

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 1021
Committee Substitute Favorable 6/6/12

Short Title: Justice Reinvestment Clarifications.

(Public)

Sponsors:

Referred to:

May 22, 2012

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY CERTAIN PROVISIONS OF THE JUSTICE REINVESTMENT
3 ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** G.S. 15A-1343.2(e) reads as rewritten:

6 "(e) Delegation to Probation Officer in Community Punishment. — Unless the presiding
7 judge specifically finds in the judgment of the court that delegation is not appropriate, the
8 Section of Community Corrections of the Division of Adult Correction of the Department of
9 Public Safety may require an offender sentenced to community punishment to do any of the
10 following:

- 11 (1) Perform up to 20 hours of community service, and pay the fee prescribed by
12 law for this supervision.
- 13 (2) Report to the offender's probation officer on a frequency to be determined by
14 the officer.
- 15 (3) Submit to substance abuse assessment, monitoring or treatment.
- 16 (4) Submit to house arrest with electronic monitoring.
- 17 (5) Submit to a period or periods of confinement in a local confinement facility
18 for a total of no more than six days per month during any three separate
19 months during the period of probation. The six days per month confinement
20 provided for in this subdivision may only be imposed as two-day or
21 three-day consecutive periods. When a defendant is on probation for
22 multiple judgments, confinement periods imposed under this subdivision
23 shall run concurrently and may total no more than six days per month.
- 24 (6) Submit to a curfew which requires the offender to remain in a specified
25 place for a specified period each day and wear a device that permits the
26 offender's compliance with the condition to be monitored electronically.
- 27 (7) Participate in an educational or vocational skills development program,
28 including an evidence-based program.

29 If the Section imposes any of the above requirements, then it may subsequently reduce or
30 remove those same requirements.

31 The probation officer may exercise authority delegated to him or her by the court pursuant
32 to subsection (e) of this section after administrative review and approval by a Chief Probation
33 Officer. The offender may file a motion with the court to review the action taken by the
34 probation officer. The offender shall be given notice of the right to seek such a court review.
35 However, the offender shall have no right of review if he or she has signed a written waiver of
36 rights as required by this subsection. The Section may exercise any authority delegated to it



1 under this subsection only if it first determines that the offender has failed to comply with one
2 or more of the conditions of probation imposed by the court or the offender is determined to be
3 high risk based on the results of the risk assessment in G.S. 15A-1343.2, except that the
4 condition at subdivision (5) of this subsection may not be imposed unless the Section
5 determines that the offender failed to comply with one or more of the conditions imposed by
6 the court. Nothing in this section shall be construed to limit the availability of the procedures
7 authorized under G.S. 15A-1345.

8 The Division shall adopt guidelines and procedures to implement the requirements of this
9 section, which shall include a supervisor's approval prior to exercise of the delegation of
10 authority authorized by this section. Prior to imposing confinement pursuant to subdivision (5)
11 of this subsection, the probationer must first be presented with a violation report, with the
12 alleged violations noted and advised of the right (i) to a hearing before the court on the alleged
13 violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the
14 hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses
15 who have relevant information concerning the alleged violations; and (iv) to examine any
16 witnesses or evidence. ~~Upon the signing of a waiver of rights by the probationer, with both the~~
17 ~~probation officer and a supervisor signing as witnesses, the~~ The probationer may be confined for
18 the period designated on the violation report upon the execution of a waiver of rights
19 signed by the probationer and by two officers acting as witnesses. Those two witnesses shall be
20 the probation officer and another officer to be designated by the Chief of the Community
21 Corrections Section in written Division policy."

