

**MINUTES
NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION MEETING**

June 8, 2018

The North Carolina Sentencing and Policy Advisory Commission met on Friday, June 8, 2018, at the North Carolina Judicial Center in Raleigh, North Carolina.

Members Present: Chairman Charlie Brown, Sheriff James Clemmons, Lisa Costner, Louise Davis, Danielle Elder, Chris Fialko, Willis Fowler, Judge Keith Gregory, Chief Tammy Hooper, Susan Katzenelson, Honorable Maureen Krueger, Senator Floyd McKissick, Dr. Harvey McMurray, Luther Moore, Judge Fred Morrison, Honorable June Ray, Jim Toms, and Judge Reuben Young.

Guests: Meagan Honnold (OSBM), Melinda Stevens (NCSA), Jennifer Bedford (NCGA), Matt Delbridge (8th District DA), and Sarah Llaguno (DPS-Combined Records).

Staff: Michelle Hall, John Madler, Ginny Hevener, Tamara Flinchum, Meghan Boyd Ward, Rebecca Dial, John King, Jennifer Wesoloski, Becky Whitaker, Shelley Kirk, and Chuck Lehmmuller (UNC Intern).

INTRODUCTION AND RECOGNITION OF NEW AND OUTGOING COMMISSIONERS AND STAFF

Chairman Brown called the meeting to order at 10:00 a.m. Members and guests introduced themselves.

Chairman Brown introduced new Commissioner Danielle Marquis Elder, representing the NC Attorney General, and new staff members Meghan Boyd Ward and Chuck Lehmmuller (summer intern).

Chairman Brown presented a Resolution honoring outgoing Commissioner Judge Keith Gregory. Luther Moore moved to adopt the Resolution; the motion was seconded and carried. Judge Gregory made parting remarks.

Chairman Brown presented the minutes from the March 2, 2018, Sentencing Commission meeting. Mr. Moore moved to adopt the minutes as presented; the motion was seconded and carried.

Chairman Brown announced the next meeting dates: July 13 for the DWI Sentencing Subcommittee, and September 7 and December 7 for the Sentencing Commission. He reviewed the agenda for the meeting.

REVIEW AND DISCUSSION OF ADULT RECIDIVISM – KEY FINDINGS

Chairman Brown recognized Ginny Hevener, John King, and Jennifer Wesoloski to summarize the key findings of the 2018 Correctional Program Evaluation, with Michelle Hall to highlight staff-identified policy considerations as part of the discussion. Ms. Hevener referenced the Commission's legislative mandate to conduct recidivism studies on a biennial basis, with the 2018 report submitted in April. She stated that the recidivism report serves as a barometer of the effectiveness of North Carolina's criminal justice system – offering a measure of the effectiveness of the system overall, as well as for specific sanctions, programs, and policies and their impact on offender outcomes at the statewide level.

The current report was based on offenders placed on supervised probation or released from prison in FY 2015. Ms. Hevener stated that the FY 2015 sample offers a look at the recidivism of offenders after implementation of the Justice Reinvestment Act (JRA). All probationers and over half of prisoners (61%) in the sample were subject to the provisions of the JRA. The primary measure of recidivism was fingerprinted arrests supplemented by information on convictions and incarcerations during the two-year follow-up. Ms. Hevener explained that the recidivist incarceration measure is based on incarceration in the state's prison system and does not include confinement in response to violation (CRV), which is captured in a separate measure. To provide context for the multivariate results included in the presentation, Ms. Wesoloski defined multivariate analysis and provided examples and interpretations of the variable types used in the analysis.

Ms. Hevener summarized the results for the overall sample of 47,614 offenders, including 32,537 probation entries and 15,077 prison releases during FY 2015. By sample definition, all prisoners in the sample had a current conviction for a felony; the majority of probationers had a conviction for a misdemeanor offense. Characteristics of the FY 2015 sample were similar those for previous samples.

