

# Appendixes

# Appendix A

## Euthanasia Methods Approved by the AVMA, AHA, and HSUS

	AHA	HSUS	AVMA
<b>Injection of sodium pentobarbital</b>	✓	✓	✓
AHA considers it to be only acceptable method			
HSUS identifies it as the preferred method			
HSUS and AVMA impose some conditions on the administration of the drug (i.e., whether it is administered intravenously or through other methods)			
AVMA indicates that the injection of other barbiturates might also be acceptable (secobarbital)			
<b>Injection of sodium pentobarbital combined with another drug</b>		✓	✓
HSUS and AVMA approve in some circumstances but both disapprove of combinations of pentobarbital with a neuromuscular blocking agent			
<b>Carbon Monoxide Gas</b>		✓	✓
AVMA approves only if (a) compressed CO in cylinders is used; (b) certain precautions are taken (such as appropriate training for personnel and the use of a chamber that allows for individual separation of animals); and (c) not used in animals less than 16 weeks old (except to induce loss of consciousness).			
HSUS considers the use of CO to be conditionally acceptable in those states (like North Carolina) where shelters do not have direct access to sodium pentobarbital.			
HSUS does not approve of its use for animals who are geriatric, under four months of age, sick, injured or obviously pregnant			
<b>Other inhalant agents</b>			✓
AVMA approves of the use of some other inhalant agents (such as halothane, enflurane, isoflurane, sevoflurane, mehoxyflurane, and desflurane) for euthanasia of small animals (<7 kg).			
AVMA approves of the use of compressed carbon dioxide in cylinders but only if certain conditions are satisfied.			
AVMA conditionally approves of the use of nitrogen and argon gases in certain situations, but states that other methods of euthanasia are preferable.			
AVMA does not recommend using any of these inhalant agents alone in animals less than 16 weeks of age.			
<b>Gunshot</b>		✓	✓
HSUS approves of gunshot as a method of euthanasia only in an emergency field situation where (a) an animal cannot be confined and transferred to the shelter, (b) sodium pentobarbital is unavailable, and (c) the personnel are appropriately trained.			
AVMA conditionally approves of using a gunshot but indicates that the method should not be used for routine euthanasia of animals in animal control situations (such as shelters).			
<b>Injection of potassium chloride</b>			✓
AVMA approves of the injection of potassium chloride but only when the animal is under general anesthesia			
<b>Penetrating captive bolt</b>			✓
AVMA approves of the use of a penetrating captive bolt to the head for euthanasia of dogs in limited situations (e.g., research facilities, farms when the use of drugs is inappropriate)			
<b>Electrocution</b>			✓
AVMA approves of the use of electrocution for euthanasia of dogs but only in very limited circumstances.			

## Appendix B

# Punishment under Structured Sentencing

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### Generally

This appendix briefly describes the application of structured sentencing to both felonies and misdemeanors so that interested readers can learn what a particular felony or misdemeanor classification means in terms of actual punishments for individual defendants. Readers interested in a more complete discussion should consult Stevens H. Clarke, *Law of Sentencing, Probation, and Parole in North Carolina* (UNC Institute of Government, 2d ed. 1997), and the supplement to that book, *Administration of Justice Bulletin* No. 99/01 (UNC Institute of Government, 1999); John Rubin, Ben F. Loeb Jr. and James C. Drennan, *Punishments for North Carolina Crimes and Motor Vehicle Offenses* (UNC School of Government, 2005, and 2006 supplement), from which much of this chapter is drawn; and North Carolina Sentencing and Policy Advisory Commission, *Structured Sentencing Training and Reference Manual* (Revised December 1, 2004). All of these publications are available from the School of Government's Publications Sales Office: telephone 919.966.4119;

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Structured sentencing became effective for offenses committed on or after October 1, 1994. The only misdemeanors currently not subject to structured sentencing are impaired driving under G.S. 20-138.1; commercial impaired driving under G.S. 20-138.2; a second or subsequent conviction of a zero tolerance offense under G.S. 20-138.2A (commercial drivers) or G.S. 20-138.2B (school bus and child care vehicle drivers); and failing to comply with health control measures under G.S. 130A-25. The punishment scheme for the motor vehicle offenses just listed is provided in G.S. 20-179 and is discussed in more detail in the note on "Punishment" under "Impaired Driving and Related Offenses" in Chapter 28, "Motor Vehicle Offenses." Also exempt from structured sentencing are felony convictions in which defendants are sentenced as violent habitual felons under G.S. 14-7.12.

The United States Supreme Court's 2004 decision in *Blakely v. Washington* (542 U.S. 296) dramatically affected North Carolina's structured sentencing scheme for felonies, as well as its sentencing scheme for impaired driving-related convictions punished under G.S. 20-179. Since then, the North Carolina General Assembly has enacted legislation designed to cure the constitutional defects with the state's felony structured sentencing scheme (S.L. 2005-145). That legislation, however, applies only to felonies committed on or after June 30, 2005 (S.L. 2005-145 sec. 5). Sentences for felonies committed before that date are not subject to the new law's provisions, but they must comply with the *Blakely* decision. S.L. 2006-253 amended G.S. 20-179 to conform to *Blakely*. For a detailed discussion of *Blakely* and its impact on North Carolina sentencing schemes, see Jessica Smith, *North Carolina Sentencing After Blakely v. Washington and the Blakely Bill* (September 2005), available at [www.sog.unc.edu/programs/crimlaw/Blakely%20Update.pdf](http://www.sog.unc.edu/programs/crimlaw/Blakely%20Update.pdf). Readers need to be aware, however, that the law in this area is still evolving and are advised to consult more recent case law if faced with a *Blakely* question.

## Felonies

The centerpiece of structured sentencing for felonies is the statutory table of punishments, commonly referred to as the sentencing grid, in G.S. 15A-1340.17(c) and included as Table 1 at the end of this chapter. Two other tables necessary to determine the appropriate sentence for a felony are also included: Table 2, dealing with maximum sentences, and Table 3, dealing with prior record level.

A sentencing court essentially must take seven steps to determine the appropriate sentence for felonies under structured sentencing. These steps (with the appropriate source to consult) are as follows:

- (1) Determine the offense class for each felony conviction (listed under each offense in this book as “Punishment”)
- (2) Determine the prior record level for the defendant (Table 3)
- (3) Consider aggravating and mitigating factors [G.S. 15A-1340.16(d), (e)]
- (4) Select a minimum sentence from the applicable minimum sentence range (Table 1)
- (5) Determine the maximum sentence (Table 2)
- (6) Determine the sentence disposition (active, intermediate, or community) (Table 1)
- (7) Consider the appropriateness of restitution (see the discussion later in this chapter)

Each of these steps is summarized below. The main exceptions also are noted below, under the heading “Special Provisions.”

