

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1030*

Short Title: Amend Structured Sentencing.

(Public)

Sponsors: Senators Page, McDaniel, Shaw, Foxx, Carrington, Forrester, Clark, Ballantine, Ledbetter, McKoy, Horton, East, Davis, and Sawyer.

Referred to: Judiciary I/Constitution

May 4, 1995

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STRUCTURED SENTENCING ACT TO INCREASE THE PENALTIES FOR MOST FELONIES AND MISDEMEANORS, AMEND THE FELONY PRIOR RECORD LEVEL SCHEDULE, CHANGE THE TYPES OF ALTERNATIVE PENALTIES AVAILABLE AS INTERMEDIATE PUNISHMENTS, AMEND THE LIST OF AGGRAVATING MITIGATING FACTORS, AMEND THE CONDITIONS THAT MAY BE IMPOSED FOR POST-RELEASE SUPERVISION AND PROBATION, AND REPEAL PROBATION CASELOAD GOALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1340.17(c) reads as rewritten:

"(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. 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	II	III	IV	V	VI	
	0 Pts	1-4 Pts	5-8 Pts		9-14 Pts	15-18 Pts	19+ Pts

A Life Imprisonment or Death as Established by Statute

	A	A	A	A	A	A	DISPOSITION
	240-300	288-360		336-420	384-480		Life Imprisonment Aggravated
							Without Parole
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
B1	<u>208-240</u>	<u>230-288</u>					PRESUMPTIVE
	<u>181-208</u>	<u>198-230</u>					<u>Mitigated</u>

	A	A	A	A	A	A	DISPOSITION
	135-169	163-204		190-238	216-270	243-304	270-338
							Aggravated
B2	108-135	130-163	152-190	173-216	194-243	216-270	PRESUMPTIVE
	81-108	98-130	114-152	130-173	146-194	162-216	
							Mitigated

1		<u>235-269</u>	<u>263-304</u>		<u>Aggravated</u>			
2	B2	<u>208-235</u>	<u>230-263</u>					<u>PRESUMPTIVE</u>
3		<u>181-208</u>	<u>108-230</u>		<u>Life Imprisonment Without Parole</u>			<u>Mitigated</u>
4								
5		A	A	A	A	A	A	DISPOSITION
6		<u>63-79</u>	<u>86-108</u>	<u>100-125</u>	<u>115-144</u>	<u>130-162</u>	<u>145-181</u>	<u>Aggravated</u>
7	C	<u>50-63</u>	<u>69-86</u>	<u>80-100</u>	<u>92-115</u>	<u>104-130</u>	<u>116-145</u>	<u>PRESUMPTIVE</u>
8		<u>38-50</u>	<u>52-69</u>	<u>60-80</u>	<u>69-92</u>	<u>78-104</u>	<u>87-116</u>	<u>Mitigated</u>
9		<u>88-104</u>	<u>111-133</u>	<u>125-150</u>	<u>165-194</u>	<u>180-212</u>	<u>195-231</u>	
10								<u>Aggravated</u>
11	C	<u>75-88</u>	<u>94-111</u>	<u>105-125</u>	<u>142-165</u>	<u>154-180</u>	<u>166-195</u>	<u>PRESUMPTIVE</u>
12		<u>63-75</u>	<u>77-94</u>	<u>85-105</u>	<u>119-142</u>	<u>128-154</u>	<u>137-166</u>	<u>Mitigated</u>
13								
14		A	A	A	A	A	A	DISPOSITION
15		<u>55-69</u>	<u>66-82</u>	<u>89-111</u>	<u>101-126</u>	<u>115-144</u>	<u>126-158</u>	<u>Aggravated</u>
16	D	<u>44-55</u>	<u>53-66</u>	<u>71-89</u>	<u>81-101</u>	<u>92-115</u>	<u>101-126</u>	<u>PRESUMPTIVE</u>
17		<u>33-44</u>	<u>40-53</u>	<u>53-71</u>	<u>61-81</u>	<u>69-92</u>	<u>76-101</u>	<u>Mitigated</u>
18		<u>75-89</u>	<u>86-102</u>	<u>109-131</u>	<u>121-146</u>	<u>135-164</u>	<u>146-178</u>	<u>Aggravated</u>
19	D	<u>64-75</u>	<u>73-86</u>	<u>91-109</u>	<u>101-121</u>	<u>112-135</u>	<u>121-146</u>	<u>PRESUMPTIVE</u>
20		<u>53-64</u>	<u>60-73</u>	<u>73-91</u>	<u>81-101</u>	<u>89-102</u>	<u>96-121</u>	<u>Mitigated</u>
21								
22		I/A	I/AA	A	A	A	A	DISPOSITION
23		<u>25-31</u>	<u>29-36</u>	<u>34-42</u>	<u>46-58</u>	<u>53-66</u>	<u>59-74</u>	<u>Aggravated</u>
24	E	<u>20-25</u>	<u>23-29</u>	<u>27-34</u>	<u>37-46</u>	<u>42-53</u>	<u>47-59</u>	<u>PRESUMPTIVE</u>
25		<u>15-20</u>	<u>17-23</u>	<u>20-27</u>	<u>28-37</u>	<u>32-42</u>	<u>35-47</u>	<u>Mitigated</u>
26		<u>45-51</u>	<u>49-56</u>	<u>54-62</u>	<u>66-78</u>	<u>73-86</u>	<u>79-94</u>	<u>Aggravated</u>
27	E	<u>40-45</u>	<u>43-49</u>	<u>47-54</u>	<u>57-66</u>	<u>62-73</u>	<u>67-79</u>	<u>PRESUMPTIVE</u>
28		<u>35-40</u>	<u>37-43</u>	<u>40-47</u>	<u>48-57</u>	<u>52-62</u>	<u>55-67</u>	<u>Mitigated</u>
29								
30		I/A	I/A/A	A	A	A	A	DISPOSITION
31		<u>16-20</u>	<u>19-24</u>	<u>21-26</u>	<u>25-31</u>	<u>34-42</u>	<u>39-49</u>	<u>Aggravated</u>
32	F	<u>13-16</u>	<u>15-19</u>	<u>17-21</u>	<u>20-25</u>	<u>27-34</u>	<u>31-39</u>	<u>PRESUMPTIVE</u>
33		<u>10-13</u>	<u>11-15</u>	<u>13-17</u>	<u>15-20</u>	<u>20-27</u>	<u>23-31</u>	<u>Mitigated</u>
34		<u>26-30</u>	<u>29-34</u>	<u>31-36</u>	<u>35-41</u>	<u>44-52</u>	<u>49-59</u>	<u>Aggravated</u>
35	F	<u>23-26</u>	<u>25-29</u>	<u>27-31</u>	<u>30-35</u>	<u>37-44</u>	<u>41-49</u>	<u>PRESUMPTIVE</u>
36		<u>20-23</u>	<u>21-25</u>	<u>23-27</u>	<u>25-30</u>	<u>30-37</u>	<u>33-41</u>	<u>Mitigated</u>
37								
38		I/A	I/A/A	I/A	A	A	A	DISPOSITION
39		<u>13-16</u>	<u>15-19</u>	<u>16-20</u>	<u>20-25</u>	<u>21-26</u>	<u>29-36</u>	<u>Aggravated</u>
40	G	<u>10-13</u>	<u>12-15</u>	<u>13-16</u>	<u>16-20</u>	<u>17-21</u>	<u>23-29</u>	<u>PRESUMPTIVE</u>
41		<u>8-10</u>	<u>9-12</u>	<u>10-13</u>	<u>12-16</u>	<u>13-17</u>	<u>17-23</u>	<u>Mitigated</u>
42		<u>23-26</u>	<u>25-29</u>	<u>26-30</u>	<u>30-35</u>	<u>31-36</u>	<u>44-51</u>	<u>Aggravated</u>
43	G	<u>20-23</u>	<u>22-25</u>	<u>23-26</u>	<u>26-30</u>	<u>27-31</u>	<u>38-44</u>	<u>PRESUMPTIVE</u>

