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MEMORANDUM

TO: Superior Court Judges
District Court Judges
Magistrates
Clerks of Superior Court
District Attorneys
Public Defenders

FROM: Troy D. Page
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DATE: November 21, 2013

RE: 2013 Sentencing Legislation[1]

The 2013 General Assembly enacted numerous bills affecting the sentencing of criminal offenses and infractions. Unlike recent sessions, there was no large, omnibus bill concerning sentencing in 2013; each of the bills discussed in this memo amended only limited features of the sentencing process, some of which apply only to a specific offense or subset of offenses. This memo summarizes each bill in order of bill number. However, because some of the bills amend multiple points in the sentencing process, a table provided in an appendix at the end of this memo summarizes all of the changes discussed herein by the stage of the sentencing process at which they occur.

The effective date of each change is addressed below. Many of the changes apply to offenses committed on or after December 1, 2013; the exceptions are noted in each bill's summary. Some of the provisions discussed already are in effect. Those that already have taken effect were addressed in other notices or memoranda from the Administrative Office of the Courts (NCAOC) earlier in the year, but they are repeated here briefly so that all of the significant sentencing changes for 2013 will be addressed in one place.

I. Bill Summaries

A. HB 24, DV/Abuser Treatment Program/Amendments (S.L. 2013-123)[2]

HB 24 makes two changes to sentencing for criminal cases involving domestic violence: (i) it applied the 2012 expansion of the domestic violence finding under G.S. 15A-1382.1 to active sentences as well as suspended ones; and (ii) it amends the regular condition of probation under G.S. 15A-1343(b)(12) that domestic violence offenders attend an abuser treatment program. The change to the domestic violence finding was effective immediately upon HB 24's enactment on June 19, 2013; the change to the abuser treatment condition of probation will be effective for persons placed on probation on or after December 1, 2013 (not limited to offenses committed on or after that date). Both changes were discussed in detail in the memo of June 25, 2013, "2013 Criminal Domestic Violence Sentencing Changes - S.L. 2013-123."[3]

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[1] For future reference, this memo will be posted on the NCAOC's intranet site for Judicial Branch personnel at https://cis1.nccourts.org/intranet/aoc/legalservices/legalmemos/criminal.jsp
[2] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H24v6.pdf.
[3] Available to Judicial Branch personnel at https://cis1.nccourts.org/intranet/aoc/legalservices/legalmemos/criminal.jsp.

As noted in the June memo, the criminal judgment forms are being updated in the Fall cycle of form revisions to accommodate the legislative changes. The amended domestic violence finding was published on the active judgment forms (AOC-CR-601 and AOC-CR-602) on October 1, 2013. The amended abuser treatment condition of probation will be published on form AOC-CR-603 on December 1 in the section for conditions of probation related to domestic violence on Page Two, Side Two.[4]

B. HB 29, Methamphetamine/Offense/Penalties (S.L. 2013-124)[5]

Effective for offenses committed on or after December 1, 2013, HB 29 enacts new sentencing enhancements under G.S. 15A-1340.16D(a1) for defendants convicted of the manufacture of methamphetamine under G.S. 90-95(b)(1a).

The two new enhancements apply when a minor under the age of 18 or a "disabled or elder adult" (as defined in G.S. 14-32.3(d)) resided or was present where the methamphetamine was being manufactured. Both enhancements (for minors under subdivision (a1)(1) and disabled or elder adults under (a1)(2)) increase the minimum sentence by 24 months, with a maximum sentence corresponding to the increased minimum sentence. New subdivision (a1)(3) sets out a cumulative version of the enhancement when "[a] minor and a disabled or elder adult resided on the property, or were present at a location where methamphetamine was being manufactured" (emphasis added), for which the increase to the minimum sentence is 48 months. Further, new subsection (a3) of G.S. 15A-1340.16D provides that all three of the new enhancements under subsection (a1) are cumulative with the existing 24-month enhancement under G.S. 15A-1340.16D(a) for manufacture of methamphetamine that results in serious injury to certain law enforcement and emergency personnel during the discharge of their duties.

In addition to its substantive changes, HB 29 also amends the procedural subsections (b) and (c) of G.S. 15A-1340.16D to provide for pleading and proof of the new enhancements in the same manner as the existing enhancement for injury to law enforcement and emergency personnel.

C. HB 75, Kilah's Law/Increase Child Abuse Penalties (S.L. 2013-35)[6]

In addition to increasing penalties for child abuse offenses as stated in its title, HB 75 enacted G.S. 15A-1382.1(a1). Effective for judgments entered on or after December 1, 2013 (not limited to offenses committed on or after that date), the new subsection (a1) requires that the court include a finding in its judgment of conviction "[w]hen a defendant is found guilty of an offense involving child abuse or is found guilty of an offense involving assault or any of the acts as defined in G.S. 50B-1(a) and the offense was committed against a minor." Subsection (a1) further requires the clerk to "ensure that the official record of the defendant's conviction includes the court's determination, so that any inquiry into the defendant's criminal record will reflect that the offense involved child abuse."

An optional finding of child abuse (similar to the existing findings for domestic violence offenses and gang offenses) was added to most of the criminal judgment forms with the versions published on October 1, 2013, with a usage note about its delayed effective date of December 1.[7] A new field for the clerk's record of that finding will be added to the Automated Criminal/Infraction System (ACIS) as of December 1.[8]

D. HB 327, Fire and Rescue Pension Provisions of 2013 (S.L. 2013-284)[9]

Most of HB 327 enacts changes to the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund, but section 2 near the end of the bill enacts a new aggravating factor for felony sentencing under G.S. 15A-1340.16(d)(9a), effective for offenses committed on or after December 1, 2013, if the offense

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[4] Because HB 24's change to the abuser treatment condition applies to "defendants placed on supervised or unsupervised probation on or after" December 1, 2013, it applies regardless of the date of offense and will appear on all three versions (A, B, and C) of the CR-603.
[5] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H29v3.pdf.
[6] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H75v3.pdf.
[7] See the e-mail of September 26, 2013, "AOC criminal form changes - October 2013." Because other changes to those forms took effect on October 1, the child abuse finding was added early in order to avoid changing the forms again two months later to accommodate it. Two additional forms that must include the finding (AOC-CR-604A and AOC-CR-604B) were not updated on October 1, because they had no substantive changes taking effect at that time. Updated versions of those two forms will be published on December 1 with the child abuse finding.
[8] The ACIS team will distribute additional information about the new field for the child abuse finding prior to December 1.
[9] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H327v6.pdf. The aggravating factor discussed in this memo is enacted in section 2.(b) on page 11, near the end of the bill. The rest of the bill has no direct effect on criminal proceedings.