The sentencing court will inform the defendant of (1) the active jail or prison term imposed, (2) the active term’s minimum and maximum length, and (3) whether that term will be activated or suspended. If the active term is suspended, the defendant will be informed of the type of alternative disposition (intermediate or community) he or she will receive. This procedure will be followed for each offense conviction, unless a particular conviction is consolidated or set to run concurrently with other convictions.

### Offense Class

The first step in determining the appropriate sentence for a felony is to identify the class of the felony. There are 10 classes of felonies under structured sentencing: A, B1, B2, C, D, E, F, G, H, and I. Punishments increase in severity as you move from Class I to Class A. For each felony listed in this book, the class of the offense is indicated under the “Punishment” section of the discussion. For example, a violation of G.S. 14-32(c) (“Assault with a Deadly Weapon with Intent to Kill”; see Chapter 7) is a Class E felony.

### Prior Record Level

The second step is to determine the defendant’s prior record level. Under G.S. 15A-1340.14(c), a defendant is assigned to one of six prior record levels (I through VI) based on the number of points he or she receives under structured sentencing. For example, a defendant with five to eight points is in prior record level III. Punishments increase in severity as you move from

prior record level I to VI. The six prior record levels, and the point ranges for each level, are indicated in the prior record level worksheet issued by the Administrative Office of the Courts (AOC-CR-600, October 2006), which appears as Table 3 at the end of this chapter. The felony portion of this form is derived from G.S. 15A-1340.14, while the misdemeanor portion comes from G.S. 15A-1340.21. The form will be used by the prosecutor and the judge to make a record of a defendant's criminal history. Readers of this book should check for updated versions of this form from the AOC before using the example in this book in court. AOC forms are available online at [www.nccourts.org/Forms/FormSearch.asp](http://www.nccourts.org/Forms/FormSearch.asp).

Under G.S. 15A-1340.14(b), a defendant is assigned prior record level points in one of three ways. First, if a defendant has any prior convictions, points are assigned to each conviction based on the offense class of the conviction. For example, a prior conviction for a Class H felony is assigned two points. The point values for each offense class are indicated in Table 3. In calculating points for prior convictions, the following structured sentencing rules must be kept in mind.

***Prior misdemeanors.*** In determining a defendant's prior record level for the purpose of felony sentencing, prior convictions of Class 2 and 3 misdemeanors do not count; nor do prior misdemeanor offenses of any class under Chapter 20 of the General Statutes, except misdemeanor death by vehicle under G.S. 20-141.4(a2), impaired driving under G.S. 20-138.1, and commercial impaired driving under G.S. 20-138.2 [G.S. 15A-1340.14(b)].

***Current classification of prior conviction.*** Under the structured sentencing rules for felonies, the classification of the prior offense is the classification assigned to that offense at the time the current offense was committed. For example, if the defendant has a prior conviction for second-degree burglary, the points assigned to the conviction would depend on the current classification of the offense (now Class G), not the classification in effect at the time the conviction occurred [G.S. 15A-1340.14(c)].

***Multiple prior convictions.*** If the defendant was convicted of more than one offense in a single superior court during one calendar week, only the conviction with the highest point total is counted. If the defendant was convicted of more than one offense during a single session (that is, day) of district court, only the most serious conviction is counted [G.S. 15A-1340.14(d)].

***Convictions from other jurisdictions.*** Unless the prosecution or defendant proves otherwise, a conviction from another jurisdiction is classified as a Class I felony if that jurisdiction classifies the offense as a felony. Similarly, unless the prosecution proves otherwise, a conviction from another jurisdiction is classified as a Class 3 misdemeanor if the other jurisdiction classifies the offense as a misdemeanor [G.S. 15A-1340.14(e)].

The second way a defendant is assigned prior record level points is if all the elements of the present offense are included in a prior offense. In essence, the current offense must be the same as or a lesser-included offense of a prior offense committed by the defendant. This fact adds one point and the additional point may be counted whether or not the prior offense was used in determining the prior record level [G.S. 15A-1340.14(b)(6)].

Third, one point is added if the defendant was on probation, parole, or post-release supervision, was serving an active sentence, or was an escapee when the current offense was committed [G.S. 15A-1340.14(b)(7)].

Most prior record level points are based on prior convictions and thus are excepted from the *Blakely* decision, discussed above [G.S. 15A-1340.14(b)(1)–(5)]. As noted above, under G.S. 15A-1340.14(b)(6), one point is assigned when all the elements of the present offense are included in any prior offense for which the defendant was convicted. Although S.L. 2005-145 did not address this point, at least one North Carolina case has held that *Blakely* has no implications for this prior record level point (172 N.C. App. 839). Also as noted above, under G.S. 15A-1340.14(b)(7), one point is assigned if the defendant committed the offense while on probation, parole, or post-release supervision, while serving a sentence of imprisonment, or while an escapee from a correctional institution. Both S.L. 2005-145 and the North Carolina case law treat this point as subject to *Blakely*—meaning that unless admitted to by the defendant, it must be submitted to the jury and proved beyond a reasonable doubt (S.L. 2005-145, sec. 1–2; 172 N.C. App. 839). The final *Blakely* issue with regard to prior record level points pertains to the classification of prior convictions from other jurisdictions under G.S. 15A-1340.14(e). It has been held that the determination of whether a conviction from another jurisdiction is substantially similar to a North Carolina offense is made by a judge, at least when the court does not look beyond statutory definitions to make the determination (175 N.C. App. 250; 175 N.C. App. 492). For more detail on these issues, see Jessica Smith, *North Carolina Sentencing After Blakely v. Washington and the Blakely Bill* (September 2005), available at [www.sog.unc.edu/programs/crimlaw/Blakely%20Update.pdf](http://www.sog.unc.edu/programs/crimlaw/Blakely%20Update.pdf).

### Aggravating and Mitigating Factors

Table 1, the sentencing grid, contains three ranges of punishment for all but one of the 10 felony classes. The exception is Class A, for which punishment is death or life without parole. The three ranges of punishment for all of the other felony classes are mitigated, presumptive, and aggravated.

Mitigated terms are at the low end, aggravated terms are at the high end, and presumptive sentences fall in the middle [G.S. 15A-1340.17(c)(2)–(4)]. The presumptive range is the basic sentencing range—no special findings need

to be made for presumptive range sentencing to apply [G.S. 15A-1340.16(a) and 15A-1340.17(c)(2)]. A judge, however, can deviate upward from the presumptive range and sentence in the aggravated range if he or she determines that aggravating factors are sufficient to outweigh any mitigating factors [G.S. 15A-1340.16(b)]. Aggravating factors include things such as the fact that the crime was especially heinous, atrocious, or cruel [G.S. 15A-1340.16(d)(7)]. Mitigating factors include things such as the fact that the defendant has a positive employment history or is gainfully employed [G.S. 15A-1340.16(e)(19)]. A judge can sentence below the presumptive range in the mitigated range if he or she determines that mitigating factors are present and are sufficient to outweigh any aggravating factors [G.S. 15A-1340.16(b)].