1	<u>18-20</u>	<u>19-22</u>	<u>20-23</u>	<u>22-26</u>	<u>23-27</u>	<u>32-38</u>	Mitigated	
2								
3	<u>C/I/A</u>	<u>I/AI/A</u>	<u>I/A</u>	<u>I/A</u>	<u>A</u>		DISPOSITION	
4	<u>6-8</u>	<u>8-10</u>	<u>10-12</u>	<u>11-14</u>	<u>15-19</u>	<u>20-25</u>	Aggravated	
5	H <u>5-6</u>	<u>6-8</u>	<u>8-10</u>	<u>9-11</u>	<u>12-15</u>	<u>16-20</u>		PRESUMPTIVE
6	<u>4-5</u>	<u>4-6</u>	<u>6-8</u>	<u>7-9</u>	<u>9-12</u>	<u>12-16</u>	Mitigated	
7	<u>12-16</u>	<u>16-20</u>	<u>20-24</u>	<u>22-28</u>	<u>30-38</u>	<u>40-50</u>	Aggravated	
8	H <u>10-12</u>	<u>12-16</u>	<u>16-20</u>	<u>18-22</u>	<u>24-30</u>	<u>32-40</u>		PRESUMPTIVE
9	<u>8-10</u>	<u>8-12</u>	<u>12-16</u>	<u>14-18</u>	<u>18-24</u>	<u>24-32</u>	Mitigated	
10								
11		<u>C/I/A</u>	<u>C/I/A</u>	<u>I/A</u>	<u>I/A</u>	<u>I/A</u>	<u>I/A</u>	DISPOSITION
12	<u>6-8</u>	<u>6-8</u>	<u>6-8</u>	<u>8-10</u>	<u>9-11</u>	<u>10-12</u>	Aggravated	
13	I <u>4-6</u>	<u>4-6</u>	<u>5-6</u>	<u>6-8</u>	<u>7-9</u>	<u>8-10</u>		PRESUMPTIVE
14	<u>3-4</u>	<u>3-4</u>	<u>4-5</u>	<u>4-6</u>	<u>5-7</u>	<u>6-8</u>	Mitigated	
15	<u>12-16</u>	<u>12-16</u>	<u>12-16</u>	<u>16-20</u>	<u>18-22</u>	<u>20-24</u>		Aggravated
16	I <u>8-12</u>	<u>8-12</u>	<u>10-12</u>	<u>12-16</u>	<u>14-18</u>	<u>16-20</u>		PRESUMPTIVE
17	<u>6-8</u>	<u>6-8</u>	<u>8-10</u>	<u>8-12</u>	<u>10-14</u>	<u>12-16</u>	Mitigated".	