was committed by "a firefighter or rescue squad worker, and the offense is directly related to service as a firefighter or rescue squad worker."[10]

The new factor was added to forms AOC-CR-605 (findings of aggravating and mitigating factors) and AOC-CR-614 (notice of aggravating factors) on October 1, 2013, with a usage note about its delayed effective date of December 1.[11]

E. HB 361, Justice Reinvestment Technical Corrections (S.L. 2013-101)[12]

As stated in its title, HB 361 enacted several technical corrections to statutes that were enacted or amended by 2011's Justice Reinvestment Act[13] and subsequent bills. All of the corrections enacted by HB 361 already are in effect. Most took effect immediately when the bill was signed on June 12, 2013.[14] Several of the NCAOC's criminal forms have been updated this Fall to account for two of the changes from HB 361:

- All of the judgment forms that contain the regular conditions of probation and apply to offenses committed on or after December 1, 2011 (the "C" versions of the relevant forms) were updated on October 1, 2013, to relocate the regular condition of probation not to abscond from the list of conditions applicable to all probationers to the list of conditions applicable only to those on supervised probation;[15] and
- An update of form AOC-CR-609 (probation modification/termination) will be published on December 1 with an amended usage note for the court in the section for Confinement in Response to Violation (CRV, on Page Two, Side Two) to clarify that the CRV period must be for "consecutive days."

A final change in HB 361 (minor corrections to three maximum sentences under G.S. 15A-1340.17(e)) is effective for offenses committed on or after October 1, 2013.[16] The N.C. Sentencing and Policy Advisory Commission has produced an updated version of the felony punishment chart that includes the corrected maximum sentences for offenses committed on or after October 1, 2013.[17]

F. HB 450, Criminal Contempt/Bail Procedure (S.L. 2013-303)[18]

Currently, when a person is found in criminal contempt, G.S. 5A-17 provides that appeals from that judgment operate in the same manner as appeals in criminal actions, except that an appeal from any judicial official inferior to a superior court judge is for a *de novo* hearing before a superior court judge. The current G.S. 5A-17 does not address the question of pretrial release while the appeal is pending.

Effective December 1, 2013, HB 450 amends G.S. 5A-17 to add a requirement that upon an appeal from a judgment of criminal contempt that imposes confinement (as opposed to censure or a fine), the contemnor is entitled to a bail hearing. This change is effective for any judgment of criminal contempt imposing confinement entered on or after December 1, 2013, and is discussed in more detail in the memo of November 20, 2013, "Pretrial Release Legislation - December 2013."[19] Effective December 1, the NCAOC forms that provide judgments for criminal contempt will include two changes to accommodate the amended G.S. 5A-17:

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[10] In addition to the fact that it allows the court to sentence in the aggravated range for the applicable cell of the felony punishment chart, a finding of the new aggravating factor may trigger the loss of retirement benefits under the Firefighters' and Rescue Squad Workers' Pension Fund. However, HB 327 did not enact any obligation for any particular party to notify the Pension Fund of a conviction in which the jury or court finds the new aggravating factor, so the sentencing court may need to direct some party to provide that notice at the time of conviction. Contrast the court's duty under G.S. 15A-1340.16(f) to notify the State Treasurer when conviction of a public employee or official includes a finding of the aggravating factor in subdivision (d)(9) of the statute.

[11] See the e-mail of September 26, 2013, "AOC criminal form changes - October 2013." The new aggravating factor was added to the forms in October because of other changes that took effect on October 1 (see factors No. 19a and 19b on the same forms), in order to avoid changing the form again two months later for the new firefighter/rescue squad factor effective December 1.

[12] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H361v4.pdf.

[13] S.L. 2011-192 (HB 642), available at http://www.ncleg.net/Sessions/2011/Bills/House/PDF/H642v9.pdf.

[14] See the memo of June 13, 2013, "Justice Reinvestment Technical Corrections - S.L. 2013-101," available to Judicial Branch personnel at https://cis1.nccourts.org/intranet/aoc/legalservices/legalmemos/criminal.jsp.

[15] See the e-mail of September 26, 2013, "AOC criminal form changes - October 2013."

[16] See also the e-mail of October 1, 2013, "HB 361 - Oct 1 felony punishment chart change."

[17] The Sentencing Commission's current punishment charts are at http://www.nccourts.org/Courts/CRS/Councils/spac/Sentencing/.

[18] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H450v4.pdf.

[19] Available to Judicial Branch personnel at https://cis1.nccourts.org/intranet/aoc/legalservices/legalmemos/criminal.jsp.

- a usage note to alert judicial officials to the need for a bail hearing when imposing confinement for criminal contempt; and
- removal of the existing option for setting or modifying conditions of release on the contempt judgment forms, because the amended G.S. 5A-17 prevents the judicial official who imposed the confinement from setting the conditions of release for the first 24 hours.

G. HB 641, Amend Conditional Discharge/1st Drug Offense (S.L. 2013-210)[20]

Effective for convictions on or after January 1, 2012, the Justice Reinvestment Act (JRA)[21] of 2011 amended G.S. 90-96(a) to make conditional discharge mandatory for eligible drug offenders. Since that date, the court has had no authority to enter an actual judgment of conviction for an eligible offender, unless the offender refuses to consent to the conditional discharge.[22]

Effective for offenses committed on or after December 1, 2013, HB 641 restores some discretion to the court to sentence an offender who otherwise is eligible for conditional discharge under G.S. 90-96(a). The amended subsection (a) will continue to provide that conditional discharge is mandatory for a consenting defendant, "unless the court determines with a written finding, and with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for factors related to the offense."

To accommodate the new mandatory conditional discharge in 2012, the NCAOC added a finding to all of the judgment forms for structured sentencing offenses to memorialize when a defendant refused to consent to a conditional discharge. On the judgment forms for offenses committed on or after December 1, 2013 (the "C" versions of the forms, applicable to all offenses committed on or after December 1, 2011), the NCAOC has amended that finding to reflect the two different grounds for imposing a judgment of conviction when an offender otherwise was eligible for a conditional discharge under G.S. 90-96(a): (i) that the defendant refused to consent; and (ii) that the court found the offender "inappropriate" for the discharge. The amended finding was added to the relevant forms with the versions published on October 1, 2013, with a usage note about its application only to offenses committed on or after December 1, 2013.[23]

H. HB 936, Wildlife Poacher Reward Fund (S.L. 2013-380)[24]

In addition to making changes to the penalties for numerous boating and wildlife offenses in Chapters 75A and 113,[25] HB 936 enacts the "Wildlife Poacher Reward Fund" in G.S. 113-294.1, for the purpose of providing rewards "to persons who provide information to the Wildlife Resources Commission or to law enforcement authorities that results in the arrest and conviction of persons who have committed criminal offenses involving the taking, injury, removal, damage, or destruction of wildlife resources."

