

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 574

Short Title: Amend Post-Release Supervision Laws. (Public)

Sponsors: Senator Hartsell.

Referred to: Judiciary II.

March 16, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE STRUCTURED SENTENCING LAWS WITH REGARD
3 TO POST-RELEASE SUPERVISION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 15A-1340.11 is amended by adding a new subdivision to
6 read:

7 "(6a) Post-release supervision. – The time for which a sentenced prisoner is
8 supervised in the community following the termination of the
9 prisoner's maximum prison term, controlled by the rules and
10 conditions of Article 84A of this Chapter."

11 **SECTION 2.** G.S. 15A-1340.13(b) reads as rewritten:

12 "(b) Procedure Generally; Requirements of Judgment; Kinds of Sentences. –
13 Before imposing a sentence, the court shall determine the prior record level for the
14 offender pursuant to G.S. 15A-1340.14. The sentence shall contain a sentence
15 disposition specified for the class of offense and prior record level, and its minimum
16 term of imprisonment shall be within the range specified for the class of offense and
17 prior record level, unless applicable statutes require or authorize another minimum
18 sentence of imprisonment. For Class B1, B2, C, D, and E felony offenses, the sentence
19 shall include a period of post-release supervision pursuant to G.S. 15A-1340.18. The
20 kinds of sentence dispositions are active punishment, intermediate punishment, and
21 community punishment."

22 **SECTION 3.** G.S. 15A-1340.17 reads as rewritten:

23 "**§ 15A-1340.17. Punishment limits for each class of offense and prior record level.**

24 (a) Offense Classification; Default Classifications. – The offense classification is
25 as specified in the offense for which the sentence is being imposed. If the offense is a
26 felony for which there is no classification, it is a Class I felony.

27 (b) Fines. – Any judgment that includes a sentence of imprisonment may also
28 include a fine. If a community punishment is authorized, the judgment may consist of a
29 fine only. Additionally, when the defendant is other than an individual, the judgment

1 may consist of a fine only. Unless otherwise provided, the amount of the fine is in the
 2 discretion of the court.

3 (c) Punishments for Each Class of Offense and Prior Record Level; Punishment
 4 Chart Described. – The authorized punishment for each class of offense and prior record
 5 level is as specified in the chart ~~below.~~ below and under G.S. 15A-1340.18. Prior record
 6 levels are indicated by the Roman numerals placed horizontally on the top of the chart.
 7 Classes of offense are indicated by the letters placed vertically on the left side of the
 8 chart. Each cell on the chart contains the following components:

- 9 (1) A sentence disposition or dispositions: "C" indicates that a community
 10 punishment is authorized; "I" indicates that an intermediate
 11 punishment is authorized; "A" indicates that an active punishment is
 12 authorized; and "Life Imprisonment Without Parole" indicates that the
 13 defendant shall be imprisoned for the remainder of the prisoner's
 14 natural life.
- 15 (2) A presumptive range of minimum durations, if the sentence of
 16 imprisonment is neither aggravated or mitigated; any minimum term of
 17 imprisonment in that range is permitted unless the court finds pursuant
 18 to G.S. 15A-1340.16 that an aggravated or mitigated sentence is
 19 appropriate. The presumptive range is the middle of the three ranges in
 20 the cell.
- 21 (3) A mitigated range of minimum durations if the court finds pursuant to
 22 G.S. 15A-1340.16 that a mitigated sentence of imprisonment is
 23 justified; in such a case, any minimum term of imprisonment in the
 24 mitigated range is permitted. The mitigated range is the lower of the
 25 three ranges in the cell.
- 26 (4) An aggravated range of minimum durations if the court finds pursuant
 27 to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is
 28 justified; in such a case, any minimum term of imprisonment in the
 29 aggravated range is permitted. The aggravated range is the higher of
 30 the three ranges in the cell.

31
 32 **PRIOR RECORD LEVEL**

	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts	
A	Life Imprisonment Without Parole or Death as Established by Statute						
	A	A	A	A	A	A	DISPOSITION
	240-300	288-360	336-420	384-480	Life Imprisonment Without Parole		Aggravated
B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated
	A	A	A	A	A	A	DISPOSITION
	157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
B2	125-157	151-189	176-220	201-251	225-282	251-313	PRESUMPTIVE

1		94-125	114-151	132-176	151-201	169-225	188-251	Mitigated
2		A	A	A	A	A	A	DISPOSITION
3		73-92	100-125	116-145	133-167	151-188	168-210	Aggravated
4	C	58-73	80-100	93-116	107-133	121-151	135-168	PRESUMPTIVE
5		44-58	60-80	70-93	80-107	90-121	101-135	Mitigated
6		A	A	A	A	A	A	DISPOSITION
7		64-80	77-95	103-129	117-146	133-167	146-183	Aggravated
8	D	51-64	61-77	82-103	94-117	107-133	117-146	PRESUMPTIVE
9		38-51	46-61	61-82	71-94	80-107	88-117	Mitigated
10		I/A	I/A	A	A	A	A	DISPOSITION
11		25-31	29-36	34-42	46-58	53-66	59-74	Aggravated
12	E	20-25	23-29	27-34	37-46	42-53	47-59	PRESUMPTIVE
13		15-20	17-23	20-27	28-37	32-42	35-47	Mitigated
14		I/A	I/A	I/A	A	A	A	DISPOSITION
15		16-20	19-24	21-26	25-31	34-42	39-49	Aggravated
16	F	13-16	15-19	17-21	20-25	27-34	31-39	PRESUMPTIVE
17		10-13	11-15	13-17	15-20	20-27	23-31	Mitigated
18		I/A	I/A	I/A	I/A	A	A	DISPOSITION
19		13-16	15-19	16-20	20-25	21-26	29-36	Aggravated
20	G	10-13	12-15	13-16	16-20	17-21	23-29	PRESUMPTIVE
21		8-10	9-12	10-13	12-16	13-17	17-23	Mitigated
22		C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
23		6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
24	H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
25		4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
26		C	C/I	I	I/A	I/A	I/A	DISPOSITION
27		6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
28	I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
29		3-4	3-4	4-5	4-6	5-7	6-8	Mitigated

30 (d) Maximum Sentences Specified for ~~Class F through Class I Felonies.~~ Class B1
 31 Felonies Through Class I Felonies for Minimum Terms up to 36 Months. – Unless
 32 provided otherwise in a statute establishing a punishment for a specific crime, for each
 33 minimum term of imprisonment in the chart in subsection (c) of this section, expressed
 34 in months, the corresponding maximum term of imprisonment, also expressed in
 35 months, is as specified in the table below for ~~Class F-B1~~ through Class I felonies. The
 36 first figure in each cell in the table is the minimum term and the second is the maximum
 37 term.

