

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**SENATE BILL 574
Judiciary II Committee Substitute Adopted 5/18/05**

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

Sponsors:

Referred to:

March 16, 2005

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

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 5A-11(a)(9a) reads as rewritten:

"(a) Except as provided in subsection ~~(b)~~, (b) of this section, each of the following is criminal contempt:

...

(9a) Willful refusal by a defendant to comply with a condition of post-release supervision or probation.

..."

SECTION 2. G.S. 15A-1340.11 is amended by adding a new subdivision to read:

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

SECTION 3. G.S. 15A-1340.13(b) reads as rewritten:

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

SECTION 4. G.S. 15A-1340.17 reads as rewritten:

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

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

(b) Fines. – Any judgment that includes a sentence of imprisonment may also include a fine. If a community punishment is authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.

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

- (1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.
- (2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.
- (3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.
- (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

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

1		240-300	288-360	336-420	384-480	Life Imprisonment	Aggravated	
2						Without Parole		
3	B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
4		144-192	173-230	202-269	230-307	260-346	288-384	Mitigated
5		A	A	A	A	A	A	DISPOSITION
6		157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
7	B2	125-157	151-189	176-220	201-251	225-282	251-313	PRESUMPTIVE
8		94-125	114-151	132-176	151-201	169-225	188-251	Mitigated
9		A	A	A	A	A	A	DISPOSITION
10		73-92	100-125	116-145	133-167	151-188	168-210	Aggravated
11	C	58-73	80-100	93-116	107-133	121-151	135-168	PRESUMPTIVE
12		44-58	60-80	70-93	80-107	90-121	101-135	Mitigated
13		A	A	A	A	A	A	DISPOSITION
14		64-80	77-95	103-129	117-146	133-167	146-183	Aggravated
15	D	51-64	61-77	82-103	94-117	107-133	117-146	PRESUMPTIVE
16		38-51	46-61	61-82	71-94	80-107	88-117	Mitigated
17		I/A	I/A	A	A	A	A	DISPOSITION
18		25-31	29-36	34-42	46-58	53-66	59-74	Aggravated
19	E	20-25	23-29	27-34	37-46	42-53	47-59	PRESUMPTIVE
20		15-20	17-23	20-27	28-37	32-42	35-47	Mitigated
21		I/A	I/A	I/A	A	A	A	DISPOSITION
22		16-20	19-24	21-26	25-31	34-42	39-49	Aggravated
23	F	13-16	15-19	17-21	20-25	27-34	31-39	PRESUMPTIVE
24		10-13	11-15	13-17	15-20	20-27	23-31	Mitigated
25		I/A	I/A	I/A	I/A	A	A	DISPOSITION
26		13-16	15-19	16-20	20-25	21-26	29-36	Aggravated
27	G	10-13	12-15	13-16	16-20	17-21	23-29	PRESUMPTIVE
28		8-10	9-12	10-13	12-16	13-17	17-23	Mitigated
29		C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
30		6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
31	H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
32		4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
33		C	C/I	I	I/A	I/A	I/A	DISPOSITION
34		6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
35	I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
36		3-4	3-4	4-5	4-6	5-7	6-8	Mitigated

(d) Maximum Sentences Specified for ~~Class F through Class I Felonies.~~ Class B1 Felonies Through Class I Felonies for Minimum Terms up to 346 Months. – Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class ~~F-B1~~ through Class I felonies. The

1 first figure in each cell in the table is the minimum term and the second is the maximum
2 term.

3								
4	3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
5	11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
6	19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
7	27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
8	35-42	36-44	37-45	38-46	39-47	40-48	41-50	42-51
9	43-52	44-53	45-54	46-56	47-57	48-58	49-59	<u>50-60</u>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>
37	<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>
38	<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>
39	<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>
40	<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>
41	<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>
42	<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>
43	<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>
44	<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>

331-397 332-398 333-400 334-401 335-402 336-403 337-404 338-406
339-407 340-408 341-409 342-410 343-412 344-413 345-414 346-415

(e) ~~Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months. — Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.~~

