



NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

DWI Sentencing

Impaired driving (DWI) offenses are not sentenced under Structured Sentencing. They are sentenced in one of six punishment levels based on the presence of grossly aggravating, aggravating, and mitigating factors.

Offenses Covered

- Impaired driving. (G.S. 20-138.1)
- Impaired driving in a commercial vehicle. (G.S. 20-138.2)
- Second or subsequent violation of operating a commercial vehicle, a school bus, school activity bus, child care vehicle, ambulance, other EMS vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol. (G.S. 20-138.2A and G.S. 20-138.2B)

Grossly Aggravating Factors, Aggravating and Mitigating Factors¹

Grossly Aggravating Factors

- Prior DWI conviction within 7 years (each prior is a separate factor)
- Driving while license revoked for a prior DWI conviction
- Causing serious injury to another person
- Driving with a child under 18 (or a person with the mental development of a child under 18) or someone physically disabled in the vehicle

Aggravating Factors	Mitigating Factors
<ul style="list-style-type: none"> • Gross impairment (0.15 BAC or more) • Especially reckless or dangerous driving • Negligent driving that led to a reportable accident • Driving while license was revoked at time of offense • Two or more prior motor vehicle offense convictions (not DWI) within 5 years • Prior DWI convictions beyond 7 years • Conviction of speeding while fleeing or attempting to elude apprehension • Conviction of speeding by at least 30 miles per hour over the legal limit • Passing a stopped school bus • Any other factor aggravating the seriousness of the offense 	<ul style="list-style-type: none"> • Slight impairment (0.09 BAC or lower) • Slight impairment with no chemical analysis available • Lawful driving at time of offense • Safe driving record • Impairment caused primarily by lawfully prescribed medication • Voluntary submission to mental health facility for assessment and any recommended treatment • Completion of substance abuse assessment, compliance with recommendations, 60 days of abstinence from alcohol proven by continuous alcohol monitoring system • Any other factor mitigating the seriousness of the offense

¹ G.S. 20-179(c), (d), and (e).

Punishment Levels²

Punishment for DWI offenses committed on or after October 1, 2013

Factors	Level	Minimum Sentence	Maximum Sentence	If Suspended, Special Probation Requiring:	Maximum Fine
3+ Grossly Aggravating	A1	12 months	36 months	Active term of at least 120 days + 120 days continuous alcohol monitoring (CAM)	\$10,000
2 Grossly Aggravating or 1 Driving with Minor/Disabled Person in Vehicle	1	30 days	24 months	Active term of at least 30 days or 10 days and 120 days CAM	\$4,000
1 Grossly Aggravating other than Driving with Minor/Disabled Person in Vehicle	2	7 days	12 months	Active term of at least 7 days or 90 days CAM	\$2,000
Aggravating > Mitigating	3	72 hours	6 months	Active term of 72 hours and/or 72 hours community service	\$1,000
Aggravating = Mitigating or None	4	48 hours	120 days	Active term of 48 hours and/or 48 hours community service	\$500
Mitigating > Aggravating	5	24 hours	60 days	Active term of 24 hours and/or 24 hours community service	\$200

Note: In all punishment levels, the offender is required to obtain a substance abuse assessment and education or treatment required by G.S. 20-17.6.

Source: UNC School of Government

Sentence³

A sentence to imprisonment must impose a maximum term and may impose a minimum term. The impaired driving judgment may state the minimum term or may state that a term constitutes both the minimum and maximum terms.

A sentence to probation must include a suspended term of imprisonment and a period of probation of up to five years; probation may be supervised or unsupervised.

² G.S. 20-179(f3) to (k).

³ G.S. 15A-1351(b), G.S. 15A-1341 to -1343.3.

Place of Confinement⁴

All offenders sentenced for DWI are housed in local jails through the Statewide Misdemeanant Confinement Program.

Sentence Credits⁵

Punishment Level	Credit
A1	None.*
1-5	<ul style="list-style-type: none">• Good Time - One day deducted for each day served in custody for good behavior and/or without an infraction of inmate conduct rules• Gain Time – Specified days deducted for participation in approved work and/or program activities

*Pursuant to Department of Public Safety, Division of Adult Correction and Juvenile Justice policies.

Method of Release⁶

Punishment Level	Method	Application
A1	Post-Release Supervision	Four months prior to the maximum imposed term
1-5	Parole*	<ul style="list-style-type: none">• At any time after the statutory minimum if there is no minimum sentence imposed• After serving the minimum sentence imposed or one-fifth of the maximum penalty allowed by law for the offense, whichever is less (less Good Time)
	Terminate sentence	After serving the maximum sentence less sentence credits

*Parole-eligible offenders must serve the statutory minimum for their punishment level and obtain a substance abuse assessment and complete any recommended treatment or training program or be paroled into a residential treatment program.

Habitual Impaired Driving Offense⁷

A person who has been convicted of three or more DWI offenses within 10 years of the date of the current offense. Habitual impaired driving is punished as a Class F felony under Structured Sentencing.

⁴ G.S. 148-32.1(b2).

⁵ G.S. 148-13(b).

⁶ G.S. 15A-1370.1 to -1376, G.S. 20-179(f3).

⁷ G.S. 20-138.5.