39	3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
40	11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
41	19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
42	27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
43	35-42	36-44	37-45	38-46	39-47	40-48	41-50	42-51

1	<u>43-52</u>	<u>44-53</u>	<u>45-54</u>	<u>46-56</u>	<u>47-57</u>	<u>48-58</u>	<u>49-59</u>	<u>50-60</u>
2	<u>51-61</u>	<u>52-62</u>	<u>53-64</u>	<u>54-65</u>	<u>55-66</u>	<u>56-67</u>	<u>57-68</u>	<u>58-70</u>
3	<u>59-71</u>	<u>60-72</u>	<u>61-73</u>	<u>62-74</u>	<u>63-76</u>	<u>64-77</u>	<u>65-78</u>	<u>66-79</u>
4	<u>67-80</u>	<u>68-82</u>	<u>69-83</u>	<u>70-84</u>	<u>71-85</u>	<u>72-86</u>	<u>73-88</u>	<u>74-89</u>
5	<u>75-90</u>	<u>76-91</u>	<u>77-92</u>	<u>78-94</u>	<u>79-95</u>	<u>80-96</u>	<u>81-97</u>	<u>82-98</u>
6	<u>83-100</u>	<u>84-101</u>	<u>85-102</u>	<u>86-103</u>	<u>87-104</u>	<u>88-106</u>	<u>89-107</u>	<u>90-108</u>
7	<u>91-109</u>	<u>92-110</u>	<u>93-112</u>	<u>94-113</u>	<u>95-114</u>	<u>96-115</u>	<u>97-116</u>	<u>98-118</u>
8	<u>99-119</u>	<u>100-120</u>	<u>101-121</u>	<u>102-122</u>	<u>103-124</u>	<u>104-125</u>	<u>105-126</u>	<u>106-127</u>
9	<u>107-128</u>	<u>108-130</u>	<u>109-131</u>	<u>110-132</u>	<u>111-133</u>	<u>112-134</u>	<u>113-136</u>	<u>114-137</u>
10	<u>115-138</u>	<u>116-139</u>	<u>117-140</u>	<u>118-142</u>	<u>119-143</u>	<u>120-144</u>	<u>121-145</u>	<u>122-146</u>
11	<u>123-148</u>	<u>124-149</u>	<u>125-150</u>	<u>126-151</u>	<u>127-152</u>	<u>128-154</u>	<u>129-155</u>	<u>130-156</u>
12	<u>131-157</u>	<u>132-158</u>	<u>133-160</u>	<u>134-161</u>	<u>135-162</u>	<u>136-163</u>	<u>137-164</u>	<u>138-166</u>
13	<u>139-167</u>	<u>140-168</u>	<u>141-169</u>	<u>142-170</u>	<u>143-172</u>	<u>144-173</u>	<u>145-174</u>	<u>146-175</u>
14	<u>147-176</u>	<u>148-178</u>	<u>149-179</u>	<u>150-180</u>	<u>151-181</u>	<u>152-182</u>	<u>153-184</u>	<u>154-185</u>
15	<u>155-186</u>	<u>156-187</u>	<u>157-188</u>	<u>158-190</u>	<u>159-191</u>	<u>160-192</u>	<u>161-193</u>	<u>162-194</u>
16	<u>163-196</u>	<u>164-197</u>	<u>165-198</u>	<u>166-199</u>	<u>167-200</u>	<u>168-202</u>	<u>169-203</u>	<u>170-204</u>
17	<u>171-205</u>	<u>172-206</u>	<u>173-208</u>	<u>174-209</u>	<u>175-210</u>	<u>176-211</u>	<u>177-212</u>	<u>178-214</u>
18	<u>179-215</u>	<u>180-216</u>	<u>181-217</u>	<u>182-218</u>	<u>183-220</u>	<u>184-221</u>	<u>185-222</u>	<u>186-223</u>
19	<u>187-224</u>	<u>188-226</u>	<u>189-227</u>	<u>190-228</u>	<u>191-229</u>	<u>192-230</u>	<u>193-232</u>	<u>194-233</u>
20	<u>195-234</u>	<u>196-235</u>	<u>197-236</u>	<u>198-238</u>	<u>199-239</u>	<u>200-240</u>	<u>201-241</u>	<u>202-242</u>
21	<u>203-244</u>	<u>204-245</u>	<u>205-246</u>	<u>206-247</u>	<u>207-248</u>	<u>208-250</u>	<u>209-251</u>	<u>210-252</u>
22	<u>211-253</u>	<u>212-254</u>	<u>213-256</u>	<u>214-257</u>	<u>215-258</u>	<u>216-259</u>	<u>217-260</u>	<u>218-262</u>
23	<u>219-263</u>	<u>220-264</u>	<u>221-265</u>	<u>222-266</u>	<u>223-268</u>	<u>224-269</u>	<u>225-270</u>	<u>226-271</u>
24	<u>227-272</u>	<u>228-274</u>	<u>229-275</u>	<u>230-276</u>	<u>231-277</u>	<u>232-278</u>	<u>233-280</u>	<u>234-281</u>
25	<u>235-282</u>	<u>236-283</u>	<u>237-284</u>	<u>238-286</u>	<u>239-287</u>	<u>240-288</u>	<u>241-289</u>	<u>242-290</u>
26	<u>243-292</u>	<u>244-293</u>	<u>245-294</u>	<u>246-295</u>	<u>247-296</u>	<u>248-298</u>	<u>249-299</u>	<u>250-300</u>
27	<u>251-301</u>	<u>252-302</u>	<u>253-304</u>	<u>254-305</u>	<u>255-306</u>	<u>256-307</u>	<u>257-308</u>	<u>258-310</u>
28	<u>259-311</u>	<u>260-312</u>	<u>261-313</u>	<u>262-314</u>	<u>263-316</u>	<u>264-317</u>	<u>265-318</u>	<u>266-319</u>
29	<u>267-320</u>	<u>268-322</u>	<u>269-323</u>	<u>270-324</u>	<u>271-325</u>	<u>272-326</u>	<u>273-328</u>	<u>274-329</u>
30	<u>275-330</u>	<u>276-331</u>	<u>277-332</u>	<u>278-334</u>	<u>279-335</u>	<u>280-336</u>	<u>281-337</u>	<u>282-338</u>
31	<u>283-340</u>	<u>284-341</u>	<u>285-342</u>	<u>286-343</u>	<u>287-344</u>	<u>288-346</u>	<u>289-347</u>	<u>290-348</u>
32	<u>291-349</u>	<u>292-350</u>	<u>293-352</u>	<u>294-353</u>	<u>295-354</u>	<u>296-355</u>	<u>297-356</u>	<u>298-358</u>
33	<u>299-359</u>	<u>300-360</u>	<u>301-361</u>	<u>302-362</u>	<u>303-364</u>	<u>304-365</u>	<u>305-366</u>	<u>306-367</u>
34	<u>307-368</u>	<u>308-370</u>	<u>309-371</u>	<u>310-372</u>	<u>311-373</u>	<u>312-374</u>	<u>313-376</u>	<u>314-377</u>
35	<u>315-378</u>	<u>316-379</u>	<u>317-380</u>	<u>318-382</u>	<u>319-383</u>	<u>320-384</u>	<u>321-385</u>	<u>322-386</u>
36	<u>323-388</u>	<u>324-389</u>	<u>325-390</u>	<u>326-391</u>	<u>327-392</u>	<u>328-394</u>	<u>329-395</u>	<u>330-396</u>
37	<u>331-397</u>	<u>332-398</u>	<u>333-400</u>	<u>334-401</u>	<u>335-402</u>	<u>336-403</u>	<u>337-404</u>	<u>338-406</u>
38	<u>339-407</u>	<u>340-408</u>	<u>341-409</u>	<u>342-410</u>	<u>343-412</u>	<u>344-413</u>	<u>345-414</u>	<u>346-415</u>