15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55
39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122
95-123	96-125	97-126	98-127	99-128	100-129	101-131	102-132
103-133	104-134	105-135	106-137	107-138	108-139	109-140	110-141
111-143	112-144	113-145	114-146	115-147	116-149	117-150	118-151
119-152	120-153	121-155	122-156	123-157	124-158	125-159	126-161
127-162	128-163	129-164	130-165	131-167	132-168	133-169	134-170
135-171	136-173	137-174	138-175	139-176	140-177	141-179	142-180
143-181	144-182	145-183	146-185	147-186	148-187	149-188	150-189
151-191	152-192	153-193	154-194	155-195	156-197	157-198	158-199
159-200	160-201	161-203	162-204	163-205	164-206	165-207	166-209
167-210	168-211	169-212	170-213	171-215	172-216	173-217	174-218
175-219	176-221	177-222	178-223	179-224	180-225	181-227	182-228
183-229	184-230	185-231	186-233	187-234	188-235	189-236	190-237
191-239	192-240	193-241	194-242	195-243	196-245	197-246	198-247
199-248	200-249	201-251	202-252	203-253	204-254	205-255	206-257
207-258	208-259	209-260	210-261	211-263	212-264	213-265	214-266
215-267	216-269	217-270	218-271	219-272	220-273	221-275	222-276
223-277	224-278	225-279	226-281	227-282	228-283	229-284	230-285
231-287	232-288	233-289	234-290	235-291	236-293	237-294	238-295
239-296	240-297	241-299	242-300	243-301	244-302	245-303	246-305
247-306	248-307	249-308	250-309	251-311	252-312	253-313	254-314
255-315	256-317	257-318	258-319	259-320	260-321	261-323	262-324
263-325	264-326	265-327	266-329	267-330	268-331	269-332	270-333
271-335	272-336	273-337	274-338	275-339	276-341	277-342	278-343

1	279-344	280-345	281-347	282-348	283-349	284-350	285-351	286-353
2	287-354	288-355	289-356	290-357	291-359	292-360	293-361	294-362
3	295-363	296-365	297-366	298-367	299-368	300-369	301-371	302-372
4	303-373	304-374	305-375	306-377	307-378	308-379	309-380	310-381
5	311-383	312-384	313-385	314-386	315-387	316-389	317-390	318-391
6	319-392	320-393	321-395	322-396	323-397	324-398	325-399	326-401
7	327-402	328-403	329-404	330-405	331-407	332-408	333-409	334-410
8	335-411	336-413	337-414	338-415	339-416			

9

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

17 **SECTION 5.** Article 81B of Chapter 15A of the General Statutes is
 18 amended by adding a new section to read:

19 "**§ 15A-1340.18. Post-release supervision.**

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

25 (1) Term of supervision. – The term of post-release supervision is nine
 26 months, unless the offense is a Class B1 through E offense for which
 27 registration is required under Article 27A of Chapter 14 of the General
 28 Statutes. For offenses subject to the registration requirement of Article
 29 27A of Chapter 14 of the General Statutes, the term of post-release
 30 supervision is five years.

31 (2) Term of imprisonment. – The term of imprisonment upon an initial
 32 revocation of post-release supervision is for a minimum term of seven
 33 months and a maximum term of nine months.

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

40 (c) If the court imposes an intermediate punishment on an offender who is
 41 required to receive post-release supervision under subsection (a) of this section, then the
 42 term of post-release supervision is suspended.

43 (d) Article 84A of this Chapter applies to judgments entered under this section."

44 **SECTION 6.** G.S. 15A-1342(c) reads as rewritten:

1 "(c) Conditions; Suspended Sentence. – When the court places a convicted
2 offender on probation, it must determine conditions of probation as provided in
3 G.S. 15A-1343. In addition, it must impose a suspended sentence of imprisonment,
4 determined as provided in Article ~~83, Imprisonment, 83~~ of this Chapter, which may be
5 activated upon violation of conditions of probation. Suspension of a term of
6 imprisonment also suspends any term of post-release supervision that may be imposed
7 for that offense."

8 **SECTION 7.** G.S. 15A-1344(d) reads as rewritten:

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

35 **SECTION 8.** G.S. 15A-1354 reads as rewritten:

36 "**§ 15A-1354. Concurrent and consecutive terms of imprisonment.**

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

43 (b) Effect of Consecutive Terms. – In determining the effect of consecutive
44 sentences imposed under authority of this Article and the manner in which they will be

1 served, the Department of Correction must treat the defendant as though ~~he~~the
2 defendant has been committed for a single term with the following incidents:

- 3 (1) The maximum prison sentence consists of the total of the maximum
4 terms of the consecutive sentences, ~~less nine months for each of the~~
5 ~~second and subsequent sentences imposed for Class B through Class E~~
6 ~~felonies; and sentences; and~~
7 (2) The minimum term consists of the total of the minimum terms of the
8 consecutive sentences.