Sec. 2. G.S. 15A-1340.14 reads as rewritten:

"§ 15A-1340.14. Prior record level for felony sentencing.

(a) Generally. – The prior record level of a felony offender is determined by calculating the sum of the points assigned to each of the offender's prior convictions that the court finds to have been proved in accordance with this section.

(b) Points. – Points are assigned as follows:

- (1) For each prior felony Class A conviction, 10 points.
- (1a) For each prior felony Class B1 conviction, 9 points.
- (2) For each prior felony Class B2, C, or D conviction, 6 points.
- (3) For each prior felony Class E, F, or G conviction, 4 points.
- (4) For each prior felony Class H or I conviction, 2 points.
- (5) For each prior Class 1 misdemeanor conviction, 1 point, except that convictions for Class 1 misdemeanor offenses under Chapter 20 of the General Statutes, other than conviction for misdemeanor death by vehicle (G.S. 20-141.4(a2)), shall not be assigned any points for purposes of determining a person's prior record for felony sentencing.
- (6) If all the elements of the present offense are included in the prior offense, 1 point.
- (7) If the offense was committed while the offender was on probation or parole, or while the offender was serving a sentence of imprisonment, or while the offender was on escape from a correctional institution while serving a sentence of imprisonment, ~~1 point.~~ 3 points.

For purposes of determining prior record points under this subsection, a conviction for a first degree rape or a first degree sexual offense committed prior to the effective date of this subsection shall be treated as a felony Class B1 conviction, and a conviction for any

1 other felony Class B offense committed prior to the effective date of this subsection shall
2 be treated as a felony Class B2 conviction.

3 (c) Prior Record Levels for Felony Sentencing. – The prior record levels for felony
4 sentencing are:

- 5 (1) Level I – 0 points.
- 6 (2) Level II – At least 1, but not more than 4 points.
- 7 (3) Level III – At least 5, but not more than 8 points.
- 8 (4) Level IV – At least 9, but not more than 14 points.
- 9 (5) Level V – At least 15, but not more than 18 points.
- 10 (6) Level VI – At least 19 points.

11 In determining the prior record level, the classification of a prior offense is the
12 classification assigned to that offense at the time the offense for which the offender is
13 being sentenced is committed.

14 (d) Multiple Prior Convictions Obtained in One Court Week. – For purposes of
15 determining the prior record level, if an offender is convicted of more than one offense in
16 a single superior court during one calendar week, ~~only the conviction for the offense with~~
17 ~~the highest point total is used.~~ each conviction is used. If an offender is convicted of more
18 than one offense in a single session of district court, ~~only one of the convictions~~ each
19 conviction is used.

20 (e) Classification of Prior Convictions From Other Jurisdictions. – Except as
21 otherwise provided in this subsection, a conviction occurring in a jurisdiction other than
22 North Carolina is classified as a Class I felony if the jurisdiction in which the offense
23 occurred classifies the offense as a felony, or is classified as a Class 3 misdemeanor if the
24 jurisdiction in which the offense occurred classifies the offense as a misdemeanor. If the
25 offender proves by the preponderance of the evidence that an offense classified as a
26 felony in the other jurisdiction is substantially similar to an offense that is a misdemeanor
27 in North Carolina, the conviction is treated as that class of misdemeanor for assigning
28 prior record level points. If the State proves by the preponderance of the evidence that an
29 offense classified as either a misdemeanor or a felony in the other jurisdiction is
30 substantially similar to an offense in North Carolina that is classified as a Class I felony
31 or higher, the conviction is treated as that class of felony for assigning prior record level
32 points. If the State proves by the preponderance of the evidence that an offense classified
33 as a misdemeanor in the other jurisdiction is substantially similar to an offense classified
34 as a Class 1 misdemeanor in North Carolina, the conviction is treated as a Class 1
35 misdemeanor for assigning prior record level points.

36 (f) Proof of Prior Convictions. – A prior conviction shall be proved by any of the
37 following methods:

- 38 (1) Stipulation of the parties.
- 39 (2) An original or copy of the court record of the prior conviction.
- 40 (3) A copy of records maintained by the Division of Criminal Information,
41 the Division of Motor Vehicles, or of the Administrative Office of the
42 Courts.
- 43 (4) Any other method found by the court to be reliable.