As one of the sources of that fund, effective for offenses committed on or after December 1, 2013, HB 936 amends the special condition of probation under G.S. 15A-1343(b1)(5). The special condition currently provides that the court may order a probationer to reimburse the Department of Environment and Natural Resources (DENR) or the Wildlife Resources Commission (WRC) for any "replacement costs" and investigative expenses for an offense involving injury to natural or wildlife resources. HB 936 amends the special condition to provide that the court also may order the probationer to compensate an agency "for any

[20] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H641v5.pdf.
[21] S.L. 2011-192 (HB 642), available at http://www.ncleg.net/Sessions/2011/Bills/House/PDF/H642v9.pdf.
[22] For a more detailed discussion of the changes to G.S. 90-96 in the JRA, see the memo of December 19, 2011, "2012 Changes to Conditional Discharge and Expunction of Drug Offenses, G.S. 90-96 and 15A-145.2," available to Judicial Branch personnel at https://cis1.nccourts.org/intranet/aoc/legalservices/legalmemos/criminal.jsp.
[23] See the e-mail of September 26, 2013, "AOC criminal form changes - October 2013." Because other changes to those forms took effect on October 1, the amended finding was published early in order to avoid changing the forms again two months later to accommodate it.
[24] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H936v5.pdf.
[25] Because of the number of offenses affected, the entire list is not detailed here. Some of the offenses in question were amended by a combination of bills: HB 936 (wildlife changes); SB 182 (criminal procedure changes/limit appeals); and SB 402 (the 2013 appropriations act). The final versions of some of the affected statutes do not appear in any single bill; where more than one bill amends the same offense statute, the Revisor of Statutes has merged the changes to give effect to all of them, but until the final, codified versions are published court officials should review all three bills before relying on any one bill as the authoritative change to a particular offense. The NCAOC will update the offense codes in its automated systems, the citation forms, and the affected waiver lists according to the combined product of the three bills by December 1 and will provide separate notice of those updates in advance of the effective date.

reward paid for information leading to the arrest and conviction of the offender."[26]

I. HB 937, Amend Various Firearm Laws (S.L. 2013-369)[27]

Most of the changes enacted by HB 937 were effective October 1, 2013, as discussed in the memo of September 24, 2013, "2013 Omnibus Firearm Legislation, S.L. 2013-369 (HB 937)."[28] Among its many provisions, HB 937 included three changes relevant to sentencing:

- the new status offense of "armed habitual felon" in a new Article 3D of Chapter 14 of the General Statutes, effective for offenses committed on or after October 1, 2013, requiring punishment of a recidivist with a second or subsequent "firearm-related felony" at an enhanced offense class;
- expansion of the existing felony firearm sentencing enhancement in G.S. 15A-1340.16A to apply to all felony classes for offenses committed on or after October 1, 2013; and
- a new required finding in the court's judgment of conviction when the defendant used or displayed a firearm in the commission of a felony, effective for judgments entered on or after October 1, 2013, pursuant to G.S. 15A-1382.2.

Each of the sentencing changes above was discussed in detail in the September memo. The felony judgment forms were updated to account for these changes with the versions published on October 1.[29]

J. SB 182, Limit Appeals to Superior Court (S.L. 2013-385)[30]

Effective December 1, 2013, SB 182 amends several statutes that govern appeals, motions for appropriate relief, and resentencing after appellate review.[31]

1. Limit Infraction Appeals from District Court

Effective for offenses committed on or after December 1, 2013,[32] section 1 of SB 182 repeals subsection (a) of G.S. 15A-1115. Subsection (a) currently provides that a defendant found responsible for an infraction in district court after denying responsibility may appeal for a *de novo* hearing in the superior court. SB 182 does not alter or repeal subsection (b) of G.S. 15A-1115, which will continue to provide that appeals from infractions disposed in superior court pursuant to the superior court's original jurisdiction under G.S. 7A-271(d) are "as provided for criminal actions in superior court" (*i.e.*, to the appellate division).

The effect of the repeal of G.S. 15A-1115(a) is unclear. Although the short title of SB 182 states only an intent to "limit" appeals to superior court, the full title the bill begins, "AN ACT TO ELIMINATE APPEALS FOR INFRACTIONS," suggesting that the intent was to eliminate entirely the statutory right of appeal from a finding of responsibility for an infraction in district court (notwithstanding that it left intact the statutory right of

[26] Because it is imposed infrequently, the special condition under subdivision (b1)(5) does not appear on any of the NCAOC's criminal judgment forms. When the court imposes reimbursement for replacement costs, investigative expenses or rewards under subdivision (b1)(5), it should be entered in the blank space for "Other" special conditions of probation on the relevant judgment form.
[27] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H937v6.pdf.
[28] Available to Judicial Branch personnel at https://cis1.nccourts.org/intranet/aoc/legalservices/legalmemos/criminal.jsp.
[29] See the September 24 memo and the e-mail of September 26, 2013, "AOC criminal form changes - October 2013" for details on the changes to the felony judgment forms for HB 937.
[30] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S182v7.pdf.
[31] SB 182 also amends several offense statutes to change the offense classes and penalties applicable to certain motor vehicle and marine fisheries offenses, including some reductions of some criminal offenses to infractions. The changes to the offenses in question are effective for offenses committed on or after December 1, 2013. Because of the number of offenses affected, the entire list is not detailed here. In addition, some of the offenses in question were amended by a combination of bills: HB 936 (wildlife changes); SB 182 (criminal procedure changes/limit appeals); and SB 402 (the 2013 appropriations act). The final versions of some of the affected statutes do not appear in any single bill; where more than one bill amends the same offense statute, the Revisor of Statutes has merged the changes to give effect to all of them, but until the final, codified versions are published court officials should review all three bills before relying on any one bill as the authoritative change to a particular offense. The NCAOC will update the offense codes in its automated systems, the citation forms, and the affected waiver lists according to the combined product of the three bills by December 1 and will provide separate notice of those updates in advance of the effective date.
[32] The effective date of section 1 is not set out with specificity, because the effective date provision of SB 182, section 7, lists four different qualifiers for its effective date of December 1: "offenses committed," "probation violations occurring," "motions filed," and "resentencing hearings held." Section 7 does not specify which of those four qualifiers applies to each of the other sections of the bill, but the context of each section appears to be clear enough. Because section 1 concerns only the statutory right of appeal from a finding of responsibility for infractions, only one of the four qualifiers for the effective date seems contextually appropriate: "offenses committed."

appeal from superior court in subsection (b), as noted above). However, SB 182 did not amend or clarify G.S. 15A-1111, found in the same article as G.S. 15A-1115. G.S. 15A-1111 provides:

> The procedure for the disposition of an infraction, as defined in G.S. 14-3.1, is as provided in this Article. If a question of procedure is not governed by this Article, the procedures applicable to the conduct of pretrial and trial proceedings for misdemeanors in district court are applicable unless the procedure is clearly inapplicable to the hearing of an infraction.

