBATION OR ELECTION TO SERVE SENTENCE - MISDEMEANOR(S) (STRUCTURED SENTENCING)</b>  G.S. 15A-1341(c), 15A-1344, 15A-1345		
Defendant					
Race	Sex	DOB			
Attorney For State		Def. Found <input type="checkbox"/> Not Indigent	Def. Waived <input type="checkbox"/> Attorney	Attorney For Defendant At Revocation Hearing <input type="checkbox"/> Appointed <input type="checkbox"/> Retained	

The defendant was placed on probation pursuant to the following Judgment Suspending Sentence:

Date Of Judgment Suspending Sentence	Name Of Original Sentencing Judge	Name Of County Of Origin		
File No.(s) In County Of Origin And Offense(s)		Date Of Offense	G.S. No.	CL

In the original Judgment Suspending Sentence, the Court determined, pursuant to G.S. 15A-1340.20, the number of prior convictions to be \_\_\_\_\_. Level:  I (0)  II (1-4)  III (5+)

- In the original Judgment Suspending Sentence, the Court sentenced the defendant:
- 1. pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
  - 2. based upon a finding of:
    - (a) enhanced punishment from a Class 2 or Class 3 misdemeanor to Class 1 misdemeanor.  
 G.S. 90-95(e)(4) (drugs);  G.S. 14-3(c) (race).
    - (b) enhanced punishment from a required suspended sentence to a Class 2 misdemeanor. G.S. 90-95(e)(7).

**CONCLUSION AND ORDER**

- Based upon the Findings of Fact set out on the reverse side, the Court concludes that the defendant has violated a valid condition of probation upon which the execution of the active sentence was suspended, and that continuation, modification or special probation or criminal contempt is not appropriate, and the Court ORDERS that the defendant's probation be revoked, that the suspended sentence be activated, and the defendant be imprisoned:
- The defendant has freely, voluntarily and understandingly elected to serve the defendant's suspended sentence of imprisonment in lieu of the remainder of the defendant's probation. Therefore, by virtue of G.S. 15A-1341(c) the Court ORDERS that the suspended sentence be activated, and the defendant be imprisoned:

for a term of \_\_\_\_\_ days. in the custody of the:  N.C. DOC.  Sheriff \_\_\_\_\_ County.  Other \_\_\_\_\_

The defendant shall be given credit for \_\_\_\_\_ days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.
- The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:  
 (NOTE: List the case number, date, county and court in which prior sentence imposed.)

(check all that apply)

- 1. The Clerk, under G.S. 7A-304(d), shall immediately disburse any undischursed monies paid by the defendant under the Judgment Suspending Sentence, as provided in that Judgment.
  - 2. The Court finds that the defendant  is  is not suitable for placement in a county satellite jail/work release unit. G.S. 15A-1352(a).
  - 3. With the consent of the defendant work release is ordered and the defendant, after any required processing, shall be committed to: (check (a) or (b))
    - (a) \_\_\_\_\_ (specify prison facility within this county/out of county)
    - (b) \_\_\_\_\_ (local confinement facility or satellite jail/work release unit within this county/out of county)
- The sheriff, Board of County Commissioners or Department of Correction has consented to the commitment to the above described facility, that is not within this county. G.S. 15A-1352(d).

**The Court recommends:**

- 4. Substance Abuse Treatment Unit pursuant to G.S. 15A-1351(h).
- 5. Psychiatric and/or psychological counseling.
- 6. Work release.
- 7. Payment from work release earnings, if applicable, the items and amounts set out below.

Restitution	All Prior Attorney Fees In This Case	Attorney's Fee For This Proceeding	All Other	Total Amount Due
\$	\$	\$	\$	\$

The Court further recommends:

The Court does not recommend:  1. Restitution as a condition of work release.  2. Work release.