9 (c) Post-Release Supervision. – When multiple terms of post-release supervision
10 are imposed on a person, either at the same time or in addition to existing terms of
11 supervision, the terms of post-release supervision are consolidated to run as a single
12 term and begin at the conclusion of all terms of imprisonment."

13 **SECTION 9.** G.S. 15A-1368(a) reads as rewritten:

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

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

42 **SECTION 10.** G.S. 15A-1368.1 reads as rewritten:

43 **"§ 15A-1368.1. Applicability of Article 84A.**

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

6 **SECTION 11.** G.S. 15A-1368.2 reads as rewritten:

7 "**§ 15A-1368.2. Post-release supervision eligibility and procedure.**

8 (a) A prisoner to whom this Article applies shall be released from prison for
9 post-release supervision on the date equivalent to ~~his~~ that prisoner's maximum imposed
10 prison term ~~less nine months,~~ less any earned time awarded by the Department of
11 Correction or the custodian of a local confinement facility under G.S. 15A-1340.13(d).
12 If a prisoner has not been awarded any earned time, the prisoner shall be released for
13 post-release supervision on the date equivalent to ~~his~~ the prisoner's maximum prison
14 ~~term less nine months term.~~

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

16 (c) A supervisee's ~~period~~ term of post-release supervision shall be for a ~~period~~ of
17 nine months, unless the offense is ~~an~~ a Class B1 through E offense for which
18 registration is required ~~pursuant to~~ under Article 27A of Chapter 14 of the General
19 Statutes. For offenses subject to the registration requirement of Article 27A of Chapter
20 14 of the General Statutes, the ~~period~~ term of post-release supervision is five years. The
21 conditions of post-release supervision are as authorized in
22 ~~G.S. 15A-1368.5.~~ 15A-1368.4.

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

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

29 (f) When a supervisee completes the ~~period~~ term of post-release supervision, the
30 sentence or sentences from which the supervisee was placed on post-release supervision
31 are terminated."

32 **SECTION 12.** G.S. 15A-1368.3(d) is amended by adding the following new
33 subsection to read:

34 "(d) Re-Release After Initial Revocation of Post-Release Supervision. – A
35 prisoner who ~~has been~~ is reimprisoned ~~prior to~~ before completing a post-release
36 supervision period ~~may of~~ of nine months shall not be released again on post-release
37 supervision by the Commission. A prisoner who is reimprisoned under this subsection
38 before completing a post-release supervision period of five years shall again be released
39 on post release supervision by the Commission subject to subsection (d1) of this section
40 and the provisions which that govern initial release.

41 (d1) Re-Release After Second or Subsequent Revocation of Post-Release
42 Supervision. – A supervisee who is reimprisoned following the first revocation of a
43 five-year period of post-release supervision before completing that period of five years
44 shall again be released on post-release supervision for the remainder of that period. If a

1 supervisee who is re-released willfully violates a condition of post-release supervision
2 for a second or subsequent time, the superior court in the county where the supervisee
3 resides may hold the supervisee in criminal contempt as provided in Article 1 of
4 Chapter 5A of the General Statutes. A finding of criminal contempt by the court shall
5 suspend the unserved period of post-release supervision during any period of
6 confinement resulting from the finding of criminal contempt. If the supervisee serves a
7 sentence for contempt in a local confinement facility, the Department of Correction
8 shall pay for the confinement at the standard rate set by the General Assembly under
9 G.S. 148-32.1(a) regardless of whether the supervisee would be eligible under the terms
10 of G.S. 148-32.1(a)."

11 **SECTION 13.** G.S. 15A-1368.3, as amended by Section 12 of this act, reads
12 as rewritten:

13 **"§ 15A-1368.3. Incidents of post-release supervision.**

14 (a) **Conditionality.** – Post-release supervision is conditional and subject to
15 revocation.

16 (b) **Modification.** – The Commission may for good cause shown modify the
17 conditions of post-release supervision at any time before the termination of the
18 supervision ~~period~~term.

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

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

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

33 (3) ~~Pursuant to Under~~ Article 19A of Chapter 15, 15 of the General
34 Statutes, the Department of Correction shall award a prisoner credit
35 against any term of reimprisonment for all time spent in custody as a
36 result of revocation proceedings under G.S. 15A-1368.6.