39
40 ~~(e) Maximum Sentences Specified for Class B1 through Class E Felonies for~~
41 ~~Minimum Terms up to 339 Months. — Unless provided otherwise in a statute~~
42 ~~establishing a punishment for a specific crime, for each minimum term of imprisonment~~
43 ~~in the chart in subsection (c) of this section, expressed in months, the corresponding~~
44 ~~maximum term of imprisonment, also expressed in months, is as specified in the table~~

1 below for Class B1 through Class E felonies. The first figure in each cell of the table is
 2 the minimum term and the second is the maximum term.

3								
4	15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
5	23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
6	31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55
7	39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
8	47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
9	55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
10	63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
11	71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
12	79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
13	87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122
14	95-123	96-125	97-126	98-127	99-128	100-129	101-131	102-132
15	103-133	104-134	105-135	106-137	107-138	108-139	109-140	110-141
16	111-143	112-144	113-145	114-146	115-147	116-149	117-150	118-151
17	119-152	120-153	121-155	122-156	123-157	124-158	125-159	126-161
18	127-162	128-163	129-164	130-165	131-167	132-168	133-169	134-170
19	135-171	136-173	137-174	138-175	139-176	140-177	141-179	142-180
20	143-181	144-182	145-183	146-185	147-186	148-187	149-188	150-189
21	151-191	152-192	153-193	154-194	155-195	156-197	157-198	158-199
22	159-200	160-201	161-203	162-204	163-205	164-206	165-207	166-209
23	167-210	168-211	169-212	170-213	171-215	172-216	173-217	174-218
24	175-219	176-221	177-222	178-223	179-224	180-225	181-227	182-228
25	183-229	184-230	185-231	186-233	187-234	188-235	189-236	190-237
26	191-239	192-240	193-241	194-242	195-243	196-245	197-246	198-247
27	199-248	200-249	201-251	202-252	203-253	204-254	205-255	206-257
28	207-258	208-259	209-260	210-261	211-263	212-264	213-265	214-266
29	215-267	216-269	217-270	218-271	219-272	220-273	221-275	222-276
30	223-277	224-278	225-279	226-281	227-282	228-283	229-284	230-285
31	231-287	232-288	233-289	234-290	235-291	236-293	237-294	238-295
32	239-296	240-297	241-299	242-300	243-301	244-302	245-303	246-305
33	247-306	248-307	249-308	250-309	251-311	252-312	253-313	254-314
34	255-315	256-317	257-318	258-319	259-320	260-321	261-323	262-324
35	263-325	264-326	265-327	266-329	267-330	268-331	269-332	270-333
36	271-335	272-336	273-337	274-338	275-339	276-341	277-342	278-343
37	279-344	280-345	281-347	282-348	283-349	284-350	285-351	286-353
38	287-354	288-355	289-356	290-357	291-359	292-360	293-361	294-362
39	295-363	296-365	297-366	298-367	299-368	300-369	301-371	302-372
40	303-373	304-374	305-375	306-377	307-378	308-379	309-380	310-381
41	311-383	312-384	313-385	314-386	315-387	316-389	317-390	318-391
42	319-392	320-393	321-395	322-396	323-397	324-398	325-399	326-401
43	327-402	328-403	329-404	330-405	331-407	332-408	333-409	334-410
44	335-411	336-413	337-414	338-415	339-416			

1
2 (e1) Maximum Sentences Specified for Class B1 ~~through~~ through Class E-I
3 Felonies for Minimum Terms of ~~340~~347 Months or More. – Unless provided otherwise
4 in a statute establishing a punishment for a specific crime, when the minimum sentence
5 is ~~340~~347 months or more, the corresponding maximum term of imprisonment shall be
6 equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the
7 minimum term of imprisonment, rounded to the next highest ~~month, plus nine additional~~
8 ~~months.~~ month."

9 **SECTION 4.** Article 81B of Chapter 15A of the General Statutes is
10 amended by adding a new section to read:

11 "**§ 15A-1340.18. Post-release supervision.**

12 (a) Except as provided in subsection (b) of this section, the court must also
13 impose a period of post-release supervision to follow the term of imprisonment and an
14 additional term of imprisonment to be served upon revocation of the period of
15 post-release supervision on all offenders convicted of a Class B1, B2, C, D, or E felony
16 offense. The period of supervision and the term of imprisonment are as follows:

17 (1) Period of supervision. – The period of post-release supervision shall be
18 nine months, unless the offense is a Class B1 through E offense for
19 which registration is required pursuant to Article 27A of Chapter 14 of
20 the General Statutes. For offenses subject to the registration
21 requirement of Article 27A of Chapter 14 of the General Statutes, the
22 period of post-release supervision is five years.