22 **SECTION 1.(b)** G.S. 15A-1343.2(f) reads as rewritten:

23 "(f) Delegation to Probation Officer in Intermediate Punishments. — Unless the
24 presiding judge specifically finds in the judgment of the court that delegation is not appropriate,
25 the Section of Community Corrections of the Division of Adult Correction of the Department
26 of Public Safety may require an offender sentenced to intermediate punishment to do any of the
27 following:

- 28 (1) Perform up to 50 hours of community service, and pay the fee prescribed by
29 law for this supervision.
- 30 (2) Submit to a curfew which requires the offender to remain in a specified
31 place for a specified period each day and wear a device that permits the
32 offender's compliance with the condition to be monitored electronically.
- 33 (3) Submit to substance abuse assessment, monitoring or treatment.
- 34 (4) Participate in an educational or vocational skills development program,
35 including an evidence-based program.
- 36 (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
37 Chapter 14 of the General Statutes, if the defendant is described by
38 G.S. 14-208.40(a)(2).
- 39 (6) Submit to a period or periods of confinement in a local confinement facility
40 for a total of no more than six days per month during any three separate
41 months during the period of probation. The six days per month confinement
42 provided for in this subdivision may only be imposed as two-day or
43 three-day consecutive periods. When a defendant is on probation for
44 multiple judgments, confinement periods imposed under this subdivision
45 shall run concurrently and may total no more than six days per month.
- 46 (7) Submit to house arrest with electronic monitoring.
- 47 (8) Report to the offender's probation officer on a frequency to be determined by
48 the officer.

49 If the Section imposes any of the above requirements, then it may subsequently reduce or
50 remove those same requirements.

1 The probation officer may exercise authority delegated to him or her by the court pursuant
2 to subsection (f) of this section after administrative review and approval by a Chief Probation
3 Officer. The offender may file a motion with the court to review the action taken by the
4 probation officer. The offender shall be given notice of the right to seek such a court review.
5 However, the offender shall have no right of review if he or she has signed a written waiver of
6 rights as required by this subsection. The Section may exercise any authority delegated to it
7 under this subsection only if it first determines that the offender has failed to comply with one
8 or more of the conditions of probation imposed by the court or the offender is determined to be
9 high risk based on the results of the risk assessment in G.S. 15A-1343.2, except that the
10 condition at subdivision (6) of this subsection may not be imposed unless the Section
11 determines that the offender failed to comply with one or more of the conditions imposed by
12 the court. Nothing in this section shall be construed to limit the availability of the procedures
13 authorized under G.S. 15A-1345.

14 The Division shall adopt guidelines and procedures to implement the requirements of this
15 section, which shall include a supervisor's approval prior to exercise of the delegation of
16 authority authorized by this section. Prior to imposing confinement pursuant to subdivision (6)
17 of this subsection, the probationer must first be presented with a violation report, with the
18 alleged violations noted and advised of the right (i) to a hearing before the court on the alleged
19 violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the
20 hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses
21 who have relevant information concerning the alleged violations; and (iv) to examine any
22 witnesses or evidence. ~~Upon the signing of a waiver of rights by the probationer, with both the~~
23 ~~probation officer and a supervisor signing as witnesses, the~~ The probationer may be confined for
24 the period designated on the violation report upon the execution of a waiver of rights
25 signed by the probationer and by two officers acting as witnesses. Those two witnesses shall be
26 the probation officer and another officer to be designated by the Chief of the Community
27 Corrections Section in written Division policy."

28 **SECTION 2.** G.S. 15A-1344(d2) reads as rewritten:

29 "(d2) Confinement in Response to Violation. — When a defendant under supervision for
30 a felony conviction has violated a condition of probation other than G.S. 15A-1343(b)(1) or
31 G.S. 15A-1343(b)(3a), the court may impose a 90-day period of ~~confinement for a defendant~~
32 ~~under supervision for a felony conviction or a period of confinement of up to 90 days for a~~
33 ~~defendant under supervision for a misdemeanor conviction.~~ confinement. The court may not
34 revoke probation unless the defendant has previously received a total of two periods of
35 confinement under this subsection. A defendant may receive only two periods of confinement
36 under this subsection. If the time remaining on the ~~defendant's~~ defendant's maximum imposed sentence on
37 a defendant under supervision for a felony conviction is 90 days or less, then the term of
38 confinement is for the remaining period of the sentence. Confinement under this section shall
39 be credited pursuant to G.S. 15-196.1.