**FINDINGS**

After considering the record contained in the files numbered above, together with the evidence presented by the parties and the statements made on behalf of the State and the defendant, the Court finds:

1. The defendant is charged with having violated specified conditions of the defendant's probation as alleged in:
  - a. the Violation Report(s) on file herein, which is incorporated by reference.
  - b. the Notice of Hearing on Violation Of Unsupervised Probation on file herein, which is incorporated by reference.
2. Upon due notice or waiver of notice (check a. or b.)
  - a. a hearing was held before the Court and, by the evidence presented, the Court is reasonably satisfied in its discretion that the defendant violated each of the conditions of the defendant's probation as set forth below.
  - b. the defendant waived a violation hearing and admitted that the defendant violated each of the conditions of the defendant's probation as set forth below.
3. The condition(s) violated and the facts of each violation are as set forth (check a. and/or b.)
  - a. in paragraph(s) \_\_\_\_\_ in the Violation Report or Notice dated \_\_\_\_\_
  - b. on the attached sheet.
4. Any allegation of a violation stated in the Violation Report, Notice, or otherwise, which is not set forth above is dismissed.
5. Each of the conditions violated as set forth above is valid; the defendant violated each condition willfully and without valid excuse; and each violation occurred at a time prior to the expiration or termination of the period of the defendant's probation.
  - Each violation is, in and of itself, a sufficient basis upon which this Court should revoke probation and activate the suspended sentence.
6. The Judgment for attorney's fees previously entered in this case shall be docketed, if it has not already been docketed.

**AWARD OF FEE TO COUNSEL FOR DEFENDANT**

- A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

**ORDER OF COMMITMENT/APPEAL ENTRIES**

It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

- The defendant gives notice of appeal from the Judgment of the District Court to the Superior Court.
- The current pretrial release order is modified as follows:
- The defendant gives notice of appeal from the Judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on Form AOC-CR-350.

**SIGNATURE OF JUDGE**

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
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**ORDER OF COMMITMENT AFTER APPEAL**

Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified
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It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC
		<input type="checkbox"/> Clerk Of Superior Court

**CERTIFICATION**

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which is on file in this case.

Date Of Certification	Date Certified Copies Delivered To Sheriff	Signature And Seal
		<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

File No.			
<b>WARRANT FOR ARREST</b>			
Offense			
<b>THE STATE OF NORTH CAROLINA VS.</b>			
Name, Address & Telephone No. Of Defendant			
Race	Sex	Date Of Birth	Age
Social Security No.		Drivers License No. & State	
Name Of Defendant's Employer			
Offense Code		Offense In Violation Of G.S.	
		Date Of Offense	
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)			
Complainant (Name, Address Or Department, Phone No.)			
Witnesses (Names, Addresses, Phone Numbers)			
Date Issued			
Date Of Service			
AOC-CR-100 Rev. 10/94 (Structured Sentencing)			

## STATE OF NORTH CAROLINA

\_\_\_\_\_ County

In The General Court Of Justice  
District Court Division

To any officer with authority and jurisdiction to execute a warrant for arrest for the offense(s) charged below:

I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did

This act(s) was in violation of the law(s) referred to in this Warrant. This Warrant is issued upon information furnished under oath by the complainant listed. You are DIRECTED to arrest the defendant and bring the defendant before a judicial official without unnecessary delay to answer the charge(s) above.

Signature		Location Of Court	
<input type="checkbox"/> Magistrate	<input type="checkbox"/> Deputy CSC	Court Date	Court Time
<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court		<input type="checkbox"/> AM <input type="checkbox"/> PM

(Over)

If this Warrant is not served within one hundred and eighty (180) days, it must be returned to the Clerk of Court in the county in which it was issued with the reason for the failure of service noted thereon. The officer must state all steps taken by his department in attempting to execute the warrant and any information obtained about the whereabouts of the defendant.

**RETURN OF SERVICE**

I certify that this Warrant was received and served as follows:

Date Received \_\_\_\_\_ Date Served \_\_\_\_\_ Date Returned \_\_\_\_\_

By arresting the defendant and bringing the defendant before:

Name Of Judicial Official \_\_\_\_\_

This Warrant WAS NOT served for the following reason:

Signature Of Officer Making Return \_\_\_\_\_

Department Or Agency Of Officer \_\_\_\_\_

**REDELIVERY**

Date \_\_\_\_\_ Signature \_\_\_\_\_  
 Dep. CSC  
 Assist. CSC  
 CSC

**RETURN FOLLOWING REDELIVERY**

I certify that this Warrant was received and served as follows:

Date Received \_\_\_\_\_ Date Served \_\_\_\_\_ Date Returned \_\_\_\_\_

By arresting the defendant and bringing the defendant before:

Name Of Judicial Official \_\_\_\_\_

This Warrant WAS NOT served for the following reason:

Signature Of Officer Making Return \_\_\_\_\_

Department Or Agency Of Officer \_\_\_\_\_

**APPEAL ENTRIES**

The defendant, in open court, gives notice of appeal to the Superior Court.  
 The current pretrial release order is modified as follows:

Date \_\_\_\_\_ Signature Of District Court Judge \_\_\_\_\_

**WAIVER OF PROBABLE CAUSE HEARING**

The undersigned defendant, with the consent of his/her attorney, waives the right to a probable cause hearing.