If the court selects a term from the aggravated or mitigated range, the court must make written findings of the aggravating and mitigating factors. The court must make such findings regardless of whether it imposes an active or suspended term of imprisonment [G.S. 15A-1340.16(c)].

Before the *Blakely* decision, discussed above, the judge not only weighed the aggravating and mitigating factors but also determined whether any aggravating or mitigating factors were present. After *Blakely*, aggravating factors must be submitted to the jury and proved beyond a reasonable doubt, unless properly admitted by the defendant (359 N.C. 425). Although S.L. 2005-145 carved out an exception for aggravating factor G.S. 15A-1340.16(d)(18a) (involving certain prior delinquency adjudications), the North Carolina Court of Appeals subsequently held that this factor must be submitted to the jury and proved beyond a reasonable doubt (172 N.C. App. 135). *Blakely* did not affect the sentencing judge's authority to find mitigating factors or weigh aggravating and mitigating factors (359 N.C. 425). For more detail on these issues, see Jessica Smith, *North Carolina Sentencing After Blakely v. Washington and the Blakely Bill* (September 2005), available at [www.sog.unc.edu/programs/crimlaw/Blakely%20Update.pdf](http://www.sog.unc.edu/programs/crimlaw/Blakely%20Update.pdf).

### Minimum Sentence

Once the class of felony, prior record level, and aggravating and mitigating factors are determined, the court must select a minimum term of imprisonment from Table 1. To determine the minimum term, the court must locate the class of felony at issue along the left-hand side of the grid and the prior record level along the top of the grid. The cell in which the felony class and prior record level intersect shows the possible sentences that the court may impose. The court then must determine whether to impose a term of imprisonment from the presumptive, aggravated, or mitigated ranges (expressed in months) shown in the particular cell. Lastly, the court must select a minimum term of imprisonment from within the applicable range.

### Maximum Sentence

The judgment of the court also must contain a maximum term of imprisonment [G.S. 15A-1340.13(c)]. The maximum term is set by statute based on the minimum term imposed by the court. For Class B1 through E felonies, the maximum term of imprisonment is 120 percent of the minimum term rounded to the next highest month, plus nine months. For Class F through I felonies, the maximum term of imprisonment is 120 percent of the minimum term rounded to the next highest month [G.S. 15A-1340.17(d), (e), (e1)].

A minimum/maximum table containing these calculations is shown as Table 2. The numbers in the table to the left of the dash represent the minimum term of imprisonment imposed by the court, expressed in months. The numbers to the right of the dash represent the corresponding maximum term required by statute. The table is in two parts—the first part lists maximum sentences for Class B1 through E felonies, and the second lists the maximum sentences for Class F through I felonies.

### Sentence Disposition

The next step is to determine the sentence disposition, which is prescribed in Table 1. Each cell in the grid contains a sentence disposition, signified by the letter “A,” “I,” or “C,” or a combination of these letters. “A” represents active punishment (jail or prison); “I” represents intermediate punishment (a form of probation—more strict supervision than unsupervised probation but less restrictive than jail or prison); and “C” represents community punishment (the least restrictive form of probation) [G.S. 15A-1340.17(c)(1)]. The court must impose the sentence disposition indicated in the applicable cell. Some cells in the grid prescribe two possible dispositions, separated by a slash (for example, “I/A”). In those cases, the court can impose either disposition.

**Active punishment.** This is an unsuspended term of imprisonment (G.S. 15A-1340.11). If the court imposes an active punishment, the minimum and maximum term of imprisonment previously determined by the court may not be suspended. The maximum term may be reduced by earned-time credit (awarded by the Department of Correction or local jail), but the term of imprisonment may not be reduced (except for credit for time served awaiting trial) below the minimum term imposed by the court [G.S. 15A-1340.13(d)].<sup>1</sup>

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1. A defendant convicted of a Class B1 through E felony is automatically released from prison nine months before the end of his or her maximum term of imprisonment and is placed on post-release supervision, except for B1 felons sentenced to life imprisonment without parole. The defendant may be released sooner if he or she receives any earned-time credit but may not be released before serving the minimum term of

Ordinarily, if the only disposition prescribed in a particular cell is “A,” the court must impose active imprisonment. Upon a finding of extraordinary mitigation, however, the court may impose an intermediate punishment even when only an active punishment is prescribed [G.S. 15A-1340.13(g)]. Extraordinary mitigation is authorized only when the offense is a Class B2, C, or D felony; the offense is not a drug-trafficking offense under G.S. 90-95(h) or a drug-trafficking conspiracy offense under G.S. 90-95(i); *and* the defendant is in prior record level I or II [G.S. 15A-1340.13(h)].

In cases involving drug-trafficking offenses, the court is not required to impose an active punishment (regardless of the class of offense or the defendant’s prior record level) if the court finds that the defendant provided “substantial assistance” within the meaning of G.S. 90-95(h)(5). Drug trafficking is discussed further below, under the heading “Special Provisions.”

When sentencing a defendant for multiple offenses, the court may consolidate sentences, run them concurrently, or run them consecutively (G.S. 15A-1340.15 and 15A-1354). Unless otherwise specified by the court, sentences run concurrently [G.S. 15A-1340.15(a) and 15A-1354(a)]. If the court consolidates offenses for sentencing, the most serious offense is controlling—the sentence disposition and the minimum and maximum terms of imprisonment must conform to the structured sentencing rules for that offense [G.S. 15A-1340.15(b)]. If the court imposes consecutive sentences, the minimum term of imprisonment is the sum of the minimum terms imposed for the offenses, and the maximum term is the sum of the maximum terms for the offenses [G.S. 15A-1354(b)].<sup>2</sup>

A defendant sentenced to active punishment for a felony is normally committed to the custody of the Department of Correction. However, upon request of the sheriff or board of county commissioners, the court may, in its discretion, sentence the person to a local confinement facility in that county [G.S. 15A-1352(b)].

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imprisonment imposed by the court (absent credit for time served) (G.S. 15A-1368.1; G.S. 15A-1368.2). The period of post-release supervision is nine months for most people convicted of a Class B1 through E felony. But a defendant is subject to a far longer period of supervised release—five years—if he or she has been convicted of a Class B1 through E felony and is required to register as a sex offender under G.S. Chapter 14, Article 27A [G.S. 15A-1368.2(c)]. If the defendant violates a condition of post-release supervision during that period, he or she can be returned to prison “up to the time remaining on his [or her] maximum imposed term” [G.S. 15A-1368.3(c)(1)].