With the repeal of G.S. 15A-1115(a) for offenses committed on or after December 1, Article 66 will contain no statute addressing the specific question of an appeal from a finding of responsibility in district court, so any such appeal will be "not governed by this Article [66]." In the absence of a specific provision for such appeals, it is unclear whether or not G.S. 15A-1111 then requires that such an appeal be treated in the same manner as a misdemeanor disposed in district court, for which G.S. 15A-1431 provides a right of appeal to the superior court for a trial *de novo* before a jury. However, because that application of G.S. 15A-1111 would expand the right of appeal from a finding of responsibility for an infraction in district court[33] - contrary to the stated intent of SB 182's title to "eliminate" such appeals - the better interpretation may be that G.S. 15A-1111's application to "pretrial and trial proceedings" excludes post-trial proceedings like appeals.

Further, SB 182 does not give the courts any clear direction about how to proceed when a defendant gives notice of appeal from a finding of responsibility in district court for an infraction committed on or after December 1, 2013. Even assuming no such right of appeal will exist for infractions committed on or after December 1, if a defendant files notice of appeal to the superior court, the clerk should transfer the case to the superior court as if the appeal were proper. The clerk has no authority to rule on the validity of an appeal, so it will be up to the court to determine whether or not the defendant has a valid right of appeal and - if not - to dismiss the appeal. If notice of appeal is given in open court before the district court, the clerk should ask the presiding judge for direction about whether or not to transfer the case to superior court. If the court directs the clerk not to docket the appeal in superior court, the clerk should note that directive in the minutes and place a copy in the case file.

Finally, SB 182 does not address some scenarios in which an infraction might be appealed to the superior court as part of a valid appeal of a related misdemeanor. As noted above, it is unclear whether the court should apply the fallback provision of G.S. 15A-1111 (treating infractions as misdemeanors for the purpose of appeal) or instead sever the infraction from the related misdemeanor so that the misdemeanor appeal can proceed independently. For example:

- SB 182 fails to address an appeal to superior court from a misdemeanor conviction in district court, when an infraction was consolidated for judgment with the misdemeanor.

  G.S. 15A-1431 provides for appeal from a "judgment" (not selective charges) and directs that the clerk transfer the "case" (suggesting all charges covered by a single judgment) to the superior court. This view would suggest that the superior court assumes jurisdiction over the infraction for the purposes of the appeal, contrary to the stated intent of SB 182 to "eliminate" such appeals. If the court determines that appeal of the infraction is impermissible, it may be necessary to remand the infraction to the district court for entry of a judgment on the infraction, only, allowing the misdemeanor appeal to proceed independently in superior court.

- SB 182 also fails to address infractions for which the State took a voluntary dismissal in district court as part of a plea arrangement for a related misdemeanor. G.S. 15A-1431(b) currently provides:

  > Upon the docketing in the superior court of an appeal from a judgment imposed pursuant to a plea arrangement between the State and the defendant, the jurisdiction of the superior court over any misdemeanor dismissed, reduced, or modified pursuant to that plea arrangement shall be the same as was had by the district court prior to the plea arrangement.

[33] G.S. 15A-1115(a) currently provides a statutory right of appeal only for a defendant who has denied responsibility in district court. To apply G.S. 15A-1431 to findings of responsibility in district court generally would create a new statutory right of appeal even for defendants who had admitted responsibility.

> However, to apply G.S. 15A-1431 in order to reinstate dismissed infractions for purposes of the appeal would suggest that the court should interpret G.S. 15A-1111 to apply to such appeals from infractions (*i.e.*, treating them like misdemeanors in the absence of a specific provision to the contrary in Article 66). But as noted earlier, applying G.S. 15A-1431 to infractions disposed in the district court would appear to be contrary to the stated intent of SB 182, because to do so would grant a general right of appeal for infractions. If G.S. 15A-1431 does not provide a right of appeal for infractions in the same manner as for misdemeanors, then presumably it also does not apply to reinstate infractions dismissed pursuant to a plea agreement, in which case the dismissal of an infraction in the district court pursuant to such an agreement is an irreversible dismissal, even if the defendant then appeals from the misdemeanor judgment.

The discussion above is not intended to direct the trial courts in the proper interpretation of the repeal of G.S. 15A-1115(a); it is intended only to illustrate some of the ambiguities that may come before the court in infraction cases. Given the bill's lack of clarity, unless and until the General Assembly or the appellate division provides some direction, individual courts presented with infraction appeals will have to resolve the ambiguities based on the factual and procedural nature of the cases in question. Solely for the purposes of recordkeeping, as stated earlier, if a defendant gives notice of appeal from an infraction disposed in district court, and unless specifically ordered not to transfer the case, the clerk should calendar the appeal before the superior court so that the court can determine whether or not the appeal is proper.

2. No Appeal from Probation Revocation/Special Probation if Defendant Waives Revocation Hearing

Section 2 of SB 182 amends G.S. 15A-1347, which governs appeals from probation violation proceedings in which the court revokes the probation and activates the suspended sentence or imposes a period of special probation (a "split sentence").[34] For appeals from district court, G.S. 15A-1347 currently provides that the appeal is to superior court for a *de novo* revocation hearing.

For probation violations occurring on or after December 1, 2013, SB 182 amends G.S. 15A-1347 by codifying all of the current statute as a new subsection (a) and enacting a new subsection (b), applicable only to revocation proceedings in district court, which provides:

> (b) If a defendant waives a revocation hearing, the finding of a violation of probation, activation of sentence, or imposition of special probation may not be appealed to the superior court.

As with the repeal of G.S. 15A-1115(a) in SB 182's section 1, discussed above, it is unclear exactly how the courts should apply the new G.S. 15A-1347(b). It is unclear whether the district court should order that the case not be transferred to superior court (based on the lack of a statutory right of appeal) or if the district court nonetheless should note the appeal and allow the case to be transferred to superior court as before, deferring to the receiving court's determination about whether or not the appeal is proper. As noted above in the discussion of SB 182's section 1, if the clerk receives notice of appeal from a probation violation from the district court to the superior court, unless specifically ordered not to transfer the case, the clerk should docket the case on the superior court calendar so that the superior court can determine whether or not the appeal is valid.