Judge Young, Ms. Davis, and Dr. McMurray raised several questions regarding the characteristics of the sample, such as racial composition, substance abuse, and mental health indicators. Ms. Hevener responded that 54% of prisoners and 46% of probationers were black; prisoners were more likely to have a possible substance use/abuse problem than probationers. Substance abuse and mental health information were obtained from different assessments for prisoners than for probationers. Ms. Wesoloski added that the mental health variable was measured differently this year due to data limitations and excluded mental health diagnosis data. Ms. Davis questioned the availability of data on substance abuse treatment. Ms. Hevener replied that, for prisoners, information on substance abuse treatment received while in prison is available, including length of treatment and program completion. Comparable data for probationers are not available from OPUS, but may be available from DHHS. Ms. Krueger commented on the lack of treatment slots in prison based on a recent DPS presentation. Dr. McMurray questioned whether income data were available. Ms. Hall noted that Employment Securities Commission data can be used, but do not offer a complete picture due to limitations in what is captured.

Prisoners had more extensive prior criminal histories and higher recidivism rates than probationers. Overall, 41% of the sample had a recidivist arrest during follow-up – 49% of prisoners and 37% of probationers. Recidivism generally occurred early – over one-fourth of those arrested during follow-up were arrested within 3 months and nearly three-fourths by the first year. Recidivist arrest rates have been stable over the past few recidivism cycles, with no notable changes to date following the JRA.

There have been fluctuations in recidivist incarceration rates as a result of the JRA. Recidivist incarceration rates have decreased for probationers (primarily due to the limitations placed on revocations of probation and the shifting of misdemeanants out of the state prison system into local jails), while they have increased for prisoners (primarily due to an increase in PRS revocations following the expansion of PRS to Class F – I felons). Ms. Katzenelson pointed out that this increase for prisoners has implications for prison resources and capacity.

Ms. Wesoloski noted that results of the multivariate analyses were generally similar to the bivariate findings in the report. For all offenders, felons in Class B1-D and Class E-G had lower recidivism probabilities when compared to Class H-I felons, older offenders had lower recidivism probabilities than offenders under 21, and prior contact with the criminal justice system increased the probability of recidivism.

Discussion ensued about policy considerations from the research findings. Mr. King then reported on the key findings for the probationers in the sample. He noted that this is the second recidivism sample to be processed and supervised under the provisions implemented under the JRA. Mr. King shared descriptive statistics of the probation entry profile. Most probationers (60%) had a misdemeanor as their most serious current conviction and, on average, misdemeanants were under supervision for shorter periods of time than felons (16 months compared to 27 months). In terms of personal characteristics, misdemeanor and felony probationers were similar in many respects; however, felons were more likely than misdemeanants to be male and to have dropped out of high school. Misdemeanants were more likely to be less than 21 years old. In addition, probationers with a felony conviction tended to have more prior contacts with the criminal justice system than probationers with a misdemeanor conviction.

Mr. King next reviewed a few key terms that would be used frequently throughout the presentation. He described that Supervision Level 1 is the most restrictive level and involves the most frequent amount of face-to-face contacts with probation officers, while Supervision Level 5 is the least restrictive level. He also explained that in addition to probationers' recidivism, other outcomes were also examined that focused on violations of supervision and the system's responses to those violations.

Mr. King explained that DPS's risk and need assessments (RNA) are used to place offenders in appropriate supervision levels. Both the risk assessment and the need assessment places probationers in one of five levels: minimal, low, moderate, high, and extreme. About 75% of probationers were assigned to the moderate and low risk categories, with higher proportions of felons than misdemeanants being assigned to extreme and high risk categories. Mr. King pointed out that substance use/abuse (66%), transportation (59%), legal (54%), and mental health (54%) were the most frequently determined needs of probationers. Once the RNA is administered, probationers receive a supervision level. Felons were more likely to be supervised in the more restrictive levels, while misdemeanants were more likely to be supervised in the lesser restrictive levels. Overall, the distribution of probationers across the five supervision levels resembled a bell-shaped curve with the highest percentage of probationers assigned to Supervision Level 3 and the lowest percentages of probationers assigned to the most restrictive and least restrictive supervision levels.