23 (2) Term of imprisonment. – The term of imprisonment upon revocation
24 of post-release supervision shall be for a minimum term of seven
25 months and a maximum term of nine months.

26 (b) If an offender is convicted of a Class B1, B2, C, D, or E felony offense and
27 receives a sentence of imprisonment, then the court may decline to impose post-release
28 supervision if it makes a finding of facts which indicates post-release supervision would
29 not be necessary in that case. If an offender is convicted of a Class B1 felony offense
30 and receives a sentence of life imprisonment without parole, then post-release
31 supervision shall not be imposed.

32 (c) If the court imposes an intermediate punishment on an offender who is
33 required to receive post-release supervision under subsection (a) of this section, then the
34 period of post-release supervision is suspended.

35 (d) Provisions of Article 84A of this Chapter apply to judgments entered
36 pursuant to this section."

37 **SECTION 5.** G.S. 15A-1342(c) reads as rewritten:

38 "(c) Conditions; Suspended Sentence. – When the court places a convicted
39 offender on probation, it must determine conditions of probation as provided in
40 G.S. 15A-1343. In addition, it must impose a suspended sentence of imprisonment,
41 determined as provided in Article 83, Imprisonment, which may be activated upon
42 violation of conditions of probation. Suspension of a term of imprisonment also
43 suspends any period of post-release supervision that may be imposed for that offense."

44 **SECTION 6.** G.S. 15A-1344(d) reads as rewritten:

1 "(d) Extension and Modification; Response to Violations. – At any time prior to
2 the expiration or termination of the probation period, the court may after notice and
3 hearing and for good cause shown extend the period of probation up to the maximum
4 allowed under G.S. 15A-1342(a) and may modify the conditions of probation. The
5 probation period shall be tolled if the probationer shall have pending against him
6 criminal charges in any court of competent jurisdiction, which, upon conviction, could
7 result in revocation proceedings against him for violation of the terms of this probation.
8 The hearing may be held in the absence of the defendant, if he fails to appear for the
9 hearing after a reasonable effort to notify him. If a convicted defendant violates a
10 condition of probation at any time prior to the expiration or termination of the period of
11 probation, the court, in accordance with the provisions of G.S. 15A-1345, may continue
12 him on probation, with or without modifying the conditions, may place the defendant on
13 special probation as provided in subsection (e), or, if continuation, modification, or
14 special probation is not appropriate, may revoke the probation and activate the
15 suspended sentence and any period of post-release supervision imposed at the time of
16 initial sentencing, if any, or may order that charges as to which prosecution has been
17 deferred be brought to trial; provided that probation may not be revoked solely for
18 conviction of a Class 3 misdemeanor. The court, before activating a sentence to
19 imprisonment established when the defendant was placed on probation, may reduce the
20 sentence, but the reduction shall be consistent with subsection (d1) of this section. A
21 sentence activated upon revocation of probation commences on the day probation is
22 revoked and runs concurrently with any other period of probation, parole, or
23 imprisonment to which the defendant is subject during that period unless the revoking
24 judge specifies that it is to run consecutively with the other period."

25 **SECTION 7.** G.S. 15A-1354 reads as rewritten:

26 "**§ 15A-1354. Concurrent and consecutive terms of imprisonment.**

27 (a) Authority of Court. – When multiple sentences of imprisonment are imposed
28 on a person at the same time or when a term of imprisonment is imposed on a person
29 who is already subject to an undischarged term of imprisonment, including a term of
30 imprisonment in another jurisdiction, the sentences may run either concurrently or
31 consecutively, as determined by the court. If not specified or not required by statute to
32 run consecutively, sentences shall run concurrently.

33 (b) Effect of Consecutive Terms. – In determining the effect of consecutive
34 sentences imposed under authority of this Article and the manner in which they will be
35 served, the Department of Correction must treat the defendant as though he has been
36 committed for a single term with the following incidents:

37 (1) The maximum prison sentence consists of the total of the maximum
38 terms of the consecutive sentences, ~~less nine months for each of the~~
39 ~~second and subsequent sentences imposed for Class B through Class E~~
40 ~~felonies; and sentences; and~~

41 (2) The minimum term consists of the total of the minimum terms of the
42 consecutive sentences.

43 (c) Post-Release Supervision. – When multiple periods of post-release
44 supervision are imposed on a person, either at the same time or in addition to existing

1 periods of supervision, the periods of post-release supervision are consolidated to run as
2 a single period and begin at the conclusion of all terms of imprisonment."

3 **SECTION 8.** G.S. 15A-1368(a) reads as rewritten:

4 "(a) The following words have the listed meaning in this Article:

- 5 (1) Post-release supervision or supervision. – The time for which a
6 sentenced prisoner is ~~released from prison before~~ supervised in the
7 community following the termination of his ~~the prisoner's maximum~~
8 prison term, controlled by the rules and conditions of this Article.
9 Purposes of post-release supervision include all or any of the
10 following: to monitor and control the prisoner in the community, to
11 assist the prisoner in reintegrating into society, to collect restitution
12 and other court indebtedness from the prisoner, and to continue the
13 prisoner's treatment or education.
- 14 (2) Supervisee. – A person released from incarceration and in the custody
15 of the Department of Correction and Post-Release Supervision and
16 Parole Commission on post-release supervision.
- 17 (3) Commission. – The Post-Release Supervision and Parole Commission,
18 whose general authority is described in G.S. 143B-266.
- 19 (4) Minimum imposed term. – The minimum term of imprisonment
20 imposed on an individual prisoner by a court judgment, as described in
21 G.S. 15A-1340.13(c). When a prisoner is serving consecutive
22 imprisonment terms, the minimum imposed term, for purposes of this
23 Article, is the sum of all minimum terms imposed in the court
24 judgment.
- 25 (5) Maximum imposed term. – The maximum term of imprisonment
26 imposed on an individual prisoner by a court judgment, as described in
27 G.S. 15A-1340.13(c). When a prisoner is serving consecutive prison
28 terms, the maximum imposed term, for purposes of this Article, is the
29 sum of all maximum terms imposed in the court judgment or
30 ~~judgments, less nine months for each of the second and subsequent~~
31 ~~sentences imposed for Class B through Class E felonies.~~ judgments."