Date Waived \_\_\_\_\_ Signature Of Defendant \_\_\_\_\_

Signature Of Attorney \_\_\_\_\_

District Attorney \_\_\_\_\_ Attorney For Defendant At Time Of Trial Or Plea \_\_\_\_\_

Appointed  Retained  Waived

MSD.  1  2  3

CLASS:  1  2  3

PLEA:  guilty \_\_\_\_\_ VERDICT:  guilty \_\_\_\_\_  
 not guilty \_\_\_\_\_  not guilty \_\_\_\_\_  
 no contest \_\_\_\_\_

**PRIOR CONVICTIONS:**  
 No \_\_\_\_\_ Level:  I (0) \_\_\_\_\_  
 II (1-4) \_\_\_\_\_  
 III (5+) \_\_\_\_\_

**JUDGMENT:** The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict it is ORDERED that the defendant:  pay costs and a fine of \$ \_\_\_\_\_

be imprisoned for a term of \_\_\_\_\_ days in the custody of the sheriff. [ N.C. DOC. (use form AOC-CR-602)]  
 Work release  is recommended.  is not recommended.  is ordered. (use form AOC-CR-602)  
 The defendant is given credit for \_\_\_\_\_ days served awaiting trial.  
 The Court finds that a  longer  shorter period of probation, than that which is specified in G.S. 15A-1343.2(d), is necessary,  
 With defendant's consent, execution of the sentence is suspended and the defendant is placed on unsupervised probation for \_\_\_\_\_ months, subject to the following conditions: (1) commit no criminal offense in any jurisdiction. (2) possess no firearm, explosive or other deadly weapon listed in G.S. 14-269. (3) remain gainfully and stably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) satisfy child support and family obligations, as required by the Court. (5) pay to the Clerk the costs of court and any additional sums shown below.

Fine \$ _____	Restitution* \$ _____	Attorney's Fee \$ _____	Community Service Fee \$ _____	Other \$ _____
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\*Name(s), address(es), amount(s) & social security number(s) of aggrieved party(ies) to receive restitution:

- 6. complete \_\_\_\_\_ hours of community service during the first \_\_\_\_\_ days of probation, as directed by the community service coordinator, and pay the fee prescribed by G.S. 143B-475.1(b) within \_\_\_\_\_ days.
- 7. not be found in or on the premises of the complainant or \_\_\_\_\_
- 8. not assault, communicate with or be in the presence of the complainant or \_\_\_\_\_
- 9. Other: \_\_\_\_\_

It is ORDERED that this:  Judgment is continued upon payment of costs.  
 case be consolidated for judgment with \_\_\_\_\_  
 sentence is to run at the expiration of the sentence in \_\_\_\_\_

**COMMITMENT:** It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

**PROBABLE CAUSE:**  Probable cause is found as to all Counts except \_\_\_\_\_, and the defendant is bound over to Superior Court for action by the grand jury.  No probable cause is found as to Count(s) \_\_\_\_\_ of this Warrant, and the Count(s) is dismissed.

Date \_\_\_\_\_ Signature Of District Court Judge \_\_\_\_\_

**CERTIFICATION**

I certify that this Judgment is a true and complete copy of the original which is on file in this case.