Interim outcome measures that were examined for probationers included violations of probation and four responses to those violations (i.e., delegated authority, quick dip confinement, CRV, and revocation of probation). This is the first recidivism study to include information on delegated authority. Mr. King reported that 71% of probationers had at least one violation during the two-year follow-up and, among probationers with a violation, the average number of violations was two. Mr. King explained that probation violations are categorized into three groups: criminal, absconding, and technical. The most serious violation for each offender during follow-up were examined (criminal violations were considered more serious than absconding; absconding was considered more serious than technical violations). Mr. King noted that although there were fewer violators in this sample than in the previous three samples, a greater proportion of probationers violated their probation by committing a new crime. Ms. Katzenelson asked how much discretion probation officers have in classifying violations and suggested that changes in the distribution of violation types could stem from which violations are captured and how they are classified (as opposed to changes in offender behavior). Ms. Krueger asked whether the violations metrics included delegated authority. Mr. King responded that the violations in the study reflect just court handled violations. Ms. Wesoloski said that the violations measure included delegated authority. Chairman Brown commented that he is seeing more offenders admit to committing new crimes to get their sentences revoked instead of remaining on probation.

Mr. King then reviewed findings related to system responses to violations. First, he shared that regardless of supervision level, felons received delegated authority and quick dips at higher rates than misdemeanants. Overall, 6% of the probation sample received delegated authority conditions during the first year of follow-up and 8% received delegated authority conditions during the two-year follow-up. Quick dips were used slightly more frequently than delegated authority where, overall, 8% of the probation sample received a quick dip during the first year of follow-up and 11% received a quick the two-year follow-up. Mr. Fialko asked whether staff has looked at the effect of quick dips on recidivism. Ms. Wesoloski responded that staff has explored this both in the multivariate analysis of the recidivism report and in the Justice Reinvestment Implementation Report.

Next, Mr. King noted that across most supervision levels, misdemeanants received CRVs and revocations at a higher rate than felons. Overall, 7% of the probation sample received a CRV in the first year of follow-up and 12% received a CRV during the two-year follow-up. Revocations were used slightly more frequently than CRVs where, overall, 9% of the probation sample were revoked in the first year of follow-up and 17% were revoked during the two-year follow-up. Mr. King discussed the categorization of revocations into criminal, absconding, and technical and said far fewer revocations occurred in the FY 2015 sample than in previous samples. He also noted that the reasons for revocation have changed considerably since the passing of the JRA. For example, among the FY 2009 sample, 53% of revocations were the result of technical violations and in the FY 2015 sample just 12% of revocations stemmed from technical violations.

Examination of the recidivist arrest rates by probationers' supervision level revealed a stair-step pattern. Probationers assessed as a Level 1 (the most restrictive) had higher rates of recidivist arrests (56%) during the two-year follow-up compared to the remaining four groups. Level 5 probationers (the least restrictive) had the lowest recidivist arrest rates (12%). Ms. Wesoloski added that the multivariate analysis findings were similar; recidivism probabilities were higher for probationers assessed in the more restrictive supervision levels when compared to those assessed in the least restrictive supervision level (Level 5).

Mr. King concluded the probation portion of the adult recidivism presentation by sharing that while violation rates have increased in each of the past four report cycles, revocation rates have decreased. He noted, however, that while the revocation rate has decreased and greater percentages of offenders received non-revocation sanctions in response to violations, the recidivist arrest rate has remained steady at either 36% or 37% over the past three report cycles. Ms. Wesoloski added that the multivariate analysis showed that JRA-related provisions (i.e., delegated authority, quick dips, and CRVs) decreased the probability of recidivist revocations; the probability of recidivist revocation decreased 8% for probationers with delegated authority imposed, decreased 10% for those with a quick dip, and decreased 27% for those with a CRV. The 27% decrease in recidivist revocation for CRVs may be attributed to the amount of time remaining on supervision following a CRV for misdemeanants and probation outcomes following a CRV (e.g., CRV and terminate and terminal CRV).

