

PLACE OF CONFINEMENT FOR SENTENCES IMPOSED ON/AFTER OCTOBER 1, 2014

	Felony	Misdemeanor ≤ 90 days	Misdemeanor > 90 days¹	DWI²
Active (continuous)³	DAC ⁴	Local jail, ⁵ unless the court is ordering work release from a particular facility ⁶	SMCP, ⁷ unless the court is ordering work release from a particular facility ⁸	<p><i>Sentences imposed on/after 1/1/2015:</i> SMCP, unless the court is ordering work release from a particular facility⁹</p> <p><i>Sentences imposed before 1/1/2015:</i>¹⁰</p> <ul style="list-style-type: none"> • Defendants with no prior DWI or jail imprisonment for a Chapter 20 offense: Local jail • Defendants with a prior DWI or prior jail imprisonment for a Chapter 20 offense: <ul style="list-style-type: none"> - 90 days or less: Local jail - 91-180 days: Local jail or DAC, in court's discretion - More than 180 days: DAC
Active (noncontinuous)	N/A	N/A	N/A	SMCP ¹¹
Split sentence at sentencing (continuous)¹²	Local jail or DAC	Local jail or treatment facility	Local jail or treatment facility	<p><i>Sentences imposed on/after 1/1/2015:</i> Local jail or treatment facility</p> <p><i>Sentences imposed before 1/1/2015:</i> Local jail or DAC</p>
Split sentence at sentencing (noncontinuous)¹³	Local jail or treatment facility			
Split sentence as a modification of probation (continuous)¹⁴	Local jail or DAC			
Split sentence as a modification of probation (noncontinuous)¹⁵	Local jail or treatment facility			
CRV¹⁶	<p><i>Probation violations on or after 10/1/14:</i> DAC</p> <p><i>Probation violations before 10/1/14:</i> Place of confinement indicated in the judgment suspending sentence</p>	Place of confinement indicated in the judgment suspending sentence	Place of confinement indicated in the judgment suspending sentence	Place of confinement indicated in the judgment suspending sentence
Quick dip¹⁷	Local jail	Local jail	Local jail	N/A
Nonpayment of fine¹⁸	DAC	Local jail ¹⁹		N/A

Unless otherwise indicated, when two options are shown, the judge may choose between them in his or her discretion.

¹ It is unclear to what extent the sentencing judge should take consecutive sentences into account when determining whether a misdemeanor sentence exceeds 90 days. There is no mention of multiple sentences in the statutory provision setting out the place-of-confinement rule. To the contrary, it refers to “a misdemeanor” in the singular, suggesting that consecutive sentences should not be aggregated when determining where a sentence will be served.

² “DWI” here refers to all offenses sentenced under G.S. 20-179, not just misdemeanor impaired driving under G.S. 20-138.1. This includes commercial impaired driving (G.S. 20-138.2), and second or subsequent convictions of operating a commercial vehicle after consuming alcohol (G.S. 20-138.2A) or operating a school bus, activity bus, child care vehicle, or emergency/law enforcement vehicle after consuming alcohol (G.S. 20-138.2B).

³ G.S. 15A-1352.

⁴ Division of Adult Correction of the N.C. Department of Public Safety.

⁵ When the jail is overcrowded or otherwise unable to accommodate additional prisoners, inmates may be transferred to another jail or, in certain circumstances, to DAC, as provided in G.S. 148-32.1(b). A judge also has authority to sentence an inmate to the jail of an adjacent county when the local jail is unfit or insecure, G.S. 162-38, or has been destroyed by fire or other accident. G.S. 162-40.

⁶ Notwithstanding any other provision of law, the court may, with the defendant’s consent, order that the defendant be granted work release. The court may commit the defendant to a particular prison or jail facility in the county or to a jail in another county to facilitate the work release arrangement. If the commitment is to a jail in another county, the sentencing court must first get the consent of the sheriff or board of commissioners there. G.S. 15A-1352(d).

⁷ Statewide Misdemeanant Confinement Program.

⁸ See *supra* note 6.

⁹ See *supra* note 6.

¹⁰ G.S. 20-176(c1).

¹¹ G.S. 20-179(s).

¹² G.S. 15A-1351(a).

¹³ *Id.*

¹⁴ G.S. 15A-1344(e).

¹⁵ *Id.*

¹⁶ Confinement in response to violation. G.S. 15A-1344(d2).

¹⁷ G.S. 15A-1343(a1)(3) (short-term confinement ordered by a judge); G.S. 15A-1343.2 (short-term confinement ordered by a probation officer through delegated authority).

¹⁸ G.S. 15A-1352.

¹⁹ This confinement is for cases in which the law provides no term of imprisonment for the offense or for cases in which no suspended sentence was imposed, G.S. 15A-1364(b), and so there is no distinction to be made based on sentence length. In other words, the rule is the same for all misdemeanors other than DWI (for which a fine-only sentence is not permitted).