Date \_\_\_\_\_ Date Delivered To Sheriff \_\_\_\_\_ Signature \_\_\_\_\_  
 Dep. CSC  
 Assist. CSC  CSC

<i>File No.</i>			
<b>MISDEMEANOR CRIMINAL SUMMONS</b>			
<i>Offense</i>			
<b>THE STATE OF NORTH CAROLINA VS.</b>			
<i>Name, Address &amp; Telephone No. Of Defendant</i>			
<i>Race</i>	<i>Sex</i>	<i>Date Of Birth</i>	<i>Age</i>
<i>Social Security No.</i>		<i>Drivers License No. &amp; State</i>	
<i>Name Of Defendant's Employer</i>			
<i>Offense Code</i>		<i>Offense In Violation Of G.S.</i>	
		<i>Date Of Offense</i>	
<i>Complainant (Name, Address Or Department, Phone No.)</i>			
<i>Witnesses (Names, Addresses, Phone Numbers)</i>			
<i>Date Issued</i>			
<i>Date Of Service</i>			

**STATE OF NORTH CAROLINA**

In The General Court Of Justice  
District Court Division

\_\_\_\_\_ County

To the defendant:

I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the county named above you unlawfully and willfully did

This act was in violation of the law referred to in this Criminal Summons. This Summons is issued upon information furnished under oath by the complainant listed. You are ORDERED to appear before the Court at the location, date and time indicated below to answer to the charge. If you fail to appear, an order for your arrest may be issued and you may be held in CONTEMPT OF COURT and imprisoned for up to thirty (30) days or fined up to \$500.00 or both. This penalty for failure to appear is in addition to any sentence which may be imposed for the crime charged.

<i>Signature</i>		<i>Location Of Court</i>	
<input type="checkbox"/> Magistrate	<input type="checkbox"/> Deputy CSC	<i>Court Date</i>	<i>Court Time</i>
<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court		<input type="checkbox"/> AM <input type="checkbox"/> PM

If this Criminal Summons is not served within ninety (90) days, it must be returned to the District Court in the county in which it was issued with the reason for the failure of service noted thereon. The officer must state all steps taken by his department in attempting to serve the summons and any information obtained about the whereabouts of the defendant.

**RETURN OF SERVICE**

I certify that this Criminal Summons was received and served as follows:

Date Received	Date Served	Date Returned
---------------	-------------	---------------

- By personally serving this Criminal Summons on the defendant.
- This Criminal Summons WAS NOT served for the following reason:

Signature Of Officer Making Return

Department Or Agency Of Officer

**REISSUANCE**

Date	Signature	<input type="checkbox"/> Dep. CSC
		<input type="checkbox"/> Assist. CSC
		<input type="checkbox"/> CSC

**RETURN FOLLOWING REDELIVERY**

I certify that this Criminal Summons was received and served as follows:

Date Received	Date Served	Date Returned
---------------	-------------	---------------

- By personally serving this Criminal Summons on the defendant.
- This Criminal Summons WAS NOT served for the following reason:

Signature Of Officer Making Return

Department Or Agency Of Officer

**APPEAL ENTRIES**

- The defendant, in open court, gives notice of appeal to the Superior Court.
- The current pretrial release order is modified as follows:

Date Signature Of District Court Judge

District Attorney Attorney For Defendant At Time Of Trial Or Plea  Appointed  Retained  Waived

MISD.  1  
CLASS:  2  
 3

PRIOR VICTIONS:	
No.	Level:
0	<input type="checkbox"/> I (0)
—	<input type="checkbox"/> II (1-4)
—	<input type="checkbox"/> III (5+)

PLEA:  guilty \_\_\_\_\_ VERDICT:  guilty \_\_\_\_\_  
 not guilty \_\_\_\_\_  not guilty \_\_\_\_\_  
 no contest \_\_\_\_\_

**JUDGMENT:** The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict it is ORDERED that the defendant:  pay costs and a fine of \$ \_\_\_\_\_  
 be imprisoned for a term of \_\_\_\_\_ days in the custody of the sheriff. [ N.C. DOC. (use form AOC-CR 602)]  
 Work release  is recommended.  is not recommended. [ is ordered. (use form AOC-CR-602)]  
 The defendant is given credit for \_\_\_\_\_ days served awaiting trial.  
 The Court finds that a  longer  shorter period of probation, than that which is specified in G.S. 15A-1343.2(d), is necessary.  
 With defendant's consent, execution of the sentence is suspended and the defendant is placed on unsupervised probation for \_\_\_\_\_ months, subject to the following conditions: (1) commit no criminal offense in any jurisdiction. (2) possess no firearm, explosive or other deadly weapon listed in G.S. 14-269. (3) remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) satisfy child support and family obligations, as required by the Court. (5) pay to the Clerk the costs of court and any additional sums shown below.