32 **SECTION 9.** G.S. 15A-1368.1 reads as rewritten:

33 **"§ 15A-1368.1. Applicability of Article 84A.**

34 This Article applies to all felons in Class B1 through Class E sentenced to an active
35 punishment under Article 81B of this ~~Chapter, Chapter or G.S. 90-95(h)~~, but does not
36 apply to felons in Class B1 sentenced to life imprisonment without parole. Prisoners
37 subject to Articles 85 and 85A of this Chapter are excluded from this Article's
38 coverage."

39 **SECTION 10.** G.S. 15A-1368.2 reads as rewritten:

40 **"§ 15A-1368.2. Post-release supervision eligibility and procedure.**

41 (a) A prisoner to whom this Article applies shall be released from prison for
42 post-release supervision on the date equivalent to his maximum imposed prison term
43 ~~less nine months~~, less any earned time awarded by the Department of Correction or the
44 custodian of a local confinement facility under G.S. 15A-1340.13(d). If a prisoner has

1 not been awarded any earned time, the prisoner shall be released for post-release
2 supervision on the date equivalent to his maximum prison ~~term less nine months term.~~

3 (b) A prisoner shall not refuse post-release supervision.

4 (c) A supervisee's period of post-release supervision shall be for a period of nine
5 months, unless the offense is ~~an~~ a Class B1 through E offense for which registration is
6 required pursuant to Article 27A of Chapter 14 of the General Statutes. For offenses
7 subject to the registration requirement of Article 27A of Chapter 14 of the General
8 Statutes, the period of post-release supervision is five years. The conditions of
9 post-release supervision are as authorized in G.S. ~~15A-1368.5.~~ 15A-1368.4.

10 (d) ~~A supervisee's period of post-release supervision may be reduced while the~~
11 ~~supervisee is under supervision by earned time awarded by the Department of~~
12 ~~Correction, pursuant to rules adopted in accordance with law. A supervisee is eligible to~~
13 ~~receive earned time credit toward the period of supervision for compliance with~~
14 ~~reintegrative conditions described in G.S. 15A-1368.5.~~

15 (e) Repealed by Session Laws 1997-237, s. 7.

16 (f) When a supervisee completes the period of post-release supervision, the
17 sentence or sentences from which the supervisee was placed on post-release supervision
18 are terminated."

19 **SECTION 11.** G.S. 15A-1368.3 reads as rewritten:

20 "**§ 15A-1368.3. Incidents of post-release supervision.**

21 (a) Conditionality. – Post-release supervision is conditional and subject to
22 revocation.

23 (b) Modification. – The Commission may for good cause shown modify the
24 conditions of post-release supervision at any time before the termination of the
25 supervision period.

26 (c) Effect of Violation. – If the supervisee violates a condition, described in
27 G.S. 15A-1368.4, at any time before the termination of the supervision period, the
28 Commission may continue the supervisee on the existing supervision, with or without
29 modifying the ~~conditions, or~~ conditions. If the supervisee violates a controlling
30 condition described in G.S. 15A-1368.4(b), (b1), (e), or (e2), and if continuation or
31 modification is not appropriate, the Commission may revoke post-release supervision as
32 provided in G.S. 15A-1368.6 and reimprison the supervisee for a term consistent with
33 the following requirements:

34 (1) The supervisee will be returned to prison ~~up to the time remaining on~~
35 ~~his maximum imposed term.~~ for a minimum term of seven months and
36 a maximum term of nine months.

37 (2) The supervisee shall not receive any credit for days on post-release
38 supervision against the maximum term of imprisonment imposed by
39 the court under G.S. 15A-1340.13.

40 (3) Pursuant to Article 19A of Chapter 15, the Department of Correction
41 shall award a prisoner credit against any term of reimprisonment for all
42 time spent in custody as a result of revocation proceedings under
43 G.S. 15A-1368.6.

1 (4) The prisoner is eligible to receive earned time credit against the
2 maximum prison term as provided in G.S. 15A-1340.13(d) for time
3 served in prison after the revocation.

4 (d) No Re-Release After Revocation of Post-Release Supervision. – A prisoner
5 who has been reimprisoned prior to completing a post-release supervision period may
6 ~~again not~~ be released again on post-release supervision by the ~~Commission subject to~~
7 ~~the provisions which govern initial release.~~ Commission.

8 (e) Timing of Revocation. – The Commission may revoke post-release
9 supervision for violation of a controlling condition during the period of supervision. The
10 Commission may also revoke post-release supervision following a period of supervision
11 if:

12 (1) Before the expiration of the period of post-release supervision, the
13 Commission has recorded its intent to conduct a revocation hearing;
14 and

15 (2) The Commission finds that every reasonable effort has been made to
16 notify the supervisee and conduct the hearing earlier. Prima facie
17 evidence of reasonable effort to notify is the issuance of a temporary
18 or conditional revocation order, as provided in G.S. 15A-1376, that
19 goes unserved."

20 **SECTION 12.** G.S. 15A-1368.4 reads as rewritten:

21 **"§ 15A-1368.4. Conditions of post-release supervision.**

22 (a) In General. – Conditions of post-release supervision may be reintegrative in
23 nature or designed to control the supervisee's behavior and to enforce compliance with
24 law or judicial order. A supervisee may have his supervision period revoked for any
25 violation of a controlling ~~condition or for repeated violation of a reintegrative condition.~~
26 ~~Compliance with reintegrative conditions may entitle a supervisee to earned time credits~~
27 ~~as described in G.S. 15A-1368.2(d).~~ condition.

28 (b) Required Condition. – The Commission shall provide as an express condition
29 of every release that the supervisee not commit another crime during the period for
30 which the supervisee remains subject to revocation. A supervisee's failure to comply
31 with this controlling condition is a supervision violation for which the supervisee may
32 face revocation as provided in G.S. 15A-1368.3.

33 (b1) Additional Required Conditions for Sex Offenders and Persons Convicted of
34 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the
35 required condition set forth in subsection (b) of this section, for a supervisee who has
36 been convicted of an offense which is a reportable conviction as defined in
37 G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor,
38 controlling conditions, violations of which may result in revocation of post-release
39 supervision, are:

40 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
41 conviction as defined by G.S. 14-208.6(4).