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

40 (d) **Re-Release After Initial Revocation of Post-Release Supervision.** – A
41 prisoner who is reimprisoned before completing a post-release supervision ~~period~~term
42 of nine months shall not be released again on post-release supervision by the
43 Commission. A prisoner who is reimprisoned under this subsection before completing a
44 post-release supervision ~~period~~term of five years shall again be released on post release

1 supervision by the Commission subject to subsection (d1) of this section and the
2 provisions that govern initial release.

3 (d1) Re-Release After Second or Subsequent Revocation of Post-Release
4 Supervision. – A supervisee who is re-imprisoned following the first revocation of a
5 five-year ~~period-term~~ of post-release supervision before completing that ~~period-term~~
6 five years shall again be released on post-release supervision for the remainder of that
7 ~~period-term~~. If a supervisee who is re-released willfully violates a condition of
8 post-release supervision for a second or subsequent time, the superior court in the
9 county where the supervisee resides may hold the supervisee in criminal contempt as
10 provided in Article 1 of Chapter 5A of the General Statutes. A finding of criminal
11 contempt by the court shall suspend the unserved ~~period-term~~ of post-release
12 supervision during any period of confinement resulting from the finding of criminal
13 contempt. If the supervisee serves a sentence for contempt in a local confinement
14 facility, the Department of Correction shall pay for the confinement at the standard rate
15 set by the General Assembly under G.S. 148-32.1(a) regardless of whether the
16 supervisee would be eligible under the terms of G.S. 148-32.1(a).

17 (e) Timing of Revocation. – The Commission may revoke post-release
18 supervision for violation of a controlling condition during the ~~period-term~~ of
19 supervision. The Commission may also revoke post-release supervision following a
20 ~~period-term~~ of supervision if:

- 21 (1) Before the expiration of the ~~period-term~~ of post-release supervision,
22 the Commission has recorded its intent to conduct a revocation
23 hearing; and
- 24 (2) The Commission finds that every reasonable effort has been made to
25 notify the supervisee and conduct the hearing earlier. Prima facie
26 evidence of reasonable effort to notify is the issuance of a temporary
27 or conditional revocation order, as provided in G.S. 15A-1376, that
28 goes unserved."

29 **SECTION 14.** G.S. 15A-1368.4 reads as rewritten:

30 **"§ 15A-1368.4. Conditions of post-release supervision.**

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

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

42 (b1) Additional Required Conditions for Sex Offenders and Persons Convicted of
43 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the
44 required condition set forth in subsection (b) of this section, for a supervisee who has

1 been convicted of an offense ~~which~~ that is a reportable conviction as defined in
2 G.S. 14-208.6(4), or ~~which~~ that involves the physical, mental, or sexual abuse of a
3 minor, controlling conditions, violations of which may result in revocation of
4 post-release supervision, are:

- 5 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
6 conviction as defined by G.S. 14-208.6(4).
- 7 (2) Participate in such evaluation and treatment as is necessary to
8 complete a prescribed course of psychiatric, psychological, or other
9 rehabilitative treatment as ordered by the Commission.
- 10 (3) Not communicate with, be in the presence of, or found in or on the
11 premises of the victim of the offense.
- 12 (4) Not reside in a household with any minor child if the offense is one in
13 which there is evidence of sexual abuse of a minor.
- 14 (5) Not reside in a household with any minor child if the offense is one in
15 which there is evidence of physical or mental abuse of a minor, unless
16 ~~a court of competent jurisdiction~~ the Post-Release Supervision and
17 Parole Commission expressly finds that it is unlikely that the
18 defendant's harmful or abusive conduct will recur and that it would be
19 in the child's best interest to allow the supervisee to reside in the same
20 household with a minor child.

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

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

- 29 (1) Work faithfully at suitable employment or faithfully pursue a course of
30 study or vocational training that will equip the supervisee for suitable
31 employment.
- 32 (2) Undergo available medical or psychiatric treatment and remain in a
33 specified institution if required for that purpose.
- 34 (3) Attend or reside in a facility providing rehabilitation, instruction,
35 recreation, or residence for persons on post-release supervision.
- 36 (4) Support the supervisee's dependents and meet other family
37 responsibilities.
- 38 (5) In the case of a supervisee who attended a basic skills program during
39 incarceration, continue attending a basic skills program in pursuit of a
40 General Education Development Degree or adult high school diploma.
- 41 (6) Satisfy other conditions reasonably related to reintegration into
42 society.