40 When a defendant under supervision for a misdemeanor conviction has violated a condition
41 of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a
42 period of confinement of up to 90 days. The court may not revoke probation unless the
43 defendant has previously received a total of two periods of confinement under this subsection.
44 A defendant may receive only two periods of confinement under this subsection. Confinement
45 under this section shall be credited pursuant to G.S. 15-196.1.

46 If a defendant is arrested for violation of a condition of probation and is lawfully confined
47 to await a hearing for the violation, then the judge shall first credit any confinement time spent
48 awaiting the hearing to any confinement imposed under this subsection; any excess time shall
49 be credited to the activated sentence. The period of confinement imposed under this subsection
50 on a defendant who is on probation for multiple offenses shall run concurrently on all cases

1 related to the violation. Confinement shall be immediate unless otherwise specified by the
2 court.

3 A defendant shall serve any confinement imposed under this subsection in the correctional
4 facility where the defendant would have served an active sentence."

5 **SECTION 3.** G.S. 15A-1343(a1) reads as rewritten:

6 "(a1) Community and Intermediate Probation Conditions. — In addition to any conditions
7 a court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any
8 one or more of the following conditions as part of a community or intermediate punishment:

- 9 (1) House arrest with electronic monitoring.
- 10 (2) Perform community ~~service~~ service and pay the fee prescribed by law for
11 this supervision.
- 12 (3) Submission to a period or periods of confinement in a local confinement
13 facility for a total of no more than six days per month during any three
14 separate months during the period of probation. The six days per month
15 confinement provided for in this subdivision may only be imposed as
16 two-day or three-day consecutive periods. When a defendant is on probation
17 for multiple judgments, confinement periods imposed under this subdivision
18 shall run concurrently and may total no more than six days per month.
- 19 (4) Substance abuse assessment, monitoring, or treatment.
- 20 (5) Participation in an educational or vocational skills development program,
21 including an evidence-based program.
- 22 (6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A
23 of Chapter 14 of the General Statutes, if the defendant is described by
24 G.S. 14-208.40(a)(2)."

25 **SECTION 4.** G.S. 15A-1368.3(c) reads as rewritten:

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 Commission
28 may continue the supervisee on the existing supervision, with or without modifying the
29 conditions, or if continuation or modification is not appropriate, may revoke post-release
30 supervision as provided in G.S. 15A-1368.6 and reimprison the supervisee for a term consistent
31 with the following requirements:

- 32 (1) Supervisees who were convicted of an offense for which registration is
33 required under Article 27A of Chapter 14 of the General Statutes and
34 supervisees whose supervision is revoked for a violation of the required
35 controlling condition under G.S. 15A-1368.4(b) or for absconding in
36 violation of G.S. 15A-1368.4(e)(7a) will be returned to prison up to the time
37 remaining on their maximum imposed terms. All other supervisees will be
38 returned to prison for three months and may be returned for three months on
39 each of two subsequent violations, after which supervisees who were Class
40 B1 through E felons may be returned to prison up to the time remaining on
41 their maximum imposed terms. Reimprisonment for a violation under this
42 subdivision tolls the running of the period of supervised release, except that
43 a supervisee shall not be rereleased on post-release supervision if the
44 supervisee has served all the time remaining on the supervisee's maximum
45 imposed term.
- 46 (2) The supervisee shall not receive any credit for days on post-release
47 supervision against the maximum term of imprisonment imposed by the
48 court under G.S. 15A-1340.13.
- 49 (3) Pursuant to Article 19A of Chapter 15, the Division of Adult Correction of
50 the Department of Public Safety shall award a prisoner credit against any

1 term of reimprisonment for all time spent in custody as a result of revocation
2 proceedings under G.S. 15A-1368.6.