Mr. Fialko asked if the effect JRA-related provision variables on recidivist revocation could be presented for felons only. Ms. Wesoloski responded that additional analysis could look at the interaction effect between felony and misdemeanor status and JRA-related provisions, adding that there should be a difference between the two groups following a legislative change in 2015. Mr. Fialko asked for clarification regarding the 2015 legislative change, to which Ms. Wesoloski replied that it limited CRVs to felony probationers and identified quick dips as a path to revocation for misdemeanor probationers. Commission members discussed treatment available for probationers receiving a quick dip and whether quick dips

were an effective tool in reducing recidivism. Ms. Wesoloski referenced a DPS quick dip efficacy study cited in the JRA report that examined supervision outcomes following a quick dip; compared to a matched comparison group, those receiving a quick dip had better supervision outcomes at the end of their follow-up. Ms. Kreuger inquired about matching previous data to current data, specifically treatment options in the past (i.e., DART Cherry) versus current treatment options (i.e., CRV centers), to examine whether there is a change in offender behavior or a change in the measurement of offender behavior. Ms. Hall responded that staff would need to examine available data.

Turning to FY 2015 prison releases, Ms. Hevener stated that comparisons made for prisoners focused on most serious offense class: Class B1 – D, Class E – G, and Class H – I felony. Nearly all prison releases with a Class B1 – D felony had served sentences for offenses committed prior to the JRA compared to 59% of those with Class E – G felony and 79% of those with a Class H – I felony. Class B1 – D prisoners had a higher proportion of male offenders and were older than the other two groups. Otherwise, little variation was found between the groups in terms of personal characteristics.

Regardless of measure, Class H – I prisoners had more extensive prior criminal histories than Class B1 – D and Class E – G prisoners, which is not necessarily surprising given the prioritization of resources under the SSA for violent or repeat offenders as demonstrated by the felony punishment chart. Recidivist arrest and recidivist incarceration rates were highest for Class H – I prisoners as well (e.g., 54% with recidivist arrest compared to 39% for Class B1 – D and 45% for Class E – G). Ms. Wesoloski noted multivariate analysis findings were similar; compared to Class H-I felons, the probability of recidivist arrest was lower for Class B1-D felons and Class E-G felons. Historically, recidivist arrest rates for the offense class groups have been relatively stable. With the expansion of PRS for Class F – I felons, recidivist incarcerations have increased due to revocations of PRS.

The groups differed in terms of their incarceration profile (e.g., reason for prison entry, time served, and infractions). While the majority of prisoners entered prison as a result of a new crime, the proportion varied considerably – 86% for Class B1 – D, 76% for Class E – G, and 53% for Class H – I. Time served differed by offense class, primarily based on length of sentences imposed through the felony punishment chart. The rate of infractions was closely linked to offense class and time served in prison – those with longer time served were more likely to have infractions while incarcerated. Differences in recidivism rates were also associated with these characteristics. Recidivism rates were highest for prisoners who entered due to a PRS revocation or who had infractions, and were lowest for those who were released from minimum custody. Judge Young commented that the advantage to for inmates that are released from minimum custody is that DACJJ staff have more time to work with them prior to release.

Over three-fourths of prisoners were released onto PRS. The majority of prisoners without PRS in Class E – G and Class H – I had offense dates prior to the JRA. Others may have entered prison due to a PRS revocation and would not be subject to PRS upon release. Recidivist arrest rates were similar for prisoners with and without PRS (49% and 47% respectively), while the recidivist incarceration rate for prisoners with PRS was two times higher (37% compared to 18% respectively). Prisoners released onto PRS can be revoked and subsequently incarcerated for violations of PRS, likely accounting for their higher recidivist incarceration rate.

Ms. Wesoloski added that the multivariate analyses findings for incarceration profile variables (e.g., infractions, released onto PRS, custody classification) generally supported the bivariate findings in the report. Infractions increased both recidivist arrest and recidivist incarceration probabilities and being released with PRS increased the probability of recidivist incarceration but had no statistically significant

effect on recidivist arrest probabilities. In addition, compared to those serving less than 12 months, recidivist arrest probabilities were lower for those serving 13-24 months and those serving more than 24 months.

Ms. Hevener also reviewed recidivism rates for select correctional assignments. Prisoners in Construction, Correction Enterprises, Work Release, and SOAR generally had lower recidivism rates than the overall prison population. Recidivism rates for prisoners in Academic Education, Alcohol/Chemical Dependency Programs, & Vocational Education were fairly similar or slightly lower than the overall prison population. Ms. Hevener noted that rates that are similar to the overall prison population or higher for prisoners assigned to a job/program should not be interpreted as ineffectiveness without having additional information. Validated risk and need data (which were not available for this time period), along with characteristics of prisoners assigned to particular programs and information about their level of involvement (e.g., duration, completion), will allow for a more comprehensive examination of program effectiveness. Ms. Davis questioned the low recidivism rates for SOAR. Ms. Hevener responded that historically the recidivism rates for SOAR participants have been low.