2. If the court imposes consecutive terms of imprisonment for more than one Class B1 through E felony, the maximum term for each second and subsequent Class B1 through E felony is reduced by nine months [G.S. 15A-1354(b)(1)].

***Intermediate punishment.*** This is supervised probation involving at least one of the following: (1) special probation, (2) assignment to a residential program, (3) house arrest with electronic monitoring, (4) intensive probation, (5) assignment to a day-reporting center, or (6) assignment to a drug treatment court program [G.S. 15A-1340.11(6)].

If the court imposes an intermediate punishment, it must suspend the minimum and maximum term of imprisonment and impose a period of supervised probation with at least one of the conditions described in G.S. 15A-1340.11(6). For intermediate punishments for felonies, the court is authorized to impose a period of probation ranging from 18 to 36 months; the court may depart from this range upon finding that a longer or shorter period is necessary [G.S. 15A-1343.2(d)].

As a condition of intermediate punishment, the court is authorized to impose special probation, also known as a split sentence. Under special probation, the court suspends the term of imprisonment, places the defendant on probation, and requires the defendant to submit to a period of imprisonment as a condition of probation [G.S. 15A-1351(a)]. The period of imprisonment pursuant to special probation may not exceed one-fourth of the maximum term of imprisonment imposed [G.S. 15A-1351(a)].

***Community punishment.*** Community punishment is any sentence that does not include an active or intermediate punishment [G.S. 15A-1340.11(2)]. The court must suspend any term of imprisonment; it may not impose an active term of imprisonment or special probation requiring a period of imprisonment.

A community punishment may include unsupervised probation or supervised probation with any authorized condition other than one defined as an intermediate punishment [G.S. 15A-1340.11(2) and 15A-1340.11(6)]. For community punishments for felonies, the court is authorized to impose a period of probation ranging from 12 to 30 months; the court may depart from this range upon finding that a longer or shorter period is necessary [G.S. 15A-1343.2(d)(3)]. A community punishment also may consist of a fine only, without probation [G.S. 15A-1340.17(b)].

G.S. 15A-1382.1(b) provides that if the court finds that there was a personal relationship [as defined in G.S. 50B-1(b)] between the defendant and the victim and imposes a sentence of community punishment, the court must determine whether the defendant must comply with the special conditions of probation in G.S. 15A-1343(b1). That subsection also provides that the court may impose house arrest under G.S. 15A-1343(b1)(3c), even though such a condition is authorized in other cases only if the court imposes intermediate punishment. It is not clear whether this subsection is meant to apply to any case in which the

court finds that there was a personal relationship or whether it is limited to the offenses mentioned in G.S. 15A-1382.1(a), which include assault or communicating a threat.

**Fines.** The court may impose a fine as part of any disposition, whether active, intermediate, or community. Unless otherwise provided by statute, the amount of the fine is in the court's discretion [G.S. 15A-1340.17(b), 15A-1340.23(b), and 15A-1343(b)(9)].

### Restitution

The last step in felony sentencing is to consider the appropriateness of restitution. Article 81C of G.S. Chapter 15A (G.S. 15A-1340.34 through 15A-1340.38) governs restitution in all criminal cases. The restitution requirements differ, however, depending on whether or not the offense is subject to the Crime Victims' Rights Act (G.S. 15A-830 through 15A-841). The felonies subject to the Crime Victims' Rights Act are (1) any Class A through E felony, (2) a Class F through I felony if it is in violation of certain statutes, or (3) an attempt to commit one of the above felonies if the attempt is punishable as a felony.

The discussion below outlines the main differences concerning restitution between offenses subject to the Crime Victims' Rights Act and other criminal offenses. Note that a statute governing a particular offense may contain more specific restitution requirements.

For offenses subject to the Crime Victims' Rights Act, the court must order restitution to the victim or victim's estate [G.S. 15A-1340.34(b)]. If the defendant is placed on probation or post-release supervision, any restitution ordered must be included as a condition of probation or post-release supervision [G.S. 15A-1340.34(b)]. Even if the defendant is sentenced to active imprisonment, it appears that the court must order restitution to the victim or victim's estate. If a restitution order to a victim is for more than \$250, it is enforceable as a civil judgment and, in some circumstances, may be subject to immediate execution (G.S. 15A-1340.38).

In cases not subject to the Crime Victims' Rights Act, the court must consider whether restitution is appropriate, but the court is not required to order it [G.S. 15A-1340.34(a), (c)]. Thus the court may make restitution a condition of probation. It appears that the court also may impose restitution as part of a sentence of active imprisonment. In cases not subject to the Crime Victims' Rights Act, a restitution order is not enforceable as a civil judgment.

In all cases, the victim or victim's estate may bring a civil suit for damages resulting from the crime [G.S. 15A-1340.37(a)]. Also, if the defendant is sentenced to active imprisonment, the court must consider whether to recommend to the Department of Correction that restitution be made from any work-release earnings [G.S. 15A-1340.36(c)].

The losses and injuries for which restitution may be ordered are described in G.S. 15A-1340.35. In determining the amount of restitution, the court must have adequate proof of the injuries or losses claimed and must take into account the defendant's ability to pay (G.S. 15A-1340.36). The court also may (but is not required to) order restitution to people other than the victim or to organizations (G.S. 15A-1340.37).

### Special Provisions

A number of provisions depart from the basic structured sentencing scheme for felonies, described above. These departures are noted in the punishment charts where applicable. The principal exceptions are as follows:

**Class A felonies.** Class A felonies are punishable by death or life without parole, regardless of the defendant's prior record level. The only Class A felony is first-degree murder under G.S. 14-17. For a discussion of capital sentencing issues, see Robert L. Farb, *North Carolina Capital Case Law Handbook* (UNC School of Government, 2d ed. 2004).

**Habitual felon.** A person becomes a habitual felon when he or she has been convicted of three felony offenses as set out in G.S. 14-7.1. When a defendant is convicted of a felony after having achieved the status of habitual felon, the punishment for that offense is elevated to a Class C felony (unless the offense for which he or she was convicted is a Class A, B1, or B2 felony) (G.S. 14-7.6). For example, a defendant found to be a habitual felon after being convicted of felonious breaking or entering under G.S. 14-54 is sentenced as though he or she was convicted of a Class C felony, not a Class H felony, which is the classification of that offense. [A defendant's status as a habitual felon is determined by a jury at a hearing held after a conviction, unless the defendant admits to being a habitual felon (G.S. 14-7.5).] Prior convictions used to establish habitual felon status cannot be used in determining the prior record level in sentencing for the Class C felony (G.S. 14-7.6).