1 The State bears the burden of proving, by a preponderance of the evidence, that a
2 prior conviction exists and that the offender before the court is the same person as the
3 offender named in the prior conviction. The original or a copy of the court records or a
4 copy of the records maintained by the Division of Criminal Information, the Division of
5 Motor Vehicles, or of the Administrative Office of the Courts, bearing the same name as
6 that by which the offender is charged, is prima facie evidence that the offender named is
7 the same person as the offender before the court, and that the facts set out in the record
8 are true. For purposes of this subsection, 'a copy' includes a paper writing containing a
9 reproduction of a record maintained electronically on a computer or other data processing
10 equipment, and a document produced by a facsimile machine. The prosecutor shall make
11 all feasible efforts to obtain and present to the court the offender's full record. Evidence
12 presented by either party at trial may be utilized to prove prior convictions. Suppression
13 of prior convictions is pursuant to G.S. 15A-980. If a motion is made pursuant to that
14 section during the sentencing stage of the criminal action, the court may grant a
15 continuance of the sentencing hearing. If asked by the defendant in compliance with G.S.
16 15A-903, the prosecutor shall furnish the defendant's prior criminal record to the
17 defendant within a reasonable time sufficient to allow the defendant to determine if the
18 record available to the prosecutor is accurate."

19 Sec. 3. G.S. 15A-1340.11 reads as rewritten:

20 **"§ 15A-1340.11. Definitions.**

21 The following definitions apply in this Article:

- 22 (1) Active punishment. – A sentence in a criminal case that requires an
23 offender to serve a sentence of imprisonment and is not suspended.
24 Special probation, as defined in G.S. 15A-1351, is not an active
25 punishment.
- 26 (2) Community punishment. – A sentence in a criminal case that does not
27 include an active punishment or an intermediate punishment.
- 28 (3) Day-reporting center. – A facility to which offenders are required, as a
29 condition of probation, to report on a daily or other regular basis at
30 specified times for a specified length of time to participate in activities
31 such as counseling, treatment, social skills training, or employment
32 training.
- 33 (4) Electronic monitoring. – A condition of probation in which the offender
34 is required to remain in one or more specified places for a specified
35 period or periods each day, and in which the offender shall wear a
36 device which permits the supervising agency to monitor the offender's
37 compliance with the condition electronically.
- 38 (5) Intensive probation. – Probation that requires the offender to submit to
39 supervision by officers assigned to the Intensive Probation Program
40 established pursuant to G.S. 143B-262(c), and to comply with the rules
41 adopted for that Program.

1 (6) Intermediate punishment. – A sentence in a criminal case that places an
2 offender on supervised probation and includes at least one of the
3 following conditions:

- 4 a. Special probation as defined in G.S. 15A-1351(a).
5 b. Assignment to a residential program.
6 ~~c. Electronic monitoring.~~
7 ~~d. Intensive probation.~~
8 ~~e. Assignment to a day reporting center.~~

9 ~~In addition, a sentence to regular supervised probation imposed pursuant~~
10 ~~to a community penalties plan as defined in G.S. 7A-771(2) is an~~
11 ~~intermediate punishment, regardless of whether any of the above~~
12 ~~conditions is imposed, if the plan is accepted by the court and the plan~~
13 ~~does not include active punishment.~~

14 (7) Prior conviction. – A person has a prior conviction when, on the date a
15 criminal judgment is entered, the person being sentenced has been
16 previously convicted of a crime:

- 17 a. In the district court, and the person has not given notice of appeal
18 and the time for appeal has expired; or
19 b. In the superior court, regardless of whether the conviction is on
20 appeal to the appellate division; or
21 c. In the courts of the United States, another state, the armed
22 services of the United States, or another country, regardless of
23 whether the offense would be a crime if it occurred in North
24 Carolina,

25 regardless of whether the crime was committed before or after the
26 effective date of this Article.

27 (8) Residential program. – A program in which the offender, as a condition
28 of probation, is required to reside in a facility for a specified period and
29 to participate in activities such as counseling, treatment, social skills
30 training, or employment training, conducted at the residential facility or
31 at other specified locations."

32 Sec. 4. 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, but does not apply to felons in Class B1 or
36 in Class B2 sentenced to life imprisonment without parole. Prisoners subject to Articles
37 85 and 85A of this Chapter are excluded from this Article's coverage."

38 Sec. 5. G.S. 15A-1340.16 reads as rewritten:

39 **"§ 15A-1340.16. Aggravated and mitigated sentences.**

40 (a) Generally, Burden of Proof. – The court shall consider evidence of aggravating
41 or mitigating factors present in the offense that make an aggravated or mitigated sentence
42 appropriate, but the decision to depart from the presumptive range is in the discretion of
43 the court. The State bears the burden of proving by a preponderance of the evidence that

1 an aggravating factor exists, and the offender bears the burden of proving by a
2 preponderance of the evidence that a mitigating factor exists.

3 (b) When Aggravated or Mitigated Sentence Allowed. – If the court finds that
4 aggravating or mitigating factors exist, it may depart from the presumptive range of
5 sentences specified in G.S. 15A-1340.17(c)(2). If the court finds that aggravating factors
6 are present and are sufficient to outweigh any mitigating factors that are present, it may
7 impose a sentence that is permitted by the aggravated range described in G.S. 15A-
8 1340.17(c)(4). If the court finds that mitigating factors are present and are sufficient to
9 outweigh any aggravating factors that are present, it may impose a sentence that is
10 permitted by the mitigated range described in G.S. 15A-1340.17(c)(3).

