

New Details about Advanced Supervised Release

Author : Jamie Markham

Categories : [Sentencing](#), [Uncategorized](#)

Tagged as : [advanced supervised release](#), [justice reinvestment](#), [prison](#), [Sentencing](#)

Date : October 8, 2012

The [Justice Reinvestment Act](#) created a new early release program called Advanced Supervised Release (ASR). In short, the law allows certain prison inmates to get out of prison early if they complete “risk reduction incentives” while they are incarcerated. I wrote about the basics of the law [here](#), and covered a glitch in the law’s effective date [here](#). Based on the frequency of questions I’m getting about ASR the law is starting to be used more often. As of a few weeks ago, about 70 sentences entered around the state have included an ASR date. Those cases come out of fewer than 20 counties, with Gaston, Johnston, and Henderson accounting for over half.

Some judges and prosecutors have said they won’t feel comfortable ordering ASR dates until they learn more about the risk reduction incentives that ASR inmates will be required to complete in prison. By statute, the programs are required to consist of treatment, education, and rehabilitative programs designed to reduce prisoners’ likelihood of reoffending. [G.S. 15A-1340.18\(b\)](#). Up until recently I didn’t have much additional information to offer about the nature of the actual incentive programs. I had been told that for some inmates, risk reduction incentives would largely be the same types of activities that net a person earned time, like work around the prison unit.

A few weeks ago the Division of Adult Correction published its first policy on ASR. Available [here](#), it sheds a little more light on what risk reduction incentives an ASR inmate will be expected to complete. ASR inmates will undergo an assessment during admission processing that will determine a risk level and identify criminogenic needs. (The assessment is very similar to that used for probationers, described [here](#).) Based on the results of the assessment, the inmate will be assigned to complete “individually prescribed Risk Reduction Incentives” that fall into one of three categories: programs, services, or activities. The policy itself does not provide examples from each category, but programs would include things like cognitive behavioral interventions (like [this curriculum](#)) and substance abuse treatment (like the curriculum described [here](#)), whereas services and activities would tend to be things that involved less direct interaction with prison staff, like Alcoholics Anonymous. The general idea is to preserve scarce programmatic resources for those whose assessments show the most acute needs. In fact, my understanding is that for a defendant with demonstrated needs, being ordered into ASR is a way to get top priority for access to programs—something for the court to consider when crafting an appropriate judgment.

The policy acknowledges the statutory provision that requires an inmate to be released on his ASR date even if he or she cannot complete the assigned risk reduction incentives, if the failure to complete them is not the inmate’s fault. [G.S. 15A-1340.18\(e\)](#). A situation I have heard about more than once that illustrates the no fault provision is a defendant who, at sentencing, has pretrial jail credit in excess of his or her ASR date. The defendant obviously has not completed any risk reduction incentives in the jail, but DAC is allowing immediate release onto ASR because the failure to complete incentives was not the defendant’s fault.

The policy also lays out the procedure for removing an inmate from the program for failing to participate in prescribed incentives or incurring certain disciplinary infractions. Soon we’ll have data on how many defendants ordered into ASR actually complete their assigned incentives, and eventually we’ll be able to report on whether those inmates have lower recidivism rates. In the meantime, I would love to hear from you about how ASR is being talked about and used around the state.