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

6 **SECTION 5.** G.S. 90-95(h) reads as rewritten:

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

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

13 a. Is in excess of 10 pounds, but less than 50 pounds, such person shall
14 be punished as a Class H felon and shall be sentenced to a minimum
15 term of 25 months and a maximum term of ~~30~~39 months in the
16 State's prison and shall be fined not less than five thousand dollars
17 (\$5,000);

18 b. Is 50 pounds or more, but less than 2,000 pounds, such person shall
19 be punished as a Class G felon and shall be sentenced to a minimum
20 term of 35 months and a maximum term of ~~42~~51 months in the
21 State's prison and shall be fined not less than twenty-five thousand
22 dollars (\$25,000);

23 c. Is 2,000 pounds or more, but less than 10,000 pounds, such person
24 shall be punished as a Class F felon and shall be sentenced to a
25 minimum term of 70 months and a maximum term of ~~84~~93 months
26 in the State's prison and shall be fined not less than fifty thousand
27 dollars (\$50,000);

28 d. Is 10,000 pounds or more, such person shall be punished as a Class D
29 felon and shall be sentenced to a minimum term of 175 months and a
30 maximum term of ~~219~~222 months in the State's prison and shall be
31 fined not less than two hundred thousand dollars (\$200,000).

- 32 (1a) For the purpose of this subsection, a "dosage unit" shall consist of 3 grams of
33 synthetic cannabinoid or any mixture containing such substance. Any person
34 who sells, manufactures, delivers, transports, or possesses in excess of 50
35 dosage units of a synthetic cannabinoid or any mixture containing such
36 substance, shall be guilty of a felony, which felony shall be known as
37 "trafficking in synthetic cannabinoids," and if the quantity of such substance
38 involved:

39 a. Is in excess of 50 dosage units, but less than 250 dosage units, such
40 person shall be punished as a Class H felon and shall be sentenced to
41 a minimum term of 25 months and a maximum term of ~~30~~39 months
42 in the State's prison and shall be fined not less than five thousand
43 dollars (\$5,000);

44 b. Is 250 dosage units or more, but less than 1250 dosage units, such
45 person shall be punished as a Class G felon and shall be sentenced to
46 a minimum term of 35 months and a maximum term of ~~42~~51 months
47 in the State's prison and shall be fined not less than twenty-five
48 thousand dollars (\$25,000);

49 c. Is 1250 dosage units or more, but less than 3750 dosage units, such
50 person shall be punished as a Class F felon and shall be sentenced to
51 a minimum term of 70 months and a maximum term of ~~84~~93 months

- 1 in the State's prison and shall be fined not less than fifty thousand
2 dollars (\$50,000);
- 3 d. Is 3750 dosage units or more, such person shall be punished as a
4 Class D felon and shall be sentenced to a minimum term of 175
5 months and a maximum term of ~~219~~222 months in the State's prison
6 and shall be fined not less than two hundred thousand dollars
7 (\$200,000).
- 8 (2) Any person who sells, manufactures, delivers, transports, or possesses 1,000
9 tablets, capsules or other dosage units, or the equivalent quantity, or more of
10 methaqualone, or any mixture containing such substance, shall be guilty of a
11 felony which felony shall be known as "trafficking in methaqualone" and if
12 the quantity of such substance or mixture involved:
- 13 a. Is 1,000 or more dosage units, or equivalent quantity, but less than
14 5,000 dosage units, or equivalent quantity, such person shall be
15 punished as a Class G felon and shall be sentenced to a minimum
16 term of 35 months and a maximum term of ~~42~~51 months in the
17 State's prison and shall be fined not less than twenty-five thousand
18 dollars (\$25,000);
- 19 b. Is 5,000 or more dosage units, or equivalent quantity, but less than
20 10,000 dosage units, or equivalent quantity, such person shall be
21 punished as a Class F felon and shall be sentenced to a minimum
22 term of 70 months and a maximum term of ~~84~~93 months in the
23 State's prison and shall be fined not less than fifty thousand dollars
24 (\$50,000);
- 25 c. Is 10,000 or more dosage units, or equivalent quantity, such person
26 shall be punished as a Class D felon and shall be sentenced to a
27 minimum term of 175 months and a maximum term of ~~219~~222
28 months in the State's prison and shall be fined not less than two
29 hundred thousand dollars (\$200,000).
- 30 (3) Any person who sells, manufactures, delivers, transports, or possesses 28
31 grams or more of cocaine and any salt, isomer, salts of isomers, compound,
32 derivative, or preparation thereof, or any coca leaves and any salt, isomer,
33 salts of isomers, compound, derivative, or preparation of coca leaves, and
34 any salt, isomer, salts of isomers, compound, derivative or preparation
35 thereof which is chemically equivalent or identical with any of these
36 substances (except decocainized coca leaves or any extraction of coca leaves
37 which does not contain cocaine) or any mixture containing such substances,
38 shall be guilty of a felony, which felony shall be known as "trafficking in
39 cocaine" and if the quantity of such substance or mixture involved:
- 40 a. Is 28 grams or more, but less than 200 grams, such person shall be
41 punished as a Class G felon and shall be sentenced to a minimum
42 term of 35 months and a maximum term of ~~42~~51 months in the
43 State's prison and shall be fined not less than fifty thousand dollars
44 (\$50,000);
- 45 b. Is 200 grams or more, but less than 400 grams, such person shall be
46 punished as a Class F felon and shall be sentenced to a minimum
47 term of 70 months and a maximum term of ~~84~~93 months in the
48 State's prison and shall be fined not less than one hundred thousand
49 dollars (\$100,000);
- 50 c. Is 400 grams or more, such person shall be punished as a Class D
51 felon and shall be sentenced to a minimum term of 175 months and a