**Violent habitual felon.** A person becomes a violent habitual felon when he or she has been convicted of two violent felony offenses as set out in G.S. 14-7.7. When a defendant is convicted of a violent felony after having achieved the status of violent habitual felon, the punishment for that offense (except when the death penalty has been imposed) is life imprisonment without parole (G.S. 14-7.12).

**Firearm enhancement.** Subject to certain exceptions, a defendant who, during the commission of a Class A through E felony, (1) used, displayed, or threatened to use or display a firearm and (2) actually possessed the firearm about his or her person must be sentenced to an additional 60 months imprisonment [G.S. 15A-1340.16A(c)]. The 60-month enhancement attaches to the minimum term of imprisonment; the applicable maximum term is calculated using the

enhanced minimum [G.S. 15A-1340.16A(c)]. The facts supporting the enhancement must be alleged in an indictment or information and proved to a jury beyond a reasonable doubt, unless the defendant pleads guilty or no contest to the issue [G.S. 15A-1340.16A(d), (e); 353 N.C. 568].

***B1 felonies against young victims.*** Subject to an exception, a person who commits a Class B1 felony—such as first-degree rape or sex offense—against a victim who was 13 years old or younger and has a prior Class B1 felony conviction will be sentenced to life imprisonment without parole [G.S. 15A-1340.16B(a)]. The facts supporting the enhancement must be alleged in an indictment or information and proved to a jury beyond a reasonable doubt, unless the defendant pleads guilty or no contest to the issue [G.S. 15A-1340.16B(d), (e)].

***Bullet-proof vest enhancement.*** Subject to certain exceptions, a person who commits a felony while wearing or having in his or her immediate possession a bullet-proof vest will be punished one class higher than the underlying felony [G.S. 15A-1340.16C(a)]. Thus, if the felony is punishable as a Class D felony, the person will be sentenced as a Class C felon. The facts supporting the enhancement must be alleged in an indictment or information and proved to a jury beyond a reasonable doubt, unless the defendant pleads guilty or no contest to the issue [G.S. 15A-1340.16C(c), (d)].

***Methamphetamine enhancement.*** Unless an exception applies, if a person is convicted of manufacturing of methamphetamine and a law enforcement, probation, or parole officer, emergency medical services employee, or firefighter suffered serious injury caused by the hazards associated with the manufacture of methamphetamine, then that person's minimum term of imprisonment is enhanced by 24 months [G.S. 15A-1340.16D(a)]. The facts supporting the enhancement must be alleged in an indictment or information and proved to a jury beyond a reasonable doubt, unless the defendant pleads guilty or no contest to the issue [G.S. 15A-1340.16D(b), (c)].

***Drug trafficking.*** Drug trafficking is punished according to a separate table of punishments, containing minimum and maximum terms of imprisonment that depart from the sentencing grid. Minimum fines also are prescribed for drug-trafficking offenses. See G.S. 90-95(h) and trafficking offenses in Chapter 27.

## **Misdemeanors**

The focus of structured sentencing for misdemeanors is the statutory table of punishments in G.S. 15A-1340.23 (see Table 4 at the end of this chapter). All misdemeanors, except those mentioned at the beginning of this chapter, are subject to structured sentencing (G.S. 15A-1340.10).

A sentencing court essentially must take five steps to determine the appropriate sentence for a misdemeanor. These steps (with the appropriate source to consult) are as follows:

- (1) Determine the offense class for each misdemeanor conviction (listed under each offense in this book as “Punishment”)
- (2) Determine the prior conviction level for the defendant (Table 3)
- (3) Select a sentence length from the appropriate sentence range (Table 4)
- (4) Determine the sentence disposition (active, intermediate, or community) (Table 4)
- (5) Consider the appropriateness of restitution (see the discussion later in this chapter)

The sentencing court will inform the defendant of (1) the active jail or prison term imposed and (2) whether that term will be activated or suspended. If the active term is suspended, the defendant will be informed of the type of alternative disposition (intermediate or community) he or she will receive. This procedure will be followed for each offense conviction, unless a particular conviction is consolidated or set to run concurrently with other convictions.

The *Blakely* decision discussed above has no impact on structured sentencing for misdemeanors. Under structured sentencing, the only enhancing factors that apply in misdemeanor sentencing are prior convictions—factors specifically excluded from *Blakely*.

### Offense Class

The first step in determining the appropriate sentence for a misdemeanor is to identify the class of the misdemeanor. There are four classes of misdemeanors under structured sentencing: A1, 1, 2, and 3. Punishments increase in severity as you move from a Class 3 misdemeanor up to a Class A1 misdemeanor. For each misdemeanor listed in this book, the class of the offense is indicated under the “Punishment” section of the discussion. For example, “Assault by Pointing a Gun” (G.S. 14-34; see Chapter 7, “Assaults”) is a Class A1 misdemeanor.

Some misdemeanor offenses have no classification and no punishment listed in the General Statutes. Under G.S. 14-3(a), those offenses generally are considered Class 1 misdemeanors. Misdemeanors that are “infamous, done in secrecy and malice, or with deceit and intent to defraud” are punished as Class H felonies pursuant to G.S. 14-3(b).<sup>3</sup> Some misdemeanor offenses have a punishment

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3. For more detail on this issue, see “Committing an Infamous or Related Misdemeanor” in Jessica Smith, *North Carolina Crimes: A Guidebook on the Elements of Crime*, 6th ed. (Chapel Hill: UNC School of Government, 2007), 59–60.

but no classification listed. Under G.S. 14-3(a), those offenses are classified as follows: as a Class 1 misdemeanor if punishable by more than six months imprisonment; as a Class 2 misdemeanor if punishable by more than 30 days but not more than six months imprisonment; and as a Class 3 misdemeanor if punishable by imprisonment of 30 days or less or by a fine only.

### Prior Conviction Level

The second step in determining the appropriate sentence for a misdemeanor is to determine the defendant's prior conviction level. A defendant is assigned to one of three prior conviction levels (I through III) based on his or her total number of prior felony and misdemeanor convictions [G.S. 15A-1340.21(b)]. The three prior conviction levels, and the number of convictions applicable to each level, are indicated in Table 4.

Any conviction, whether a felony or misdemeanor (including driving while impaired and other misdemeanors under Chapter 20 of the North Carolina General Statutes), counts as one conviction [G.S. 15A-1340.21(b)]. If the defendant was convicted of more than one offense in a single week of superior court or a single session (that is, day) of district court, only one of the convictions counts [G.S. 15A-1340.21(d)]. Infractions do not count.

A prior offense may be counted as a conviction only if the offense is classified as a felony or misdemeanor at the time the defendant committed the current offense [G.S. 15A-1340.21(b)]. Thus, if an offense had been changed from a misdemeanor to an infraction (for example, speeding 50 m.p.h. in a 35 m.p.h. zone) when a defendant committed a new misdemeanor, a prior conviction for that offense would not count in misdemeanor sentencing.