Fine \$	Restitution*	Attorney's Fee \$	Community Service Fee \$	Other \$
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\*Name(s), address(es), amount(s) & social security number(s) of aggrieved party(ies) to receive restitution:

- 6. complete \_\_\_\_\_ hours of community service during the first \_\_\_\_\_ days of probation, as directed by the community service coordinator, and pay the fee prescribed by G.S. 143B 475.1(b) within \_\_\_\_\_ days.
- 7. not be found in or on the premises of the complainant or \_\_\_\_\_
- 8. not assault, communicate with or be in the presence of the complainant or \_\_\_\_\_
- 9. Other: \_\_\_\_\_

It is ORDERED that this:  Judgment is continued upon payment of costs.  
 case be consolidated for judgment with \_\_\_\_\_  
 sentence is to run at the expiration of the sentence in \_\_\_\_\_

**COMMITMENT:** It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

Date Signature Of District Court Judge

**CERTIFICATION**

I certify that this Judgment is a true and complete copy of the original which is on file in this case.

Date Date Delivered To Sheriff Signature  Dep. CSC  Assist. CSC  CSC

File No.			
<b>MAGISTRATE'S ORDER</b>			
Offense			
<b>THE STATE OF NORTH CAROLINA VS.</b>			
Name, Address & Telephone No. Of Defendant			
Race	Sex	Date Of Birth	Age
Social Security No.		Drivers License No. & State	
Name Of Defendant's Employer			
Offense Code		Offense In Violation Of G.S.	
		Date Of Offense	
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)			
Arresting Officer (Name, Department, Phone No.)			
Witnesses (Names, Addresses, Phone Numbers)			
Date Issued			

**STATE OF NORTH CAROLINA**

\_\_\_\_\_ County

In The General Court Of Justice  
District Court Division

I, the undersigned, find that the defendant named above has been arrested without a warrant and the defendant's detention is justified because there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did

This act was in violation of the law referred to in this Magistrate's Order. This Magistrate's Order is issued upon information furnished under oath by the arresting officer(s) shown. A copy of this Order has been delivered to the defendant.

Signature		Location Of Court	
<input type="checkbox"/> Magistrate	<input type="checkbox"/> Deputy CSC	Court Date	Court Time
<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court		<input type="checkbox"/> AM <input type="checkbox"/> PM

District Attorney	Attorney	Defendant At Time Of Trial Or Plea	<input type="checkbox"/> Appointed	MISD.	<input type="checkbox"/> 1
			<input type="checkbox"/> Retained <input type="checkbox"/> Waived	CLASS:	<input type="checkbox"/> 2
					<input type="checkbox"/> 3

PLEA:  guilty \_\_\_\_\_ VERDICT:  guilty \_\_\_\_\_  
 not guilty \_\_\_\_\_  not guilty \_\_\_\_\_  
 no contest \_\_\_\_\_

PRIOR CONVICTIONS:	
No.	Level:
0	<input type="checkbox"/> I (0)
—	<input type="checkbox"/> II (1-4)
—	<input type="checkbox"/> III (5+)

**JUDGMENT:** The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict it is ORDERED that the defendant:  pay costs and a fine of \$ \_\_\_\_\_  
 be imprisoned for a term of \_\_\_\_\_ days in the custody of the sheriff. [ N.C. DOC. (use form AOC-CR-602)]  
 Work release  Is recommended.  Is not recommended. [ Is ordered. (use form AOC-CR-602)]  
 The defendant is given credit for \_\_\_\_\_ days served awaiting trial.  
 The Court finds that a  longer  shorter period of probation, than that which is specified in G.S. 15A-1343.2(d), is necessary,  
 With defendant's consent, execution of the sentence is suspended and the defendant is placed on unsupervised probation for \_\_\_\_\_ months, subject to the following conditions: (1) commit no criminal offense in any jurisdiction. (2) possess no firearm, explosive or other deadly weapon listed in G.S. 14-269. (3) remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) satisfy child support and family obligations, as required by the Court. (5) pay to the Clerk the costs of court and any additional sums shown below.