- 1 maximum term of ~~219-222~~ months in the State's prison and shall be
2 fined at least two hundred fifty thousand dollars (\$250,000).
- 3 (3a) Repealed by Session Laws 1999-370, s. 1, effective December 1, 1999.
- 4 (3b) Any person who sells, manufactures, delivers, transports, or possesses 28
5 grams or more of methamphetamine or any mixture containing such
6 substance shall be guilty of a felony which felony shall be known as
7 "trafficking in methamphetamine" and if the quantity of such substance or
8 mixture involved:
- 9 a. Is 28 grams or more, but less than 200 grams, such person shall be
10 punished as a Class F felon and shall be sentenced to a minimum
11 term of 70 months and a maximum term of ~~84-93~~ months in the
12 State's prison and shall be fined not less than fifty thousand dollars
13 (\$50,000);
- 14 b. Is 200 grams or more, but less than 400 grams, such person shall be
15 punished as a Class E felon and shall be sentenced to a minimum
16 term of 90 months and a maximum term of ~~117-120~~ months in the
17 State's prison and shall be fined not less than one hundred thousand
18 dollars (\$100,000);
- 19 c. Is 400 grams or more, such person shall be punished as a Class C
20 felon and shall be sentenced to a minimum term of 225 months and a
21 maximum term of ~~279-282~~ months in the State's prison and shall be
22 fined at least two hundred fifty thousand dollars (\$250,000).
- 23 (3c) Any person who sells, manufactures, delivers, transports, or possesses 28
24 grams or more of amphetamine or any mixture containing such substance
25 shall be guilty of a felony, which felony shall be known as "trafficking in
26 amphetamine", and if the quantity of such substance or mixture involved:
- 27 a. Is 28 grams or more, but less than 200 grams, such person shall be
28 punished as a Class H felon and shall be sentenced to a minimum
29 term of 25 months and a maximum term of ~~30-39~~ months in the
30 State's prison and shall be fined not less than five thousand dollars
31 (\$5,000);
- 32 b. Is 200 grams or more, but less than 400 grams, such person shall be
33 punished as a Class G felon and shall be sentenced to a minimum
34 term of 35 months and a maximum term of ~~42-51~~ months in the
35 State's prison and shall be fined not less than twenty-five thousand
36 dollars (\$25,000);
- 37 c. Is 400 grams or more, such person shall be punished as a Class E
38 felon and shall be sentenced to a minimum term of 90 months and a
39 maximum term of ~~117-120~~ months in the State's prison and shall be
40 fined at least one hundred thousand dollars (\$100,000).
- 41 (3d) Any person who sells, manufactures, delivers, transports, or possesses 28
42 grams or more of MDPV or any mixture containing such substance shall be
43 guilty of a felony, which felony shall be known as "trafficking in MDPV,"
44 and if the quantity of such substance or mixture involved:
- 45 a. Is 28 grams or more, but less than 200 grams, such person shall be
46 punished as a Class F felon and shall be sentenced to a minimum
47 term of 70 months and a maximum term of ~~84-93~~ months in the
48 State's prison and shall be fined not less than fifty thousand dollars
49 (\$50,000);
- 50 b. Is 200 grams or more, but less than 400 grams, such person shall be
51 punished as a Class E felon and shall be sentenced to a minimum