### Sentence Length

Once the class of misdemeanor and prior conviction level are determined, the court must determine the length of any term of imprisonment. (If the court selects a community punishment as the sentence disposition, discussed under the next heading, it may impose a judgment consisting of a fine only; in those circumstances, it would be unnecessary for the court to specify any term of imprisonment.) To determine the length of any term of imprisonment, the court must locate the class of misdemeanor at issue along the left-hand side of Table 4 and the prior conviction level along the top of Table 4. The cell in which the misdemeanor class and prior conviction level intersect shows the possible terms of imprisonment (expressed in days) that the court may impose. The court must select a single term of imprisonment from the range shown in the applicable cell; there are no minimum and maximum terms of imprisonment, as in felony sentencing.

### Sentence Disposition

The next step in misdemeanor sentencing is to determine the sentence disposition, which is prescribed in Table 4. Each cell in Table 4 contains a sentence disposition, signified by the letter “A,” “I,” or “C,” or a combination of these letters. “A” represents active punishment (jail or prison); “I” represents intermediate punishment (a form of probation—more strict supervision than unsupervised probation but less restrictive than jail or prison); and “C” represents community punishment (the least restrictive form of probation) [G.S. 15A-1340.23(c)]. The court must impose the sentence disposition indicated in the applicable cell. Some cells prescribe more than one possible disposition, separated by a slash (for example, “C/I/A”). In those cases, the court can impose any single one of the indicated dispositions.

**Active punishment.** If the court imposes an active punishment, the term of imprisonment previously determined by the court must be activated. A defendant’s term of imprisonment may be reduced by earned-time credit up to four days per month of incarceration (awarded by the Department of Correction or local jail) [G.S. 15A-1340.20(d)].

When sentencing a defendant for multiple offenses, the court may consolidate sentences or run them concurrently. Subject to certain limitations, the court also may impose consecutive sentences. Unless otherwise specified by the court, sentences run concurrently. If the court consolidates offenses for sentencing, the most serious offense is controlling—the sentence disposition and the term of imprisonment must conform to the structured sentencing rules for that offense [G.S. 15A-1340.22(b)]. If the court imposes consecutive sentences, the length of imprisonment cannot exceed twice the longest term of imprisonment authorized for the most serious misdemeanor conviction [G.S. 15A-1340.22(a)]. Consecutive sentences cannot be imposed, however, if all of the convictions are for Class 3 misdemeanors [G.S. 15A-1340.22(a)].

A defendant sentenced for a misdemeanor to active punishment of 90 days or less must be committed to a local jail facility [G.S. 15A-1352(a)]. The court may choose local confinement or commitment to the custody of the Department of Correction if the defendant is sentenced to more than 90 days of active punishment [G.S. 15A-1352(a)].

An active sentence may be imposed for any misdemeanor, even if an active sentence would not otherwise be authorized, if the sentence does not exceed the total amount of time that the defendant has spent in pretrial confinement awaiting trial for that misdemeanor. In effect, a sentence of “credit for time served” may be imposed for any misdemeanor [G.S. 15A-1340.20(c1)].

**Intermediate punishment.** Intermediate punishment for misdemeanors is the same as intermediate punishment for felonies, except for the period of probation. For misdemeanor intermediate punishment, the court is authorized

to impose a period of probation ranging from 12 to 24 months; the court may depart from this range upon finding that a longer or shorter period is necessary [G.S. 15A-1343.2(d)(2)].

**Community punishment.** Community punishment for misdemeanors is the same as community punishment for felonies, except for the period of probation. For misdemeanor community punishment, the court is authorized to impose a period of probation ranging from 6 to 18 months; the court may depart from this range upon finding that a longer or shorter period is necessary [G.S. 15A-1343.2(d)(1)]. A community punishment also may consist of a fine only, without probation [G.S. 15A-1340.23(b)].

**Fines.** The court may impose a fine as part of any disposition, whether active, intermediate, or community [G.S. 15A-1340.23(b)]. Unless otherwise provided by statute, the maximum fine for each class of misdemeanor is as indicated in Table 4.

### Restitution

The last step in misdemeanor sentencing is to determine the appropriateness of restitution. The restitution requirements in G.S. 15A-1340.34 through 15A-1340.38 (discussed earlier in this chapter in connection with felonies) apply equally to misdemeanors.

The main difference with restitution in misdemeanor versus felony cases is that far fewer misdemeanors are subject to the Crime Victims' Rights Act. Only the following misdemeanors are covered: (1) assault with a deadly weapon, (2) assault inflicting serious injury, (3) assault on a female, (4) simple assault, (5) assault by pointing a gun, (6) domestic criminal trespass, and (7) stalking [G.S. 15A-830(7)(g)]. Further, the Crime Victims' Rights Act applies to the above misdemeanors only if the defendant and victim were in one of six different "personal relationships" (for example, as current or former spouses) described in G.S. 50B-1(b) [G.S. 15A-830(7)(g)].

### Special Provisions

**Infamous or related misdemeanor enhancement.** G.S. 14-3(b) provides that if a person commits a misdemeanor for which no specific punishment is prescribed and the misdemeanor is infamous, done in secrecy and malice, or done with deceit and intent to defraud, punishment is elevated to a Class H felony.<sup>4</sup>

**Prejudice enhancement.** G.S. 14-3(c) provides for an enhanced punishment if a misdemeanor is committed because of the victim's race, color, religion, nationality, or country of origin.<sup>5</sup>

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4. See note 3 above.