11 (c) Written Findings; When Required. – The court shall make findings of the
12 aggravating and mitigating factors present in the offense only if, in its discretion, it
13 departs from the presumptive range of sentences specified in G.S. 15A-1340.17(c)(2).
14 Findings shall be in writing. The requirement to make findings in order to depart from
15 the presumptive range applies regardless of whether the sentence of imprisonment is
16 activated or suspended.

17 (d) Aggravating Factors. – The following are aggravating factors:

- 18 (1) The defendant induced others to participate in the commission of the
19 offense or occupied a position of leadership or dominance of other
20 participants.
- 21 (2) The defendant joined with more than one other person in committing the
22 offense and was not charged with committing a conspiracy.
- 23 (3) The offense was committed for the purpose of avoiding or preventing a
24 lawful arrest or effecting an escape from custody.
- 25 (4) The defendant was hired or paid to commit the offense.
- 26 (5) The offense was committed to disrupt or hinder the lawful exercise of
27 any governmental function or the enforcement of laws.
- 28 (6) The offense was committed against a ~~present or former~~ person who is
29 presently or was formerly one of the following in this State, in another
30 state, or at the federal level: law enforcement officer, employee of the
31 Department of Correction, jailer, fireman, emergency medical
32 technician, ambulance attendant, justice or judge, clerk or assistant or
33 deputy clerk of court, magistrate, prosecutor, juror, or witness against
34 the defendant, while engaged in the performance of that person's official
35 duties or because of the exercise of that person's official duties.
- 36 (7) The offense was especially heinous, atrocious, or cruel.
- 37 (8) The defendant knowingly created a great risk of death to more than one
38 person by means of a weapon or device which would normally be
39 hazardous to the lives of more than one person.
- 40 (9) The defendant held public office at the time of the offense and the
41 offense related to the conduct of the office.
- 42 (10) The defendant was armed with or used a deadly weapon at the time of
43 the crime.

- 1 (11) The victim was very young, or very old, or mentally or physically
2 infirm, or handicapped.
- 3 (12) The defendant committed the offense while on pretrial release on
4 another charge.
- 5 (13) The defendant involved a person under the age of 16 in the commission
6 of the crime.
- 7 (14) The offense involved an attempted or actual taking of property of great
8 monetary value or damage causing great monetary loss, or the offense
9 involved an unusually large quantity of contraband.
- 10 (15) The defendant took advantage of a position of trust or confidence to
11 commit the offense.
- 12 (16) The offense involved the sale or delivery of a controlled substance to a
13 minor.
- 14 (17) The offense for which the defendant stands convicted was committed
15 against a victim because of the victim's race, color, religion, nationality,
16 or country of origin.
- 17 (18) The defendant does not support the defendant's family.
- 18 (18a) The defendant has previously been adjudicated delinquent for an offense
19 that would be a Class A, B, C, D, or E felony if committed by an adult.
- 20 (19) The serious injury inflicted upon the victim is permanent and
21 debilitating.
- 22 (20) Any other aggravating factor reasonably related to the purposes of
23 sentencing.

24 Evidence necessary to prove an element of the offense shall not be used to prove any
25 factor in aggravation, and the same item of evidence shall not be used to prove more than
26 one factor in aggravation. Evidence necessary to establish that an enhanced sentence is
27 required under G.S. 14-2.2 may not be used to prove any factor in aggravation.

28 The judge shall not consider as an aggravating factor the fact that the defendant
29 exercised the right to a jury trial.

30 (e) Mitigating Factors. – The following are mitigating factors:

- 31 (1) The defendant committed the offense under duress, coercion, threat, or
32 compulsion that was insufficient to constitute a defense but significantly
33 reduced the defendant's culpability.
- 34 (2) The defendant was a passive participant or played a minor role in the
35 commission of the offense.
- 36 (3) The defendant was suffering from a mental or physical condition that
37 was insufficient to constitute a defense but significantly reduced the
38 defendant's culpability for the offense.
- 39 ~~(4) The defendant's age, immaturity, or limited mental capacity at the time~~
40 ~~of commission of the offense significantly reduced the defendant's~~
41 ~~culpability for the offense.~~
- 42 (5) The defendant has made substantial or full restitution to the victim.