- 1 term of 90 months and a maximum term of ~~117~~120 months in the
2 State's prison and shall be fined not less than one hundred thousand
3 dollars (\$100,000);
- 4 c. Is 400 grams or more, such person shall be punished as a Class C
5 felon and shall be sentenced to a minimum term of 225 months and a
6 maximum term of ~~279~~282 months in the State's prison and shall be
7 fined at least two hundred fifty thousand dollars (\$250,000).
- 8 (3e) Any person who sells, manufactures, delivers, transports, or possesses 28
9 grams or more of mephedrone or any mixture containing such substance
10 shall be guilty of a felony, which felony shall be known as "trafficking in
11 mephedrone," and if the quantity of such substance or mixture involved:
- 12 a. Is 28 grams or more, but less than 200 grams, such person shall be
13 punished as a Class F felon and shall be sentenced to a minimum
14 term of 70 months and a maximum term of ~~84~~93 months in the
15 State's prison and shall be fined not less than fifty thousand dollars
16 (\$50,000);
- 17 b. Is 200 grams or more, but less than 400 grams, such person shall be
18 punished as a Class E felon and shall be sentenced to a minimum
19 term of 90 months and a maximum term of ~~117~~120 months in the
20 State's prison and shall be fined not less than one hundred thousand
21 dollars (\$100,000);
- 22 c. Is 400 grams or more, such person shall be punished as a Class C
23 felon and shall be sentenced to a minimum term of 225 months and a
24 maximum term of ~~279~~282 months in the State's prison and shall be
25 fined at least two hundred fifty thousand dollars (\$250,000).
- 26 (4) Any person who sells, manufactures, delivers, transports, or possesses four
27 grams or more of opium or opiate, or any salt, compound, derivative, or
28 preparation of opium or opiate (except apomorphine, nalbuphine, analoxone
29 and naltrexone and their respective salts), including heroin, or any mixture
30 containing such substance, shall be guilty of a felony which felony shall be
31 known as "trafficking in opium or heroin" and if the quantity of such
32 controlled substance or mixture involved:
- 33 a. Is four grams or more, but less than 14 grams, such person shall be
34 punished as a Class F felon and shall be sentenced to a minimum
35 term of 70 months and a maximum term of ~~84~~93 months in the
36 State's prison and shall be fined not less than fifty thousand dollars
37 (\$50,000);
- 38 b. Is 14 grams or more, but less than 28 grams, such person shall be
39 punished as a Class E felon and shall be sentenced to a minimum
40 term of 90 months and a maximum term of ~~117~~120 months in the
41 State's prison and shall be fined not less than one hundred thousand
42 dollars (\$100,000);
- 43 c. Is 28 grams or more, such person shall be punished as a Class C
44 felon and shall be sentenced to a minimum term of 225 months and a
45 maximum term of ~~279~~282 months in the State's prison and shall be
46 fined not less than five hundred thousand dollars (\$500,000).
- 47 (4a) Any person who sells, manufactures, delivers, transports, or possesses 100
48 tablets, capsules, or other dosage units, or the equivalent quantity, or more,
49 of Lysergic Acid Diethylamide, or any mixture containing such substance,
50 shall be guilty of a felony, which felony shall be known as "trafficking in