Fine	Restitution*	Attorney's Fee	Community Service Fee	Other
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

\*Name(s), address(es), amount(s) & social security number(s) of aggrieved party(ies) to receive restitution:

- 6. complete \_\_\_\_\_ hours of community service during the first \_\_\_\_\_ days of probation, as directed by the community service coordinator, and pay the fee prescribed by G.S. 143B-475.1(b) within \_\_\_\_\_ days.
- 7. not be found in or on the premises of the complainant or \_\_\_\_\_.
- 8. not assault, communicate with or be in the presence of the complainant or \_\_\_\_\_.
- 9. Other: \_\_\_\_\_

**APPEAL ENTRIES**

- The defendant, in open court, gives notice of appeal to the  District  Superior Court.
- The current pretrial release order is modified as follows:

Date \_\_\_\_\_ Signature Of District Court Judge Or Magistrate \_\_\_\_\_

**WAIVER OF PROBABLE CAUSE HEARING**

The undersigned defendant, with the consent of his/her attorney, waives the right to a probable cause hearing.

Date Waived \_\_\_\_\_ Signature Of Defendant \_\_\_\_\_

Signature Of Attorney \_\_\_\_\_

It is ORDERED that this:  Judgment is continued upon payment of costs.  
 case be consolidated for judgment with \_\_\_\_\_  
 sentence is to run at the expiration of the sentence in \_\_\_\_\_

**COMMITMENT:** It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

**PROBABLE CAUSE:**  Probable cause is found as to all Counts except \_\_\_\_\_, and the defendant is bound over to Superior Court for action by the grand jury.  No probable cause is found as to Count(s) \_\_\_\_\_ of this Warrant, and the Count(s) is dismissed.

Date \_\_\_\_\_ Signature Of District Court Judge Or Magistrate \_\_\_\_\_

**CERTIFICATION**

I certify that this Judgment is a true and complete copy of the original which is on file in this case.

Date \_\_\_\_\_ Date Delivered To Sheriff \_\_\_\_\_ Signature \_\_\_\_\_

- Dep. CSC
- Assist. CSC  CSC

**APPENDIX II: CLASSIFICATION OF MISDEMEANORS  
UNDER STRUCTURED SENTENCING**

**General Misdemeanor Classification Rule  
(For Exceptions, See Next Table)**

<b>Class 1</b>	Misdemeanors formerly punishable by more than six months imprisonment or for which no specific punishment is provided by statute.
<b>Class 2</b>	Misdemeanors formerly punishable by imprisonment of 31 days to six months.
<b>Class 3</b>	Misdemeanors punishable by no more than 30 days imprisonment or a fine only.

**Exceptions to General Misdemeanor Classification Rule**

<b>MISDEMEANOR CLASS</b>	<b>GENERAL STATUTES SECTION [Former Range of Imprisonment]</b>	<b>OFFENSE</b>
1	G.S. 14-33(a)[30 days]	Simple assault/assault and battery/affray.
1	G.S. 14-34 [not more than 6 months]	Assaulting by pointing gun.
1	G.S. 14-107(4)[not more than 5 months]	Worthless check from closed account.
1	G.S. 14-128 [not more than 6 months]	Injury to trees, crops, lands, etc. of another.
1	G.S. 14-134.3 [not more than 6 months]	Domestic criminal trespass.
1	G.S. 14-148 [60 days to 1 year]	Defacing or desecrating grave sites.
1	G.S. 14-277.1 [not more than 6 months]	Communicating threats.
2	G.S. 14-104 [not more than 30 days]	Obtaining advances under promise to work and pay for same.
2	G.S. 14-106	Obtain property in return for worthless check, draft or order.
2	G.S. 14-107(1) [not more than 30 days]	Worthless check for less than \$100.
2	G.S. 14-113.13 [not more than 1 year]	Financial transaction card fraud.

**APPENDIX II CONTINUED: Exceptions from General Misdemeanor Classification Rule**

2	G.S. 14.113.15 [not more than 1 year]	Criminal receipt of goods and services fraudulently obtained totalling less than \$500.
2	G.S. 14-132.2(b) [not more than 30 days]	Willfully trespassing upon or damaging a public school bus (forbidden entry).
2	G.S. 14-132.2(c) [not more than 30 days]	Willfully trespassing upon or damaging a public school bus (refuse to leave).
2	G.S. 14-136 [not more than 4 months]	Setting fire to grass and brushlands and woodlands.
2	G.S. 14-137	Willfully or negligently setting fire to woods and fields.
2	G.S. 14-147	Removing, altering or defacing landmarks.
2	G.S. 14-151	Interfering with gas, electric and steam appliances.
2	G.S. 14-153	Tampering with engines and boilers.
2	G.S. 14-156 [not more than 1 year]	Injuring fixtures and other property of electric-power companies.
2	G.S. 14-165	Malicious or willful injury to hired personal property.
2	G.S. 14-196	Using profane, indecent or threatening language to any person over telephone; annoying/harassing by repeated telephoning or making false statements over telephone.
2	G.S. 14-279	Unlawful injury to property of railroads.
2	G.S. 14-279.1	Unlawful impairment of operation of railroads.
2	G.S. 14-289	Advertising lotteries.
2	G.S. 14-291.1	Selling "numbers" tickets.
2	G.S. 14-292	Gambling.