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

- 1 (1) Not use, possess, or control any illegal drug or controlled substance
2 unless it has been prescribed for the supervisee by a licensed physician
3 and is in the original container with the prescription number affixed on
4 it; not knowingly associate with any known or previously convicted
5 users, possessors, or sellers of any such illegal drugs or controlled
6 substances; and not knowingly be present at or frequent any place
7 where such illegal drugs or controlled substances are sold, kept, or
8 used.
- 9 (2) Comply with a court order to pay the costs of reintegrative treatment
10 for a minor and a minor's parents or custodians where the offense
11 involved evidence of physical, mental, or sexual abuse of a minor.
- 12 (3) Comply with a court order to pay court costs and costs for appointed
13 counsel or public defender in the case for which the supervisee was
14 convicted.
- 15 (4) Not possess a firearm, destructive device, or other dangerous weapon
16 unless granted written permission by the Commission or a post-release
17 supervision officer.
- 18 (5) Report to a post-release supervision officer at reasonable times and in
19 a reasonable manner, as directed by the Commission or a post-release
20 supervision officer.
- 21 (6) Permit a post-release supervision officer to visit at reasonable times at
22 the supervisee's home or elsewhere.
- 23 (7) Remain within the geographic limits fixed by the Commission unless
24 granted written permission to leave by the Commission or the
25 post-release supervision officer.
- 26 (8) Answer all reasonable inquiries by the post-release supervision officer
27 and obtain prior approval from the post-release supervision officer for
28 any change in address or employment.
- 29 (9) Promptly notify the post-release supervision officer of any change in
30 address or employment.
- 31 (10) Submit at reasonable times to searches of the supervisee's person by a
32 post-release supervision officer for purposes reasonably related to the
33 post-release supervision. The Commission shall not require as a
34 condition of post-release supervision that the supervisee submit to any
35 other searches that would otherwise be unlawful. Whenever the search
36 consists of testing for the presence of illegal drugs, the supervisee may
37 also be required to reimburse the Department of Correction for the
38 actual cost of drug testing and drug screening, if the results are
39 positive.
- 40 (11) Make restitution or reparation to an aggrieved party as provided in
41 G.S. 148-57.1.
- 42 (12) Comply with an order from a court of competent jurisdiction regarding
43 the payment of an obligation of the supervisee in connection with any
44 judgment rendered by the court.

1 (13) Remain in one or more specified places for a specified period or
2 periods each day, and wear a device that permits the defendant's
3 compliance with the condition to be monitored electronically.

4 (14) Submit to supervision by officers assigned to the Intensive
5 Post-Release Supervision Program established pursuant to
6 G.S. 143B-262(c), and abide by the rules adopted for that Program.

7 (e1) Prohibited Conditions. – The Commission shall not impose community
8 service as a condition of post-release supervision.

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

16 (1) Reside at a residence to be approved by the supervising officer.

17 (2) Not have contact with the victim including, but not limited to, letters,
18 phone calls, tapes, videos, computer, Internet, or visits. This includes
19 any form of direct contact, or any form of contact through a third
20 party.

21 (3) Not socialize or communicate with individuals under the age of 18 in
22 work or social activities unless accompanied by a responsible adult
23 who is aware of the abusive patterns and is approved in writing by the
24 supervising officer.

25 (4) Submit to psychological and psychophysiological assessment at the
26 direction of the supervising officer to assist in treatment planning and
27 case monitoring.

28 (5) Participate in a sexual abuse treatment program approved by the
29 supervising officer and complete the same to the full satisfaction of the
30 treatment provider. Comply with all programs, including the polygraph
31 examinations, to be used as a tool in conjunction with the treatment
32 plan developed by the treatment provider. Program participation is
33 defined as attendance at all meetings, prompt payment of fees,
34 admission of responsibility for his or her offense, and progress toward
35 reasonable treatment goals.

36 (6) Pay for the victims' mental health counseling expenses that are
37 incurred as a result of the crime or offense as ordered by the court.

38 (7) Not possess any sexually stimulating or sexually oriented materials as
39 deemed inappropriate by the supervising officer, nor patronize any
40 place where such material or entertainment is the primary business.

41 (8) Not use, possess, control, distribute, sell, exchange, or collect
42 pornography or child erotica, including any obtained through Internet
43 access or telephonic communications.