- 1 ~~(6) The victim was more than 16 years of age and was a voluntary~~
2 ~~participant in the defendant's conduct or consented to it.~~
- 3 (7) The defendant aided in the apprehension of another felon or testified
4 truthfully on behalf of the prosecution in another prosecution of a
5 felony. However, this factor may be considered only upon motion by
6 the prosecuting attorney.
- 7 ~~(8) The defendant acted under strong provocation, or the relationship~~
8 ~~between the defendant and the victim was otherwise extenuating.~~
9 ~~provocation.~~
- 10 (9) The defendant could not reasonably foresee that the defendant's conduct
11 would cause or threaten serious bodily harm or fear, or the defendant
12 exercised caution to avoid such consequences.
- 13 (10) The defendant reasonably believed that the defendant's conduct was
14 legal.
- 15 (11) ~~Prior to arrest or at an early stage of the criminal process, arrest, the~~
16 ~~defendant voluntarily acknowledged wrongdoing in connection with the~~
17 ~~offense to a law enforcement officer.~~
- 18 (12) The defendant has been a person of good character or has had a good
19 reputation in the community in which the defendant lives.
- 20 (13) The defendant is a minor and has reliable supervision available.
- 21 (14) The defendant has been honorably discharged from the United States
22 armed services.
- 23 ~~(15) The defendant has accepted responsibility for the defendant's criminal~~
24 ~~conduct.~~
- 25 (16) The defendant has entered and is currently involved in or has
26 successfully completed a drug treatment program or an alcohol
27 treatment program subsequent to arrest and prior to ~~trial.~~ trial and the
28 offense was solely a violation of a law relating to drug or alcohol use.
- 29 ~~(17) The defendant supports the defendant's family.~~
- 30 ~~(18) The defendant has a support system in the community.~~
- 31 ~~(19) The defendant has a positive employment history or is gainfully~~
32 ~~employed.~~
- 33 ~~(20) The defendant has a good treatment prognosis, and a workable treatment~~
34 ~~plan is available.~~
- 35 (21) Any other mitigating factor reasonably related to the purposes of
36 sentences."

37 Sec. 6. G.S. 90-95(h) reads as rewritten:

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

- 40 (1) Any person who sells, manufactures, delivers, transports, or possesses
41 in excess of 50 pounds (avoirdupois) of marijuana shall be guilty of a
42 felony which felony shall be known as 'trafficking in marijuana' and if
43 the quantity of such substance involved:

- 1 a. Is in excess of 50 pounds, but less than 100 pounds, such person
2 shall be punished as a Class H felon and shall be sentenced to a
3 minimum term of ~~25-35~~ months and a maximum term of ~~30-60~~
4 months in the State's prison and shall be fined not less than five
5 thousand dollars (\$5,000);
- 6 b. Is 100 pounds or more, but less than 2,000 pounds, such person
7 shall be punished as a Class G felon and shall be sentenced to a
8 minimum term of ~~35-45~~ months and a maximum term of ~~42-70~~
9 months in the State's prison and shall be fined not less than
10 twenty-five thousand dollars (\$25,000);
- 11 c. Is 2,000 pounds or more, but less than 10,000 pounds, such
12 person shall be punished as a Class F felon and shall be
13 sentenced to a minimum term of 70 months and a maximum term
14 of 84 months in the State's prison and shall be fined not less than
15 fifty thousand dollars (\$50,000);
- 16 d. Is 10,000 pounds or more, such person shall be punished as a
17 Class D felon and shall be sentenced to a minimum term of 175
18 months and a maximum term of ~~219-250~~ months in the State's
19 prison and shall be fined not less than two hundred thousand
20 dollars (\$200,000).
- 21 (2) Any person who sells, manufactures, delivers, transports, or possesses
22 1,000 tablets, capsules or other dosage units, or the equivalent quantity,
23 or more of methaqualone, or any mixture containing such substance,
24 shall be guilty of a felony which felony shall be known as 'trafficking in
25 methaqualone' and if the quantity of such substance or mixture
26 involved:
- 27 a. Is 1,000 or more dosage units, or equivalent quantity, but less
28 than 5,000 dosage units, or equivalent quantity, such person shall
29 be punished as a Class G felon and shall be sentenced to a
30 minimum term of ~~35-45~~ months and a maximum term of ~~42-70~~
31 months in the State's prison and shall be fined not less than
32 twenty-five thousand dollars (\$25,000);
- 33 b. Is 5,000 or more dosage units, or equivalent quantity, but less
34 than 10,000 dosage units, or equivalent quantity, such person
35 shall be punished as a Class F felon and shall be sentenced to a
36 minimum term of 70 months and a maximum term of 84 months
37 in the State's prison and shall be fined not less than fifty thousand
38 dollars (\$50,000);
- 39 c. Is 10,000 or more dosage units, or equivalent quantity, such
40 person shall be punished as a Class D felon and shall be
41 sentenced to a minimum term of 175 months and a maximum
42 term of ~~219-250~~ months in the State's prison and shall be fined
43 not less than two hundred thousand dollars (\$200,000).