1 Lysergic Acid Diethylamide". If the quantity of such substance or mixture
2 involved:

- 3 a. Is 100 or more dosage units, or equivalent quantity, but less than 500
4 dosage units, or equivalent quantity, such person shall be punished as
5 a Class G felon and shall be sentenced to a minimum term of 35
6 months and a maximum term of ~~42~~51 months in the State's prison
7 and shall be fined not less than twenty-five thousand dollars
8 (\$25,000);
- 9 b. Is 500 or more dosage units, or equivalent quantity, but less than
10 1,000 dosage units, or equivalent quantity, such person shall be
11 punished as a Class F felon and shall be sentenced to a minimum
12 term of 70 months and a maximum term of ~~84~~93 months in the
13 State's prison and shall be fined not less than fifty thousand dollars
14 (\$50,000);
- 15 c. Is 1,000 or more dosage units, or equivalent quantity, such person
16 shall be punished as a Class D felon and shall be sentenced to a
17 minimum term of 175 months and a maximum term of ~~219~~222
18 months in the State's prison and shall be fined not less than two
19 hundred thousand dollars (\$200,000).

20 (4b) Any person who sells, manufactures, delivers, transports, or possesses 100 or
21 more tablets, capsules, or other dosage units, or 28 grams or more of
22 3,4-methylenedioxyamphetamine (MDA), including its salts, isomers, and
23 salts of isomers, or 3,4-methylenedioxymethamphetamine (MDMA),
24 including its salts, isomers, and salts of isomers, or any mixture containing
25 such substances, shall be guilty of a felony, which felony shall be known as
26 "trafficking in MDADMA." If the quantity of the substance or mixture
27 involved:

- 28 a. Is 100 or more tablets, capsules, or other dosage units, but less than
29 500 tablets, capsules, or other dosage units, or 28 grams or more, but
30 less than 200 grams, the person shall be punished as a Class G felon
31 and shall be sentenced to a minimum term of 35 months and a
32 maximum term of ~~42~~51 months in the State's prison and shall be
33 fined not less than twenty-five thousand dollars (\$25,000);
- 34 b. Is 500 or more tablets, capsules, or other dosage units, but less than
35 1,000 tablets, capsules, or other dosage units, or 200 grams or more,
36 but less than 400 grams, the person shall be punished as a Class F
37 felon and shall be sentenced to a minimum term of 70 months and a
38 maximum term of ~~84~~93 months in the State's prison and shall be
39 fined not less than fifty thousand dollars (\$50,000);
- 40 c. Is 1,000 or more tablets, capsules, or other dosage units, or 400
41 grams or more, the person shall be punished as a Class D felon and
42 shall be sentenced to a minimum term of 175 months and a
43 maximum term of ~~219~~222 months in the State's prison and shall be
44 fined not less than two hundred fifty thousand dollars (\$250,000).

45 (5) Except as provided in this subdivision, a person being sentenced under this
46 subsection may not receive a suspended sentence or be placed on probation.
47 The sentencing judge may reduce the fine, or impose a prison term less than
48 the applicable minimum prison term provided by this subsection, or suspend
49 the prison term imposed and place a person on probation when such person
50 has, to the best of his knowledge, provided substantial assistance in the
51 identification, arrest, or conviction of any accomplices, accessories,

1 co-conspirators, or principals if the sentencing judge enters in the record a
2 finding that the person to be sentenced has rendered such substantial
3 assistance.

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

7 **SECTION 6.** G.S. 15A-1368.1 reads as rewritten:

8 "**§ 15A-1368.1. Applicability of Article 84A.**

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

13 **SECTION 7.** Section 4 of this act is effective when it becomes law and applies to
14 supervisees violating the conditions of post-release supervision on or after that date. Sections 5
15 and 6 of this act become effective December 1, 2012, and apply to offenses committed on or
16 after that date. The remainder of this act is effective when it becomes law.