5. For more detail, see "Committing a Misdemeanor Because of Prejudice," *id.*, 60–61.

**Table 1**  
**Felony Sentence Dispositions and Minimum Prison/Jail Term Ranges**  
**(shown in months)**

**A** = active punishment   **I** = intermediate punishment   **C** = community punishment

Felony Class A	Prior Record Level						Disposition
	I	II	III	IV	V	VI	
	0 Pts	1-4 Pts	5-8 Pts	9-14 Pts	15-18 Pts	19+ Pts	
	<b>Death or life without parole</b>						
	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
<b>B1</b>	240-300	288-360	336-420	384-480	Life without parole	Life without parole	<i>Aggravated Range</i>
	192-240	230-288	269-336	307-384	346-433	384-480	<i>Presumptive Range</i>
	144-192	173-230	202-269	230-307	260-346	288-384	<i>Mitigated Range</i>
<b>B2</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
	157-196	189-237	220-276	251-313	282-353	313-392	<i>Aggravated Range</i>
	125-157	151-189	176-220	201-251	225-282	251-313	<i>Presumptive Range</i>
	94-125	114-151	132-176	151-201	169-225	188-251	<i>Mitigated Range</i>
<b>C</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
	73-92	100-125	116-145	133-167	151-188	168-210	<i>Aggravated Range</i>
	58-73	80-100	93-116	107-133	121-151	135-168	<i>Presumptive Range</i>
	44-58	60-80	70-93	80-107	90-121	101-135	<i>Mitigated Range</i>
<b>D</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
	64-80	77-95	103-129	117-146	133-167	146-183	<i>Aggravated Range</i>
	51-64	61-77	82-103	94-117	107-133	117-146	<i>Presumptive Range</i>
	38-51	46-61	61-82	71-94	80-107	88-117	<i>Mitigated Range</i>
<b>E</b>	<b>I/A</b>	<b>I/A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
	25-31	29-36	34-42	46-58	53-66	59-74	<i>Aggravated Range</i>
	20-25	23-29	27-34	37-46	42-53	47-59	<i>Presumptive Range</i>
	15-20	17-23	20-27	28-37	32-42	35-47	<i>Mitigated Range</i>
<b>F</b>	<b>I/A</b>	<b>I/A</b>	<b>I/A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
	16-20	19-24	21-26	25-31	34-42	39-49	<i>Aggravated Range</i>
	13-16	15-19	17-21	20-25	27-34	31-39	<i>Presumptive Range</i>
	10-13	11-15	13-17	15-20	20-27	23-31	<i>Mitigated Range</i>
<b>G</b>	<b>I/A</b>	<b>I/A</b>	<b>I/A</b>	<b>I/A</b>	<b>A</b>	<b>A</b>	
	13-16	15-19	16-20	20-25	21-26	29-36	<i>Aggravated Range</i>
	10-13	12-15	13-16	16-20	17-21	23-29	<i>Presumptive Range</i>
	8-10	9-12	10-13	12-16	13-17	17-23	<i>Mitigated Range</i>
<b>H</b>	<b>C/I/A</b>	<b>I/A</b>	<b>I/A</b>	<b>I/A</b>	<b>I/A</b>	<b>A</b>	
	6-8	8-10	10-12	11-14	15-19	20-25	<i>Aggravated Range</i>
	5-6	6-8	8-10	9-11	12-15	16-20	<i>Presumptive Range</i>
	4-5	4-6	6-8	7-9	9-12	12-16	<i>Mitigated Range</i>
<b>I</b>	<b>C</b>	<b>C/I</b>	<b>I</b>	<b>I/A</b>	<b>I/A</b>	<b>I/A</b>	
	6-8	6-8	6-8	8-10	9-11	10-12	<i>Aggravated Range</i>
	4-6	4-6	5-6	6-8	7-9	8-10	<i>Presumptive Range</i>
	3-4	3-4	4-5	4-6	5-7	6-8	<i>Mitigated Range</i>

Source: G.S. 15A-1340.17(c). Class B2, C, and D ranges are for offenses committed on or after December 1, 1995. For shorter ranges applying before that date, see the repealed version of this statute.

**Table 2**  
**Felony Minimum and Maximum Prison/Jail Terms**  
**(shown in months)**

**Felony Classes B1, B2, C, D, and E**

15-27	56-77	97-126	138-175	179-224	220-273	261-323	302-372
16-29	57-78	98-127	139-176	180-225	221-275	262-324	303-373
17-30	58-79	99-128	140-177	181-227	222-276	263-325	304-374
18-31	59-80	100-129	141-179	182-228	223-277	264-326	305-375
19-32	60-81	101-131	142-180	183-229	224-278	265-327	306-377
20-33	61-83	102-132	143-181	184-230	225-279	266-329	307-378
21-35	62-84	103-133	144-182	185-231	226-281	267-330	308-379
22-36	63-85	104-134	145-183	186-233	227-282	268-331	309-380
23-37	64-86	105-135	146-185	187-234	228-283	269-332	310-381
24-38	65-87	106-137	147-186	188-235	229-284	270-333	311-383
25-39	66-89	107-138	148-187	189-236	230-285	271-335	312-384
26-41	67-90	108-139	149-188	190-237	231-287	272-336	313-385
27-42	68-91	109-140	150-189	191-239	232-288	273-337	314-386
28-43	69-92	110-141	151-191	192-240	233-289	274-338	315-387
29-44	70-93	111-143	152-192	193-241	234-290	275-339	316-389
30-45	71-95	112-144	153-193	194-242	235-291	276-341	317-390
31-47	72-96	113-145	154-194	195-243	236-293	277-342	318-391
32-48	73-97	114-146	155-195	196-245	237-294	278-343	319-392
33-49	74-98	115-147	156-197	197-246	238-295	279-344	320-393
34-50	75-99	116-149	157-198	198-247	239-296	280-345	321-395
35-51	76-101	117-150	158-199	199-248	240-297	281-347	322-396
36-53	77-102	118-151	159-200	200-249	241-299	282-348	323-397
37-54	78-103	119-152	160-201	201-251	242-300	283-349	324-398
38-55	79-104	120-153	161-203	202-252	243-301	284-350	325-399
39-56	80-105	121-155	162-204	203-253	244-302	285-351	326-401
40-57	81-107	122-156	163-205	204-254	245-303	286-353	327-402
41-59	82-108	123-157	164-206	205-255	246-305	287-354	328-403
42-60	83-109	124-158	165-207	206-257	247-306	288-355	329-404
43-61	84-110	125-159	166-209	207-258	248-307	289-356	330-405
44-62	85-111	126-161	167-210	208-259	249-308	290-357	331-407
45-63	86-113	127-162	168-211	209-260	250-309	291-359	332-408
46-65	87-114	128-163	169-212	210-261	251-311	292-360	333-409
47-66	88-115	129-164	170-213	211-263	252-312	293-361	334-410
48-67	89-116	130-165	171-215	212-264	253-313	294-362	335-411
49-68	90-117	131-167	172-216	213-265	254-314	295-363	336-413
50-69	91-119	132-168	173-217	214-266	255-315	296-365	337-414
51-71	92-120	133-169	174-218	215-267	256-317	297-366	338-415
52-72	93-121	134-170	175-219	216-269	257-318	298-367	339-416
53-73	94-122	135-171	176-221	217-270	258-319	299-368	340 or more*
54-74	95-123	136-173	177-222	218-271	259-320	300-369	
55-75	96-125	137-174	178-223	219-272	260-321	301-371	

**Table 2 (continued)**  
**Felony Minimum and Maximum Prison/Jail Terms**  
**(shown in months)**

**Felony Classes F, G, H, and I**

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3-4	9-11	15-18	21-26	27-33	33-40	39-47	45-54
4-5	10-12	16-20	22-27	28-34	34-41	40-48	46-56
5-6	11-14	17-21	23-28	29-35	35-42	41-50	47-57
6-8	12-15	18-22	24-29	30-36	36-44	42-51	48-58
7-9	13-16	19-23	25-30	31-38	37-45	43-52	49-59
8-10	14-17	20-24	26-32	32-39	38-46	44-53	

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\* Where minimum term is 340 months or more, maximum is 120% of minimum rounded to next highest month, plus 9 months.