- 1 (3) Any person who sells, manufactures, delivers, transports, or possesses
2 28 grams or more of cocaine and any salt, isomer, salts of isomers,
3 compound, derivative, or preparation thereof, or any coca leaves and
4 any salt, isomer, salts of isomers, compound, derivative, or preparation
5 of coca leaves, and any salt, isomer, salts of isomers, compound,
6 derivative or preparation thereof which is chemically equivalent or
7 identical with any of these substances (except decocainized coca leaves
8 or any extraction of coca leaves which does not contain cocaine) or any
9 mixture containing such substances, shall be guilty of a felony, which
10 felony shall be known as 'trafficking in cocaine' and if the quantity of
11 such substance or mixture involved:
- 12 a. Is 28 grams or more, but less than 200 grams, such person shall
13 be punished as a Class G felon and shall be sentenced to a
14 minimum term of ~~35~~45 months and a maximum term of ~~42~~70
15 months in the State's prison and shall be fined not less than fifty
16 thousand dollars (\$50,000);
- 17 b. Is 200 grams or more, but less than 400 grams, such person shall
18 be punished as a Class F felon and shall be sentenced to a
19 minimum term of 70 months and a maximum term of 84 months
20 in the State's prison and shall be fined not less than one hundred
21 thousand dollars (\$100,000);
- 22 c. Is 400 grams or more, such person shall be punished as a Class D
23 felon and shall be sentenced to a minimum term of 175 months
24 and a maximum term of ~~219~~250 months in the State's prison and
25 shall be fined at least two hundred fifty thousand dollars
26 (\$250,000).
- 27 (3a) Any person who sells, manufactures, delivers, transports, or possesses
28 1,000 tablets, capsules or other dosage units, or the equivalent quantity,
29 or more of amphetamine, its salts, optical isomers, and salts of its
30 optical isomers or any mixture containing such substance, shall be
31 guilty of a felony which felony shall be known as 'trafficking in
32 amphetamine' and if the quantity of such substance or mixture involved:
- 33 a. Is 1,000 or more dosage units, or equivalent quantity, but less
34 than 5,000 dosage units, or equivalent quantity, such person shall
35 be punished as a Class G felon and shall be sentenced to a
36 minimum term of ~~35~~45 months and a maximum term of ~~42~~70
37 months in the State's prison and shall be fined not less than
38 twenty-five thousand dollars (\$25,000);
- 39 b. Is 5,000 or more dosage units, or equivalent quantity, but less
40 than 10,000 dosage units, or equivalent quantity, such person
41 shall be punished as a Class F felon and shall be sentenced to a
42 minimum term of 70 months and a maximum term of 84 months

- 1 in the State's prison and shall be fined not less than fifty thousand
2 dollars (\$50,000);
- 3 c. Is 10,000 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 ~~219-250~~ months in the State's prison and shall be fined
7 not less than two hundred thousand dollars (\$200,000).
- 8 (3b) Any person who sells, manufactures, delivers, transports, or possesses
9 28 grams or more of methamphetamine shall be guilty of a felony which
10 felony shall be known as 'trafficking in methamphetamine' and if the
11 quantity of such substance or mixture involved:
- 12 a. Is 28 grams or more, but less than 200 grams, such person shall
13 be punished as a Class G felon and shall be sentenced to a
14 minimum term of ~~35-45~~ months and a maximum term of ~~42-70~~
15 months in the State's prison and shall be fined not less than fifty
16 thousand dollars (\$50,000);
- 17 b. Is 200 grams or more, but less than 400 grams, such person shall
18 be punished as a Class F felon and shall be sentenced to a
19 minimum term of 70 months and a maximum term of 84 months
20 in the State's prison and shall be fined not less than one hundred
21 thousand dollars (\$100,000);
- 22 c. Is 400 grams or more, such person shall be punished as a Class D
23 felon and shall be sentenced to a minimum term of 175 months
24 and a maximum term of ~~219-250~~ months in the State's prison and
25 shall be fined at least two hundred fifty thousand dollars
26 (\$250,000).
- 27 (4) Any person who sells, manufactures, delivers, transports, or possesses
28 four grams or more of opium or opiate, or any salt, compound,
29 derivative, or preparation of opium or opiate (except apomorphine,
30 nalbuphine, analoxone and naltrexone and their respective salts),
31 including heroin, or any mixture containing such substance, shall be
32 guilty of a felony which felony shall be known as 'trafficking in opium
33 or heroin' and if the quantity of such controlled substance or mixture
34 involved:
- 35 a. Is four grams or more, but less than 14 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 months
38 in the State's prison and shall be fined not less than fifty thousand
39 dollars (\$50,000);
- 40 b. Is 14 grams or more, but less than 28 grams, such person shall be
41 punished as a Class E felon and shall be sentenced to a minimum
42 term of 90 months and a maximum term of ~~117-125~~ months in