- 1 (9) Submit at reasonable times to warrantless searches and seizures by the
2 supervising officer of the offender's person, vehicle, premises,
3 computer equipment, and telephone records while the offender is
4 present for the purposes of detecting or discovering pornography or
5 erotica, or both, which are reasonably related to the offender's
6 supervision.
- 7 (10) Not linger, loiter, nor spend time at locations where unsupervised
8 persons under 18 years of age are present, including, but not limited to,
9 parks, playgrounds, school yards, arcades, or places frequented by
10 children, activities, and similar places whose purpose is the care,
11 entertainment, or education of persons under 18 years of age.
- 12 (11) Not work or volunteer for any business or organization that provides
13 services to or employs persons under 18 years of age. This includes,
14 but is not limited to, arcades, babysitting, daycare agencies, schools,
15 churches, playgrounds, and youth sporting activities or groups. The
16 supervising officer must approve employment.
- 17 (12) Not associate with or have any contact with convicted sex offenders
18 unless in a counseling group.
- 19 (13) When given authorization to visit another jurisdiction, present a travel
20 letter to the local police department, have it signed, and return it to the
21 supervising officer.
- 22 (14) Not purchase, possess, or consume alcoholic beverages or controlled
23 substances. Submit to blood, breath, and urine testing for analysis for
24 the presence of prohibited drugs or alcohol as requested by the
25 supervising officer and pay any fees associated with testing.
- 26 (15) Not be alone with any minor child below the age of 18 years unless
27 approved by his or her supervising officer in writing.
- 28 (16) Not engage in any sexual behavior with any minor child below the age
29 of 18 years of age.
- 30 (17) Abide by a curfew at the discretion of the supervising officer.

31 (f) Required Supervision Fee. – The Commission shall require as a condition of
32 post-release supervision that the supervisee pay a supervision fee of thirty dollars
33 (\$30.00) per month. The Commission may exempt a supervisee from this condition only
34 if it finds that requiring payment of the fee is an undue economic burden. The fee shall
35 be paid to the clerk of superior court of the county in which the supervisee was
36 convicted. The clerk shall transmit any money collected pursuant to this subsection to
37 the State to be deposited in the State's General Fund. In no event shall a supervisee be
38 required to pay more than one supervision fee per month."

39 **SECTION 15.** G.S. 90-95(h) reads as rewritten:

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

- 42 (1) Any person who sells, manufactures, delivers, transports, or possesses
43 in excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a

1 felony which felony shall be known as "trafficking in marijuana" and
2 if the quantity of such substance involved:

- 3 a. Is in excess of 10 pounds, but less than 50 pounds, such person
4 shall be punished as a Class H felon and shall be sentenced to a
5 minimum term of 25 months and a maximum term of 30
6 months in the State's prison and shall be fined not less than five
7 thousand dollars (\$5,000);
- 8 b. Is 50 pounds or more, but less than 2,000 pounds, such person
9 shall be punished as a Class G felon and shall be sentenced to a
10 minimum term of 35 months and a maximum term of 42
11 months in the State's prison and shall be fined not less than
12 twenty-five thousand dollars (\$25,000);
- 13 c. Is 2,000 pounds or more, but less than 10,000 pounds, such
14 person shall be punished as a Class F felon and shall be
15 sentenced to a minimum term of 70 months and a maximum
16 term of 84 months in the State's prison and shall be fined not
17 less than fifty thousand dollars (\$50,000);
- 18 d. Is 10,000 pounds or more, such person shall be punished as a
19 Class D felon and shall be sentenced to a minimum term of 175
20 months and a maximum term of ~~219~~210 months in the State's
21 prison and shall be fined not less than two hundred thousand
22 dollars (\$200,000).

23 (2) Any person who sells, manufactures, delivers, transports, or possesses
24 1,000 tablets, capsules or other dosage units, or the equivalent
25 quantity, or more of methaqualone, or any mixture containing such
26 substance, shall be guilty of a felony which felony shall be known as
27 "trafficking in methaqualone" and if the quantity of such substance or
28 mixture involved:

- 29 a. Is 1,000 or more dosage units, or equivalent quantity, but less
30 than 5,000 dosage units, or equivalent quantity, such person
31 shall be punished as a Class G felon and shall be sentenced to a
32 minimum term of 35 months and a maximum term of 42
33 months in the State's prison and shall be fined not less than
34 twenty-five thousand dollars (\$25,000);
- 35 b. Is 5,000 or more dosage units, or equivalent quantity, but less
36 than 10,000 dosage units, or equivalent quantity, such person
37 shall be punished as a Class F felon and shall be sentenced to a
38 minimum term of 70 months and a maximum term of 84
39 months in the State's prison and shall be fined not less than fifty
40 thousand dollars (\$50,000);
- 41 c. Is 10,000 or more dosage units, or equivalent quantity, such
42 person shall be punished as a Class D felon and shall be
43 sentenced to a minimum term of 175 months and a maximum

- 1 term of ~~24~~21 months in the State's prison and shall be fined
2 not less than two hundred thousand dollars (\$200,000).
- 3 (3) Any person who sells, manufactures, delivers, transports, or possesses
4 28 grams or more of cocaine and any salt, isomer, salts of isomers,
5 compound, derivative, or preparation thereof, or any coca leaves and
6 any salt, isomer, salts of isomers, compound, derivative, or preparation
7 of coca leaves, and any salt, isomer, salts of isomers, compound,
8 derivative or preparation thereof which is chemically equivalent or
9 identical with any of these substances (except decocainized coca
10 leaves or any extraction of coca leaves which does not contain
11 cocaine) or any mixture containing such substances, shall be guilty of
12 a felony, which felony shall be known as "trafficking in cocaine" and
13 if the quantity of such substance or mixture involved:
- 14 a. Is 28 grams or more, but less than 200 grams, such person shall
15 be punished as a Class G felon and shall be sentenced to a
16 minimum term of 35 months and a maximum term of 42
17 months in the State's prison and shall be fined not less than fifty
18 thousand dollars (\$50,000);
- 19 b. Is 200 grams or more, but less than 400 grams, such person
20 shall be punished as a Class F felon and shall be sentenced to a
21 minimum term of 70 months and a maximum term of 84
22 months in the State's prison and shall be fined not less than one
23 hundred thousand dollars (\$100,000);
- 24 c. Is 400 grams or more, such person shall be punished as a Class
25 D felon and shall be sentenced to a minimum term of 175
26 months and a maximum term of ~~24~~21 months in the State's
27 prison and shall be fined at least two hundred fifty thousand
28 dollars (\$250,000).
- 29 (3a) Repealed by Session Laws 1999-370, s. 1, effective December 1, 1999.
- 30 (3b) Any person who sells, manufactures, delivers, transports, or possesses
31 28 grams or more of methamphetamine or amphetamine shall be guilty
32 of a felony which felony shall be known as "trafficking in
33 methamphetamine or amphetamine" and if the quantity of such
34 substance or mixture involved:
- 35 a. Is 28 grams or more, but less than 200 grams, such person shall
36 be punished as a Class F felon and shall be sentenced to a
37 minimum term of 70 months and a maximum term of 84
38 months in the State's prison and shall be fined not less than fifty
39 thousand dollars (\$50,000);
- 40 b. Is 200 grams or more, but less than 400 grams, such person
41 shall be punished as a Class E felon and shall be sentenced to a
42 minimum term of 90 months and a maximum term of ~~14~~7108
43 months in the State's prison and shall be fined not less than one
44 hundred thousand dollars (\$100,000);