3. Rule Against More Severe Sentence at Resentencing Inapplicable to Vacated Guilty Pleas

G.S. 15A-1335 currently provides generally that, when a sentence imposed in superior court is set aside on direct review or collateral attack, the court may not impose a more severe sentence for the same

[34] Note that G.S. 15A-1347 applies only when a violation hearing results in activation of a sentence or the imposition of special probation (a split sentence). The General Assembly has not provided a statutory right of appeal from the imposition of confinement in response to violation (CRV) under G.S. 15A-1344(d2), and the N.C. Court of Appeals held earlier this year that there is no right of appeal from a CRV. *State v. Romero*, ___ N.C. App. ___, 745 S.E.2d 364 (16 July 2013, opinion at http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMy8xMi0xNDk5LTEucGRm). For additional discussion of the *Romero* holding, see "No Appeal of Confinement in Response to Violation" by Professor Jamie Markham on the UNC School of Government's Criminal Law Blog at http://nccriminallaw.sog.unc.edu/?p=4356. Notwithstanding *Romero*, if a defendant gives notice of appeal from the imposition of a CRV, the NCAOC's advice is the same as discussed above for infraction appeals: the clerk should note the appeal, process it in the same manner as any other criminal appeal, and leave it to the court to determine whether or not the appeal is valid.

offense at resentencing. Effective for resentencing hearings held on or after December 1, 2013, section 3 of SB 182 amends G.S. 15A-1335 to provide that its limitations on resentencing do not apply for a defendant who pled guilty when the direct review or collateral attack results in a vacation of the guilty plea.

4. 2012 Timelines for MARs Repealed[35]

In 2012, the General Assembly amended G.S. 15A-1420, Motion for appropriate relief; procedure, to enact specific deadlines for action by the court on motions for appropriate relief (MARs). The changes applied to MARs that were pending on or filed on or after December 1, 2012.[36] The amended procedures were most detailed for MARs in non-capital cases under G.S. 15A-1420(b2), with the then-existing deadlines for court action on MARs in capital cases codified as a new subsection (b3). The 2012 act also amended G.S. 15A-1413 to provide for the senior resident superior court judge's or chief district court judge's assignment of an MAR to a judge empowered by that section to act upon it.

Effective for motions for appropriate relief filed on or after December 1, 2013, SB 182 repeals subsections (b2) and (b3) of G.S. 15A-1420, eliminating 2012's detailed procedures and deadlines within which the court must act on the motion.[37] The remainder of the 2012 changes to the MAR statutes will remain in effect, including the provisions for assignment of MARs under G.S. 15A-1413.

Therefore for any MAR filed in the trial division on or after December 1, 2013, the clerk "shall promptly bring the motion, or a copy of the motion, to the attention of the senior resident superior court judge or chief district court judge, as appropriate, for assignment to an appropriate judge pursuant to G.S. 15A-1413." G.S. 15A-1420(b1). The assigned judge then will handle the MAR's "review and administrative action, including, as may be appropriate, dismissal, calendaring for hearing, entry of a scheduling order for subsequent events in the case, or other appropriate actions." G.S. 15A-1413(d).

K. SB 402, Appropriations Act of 2013 (S.L. 2013-360)[38]

The 2013 appropriations act included three changes to sentencing.[39] The first (a cost change) was effective September 1, 2013. The latter two take effect for offenses committed on or after December 1, 2013.

1. Daily Fees for Electronic House Arrest

Effective for persons placed on house arrest with electronic monitoring on or after September 1, 2013,[40] section 16C.16 of SB 402 amended G.S. 15A-1343(c2) to require the assessment of a daily fee for persons placed on electronic house arrest (EHA) as a condition of probation. This change was discussed in detail in the memo of July 30, 2013, "2013 Legislative Changes for Court Costs and Fees."[41] The NCAOC's criminal judgment forms that contain the EHA condition of probation will be updated effective December 1 so that the text of the EHA condition on those forms refers to the probationer's obligation to pay the "fees" under G.S. 15A-1343(c2) (plural, meaning new daily fee and the existing, one-time fee assessed for the monitoring device at enrollment), replacing the forms' current, singular "fee."

2. Class 3 Misdemeanors – Defendants with Fewer than Four Prior Convictions

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[35] For another discussion of the changes described in this section, see "Remember Those Timelines for Non-Capital Motions for Appropriate Relief?" by Professor Jessica Smith on the UNC School of Government's Criminal Law Blog at http://nccriminallaw.sog.unc.edu/?p=4485.
[36] S.L. 2012-168, sec. 2, available at http://www.ncleg.net/Sessions/2011/Bills/Senate/PDF/S141v6.pdf.
[37] For MARs filed through the end of November 2013, the procedural requirements of G.S. 15A-1420(b2) and (b3) remain in effect.
[38] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S402v7.pdf. Note that the act is almost 350 pages long; the sentencing provisions discussed herein appear in section 16C.16 on p. 266 and section 18B.13, starting on p. 278.
[39] SB 402 also amends several offense statutes to change offense classes and the penalties applicable to those offenses. The changes to the offenses in question are effective for offenses committed on or after December 1, 2013. Because of the number of offenses affected, the entire list is not detailed here. In addition, some of the offenses in question were amended by a combination of bills: HB 936 (wildlife changes); SB 182 (criminal procedure changes/limit appeals); and SB 402 (the 2013 appropriations act). The final versions of some of the affected statutes do not appear in any single bill; where more than one bill amends the same offense statute, the Revisor of Statutes has merged the changes to give effect to all of them, but until the final, codified versions are published court officials should review all three bills before relying on any one bill as the authoritative change to a particular offense. The NCAOC will update the offense codes in its automated systems, the traffic citation forms and the affected waiver lists according to the combined product of the three bills by December 1 and will provide separate notice of those updates in advance of the effective date.
[40] The EHA daily fee enacted by SB 402, section 16C.16, initially was effective August 1, 2013, but that effective date subsequently was amended to September 1 by S.L. 2013-363, section 6.7.(c).
[41] Available at http://www.nccourts.org/Courts/Trial/Costs/.