Source: G.S. 15A-1340.17(e), (e1).

**Table 3**

<b>STATE OF NORTH CAROLINA</b>		File No. _____																							
_____ County		<input type="checkbox"/> In The General Court Of Justice <input type="checkbox"/> District <input type="checkbox"/> Superior Court Division																							
<b>STATE VERSUS</b>		<b>WORKSHEET                  PRIOR RECORD LEVEL FOR                  FELONY SENTENCING AND                  PRIOR CONVICTION LEVEL FOR                  MISDEMEANOR SENTENCING                  (STRUCTURED SENTENCING)</b>																							
Name And Address Of Defendant _____																									
Social Security No _____	SID No _____																								
Race _____	Sex _____		DOB _____																						
G.S. 15A-1340.14, 15A-1340.21																									
<b>I. SCORING PRIOR RECORD/FELONY SENTENCING</b>																									
<b>NUMBER</b>	<b>TYPE</b>	<b>FACTORS</b>	<b>POINTS</b>																						
	Prior Felony Class A Conviction	X 10																							
	Prior Felony Class B1 Conviction	X 9																							
	Prior Felony Class B2 or C or D Conviction	X 6																							
	Prior Felony Class E or F or G Conviction	X 4																							
	Prior Felony Class H or I Conviction	X 2																							
	Prior Class A1 or 1 Misdemeanor Conviction (see note on reverse)	X 1																							
<b>SUBTOTAL</b>			▶																						
Defendant's Current Charge(s): _____																									
If all the elements of the present offense are included in any prior offense whether or not the prior offenses were used in determining prior record level.		+ 1																							
If the offense was committed: (a) while on supervised or unsupervised probation, parole, or post-release supervision; or (b) while serving a sentence of imprisonment; or (c) while on escape.		+ 1																							
<b>TOTAL</b>			▶																						
<b>II. CLASSIFYING PRIOR RECORD/CONVICTION LEVEL</b>																									
<b>MISDEMEANOR</b>		<b>FELONY</b>																							
<b>NOTE:</b> If sentencing for a misdemeanor, total the number of prior conviction(s) listed on the reverse and select the corresponding prior conviction level.		<b>NOTE:</b> If sentencing for a felony, locate the prior record level which corresponds to the total points determined in Section I above.																							
<table border="1" style="border-collapse: collapse;"> <tr> <th>No. Of Prior Convictions</th> <th>Level</th> </tr> <tr> <td style="text-align: center;">0</td> <td style="text-align: center;">I</td> </tr> <tr> <td style="text-align: center;">1 - 4</td> <td style="text-align: center;">II</td> </tr> <tr> <td style="text-align: center;">5+</td> <td style="text-align: center;">III</td> </tr> </table>	No. Of Prior Convictions	Level	0	I	1 - 4	II	5+	III	<b>PRIOR CONVICTION LEVEL</b> ▶ <span style="border: 1px solid black; display: inline-block; width: 40px; height: 20px; vertical-align: middle;"></span>	<table border="1" style="border-collapse: collapse;"> <tr> <th>Points</th> <th>Level</th> </tr> <tr> <td style="text-align: center;">0</td> <td style="text-align: center;">I</td> </tr> <tr> <td style="text-align: center;">1 - 4</td> <td style="text-align: center;">II</td> </tr> <tr> <td style="text-align: center;">5 - 8</td> <td style="text-align: center;">III</td> </tr> <tr> <td style="text-align: center;">9 - 14</td> <td style="text-align: center;">IV</td> </tr> <tr> <td style="text-align: center;">15 - 18</td> <td style="text-align: center;">V</td> </tr> <tr> <td style="text-align: center;">19+</td> <td style="text-align: center;">VI</td> </tr> </table>	Points	Level	0	I	1 - 4	II	5 - 8	III	9 - 14	IV	15 - 18	V	19+	VI	<b>PRIOR RECORD LEVEL</b> ▶ <span style="border: 1px solid black; display: inline-block; width: 40px; height: 20px; vertical-align: middle;"></span>
No. Of Prior Convictions	Level																								
0	I																								
1 - 4	II																								
5+	III																								
Points	Level																								
0	I																								
1 - 4	II																								
5 - 8	III																								
9 - 14	IV																								
15 - 18	V																								
19+	VI																								
<input type="checkbox"/> The Court has determined the number of prior convictions to be _____ and the level to be as shown above.		<input type="checkbox"/> The Court finds the prior convictions, prior record points and the prior record level of the defendant to be as shown herein.																							
<input type="checkbox"/> In making this determination, the Court has relied upon the State's evidence of the defendant's prior convictions from a computer printout of DCI-CCH.		<input type="checkbox"/> In making this determination, the Court has relied upon the State's evidence of the defendant's prior convictions from a computer printout of DCI-CCH.																							
<input type="checkbox"/> For each out-of-state conviction listed in Section IV on the reverse, the Court finds by a preponderance of the evidence that the offense is substantially similar to a North Carolina offense and that the North Carolina classification assigned to this offense in Section IV is correct.		<input type="checkbox"/> In finding a prior record level point under G.S. 15A-1340.14(b)(7), the Court has relied on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission to this issue.																							
<input type="checkbox"/> The Court finds that the State and the defendant have stipulated in open court to the prior convictions, points and record level.																									
Date _____	Name Of Presiding Judge (Type Or Print) _____	Signature Of Presiding Judge _____																							



**Table 4**  
**Misdemeanor Sentence Dispositions and Prison/Jail Term Ranges**

A = active punishment I = intermediate punishment C = community punishment

	<b>Level I: No Prior Convictions</b>	<b>Level II: 1 to 4 Prior Convictions</b>	<b>Level III: 5 or More Prior Convictions</b>
Misdemeanor Class A1 (fine discretionary)	C/I/A 1–60 days	C/I/A 1–75 days	C/I/A 1–150 days
Misdemeanor Class 1 (fine discretionary)	C 1–45 days	C/I/A 1–45 days	C/I/A 1–120 days
Misdemeanor Class 2 (maximum fine \$1,000)	C 1–30 days	C/I 1–45 days	C/I/A 1–60 days
Misdemeanor Class 3 (maximum fine \$200)	C 1–10 days	C/I 1–15 days	C/I/A 1–20 days

Source: G.S. 15A-1340.23(b), (c).