- 1 c. Is 400 grams or more, such person shall be punished as a Class
2 C felon and shall be sentenced to a minimum term of 225
3 months and a maximum term of ~~279~~270 months in the State's
4 prison and shall be fined at least two hundred fifty thousand
5 dollars (\$250,000).
- 6 (4) Any person who sells, manufactures, delivers, transports, or possesses
7 four grams or more of opium or opiate, or any salt, compound,
8 derivative, or preparation of opium or opiate (except apomorphine,
9 nalbuphine, analoxone and naltrexone and their respective salts),
10 including heroin, or any mixture containing such substance, shall be
11 guilty of a felony which felony shall be known as "trafficking in opium
12 or heroin" and if the quantity of such controlled substance or mixture
13 involved:
- 14 a. Is four grams or more, but less than 14 grams, such person shall
15 be punished as a Class F felon and shall be sentenced to a
16 minimum term of 70 months and a maximum term of 84
17 months in the State's prison and shall be fined not less than fifty
18 thousand dollars (\$50,000);
- 19 b. Is 14 grams or more, but less than 28 grams, such person shall
20 be punished as a Class E felon and shall be sentenced to a
21 minimum term of 90 months and a maximum term of ~~117~~108
22 months in the State's prison and shall be fined not less than one
23 hundred thousand dollars (\$100,000);
- 24 c. Is 28 grams or more, such person shall be punished as a Class C
25 felon and shall be sentenced to a minimum term of 225 months
26 and a maximum term of ~~279~~270 months in the State's prison
27 and shall be fined not less than five hundred thousand dollars
28 (\$500,000).
- 29 (4a) Any person who sells, manufactures, delivers, transports, or possesses
30 100 tablets, capsules, or other dosage units, or the equivalent quantity,
31 or more, of Lysergic Acid Diethylamide, or any mixture containing
32 such substance, shall be guilty of a felony, which felony shall be
33 known as "trafficking in Lysergic Acid Diethylamide". If the quantity
34 of such substance or mixture involved:
- 35 a. Is 100 or more dosage units, or equivalent quantity, but less
36 than 500 dosage units, or equivalent quantity, such person shall
37 be punished as a Class G felon and shall be sentenced to a
38 minimum term of 35 months and a maximum term of 42
39 months in the State's prison and shall be fined not less than
40 twenty-five thousand dollars (\$25,000);
- 41 b. Is 500 or more dosage units, or equivalent quantity, but less
42 than 1,000 dosage units, or equivalent quantity, such person
43 shall be punished as a Class F felon and shall be sentenced to a
44 minimum term of 70 months and a maximum term of 84

- 1 months in the State's prison and shall be fined not less than fifty
2 thousand dollars (\$50,000);
- 3 c. Is 1,000 or more dosage units, or equivalent quantity, such
4 person shall be punished as a Class D felon and shall be
5 sentenced to a minimum term of 175 months and a maximum
6 term of ~~24~~210 months in the State's prison and shall be fined
7 not less than two hundred thousand dollars (\$200,000).
- 8 (4b) Any person who sells, manufactures, delivers, transports, or possesses
9 100 or more tablets, capsules, or other dosage units, or 28 grams or
10 more of 3,4-methylenedioxyamphetamine (MDA), including its salts,
11 isomers, and salts of isomers, or 3,4-methylenedioxymethamphetamine
12 (MDMA), including its salts, isomers, and salts of isomers, or any
13 mixture containing such substances, shall be guilty of a felony, which
14 felony shall be known as "trafficking in MDA/MDMA." If the quantity
15 of the substance or mixture involved:
- 16 a. Is 100 or more tablets, capsules, or other dosage units, but less
17 than 500 tablets, capsules, or other dosage units, or 28 grams or
18 more, but less than 200 grams, the person shall be punished as a
19 Class G felon and shall be sentenced to a minimum term of 35
20 months and a maximum term of 42 months in the State's prison
21 and shall be fined not less than twenty-five thousand dollars
22 (\$25,000);
- 23 b. Is 500 or more tablets, capsules, or other dosage units, but less
24 than 1,000 tablets, capsules, or other dosage units, or 200 grams
25 or more, but less than 400 grams, the person shall be punished
26 as a Class F felon and shall be sentenced to a minimum term of
27 70 months and a maximum term of 84 months in the State's
28 prison and shall be fined not less than fifty thousand dollars
29 (\$50,000);
- 30 c. Is 1,000 or more tablets, capsules, or other dosage units, or 400
31 grams or more, the person shall be punished as a Class D felon
32 and shall be sentenced to a minimum term of 175 months and a
33 maximum term of ~~24~~210 months in the State's prison and shall
34 be fined not less than two hundred fifty thousand dollars
35 (\$250,000).
- 36 (5) Except as provided in this subdivision, a person being sentenced under
37 this subsection may not receive a suspended sentence or be placed on
38 probation. The sentencing judge may reduce the fine, or impose a
39 prison term less than the applicable minimum prison term provided by
40 this subsection, or suspend the prison term imposed and place a person
41 on probation when such person has, to the best of his knowledge,
42 provided substantial assistance in the identification, arrest, or
43 conviction of any accomplices, accessories, co-conspirators, or

1 principals if the sentencing judge enters in the record a finding that the
2 person to be sentenced has rendered such substantial assistance.

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

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

9 **SECTION 16.** This section and sections 1 and 12 of this act become
10 effective July 1, 2005, and apply to (i) violations of post-release supervision occurring
11 on or after that date and (ii) sentences imposed on or after that date. The remainder of
12 this act becomes effective December 1, 2005, and applies to offenses committed on or
13 after that date.