Effective for offenses committed on or after December 1, 2013, section 18B.13 of SB 402 amends G.S. 15A-1340.23 to make two changes to the sentencing of persons convicted of Class 3 misdemeanors.

a. *Class 3, Prior Conviction Level II: Intermediate Punishment Allowed Only If Defendant Has Four Prior Convictions*

First, SB 402 amends the misdemeanor punishment chart of G.S. 15A-1340.23(c) for Class 3, Prior Conviction Level (PCL) II (for persons with 1-4 prior convictions). Currently, the grid cell for Class 3, PCL II allows the court to impose the dispositional options of either a community or an intermediate punishment (a "C/I" cell) for any defendant sentenced in that cell. Effective for offenses committed on or after December 1, 2013, the amended cell will allow an intermediate punishment only if the defendant has four prior convictions. If the defendant has 1-3 prior convictions, the court will be limited to a community punishment.

b. *Class 3 Sentence for Fewer than Four Prior Convictions Limited to a Fine, Only*

Second, SB 402 amends G.S. 15A-1340.23 to add a new subsection (d), which requires that unless otherwise provided for a specific offense, when the court imposes a sentence for a Class 3 misdemeanor for a defendant with "no more than three prior convictions," the judgment for that defendant "shall consist only of a fine." This change is effective for offenses committed on or after December 1, 2013.[42]

The new subsection (d) applies to any person "convicted of a Class 3 misdemeanor," so it is the class of the offense of conviction that controls, regardless of the class of the original charge. *E.g.*, a defendant with fewer than four prior convictions who was charged with first-degree trespass under G.S. 14-159.12 for an offense committed after December 1 (a Class 2 misdemeanor in most cases) but convicted only of second-degree trespass under G.S. 14-159.13 (Class 3) must be sentenced pursuant to the new subsection (d).

It is unclear whether or not the mandatory imposition of only a fine under G.S. 15A-1340.23(d) is a separate sentencing rule unto itself - apart from Structured Sentencing's existing dispositional options of community, intermediate, and active punishment - or simply a variation of the court's long-standing discretion to impose only a fine for any grid cell that authorizes a community punishment, whether for a felony, G.S. 15A-1340.17(b), or for a misdemeanor, G.S. 15A-1340.23(a).[43] However, given its placement in G.S. 15A-1340.23, all of the normal procedures for misdemeanor sentencing under Article 81B, Part 3, would appear to apply. *E.g.*, the defendant's number of prior convictions should be calculated as provided for other misdemeanors under G.S. 15A-1340.21; multiple Class 3 misdemeanors can be consolidated into a single judgment pursuant to G.S. 15A-1340.22(b), imposing only a fine for the consolidated judgment; and the maximum fine is $200.00, G.S. 15A-1340.23(b).

The new subsection (d) provides that the "judgment" (as opposed to "sentence") shall consist only of a fine. It is unclear whether or not this means that the entire judgment shall consist only of a fine, to the exclusion of other monetary obligations that might be imposed in a criminal judgment. The new G.S. 15A-1340.23(d) mirrors the existing G.S. 15A-1340.17(b) (felonies) and G.S. 15A-1340.23(b) (misdemeanors), which likewise provide that when the applicable grid cell allows a community punishment, "the judgment may consist of a fine only." To date, there appears to be no direction from the General Assembly or the appellate division as to whether or not the two existing provisions for fine-only community punishments prohibit the imposition of other monetary obligations incident to such sentences. If the existing provisions for fine-only "judgments" limit the court only by excluding a sentence of imprisonment (whether active or suspended), then presumably the new G.S. 15A-1340.23(d) operates in the same manner. The other monetary obligations that might apply include:

- Court costs. G.S. 7A-304(a) provides, "In every criminal case…, wherein the defendant is convicted…, the following costs shall be assessed and collected." Neither Chapter 7A, Article 28 (court costs), nor Chapter 15A, Article 81B (Structured Sentencing), provides an exemption from costs for sentences under the new G.S. 15A-1340.23(d).

[42] The effective date provision says only that it "becomes effective December 1, 2013," without referring to specific events like "offenses committed" or "judgments imposed," but the following sentence provides that "Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions." The new subsection (d) therefore applies only to offenses committed on or after December 1.

[43] For the purposes of recordkeeping and statistical reporting, the NCAOC will treat the new subsection (b) as a distinct type of sentence and will record it in ACIS differently from a community punishment that consists only of a fine. The ACIS team will provide instructions about the method for recording a fine-only sentence under G.S. 15A-1340.23(d) prior to the December 1 effective date.

- Attorney fees and the appointment fee. If the defendant was provided with appointed counsel. G.S. 7A-455 directs the court to enter a judgment for reimbursement for the costs of appointed counsel "in all cases," except those in which the defendant is not convicted. G.S. 7A-455.1 likewise provides for assessment of the appointment fee "[i]n every criminal case in which counsel is appointed at the trial level." As with court costs, neither Chapter 7A nor 15A appears to provide any exemption from this requirement for a fine-only sentence.

  If the court imposes attorney fees or the appointment fee for a Class 3 misdemeanant sentenced under G.S. 15A-1340.23(d), the fees should be docketed as civil judgments as soon as the conviction becomes final. G.S. 7A-455(c) provides that any judgment for attorney fees must be docketed on the date upon which a conviction becomes final, if the defendant is not ordered to pay attorney fees as a condition of probation. G.S. 7A-455.1(b) requires the same, because the appointment fee "shall be collected in the same manner as attorneys' fees are collected." Because defendants sentenced with only a fine under G.S. 15A-1340.23(d) cannot be placed on probation (a feature of a suspended sentence), attorney fees imposed for any such defendant will be docketed in the same manner as attorney fees for defendants with active sentences.

  Regardless of the court's determination of whether or not counsel fees may be assessed for defendants sentenced under G.S. 15A-1340.23(d), the number of defendants convicted of Class 3 misdemeanors with appointed counsel should decrease after December 1. Indigent Defense Services (IDS) has amended its appointment policies in light of G.S. 15A-1340.23(d) to require an initial determination of the prior record for an indigent defendant charged only with Class 3 misdemeanors who applies for appointed counsel, because any such defendant with fewer than four prior convictions will not meet the eligibility criteria for appointed counsel in G.S. 7A-451(a).[44]

- Restitution. G.S. 15A-1340.34(c) provides that for any offense of conviction that is not subject to the Victim's Rights Act (VRA),[45] "the court may, in addition to any other penalty authorized by law, require that the defendant make restitution to the victim or the victim's estate for any injuries or damages arising directly and proximately out of the offense committed by the defendant" (emphasis added). However, unlike attorney fees discussed above, there is no statutory authority to order any such restitution award docketed as a civil judgment.[46]

The NCAOC's Criminal Forms Subcommittee has adopted form AOC-CR-629, a new judgment form specific to fine-only judgments under the new G.S. 15A-1340.23(d).[47] As its title explains, the new form is intended for use only when sentencing pursuant to the new subsection (d): for Class 3 misdemeanors for a defendant with fewer than four prior convictions.[48] The new AOC-CR-629 will contain most of the same content as the NCAOC's other forms for judgments under Structured Sentencing, except:

- the demographic fields in the form's header include an option to indicate "Attorney Denied," for those cases in which the court denied an indigent defendant's application for appointed counsel

[44] See "Appointment and Payment of Counsel in Class 3 Misdemeanor Cases" at http://www.ncids.org/Rules%20&%20Procedures/Class3Misdemeanors.pdf and the e-mail to judges, clerks, and district attorneys from Danielle Carman on November 8, 2013, "IMPORTANT: Appointment/Payment of Counsel for Class 3 Misdemeanors." Questions about the new policy and its procedures should be directed to IDS at (919) 354-7200. Form AOC-CR-224 (appointment/denial of counsel) will be updated effective December 1 to account for denial of counsel for indigents ineligible for appointed counsel and for limited appointment of counsel when a defendant otherwise not entitled to counsel is in pretrial detention. For a discussion of the limited appointment, see the IDS policy. In addition, form AOC-CR-225 (non-capital fee application) will be updated to instruct defense counsel to include additional information about the offense(s) charged when submitting the fee application.

[45] G.S. 15A-1340.34(c) applies only when "[s]ubsection (b) of this section does not apply"; subsection (b) applies only when the defendant is being sentenced for an offense for which a victim would be entitled to restitution under "Article 46 of this Chapter." Article 46 is the Crime Victims' Rights Act, which applies only when the offense in question is listed in G.S. 15A-830(a)(7). There are no Class 3 misdemeanors covered by the VRA.

[46] The authority to docket a civil judgment for restitution is limited to VRA offenses. See G.S. 15A-1340.38(a), which requires that the restitution be awarded under G.S. 15A-1340.34(b) before it may be docketed civilly. As discussed in the preceding footnote, G.S. 15A-1340.34(b) applies only to VRA cases. For further discussions of the lack of authority to docket civil judgments for non-VRA cases, see *State v. Scott* (COA11-1182), 723 S.E.2d 173 (N.C. App. Apr. 3 2012) (unpublished), slip op. at http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMS0xMTgyLTEucGRm, and "Restitution and Civil Judgments" by Professor Jamie Markham on the UNC School of Government's Criminal Law Blog at http://nccriminallaw.sog.unc.edu/?p=391.

[47] The new CR-629 will be available on December 1 on the NCAOC website at http://www.nccourts.org/Forms/FormSearch.asp. The new form also will be added to the CourtFlow application; the CourtFlow team will notify users when the update with the new form is available.

[48] If imposing a fine-only punishment as a community punishment for a misdemeanor, the court should use existing form AOC-CR-604.

due to a lack of eligibility (to distinguish those cases from those in which a defendant proceeded *pro se* because he either was not indigent or waived counsel);

- the fields for recording Prior Conviction Level stop with Level II (for 1-3 convictions, only, as opposed to the normal range of 1-4 for PCL II);
- there are no fields for imposition of a term of imprisonment (whether active or suspended) or for any of the incidents of probation; and
- the row of fields for monetary obligations omits the fields for fees specific to conditions of probation, like electronic house arrest or community service.[49]

In addition to the content necessary to the imposition of a fine-only judgment, the AOC-CR-629 also will provide the additional findings required under various statutes (*e.g.*, that an offense involved domestic violence, gang activity, or child abuse), because when appropriate to the case, those findings are required for any judgment of conviction, regardless of the sentence imposed. The AOC-CR-629 also will contain a finding to memorialize the defendant's lack of consent or the court's finding of inappropriateness for a conditional discharge under G.S. 90-96(a) (*e.g.*, for Class 3 misdemeanor possession of marijuana under ½ oz., G.S. 90-95(a)(3)).

L. SB 659, MAP 21 Conforming Revisions (S.L. 2013-348)[50]

Among other changes to statutes governing ignition interlock devices, community service parole for impaired driving offenders, and the definition of "motor vehicle" for open-container offenses,[51] SB 659 amended G.S. 20-179(h) - Level Two punishment for impaired driving - to mandate 240 hours of community service as a condition of probation when:

- the Level Two punishment was based on a finding of grossly aggravating factor (1) (prior conviction for impaired driving) or (2) (driving with an impaired-driving license revocation);
- the prior conviction involving impaired driving occurred within five years before the date of the offense for which the defendant is being sentenced; and
- the court suspends all imprisonment (*i.e.*, no split sentence) and instead imposes abstention from alcohol as verified by a continuous alcohol monitoring (CAM) system.[52]

This change is effective for offenses committed on or after October 1, 2013. Because the special condition of probation for community service already appears on the NCAOC judgment form for impaired driving offenses, AOC-CR-310 (versions A, B, and C, though the change in SB 659 will be relevant only for judgments imposed on the CR-310C), there were no form changes required for this punishment change.

M. SB 683, Safe Harbor/Victims of Human Trafficking (S.L. 2013-368)[53]

Effective for offenses committed on or after October 1, 2013, SB 683 made significant changes to the statutes governing prostitution and related offenses.[54] Among the bill's many changes were three provisions specific to sentencing.

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[49] Note that the inclusion of fields on the CR-629 for monetary obligations other than just a fine does not reflect a determination by the NCAOC that the assessment of such obligations is appropriate for cases sentenced pursuant to G.S. 15A-1340.23(d). As discussed starting on page 9 of this memo, it is unclear whether or not the provision for a "judgment" of a fine, only, was intended to exclude the assessment of other monetary obligations. The fields were included on the CR-629 only so that there will be a consistent place for their entry, if the presiding judge determines that they may be assessed.

[50] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S659v3.pdf.

[51] For a more complete discussion of SB 659's changes effective October 1, 2013, see Matt Osborne's e-mail of September 23, 2013, "three motor vehicle bills taking effect on 10/01/2013."

[52] For a discussion of the option to impose CAM in lieu of any incarceration for Level Two (applicable only for offenses committed on or after December 1, 2012), see the memo of November 16, 2012, "2012 Continuous Alcohol Monitoring Legislation - Pretrial Release and Probation," available to Judicial Branch personnel at https://cis1.nccourts.org/intranet/aoc/legalservices/legalmemos/criminal.jsp. The discussion of CAM in lieu of incarceration is found on p. 7.

[53] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S683v7.pdf.

[54] For a more complete discussion of SB 683's changes, including the sentencing changes briefly summarized here, see the memo of September 25, 2013, "2013 Prostitution Law Changes – S.L. 2013-368," available to Judicial Branch personnel at https://cis1.nccourts.org/intranet/aoc/legalservices/legalmemos/criminal.jsp.