42 (2) Participate in such evaluation and treatment as is necessary to
43 complete a prescribed course of psychiatric, psychological, or other
44 rehabilitative treatment as ordered by the Commission.

1 (3) Not communicate with, be in the presence of, or found in or on the
2 premises of the victim of the offense.

3 (4) Not reside in a household with any minor child if the offense is one in
4 which there is evidence of sexual abuse of a minor.

5 (5) Not reside in a household with any minor child if the offense is one in
6 which there is evidence of physical or mental abuse of a minor, unless
7 ~~a court of competent jurisdiction~~ the Post-Release Supervision and
8 Parole Commission expressly finds that it is unlikely that the
9 defendant's harmful or abusive conduct will recur and that it would be
10 in the child's best interest to allow the supervisee to reside in the same
11 household with a minor child.

12 (c) Discretionary Conditions. – The Commission, in consultation with the
13 Division of Community Corrections, may impose reintegrative or controlling conditions
14 on a supervisee it believes reasonably necessary to ensure that the supervisee will lead a
15 law-abiding life or to assist the supervisee to do so.

16 (d) Reintegrative Conditions. – ~~Appropriate reintegrative conditions, for which a~~
17 ~~supervisee may receive earned time credits against the length of the supervision period,~~
18 ~~and repeated violation that may result in revocation of post release supervision,~~
19 are conditions are:

20 (1) Work faithfully at suitable employment or faithfully pursue a course of
21 study or vocational training that will equip the supervisee for suitable
22 employment.

23 (2) Undergo available medical or psychiatric treatment and remain in a
24 specified institution if required for that purpose.

25 (3) Attend or reside in a facility providing rehabilitation, instruction,
26 recreation, or residence for persons on post-release supervision.

27 (4) Support the supervisee's dependents and meet other family
28 responsibilities.

29 (5) In the case of a supervisee who attended a basic skills program during
30 incarceration, continue attending a basic skills program in pursuit of a
31 General Education Development Degree or adult high school diploma.

32 (6) Satisfy other conditions reasonably related to reintegration into
33 society.

34 (e) Controlling Conditions. – Appropriate controlling conditions, violation of
35 which may result in revocation of post-release supervision, are:

36 (1) Not use, possess, or control any illegal drug or controlled substance
37 unless it has been prescribed for the supervisee by a licensed physician
38 and is in the original container with the prescription number affixed on
39 it; not knowingly associate with any known or previously convicted
40 users, possessors, or sellers of any such illegal drugs or controlled
41 substances; and not knowingly be present at or frequent any place
42 where such illegal drugs or controlled substances are sold, kept, or
43 used.

- 1 (2) Comply with a court order to pay the costs of reintegrative treatment
2 for a minor and a minor's parents or custodians where the offense
3 involved evidence of physical, mental, or sexual abuse of a minor.
- 4 (3) Comply with a court order to pay court costs and costs for appointed
5 counsel or public defender in the case for which the supervisee was
6 convicted.
- 7 (4) Not possess a firearm, destructive device, or other dangerous weapon
8 unless granted written permission by the Commission or a post-release
9 supervision officer.
- 10 (5) Report to a post-release supervision officer at reasonable times and in
11 a reasonable manner, as directed by the Commission or a post-release
12 supervision officer.
- 13 (6) Permit a post-release supervision officer to visit at reasonable times at
14 the supervisee's home or elsewhere.
- 15 (7) Remain within the geographic limits fixed by the Commission unless
16 granted written permission to leave by the Commission or the
17 post-release supervision officer.
- 18 (8) Answer all reasonable inquiries by the post-release supervision officer
19 and obtain prior approval from the post-release supervision officer for
20 any change in address or employment.
- 21 (9) Promptly notify the post-release supervision officer of any change in
22 address or employment.
- 23 (10) Submit at reasonable times to searches of the supervisee's person by a
24 post-release supervision officer for purposes reasonably related to the
25 post-release supervision. The Commission shall not require as a
26 condition of post-release supervision that the supervisee submit to any
27 other searches that would otherwise be unlawful. Whenever the search
28 consists of testing for the presence of illegal drugs, the supervisee may
29 also be required to reimburse the Department of Correction for the
30 actual cost of drug testing and drug screening, if the results are
31 positive.
- 32 (11) Make restitution or reparation to an aggrieved party as provided in
33 G.S. 148-57.1.
- 34 (12) Comply with an order from a court of competent jurisdiction regarding
35 the payment of an obligation of the supervisee in connection with any
36 judgment rendered by the court.
- 37 (13) Remain in one or more specified places for a specified period or
38 periods each day, and wear a device that permits the defendant's
39 compliance with the condition to be monitored electronically.
- 40 (14) Submit to supervision by officers assigned to the Intensive
41 Post-Release Supervision Program established pursuant to
42 G.S. 143B-262(c), and abide by the rules adopted for that Program.
- 43 (e1) Prohibited Conditions. – The Commission shall not impose community
44 service as a condition of post-release supervision.

1 (e2) Additional Discretionary Controlling Conditions for Sex Offenders and
2 Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor.
3 – In addition to the discretionary conditions set forth in subsections (d) and (e) of this
4 section, for a supervisee who has been convicted of an offense which is a reportable
5 conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or
6 sexual abuse of a minor, appropriate discretionary controlling conditions, violations of
7 which may result in revocation of post-release supervision, are that the offender:

- 8 (1) Reside at a residence to be approved by the supervising officer.
- 9 (2) Not have contact with the victim including, but not limited to, letters,
10 phone calls, tapes, videos, computer, Internet, or visits. This includes
11 any form of direct contact, or any form of contact through a third
12 party.
- 13 (3) Not socialize or communicate with individuals under the age of 18 in
14 work or social activities unless accompanied by a responsible adult
15 who is aware of the abusive patterns and is approved in writing by the
16 supervising officer.
- 17 (4) Submit to psychological and psychophysiological assessment at the
18 direction of the supervising officer to assist in treatment planning and
19 case monitoring.
- 20 (5) Participate in a sexual abuse treatment program approved by the
21 supervising officer and complete the same to the full satisfaction of the
22 treatment provider. Comply with all programs, including the polygraph
23 examinations, to be used as a tool in conjunction with the treatment
24 plan developed by the treatment provider. Program participation is
25 defined as attendance at all meetings, prompt payment of fees,
26 admission of responsibility for his or her offense, and progress toward
27 reasonable treatment goals.
- 28 (6) Pay for the victims' mental health counseling expenses that are
29 incurred as a result of the crime or offense as ordered by the court.
- 30 (7) Not possess any sexually stimulating or sexually oriented materials as
31 deemed inappropriate by the supervising officer, nor patronize any
32 place where such material or entertainment is the primary business.
- 33 (8) Not use, possess, control, distribute, sell, exchange, or collect
34 pornography or child erotica, including any obtained through Internet
35 access or telephonic communications.
- 36 (9) Submit at reasonable times to warrantless searches and seizures by the
37 supervising officer of his person, vehicle, premises, computer
38 equipment, and telephone records while he is present for the purposes
39 of detecting or discovering pornography and/or erotica, which are
40 reasonably related to his supervision.
- 41 (10) Not linger, loiter, nor spend time at locations where unsupervised
42 persons under 18 years of age are present, including, but not limited to,
43 parks, playgrounds, school yards, arcades, or places frequented by