To conclude, Ms. Hevener summarized additional recidivism analyses that are underway, including 1) an examination of recidivism for a probation exit sample, 2) an examination of the effect of PRS on recidivism for Class F – I felons using pre-JRA and post-JRA samples; 3) a study of the impact of CRVs on offender outcomes; and 4) a research brief on prison programs that expands upon analyses from the report.

2018 JUSTICE REINVESTMENT IMPLEMENTATION EVALUATION REPORT – REVIEW OF KEY FINDINGS

Chairman Brown recognized Jennifer Wesoloski, staff, to present key findings from the 2018 Justice Reinvestment Act (JRA) Implementation Evaluation Report. Ms. Wesoloski began by noting the 2018 report was the seventh report published in compliance with the legislative mandate and was prepared in conjunction with the Department of Public Safety's (DPS) Division of Adult Correction and Juvenile Justice (DACJJ). She reviewed the importance of monitoring the implementation of the JRA and presented data demonstrating sentencing practices under the JRA. Data indicated that use of the habitual felon status offense has continued to increase (68% from CY 2011 to CY 2017 and 25% from CY 2016 to CY 2017), while the use of other sentencing tools (i.e., habitual breaking and entering and Advanced Supervised Release (ASR)) has been limited. Mr. Fialko asked where ASR was currently being used. Ms. Wesoloski responded that in the past 5 years, ASR has been used in 66 of 100 counties and in CY 2017 it was used in 38 counties with 5 counties accounting for 41% of ASR use.

Ms. Wesoloski summarized the effect of the JRA on correctional practices. Participation in TECS increased substantially over the past year, with a 37% increase in population and a 45% increase in entries noted. From CY 2016 to CY 2017, the use of delegated authority increased 4% and high risk delegated authority increased 31%; CY 2017 was the first time the use of high risk delegated authority surpassed the use of delegated authority. Following 2015, the use of quick dips for misdemeanants increased and the use of Confinement in Response to Violations (CRVs) for misdemeanants decreased significantly, most likely attributed to the 2015 legislative changes that made quick dips a path to revocation for misdemeanants and limited the use of CRVs to felons. Probation revocation rates stabilized from CY 2013 to CY 2016 following a large decline from CY 2011 to CY 2012. Although CY 2017 marked the first notable increase in probation revocations – most likely due to an increase in felony probation absconding entries – revocation rates were still much lower than CY 2011 rates.

Ms. Wesoloski reviewed the effect of the JRA on the offender population and outcomes, noting the community corrections and prison population have declined and Statewide Misdemeanant Confinement Program (SMCP) entries and population and increased. For probationers, violation rates have increased and revocation rates have decreased; for prisoners, the recidivist incarceration rate has increased.

Ms. Wesoloski concluded by providing examples of current and future DPS initiatives, including addressing the mental health needs of CRV offenders in the Robeson CRV Center, exploring options to address substance abuse needs in CRV Centers, and the construction of a stand-alone female CRV Center. For prisoners, risk and need assessments were applied to all male inmates in 2017; the DPS reported they would begin assessing the female population in 2018.

Chairman Brown then recognized John Madler, staff, to present proposed recommendations from Commissioner Art Beeler (*see* handout). Mr. Madler explained that the Justice Reinvestment Implementation Report Subcommittee met in March to review the draft report. At the end of the meeting, Commission Beeler raised several recommendations for consideration. The Subcommittee did not have enough time to discuss the proposals so Mr. Beeler asked that they be presented to the Commission at its June meeting. Mr. Madler reviewed the four proposals and provided background for each one as well as some considerations that might have to be addressed. He also explained what actions the General Assembly was taking during the 2018 Session that might affect each proposal.

Susan Katzenelson stated that she supported the ideas but that they needed some more information. She moved that they be sent to the Justice Reinvestment Implementation Report Subcommittee for further study. The motion was seconded and carried.