- Effective for offenses committed on or after October 1 under the amended G.S. 14-204, Prostitution, new G.S. 14-204(b)(1) mandates that the court "shall" defer judgment and place a first offender on probation pursuant to a conditional discharge. Form AOC-CR-628, published October 1, includes the necessary findings and orders for the new conditional discharge.[55]
- For felony sentencing, SB 683 enacted two new aggravating factors, G.S. 15A-1340.16(d)(19a) and (19b), which apply when a violation of G.S. 14-43.11 through 14-43.13 (human trafficking, involuntary servitude, or sexual servitude) involves multiple victims (new (19a)) or serious injury to a victim (new (19b)). The new factors were added to forms AOC-CR-605 (findings of aggravating and mitigating factors) and AOC-CR-614 (notice of aggravating factors) on October 1, 2013.[56]
- Finally, SB 683 repealed G.S. 14-208, which provided special rules for probation for prostitution offenses (as part of certain sentencing provisions specific to prostitution offenses). SB 683 then re-enacted and updated the probation provisions from the repealed G.S. 14-208 in a new statute, G.S. 14-205.4, which (i) authorizes the testing of convicted defendants for sexually-transmitted diseases and the imposition of probation conditions "as shall ensure medical treatment and prevent the spread of the infection" and (ii) prohibits the placement of a female defendant on probation "in the care or charge of any person except a female probation officer." Because of their specificity to this one type of offense, the conditions for disease testing and preventive measures do not appear on any of the NCAOC's judgment forms; when imposed, they must be added under the space for "Other" conditions of probation.

II. Conclusion

Court officials with questions or concerns about the sentencing changes described herein should feel free to contact me at Troy.D.Page@nccourts.org or at 919-890-1323. Questions about the use of NCAOC's automated systems, forms, and recordkeeping procedures should be directed to the NCAOC's field support staff for the official's county.[57] Law enforcement officers and officials of other agencies external to the Judicial Branch with questions about the impact of the legislation described herein should consult their agencies' counsel; counsel for the NCAOC cannot provide legal advice to entities outside the Judicial Branch.

[55] For details on the new conditional discharge under G.S. 14-204(b) and form AOC-CR-628 (available at http://www.nccourts.org/Forms/FormSearch.asp), see the memo in the preceding footnote and the e-mail of September 26, 2013, "AOC criminal form changes - October 2013."
[56] See the e-mail of September 26, 2013, in the preceding footnote.
[57] A directory of field support staff by county and district is available to Judicial Branch personnel at https://cis1.nccourts.org/intranet/directory/fieldservices.jsp.

2013 Sentencing Legislation
Appendix: Summary of Changes

The table below lists briefly the sentencing changes for 2013 discussed in this memo. The changes are listed in order of the step of the sentencing process at which they occur, with a short description of each change, the bill and section that enacted the change, and its effective date. Links to each bill's enacted version are provided in the footnotes of the individual discussions of each bill earlier in this memo.

Change	Bill	Effective Date
At Conviction (before entry of judgment)		
Prostitution: 1st offender conditional discharge mandatory.	SB 683, § 5	Oct. 1 (offenses committed)
90-96(a): conditional discharge is discretionary (again) if court finds it "inappropriate."	HB 641, § 1	Dec. 1 (offenses committed)
The Sentencing Judgment (findings)		
Domestic violence finding applies to active sentences.	HB 24, § 2	Jun. 19 (judgments entered)
Firearm finding required if defendant "used or displayed" firearm while committing a felony.	HB 937, § 27	Oct. 1 (judgments entered)
Child abuse finding required if offense involved child abuse or specified acts committed against a minor.	HB 75, § 2	Dec. 1 (judgments entered)
The Sentencing Judgment (incidents of sentence)		
Maximum sentences: minor technical corrections to max. sentences for minimums of 66, 86, or 216 months.	HB 361, § 6	Oct. 1 (offenses committed)
Armed habitual felon status for recidivist "firearm-related" felonies.	HB 937, § 26	Oct. 1 (offenses committed)
Firearm enhancement expanded to all felonies.	HB 937, § 5	Oct. 1 (offenses committed)
Human trafficking, involuntary servitude or sexual servitude: new aggravating factors for multiple victims or serious injury.	SB 683, § 14	Oct. 1 (offenses committed)
Class 3, PCL II: intermediate punishment allowed for 4 priors, only.	SB 402, § 18B.13	Dec. 1 (offenses committed)
Class 3, fewer than four priors: fine-only sentence.	SB 402, § 18B.13	Dec. 1 (offenses committed)
Methamphetamine manufacture: new sentence enhancement when a minor or elderly/disabled adult is present.	HB 29, § 2	Dec. 1 (offenses committed)
Firefighters/rescue squad workers: new aggravating factor for felony related to official service.	HB 327, § 2	Dec. 1 (offenses committed)
The Sentencing Judgment (conditions of probation)		
"Absconding" condition applies only to supervised probationers.	HB 361, § 1	Jun. 12 (judgments entered)
EHA: fees for electronic house arrest as condition of probation include new "daily" fee.	SB 402, § 16C.16	Sep. 1 (persons placed on EHA)
Prostitution: condition for sexually-transmitted disease testing and preventive measures recodified under G.S. 14-205.4.	SB 683, § 5	Oct. 1 (offenses committed)
DWI Level Two: 240 hours community service required if CAM imposed in lieu of any incarceration.	SB 659, § 2	Oct. 1 (offenses committed)
Domestic violence condition for abuser treatment amended for supervised vs. unsupervised probation.	HB 24, § 1	Dec. 1 (persons placed on probation)
Compensation for wildlife/natural resource offenses as a condition of probation can reimburse rewards paid by WRC/DENR.	HB 936, § 2	Dec. 1 (offenses committed)
Probation Violations		
CRV must be for "consecutive days."	HB 361, § 4	Jun. 12 (CRV orders entered)
Appeal & Post-Conviction Proceedings		
Contempt: criminal contempt that imposes jail time requires a prompt bail hearing pending appeal.	HB 450, § 1	Dec. 1 (judgments entered)
Infractions: no statutory right of appeal for *de novo* hearing in superior court.	SB 182, § 1	Dec. 1 (offenses committed)
Probation violations: no appeal if violation hearing waived.	SB 182, § 2	Dec. 1 (violations occurring)
Resentencing: rule against more severe sentence does not apply if guilty plea vacated on appeal.	SB 182, § 3	Dec. 1 (resentencing hearings held)
MARs: procedural deadlines enacted in 2012 repealed.	SB 182, § 3.1	Dec. 1 (motions filed)