1 children, activities, and such similar places whose purpose is the care,
2 entertainment, or education of such persons under 18 years of age.

3 (11) Not work or volunteer for any business or organization that provides
4 services to or employs persons under 18 years of age. This includes,
5 but is not limited to, arcades, babysitting, daycare agencies, schools,
6 churches, playgrounds, and youth sporting activities or groups. The
7 supervising officer must approve employment.

8 (12) Not associate with or have any contact with convicted sex offenders
9 unless in a counseling group.

10 (13) When given authorization to visit another jurisdiction, present a travel
11 letter to the local police department, have it signed, and return it to the
12 supervising officer.

13 (14) Not purchase, possess, or consume alcoholic beverages or controlled
14 substances. Submit to blood, breath, and urine testing for analysis for
15 the presence of prohibited drugs or alcohol as requested by the
16 supervising officer and pay any fees associated with testing.

17 (15) Not be alone with any minor child below the age of 18 years unless
18 approved by his or her supervising officer in writing.

19 (16) Not engage in any sexual behavior with any minor child below the age
20 of 18 years of age.

21 (17) Abide by a curfew at the discretion of the supervising officer.

22 (f) Required Supervision Fee. – The Commission shall require as a condition of
23 post-release supervision that the supervisee pay a supervision fee of thirty dollars
24 (\$30.00) per month. The Commission may exempt a supervisee from this condition only
25 if it finds that requiring payment of the fee is an undue economic burden. The fee shall
26 be paid to the clerk of superior court of the county in which the supervisee was
27 convicted. The clerk shall transmit any money collected pursuant to this subsection to
28 the State to be deposited in the State's General Fund. In no event shall a supervisee be
29 required to pay more than one supervision fee per month."

30 **SECTION 13.** G.S. 90-95(h) reads as rewritten:

31 "(h) Notwithstanding any other provision of law, the following provisions apply
32 except as otherwise provided in this Article.

33 (1) Any person who sells, manufactures, delivers, transports, or possesses
34 in excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a
35 felony which felony shall be known as "trafficking in marijuana" and
36 if the quantity of such substance involved:

37 a. Is in excess of 10 pounds, but less than 50 pounds, such person
38 shall be punished as a Class H felon and shall be sentenced to a
39 minimum term of 25 months and a maximum term of 30
40 months in the State's prison and shall be fined not less than five
41 thousand dollars (\$5,000);

42 b. Is 50 pounds or more, but less than 2,000 pounds, such person
43 shall be punished as a Class G felon and shall be sentenced to a
44 minimum term of 35 months and a maximum term of 42

- 1 months in the State's prison and shall be fined not less than
2 twenty-five thousand dollars (\$25,000);
- 3 c. Is 2,000 pounds or more, but less than 10,000 pounds, such
4 person shall be punished as a Class F felon and shall be
5 sentenced to a minimum term of 70 months and a maximum
6 term of 84 months in the State's prison and shall be fined not
7 less than fifty thousand dollars (\$50,000);
- 8 d. Is 10,000 pounds or more, such person shall be punished as a
9 Class D felon and shall be sentenced to a minimum term of 175
10 months and a maximum term of ~~219~~210 months in the State's
11 prison and shall be fined not less than two hundred thousand
12 dollars (\$200,000).
- 13 (2) Any person who sells, manufactures, delivers, transports, or possesses
14 1,000 tablets, capsules or other dosage units, or the equivalent
15 quantity, or more of methaqualone, or any mixture containing such
16 substance, shall be guilty of a felony which felony shall be known as
17 "trafficking in methaqualone" and if the quantity of such substance or
18 mixture involved:
- 19 a. Is 1,000 or more dosage units, or equivalent quantity, but less
20 than 5,000 dosage units, or equivalent quantity, such person
21 shall be punished as a Class G felon and shall be sentenced to a
22 minimum term of 35 months and a maximum term of 42
23 months in the State's prison and shall be fined not less than
24 twenty-five thousand dollars (\$25,000);
- 25 b. Is 5,000 or more dosage units, or equivalent quantity, but less
26 than 10,000 dosage units, or equivalent quantity, such person
27 shall be punished as a Class F felon and shall be sentenced to a
28 minimum term of 70 months and a maximum term of 84
29 months in the State's prison and shall be fined not less than fifty
30 thousand dollars (\$50,000);
- 31 c. Is 10,000 or more dosage units, or equivalent quantity, such
32 person shall be punished as a Class D felon and shall be
33 sentenced to a minimum term of 175 months and a maximum
34 term of ~~219~~210 months in the State's prison and shall be fined
35 not less than two hundred thousand dollars (\$200,000).
- 36 (3) Any person who sells, manufactures, delivers, transports, or possesses
37 28 grams or more of cocaine and any salt, isomer, salts of isomers,
38 compound, derivative, or preparation thereof, or any coca leaves and
39 any salt, isomer, salts of isomers, compound, derivative, or preparation
40 of coca leaves, and any salt, isomer, salts of isomers, compound,
41 derivative or preparation thereof which is chemically equivalent or
42 identical with any of these substances (except decocainized coca
43 leaves or any extraction of coca leaves which does not contain
44 cocaine) or any mixture containing such substances, shall be guilty of

1 a felony, which felony shall be known as "trafficking in cocaine" and
2 if the quantity of such substance or mixture involved:

- 3 a. Is 28 grams or more, but less than 200 grams, such person shall
4 be punished as a Class G felon and shall be sentenced to a
5 minimum term of 35 months and a maximum term of 42
6 months in the State's prison and shall be fined not less than fifty
7 thousand dollars (\$50,000);
8 b. Is 200 grams or more, but less than 400 grams, such person
9 shall be punished as a Class F felon and shall be sentenced to a
10 minimum term of 70 months and a maximum term of 84
11 months in the State's prison and shall be fined not less than one
12 hundred thousand dollars (\$100,000);
13 c. Is 400 grams or more, such person shall be punished as a Class
14 D felon and shall be sentenced to a minimum term of 175
15 months and a maximum term of ~~219~~210 months in the State's
16 prison and shall be fined at least two hundred fifty thousand
17 dollars (\$250,000).