LEGISLATIVE REVIEW AND SESSION UPDATE

Chairman Brown recognized Mr. Madler to provide an update on the legislative session. Mr. Madler stated that the General Assembly convened on May 16, 2018, and that it had already passed a budget bill. He explained that the General Assembly ratified the bill on June 1 but that the Governor vetoed the bill on June 6. The Senate voted to override the veto on June 7 and the House would be voting the following week. Mr. Madler reminded the members that it was the second session of the 2017-18 biennium and that, as such, the General Assembly was only making adjustments to the budget they passed in 2017. He reviewed the relevant portions of the budget bill (Senate Bill 99) (*see* handout).

Turning to the legislative review, Mr. Madler explained the process the Commission follows and reviewed the Commission's policies and offense classification criteria. He then presented the bills for review (*see* handout).

HB 577 – LSC Crim. Check/Felonious Gaming Machines [Ed. 2].

(G.S. 14-297) Luther Moore moved to find the proposed Class G felony inconsistent with the Offense Classification Criteria. Maureen Krueger seconded the motion and the motion carried. Mr. Moore moved to find that it would be consistent with the Offense Classification Criteria for a Class I felony. June Ray seconded the motion and the motion carried.

HB 1070/SB 737 – Safer Schools, Healthier Kids Act [Ed. 1].

(G.S. 14-409A) Luther Moore moved to find the proposed Class I felony consistent with the Offense Classification Criteria. June Ray seconded the motion and the motion carried.

SB 616 – Heroin & Opioid Prevention & Enforcement Act [Ed. 3].

(G.S. 90-108(a)(14)) Chris Fialko moved to find the proposed Class E felony consistent with the Offense Classification Criteria and to note that it would also be consistent with the Offense Classification Criteria for a Class F felony. Jim Toms seconded the motion and the motion carried.

(G.S. 90-108(a)(15)) Chris Fialko moved to find the proposed Class G felony consistent with the Offense Classification Criteria. Luther Moore seconded the motion and the motion carried.

(G.S. 90-108(a)(15)) Luther Moore moved to find the proposed Class E felony consistent with the Offense Classification Criteria and to note that it would also be consistent with the Offense Classification Criteria for a Class F felony. Susan Katzenelson seconded the motion and the motion carried.

(G.S. 90-113.74(k)(1)) Luther Moore moved to find the proposed Class I felony consistent with the Offense Classification Criteria. Chris Fialko seconded the motion and the motion carried.

(G.S. 90-113.74(k)(2)) Luther Moore moved to find the proposed Class I felony consistent with the Offense Classification Criteria. Danielle Elder seconded the motion and the motion carried.

(G.S. 90-113.74(k)(3)) Luther Moore moved to find the proposed Class H felony consistent with the Offense Classification Criteria. Maureen Krueger seconded the motion and the motion carried.

SB 704 – Universal Voter Registration [Ed. 1]/SB 800 – Actually Drain the Swamp [Ed. 1].

(G.S. 163A-884) Luther Moore moved to find the proposed Class I felony consistent with the Offense Classification Criteria. June Ray seconded the motion and the motion carried.

(G.S. 115D-5) Luther Moore moved to find the proposed Class I felony consistent with the Offense Classification Criteria. June Ray seconded the motion and the motion carried.

(G.S. 116-11) Luther Moore moved to find the proposed Class I felony consistent with the Offense Classification Criteria. June Ray seconded the motion and the motion carried.

SB 794 – Hate Crimes Prevention Act [Ed. 1].

(G.S. 14-34.11(b)) Luther Moore moved to find the proposed Class F felony consistent with the Offense Classification Criteria. Maureen Krueger seconded the motion and the motion carried.

(G.S. 14-34.11(d)(1)) Luther Moore moved to find the proposed Class E felony inconsistent with the Homicide Offense Classification Criteria but that it would be consistent with the Homicide Offense Classification Criteria for a Class B felony. Maureen Krueger seconded the motion and the motion carried.

(G.S. 14-34.11(d)(2)) Luther Moore moved to find the proposed Class E felony consistent with the Offense Classification Criteria. Maureen Krueger seconded the motion and the motion carried.

HB 969 – Enhance Prison Security [Ed. 2].