**APPENDIX II CONTINUED: Exceptions from General Misdemeanor Classification Rule**

2	G.S. 14-293 [not less than 6 months]	Allowing gambling in houses of public entertainment.
2	G.S. 14-294 [not less than 3 months]	Gambling with faro banks and tables.
2	G.S. 14-295 [not less than 30 days]	Keeping gaming tables, illegal punchboards or slot machines, or betting thereat.
2	G.S. 14-297	Allowing gambling tables, illegal punchboards or slot machines on premises.
2	G.S. 14-300	Opposing destruction of gaming tables and seizure of property.
2	G.S. 14-301	Operation or possession of slot machine.
2	G.S. 14-302	Punchboards, vending machines, and other gambling devices.
2	G.S. 14-304	Manufacture, sale, etc., of slot machines and devices.
2	G.S. 14-305	Agreements with reference to slot machines or devices made unlawful.
2	G.S. 14-309.5	Bingo violations by licensed exempt organization.
2	G.S. 14-309.11	Accounting and use of proceeds (furnishing false information in audit).
2	G.S. 14-309.14(a)	Beach bingo.
2	G.S. 14-309.15(a)	Raffle violations by recognized nonprofit organization.
2	G.S.14-316(a) [not more than 30 days]	Permitting young children to use dangerous firearms.
2	G.S. 14-362.1(a)	Animal fights, other than cock fights, and animal baiting (facilitating the fight).
2	G.S. 14-362.1(b) [not more than 1 year]	Animal fights, other than cock fights, and animal baiting (providing the animal).
2	G.S. 14-362.1(c) [not more than 6 months]	Animal fights, other than cock fights, and animal baiting (participating as a spectator).
2	G.S. 14-370	Wrongfully obtaining or divulging knowledge of telephonic messages.

**APPENDIX II CONTINUED: Exceptions from General Misdemeanor Classification Rule**

2	G.S. 14-371	Violating privacy of telegraphic messages; failure to transmit and deliver same promptly.
2	G.S. 14-372	Unauthorized opening, reading or publishing of sealed letters and telegrams.
3	G.S. 14-72.1(a) and (d) (first offense) [not more than 60 days]	Concealment of merchandise (shoplifting) in mercantile establishments.
3	G.S. 14-103 [not exceeding 3 months]	Obtaining certificate of registration of animals by false representation.
3	G.S. 14-118.5(b) [not more than 6 months]	Theft of cable television service (sells decoder).
3	G.S. 14-134.2 [not more than 6 months]	Operating motor vehicle upon utility easements after being forbidden to do so.
3	G.S. 14-155 [ten days]	Unauthorized connections with telephone or telegraph.
3	G.S. 14-157 [not more than 6 months]	Felling trees on telephone and electric-power wires.
3	G.S. 14-159.21 [not more than 6 months]	Vandalism to caves.
3	G.S. 14-159.22 [not more than 6 months]	Sale of speleothems unlawful.
3	G.S. 14-202.11 [not more than 3 months]	Restrictions as to adult establishments 1st offense.
3	G.S. 14-227	Failing to attend as a witness before legislative committees.

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## MISDEMEANOR PUNISHMENT CHART

CLASS	PRIOR CONVICTION LEVELS		
	I	II	III
	No Prior Convictions	One to Four Prior Convictions	Five or More Prior Convictions
1	1 - 45 days C	1 - 45 days C/A	1 - 120 days C/A
2	1 - 30 days C	1 - 45 days C/I	1 - 60 days C/A
3	1 - 10 days C	1 - 15 days C/I	1 - 20 days C/A

A - Active Punishment      I - Immediate Punishment      C - Community Punishment

Cells with slash allow either disposition at the discretion of the judge.