18 (3a) Repealed by Session Laws 1999-370, s. 1, effective December 1, 1999.

19 (3b) Any person who sells, manufactures, delivers, transports, or possesses
20 28 grams or more of methamphetamine or amphetamine shall be guilty
21 of a felony which felony shall be known as "trafficking in
22 methamphetamine or amphetamine" and if the quantity of such
23 substance or mixture involved:

- 24 a. Is 28 grams or more, but less than 200 grams, such person shall
25 be punished as a Class F felon and shall be sentenced to a
26 minimum term of 70 months and a maximum term of 84
27 months in the State's prison and shall be fined not less than fifty
28 thousand dollars (\$50,000);
29 b. Is 200 grams or more, but less than 400 grams, such person
30 shall be punished as a Class E felon and shall be sentenced to a
31 minimum term of 90 months and a maximum term of ~~147~~108
32 months in the State's prison and shall be fined not less than one
33 hundred thousand dollars (\$100,000);
34 c. Is 400 grams or more, such person shall be punished as a Class
35 C felon and shall be sentenced to a minimum term of 225
36 months and a maximum term of ~~279~~270 months in the State's
37 prison and shall be fined at least two hundred fifty thousand
38 dollars (\$250,000).

39 (4) Any person who sells, manufactures, delivers, transports, or possesses
40 four grams or more of opium or opiate, or any salt, compound,
41 derivative, or preparation of opium or opiate (except apomorphine,
42 nalbuphine, analoxone and naltrexone and their respective salts),
43 including heroin, or any mixture containing such substance, shall be
44 guilty of a felony which felony shall be known as "trafficking in opium

1 or heroin" and if the quantity of such controlled substance or mixture
2 involved:

- 3 a. Is four grams or more, but less than 14 grams, such person shall
4 be punished as a Class F felon and shall be sentenced to a
5 minimum term of 70 months and a maximum term of 84
6 months in the State's prison and shall be fined not less than fifty
7 thousand dollars (\$50,000);
- 8 b. Is 14 grams or more, but less than 28 grams, such person shall
9 be punished as a Class E felon and shall be sentenced to a
10 minimum term of 90 months and a maximum term of ~~117~~108
11 months in the State's prison and shall be fined not less than one
12 hundred thousand dollars (\$100,000);
- 13 c. Is 28 grams or more, such person shall be punished as a Class C
14 felon and shall be sentenced to a minimum term of 225 months
15 and a maximum term of ~~279~~270 months in the State's prison
16 and shall be fined not less than five hundred thousand dollars
17 (\$500,000).

18 (4a) Any person who sells, manufactures, delivers, transports, or possesses
19 100 tablets, capsules, or other dosage units, or the equivalent quantity,
20 or more, of Lysergic Acid Diethylamide, or any mixture containing
21 such substance, shall be guilty of a felony, which felony shall be
22 known as "trafficking in Lysergic Acid Diethylamide". If the quantity
23 of such substance or mixture involved:

- 24 a. Is 100 or more dosage units, or equivalent quantity, but less
25 than 500 dosage units, or equivalent quantity, such person shall
26 be punished as a Class G felon and shall be sentenced to a
27 minimum term of 35 months and a maximum term of 42
28 months in the State's prison and shall be fined not less than
29 twenty-five thousand dollars (\$25,000);
- 30 b. Is 500 or more dosage units, or equivalent quantity, but less
31 than 1,000 dosage units, or equivalent quantity, such person
32 shall be punished as a Class F felon and shall be sentenced to a
33 minimum term of 70 months and a maximum term of 84
34 months in the State's prison and shall be fined not less than fifty
35 thousand dollars (\$50,000);
- 36 c. Is 1,000 or more dosage units, or equivalent quantity, such
37 person shall be punished as a Class D felon and shall be
38 sentenced to a minimum term of 175 months and a maximum
39 term of ~~249~~210 months in the State's prison and shall be fined
40 not less than two hundred thousand dollars (\$200,000).

41 (4b) Any person who sells, manufactures, delivers, transports, or possesses
42 100 or more tablets, capsules, or other dosage units, or 28 grams or
43 more of 3,4-methylenedioxyamphetamine (MDA), including its salts,
44 isomers, and salts of isomers, or 3,4-methylenedioxymethamphetamine

(MDMA), including its salts, isomers, and salts of isomers, or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as "trafficking in MDA/MDMA." If the quantity of the substance or mixture involved:

- a. Is 100 or more tablets, capsules, or other dosage units, but less than 500 tablets, capsules, or other dosage units, or 28 grams or more, but less than 200 grams, the person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
- b. Is 500 or more tablets, capsules, or other dosage units, but less than 1,000 tablets, capsules, or other dosage units, or 200 grams or more, but less than 400 grams, the person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- c. Is 1,000 or more tablets, capsules, or other dosage units, or 400 grams or more, the person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of ~~219~~210 months in the State's prison and shall be fined not less than two hundred fifty thousand dollars (\$250,000).

(5) Except as provided in this subdivision, a person being sentenced under this subsection may not receive a suspended sentence or be placed on probation. The sentencing judge may reduce the fine, or impose a prison term less than the applicable minimum prison term provided by this subsection, or suspend the prison term imposed and place a person on probation when such person has, to the best of his knowledge, provided substantial assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators, or principals if the sentencing judge enters in the record a finding that the person to be sentenced has rendered such substantial assistance.

(6) Sentences imposed pursuant to this subsection shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced hereunder.

(i) The penalties provided in subsection (h) of this section shall also apply to any person who is convicted of conspiracy to commit any of the offenses described in subsection (h) of this section."

SECTION 14. This act becomes effective December 1, 2005, and applies to offenses committed on or after that date.