(G.S. 14-258.4) Maureen Krueger moved to find the first part (“exposes genitalia to an employee”) of the proposed Class F felony inconsistent with the Offense Classification Criteria and the second part (“throws, emits, or causes to be used as a projective, any bodily fluids, excrement, or unknown substance at an employee”) of the proposed Class F felony consistent with the Offense Classification Criteria. Chris

Fialko seconded the motion and the motion carried. Luther Moore moved to find the second part consistent with the Offense Classification Criteria for a Class I felony. Jim Toms seconded the motion and the motion carried.

(G.S. 14-258(a)) Chris Fialko moved to find the proposed Class H felony consistent with the Offense Classification Criteria. Luther Moore seconded the motion and the motion carried.

(G.S. 14-258(b)) Luther Moore moved to find the proposed Class F felony consistent with the Offense Classification Criteria. Maureen Krueger seconded the motion and the motion carried.

(G.S. 14-258(c)) Luther Moore moved to find the proposed Class H felony consistent with the Offense Classification Criteria. Maureen Krueger seconded the motion and the motion carried.

Mr. Madler presented a bill that had not been filed yet explaining that a member of the General Assembly had asked for the Commission's review of the proposed offenses.

Draft Bill – Death by Distribution.

(G.S. 14-18.4(b)) Luther Moore moved to find the proposed Class C felony inconsistent with the Homicide Offense Classification Criteria but that it would be consistent with the Homicide Offense Classification Criteria for a Class E felony. Danielle Elder seconded the motion and the motion carried.

(G.S. 14-18.4(c)) Luther Moore moved to find the proposed Class B2 felony inconsistent with the Homicide Offense Classification Criteria but that it would be consistent with the Homicide Offense Classification Criteria for a Class E felony and that increasing the offense class based on prior convictions is inconsistent with Structured Sentencing. Chris Fialko seconded the motion and the motion carried.

Mr. Madler informed the members that staff would compile the findings into a report and submit it to the General Assembly.

COMMITTEES WORKING ON LEGISLATIVE INITIATIVES UPDATE

Due to time constraints, Chairman Brown postponed this item until the September meeting of the Sentencing Commission.

COURT TECHNOLOGY IMPROVEMENTS

Chairman Brown recognized Brad Fowler, Research, Policy & Planning Officer for the Administrative Office of the Courts (AOC), to provide an update on court technology improvements (see handout). Mr. Fowler explained that the AOC has been considering moving to a paperless system for some time. At one point, the AOC worked with Berrydunn Consulting and developed a plan that identified nine major e-Court initiatives and established a five year implementation plan. In 2015 the General Assembly passed legislation requiring the AOC to develop a strategic plan for the design and implementation of its e-Courts initiative and to establish an advisory committee to provide input and advice on the plan. In 2016-17, the AOC utilized the Technology Committee of the North Carolina Commission on the Administration of Law and Justice (CALJ) to serve as that advisory committee. The CALJ essentially adopted the Berrydunn plan and timeline.

Currently, AOC is working with the National Center for State Courts to gather and refine the business requirements for a new system. It is an ongoing process utilizing various sessions with

stakeholders and subsequent online review. Mr. Fowler reported that AOC has decided to purchase a product by an outside vendor rather than develop it internally and that the business requirements will be incorporated into the Request for Proposal (RFP) document. The intent is that this will promote uniformity of case processing among the districts.

Luther Moore asked what the estimated cost was for the system. Mr. Fowler responded that the Berrydunn plan estimated the cost at tens of millions, depending on what components are included, but it can be negotiated. Mr. Moore asked how much the legislature has provided. Mr. Fowler responded that the legislature appropriated \$1.5 million but also authorized the AOC to carry over its cache from the previous fiscal year.

Louise Davis asked how many vendors sell this sort of product. Mr. Fowler stated that there are more than ten vendors and four to six of them are major companies.

2018 NASC CONFERENCE PREVIEW

Due to time constraints, Chairman Brown postponed this item until the September meeting of the Sentencing Commission.

ADJOURNMENT

Chairman Brown adjourned the meeting at 3:05 p.m.

Respectfully submitted,

Shelley Kirk
Administrative Secretary