- 1 the State's prison and shall be fined not less than one hundred
2 thousand dollars (\$100,000);
- 3 c. Is 28 grams or more, such person shall be punished as a Class C
4 felon and shall be sentenced to a minimum term of ~~225~~250
5 months and a maximum term of ~~279~~400 months in the State's
6 prison and shall be fined not less than five hundred thousand
7 dollars (\$500,000).
- 8 (4a) Any person who sells, manufactures, delivers, transports, or
9 possesses 100 tablets, capsules, or other dosage units, or the
10 equivalent quantity, or more, of Lysergic Acid Diethylamide, or any
11 mixture containing such substance, shall be guilty of a felony, which
12 felony shall be known as 'trafficking in Lysergic Acid Diethylamide'.
13 If the quantity of such substance or mixture involved:
- 14 a. Is 100 or more dosage units, or equivalent quantity, but less than
15 500 dosage units, or equivalent quantity, such person shall be
16 punished as a Class G felon and shall be sentenced to a minimum
17 term of ~~35~~45 months and a maximum term of ~~42~~70 months in
18 the State's prison and shall be fined not less than twenty-five
19 thousand dollars (\$25,000);
- 20 b. Is 500 or more dosage units, or equivalent quantity, but less than
21 1,000 dosage units, or equivalent quantity, such person shall be
22 punished as a Class F felon and shall be sentenced to a minimum
23 term of 70 months and a maximum term of 84 months in the
24 State's prison and shall be fined not less than fifty thousand
25 dollars (\$50,000);
- 26 c. Is 1,000 or more dosage units, or equivalent quantity, such
27 person shall be punished as a Class D felon and shall be
28 sentenced to a minimum term of 175 months and a maximum
29 term of ~~219~~250 months in the State's prison and shall be fined
30 not less than two hundred thousand dollars (\$200,000).
- 31 (5) Except as provided in this subdivision, a person being sentenced under
32 this subsection may not receive a suspended sentence or be placed on
33 probation. The sentencing judge may reduce the fine, or impose a
34 prison term less than the applicable minimum prison term provided by
35 this subsection, or suspend the prison term imposed and place a person
36 on probation when such person has, to the best of his knowledge,
37 provided substantial assistance in the identification, arrest, or conviction
38 of any accomplices, accessories, co-conspirators, or principals if the
39 prosecuting attorney makes a motion to that effect and the sentencing
40 judge enters in the record a finding that the person to be sentenced has
41 rendered such substantial assistance.

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

4 Sec. 7. G.S. 15A-1368.4(e) reads as rewritten:

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

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

14 (2) Comply with a court order to pay the costs of reintegrative treatment for
15 a minor and a minor's parents or custodians where the offense involved
16 evidence of physical, mental, or sexual abuse of a minor.

17 (3) Comply with a court order to pay court costs and costs for appointed
18 counsel or public defender in the case for which the supervisee was
19 convicted.

20 (4) Not possess a firearm, destructive device, or other dangerous weapon
21 unless granted written permission by the Commission or a post-release
22 supervision officer.

23 (5) Report to a post-release supervision officer at ~~reasonable times~~ any time
24 and in a ~~reasonable~~ any manner, as directed by the Commission or a
25 post-release supervision officer.

26 (6) Permit a post-release supervision officer to visit at ~~reasonable~~ all times
27 at the supervisee's home or elsewhere.

28 (7) Remain within the geographic limits fixed by the Commission unless
29 granted written permission to leave by the Commission or the post-
30 release supervision officer.

31 (8) Answer all ~~reasonable~~ inquiries by the post-release supervision officer
32 and obtain prior approval from the post-release supervision officer for
33 any change in address or employment.

34 (9) Promptly notify the post-release supervision officer of any change in
35 address or employment.

36 (10) Submit at ~~reasonable~~ all times to searches of the supervisee's person by
37 a post-release supervision officer for purposes ~~reasonably~~ related to the
38 post-release supervision. ~~The Commission shall not require as a~~
39 ~~condition of post-release supervision that the supervisee submit to any~~
40 ~~other searches that would otherwise be unlawful.~~ Whenever the search
41 consists of testing for the presence of illegal drugs, the supervisee may
42 also be required to reimburse the Department of Correction for the
43 actual cost of drug testing and drug screening, if the results are positive.

1 (11) Make restitution or reparation to an aggrieved party as provided in G.S.
2 148-57.1.

3 (12) Comply with an order from a court of competent jurisdiction regarding
4 the payment of an obligation of the supervisee in connection with any
5 judgment rendered by the court."

6 Sec. 8. G.S. 15A-1340.23(c) reads as rewritten:

7 "(c) Punishment for Each Class of Offense and Prior Conviction Level; Punishment
8 Chart Described. – Unless otherwise provided for a specific offense, the authorized
9 punishment for each class of offense and prior conviction level is as specified in the chart
10 below. Prior conviction levels are indicated by the Roman numerals placed horizontally
11 on the top of the chart. Classes of offenses are indicated by the Arabic numbers placed
12 vertically on the left side of the chart. Each grid on the chart contains the following
13 components:

14 (1) A sentence disposition or dispositions: 'C' indicates that a community
15 punishment is authorized; 'I' indicates that an intermediate punishment
16 is authorized; and 'A' indicates that an active punishment is authorized;
17 and

18 (2) A range of durations for the sentence of imprisonment: any sentence
19 within the duration specified is permitted.
20

21 PRIOR CONVICTION LEVELS

22 MISDEMEANOR

23 OFFENSE	LEVEL I	LEVEL II	LEVEL III
24 CLASS	No Prior	One to Four Prior	Five or More
	Convictions	Convictions	Prior Convictions
28 1	1-45 days C <u>1-6 months C/I/A</u>	1-45 days C/I/A <u>1-12 months C/I/A</u>	1-120 days C/I/A <u>6-12 months I/A</u>
30 2	1-30 days C <u>1 day-6 months C/I/A</u>	1-45 days C/I	1-60 days C/I/A <u>1-6 months C/I/A 1-</u>
32 <u>12 months I/A</u>			
33 3	1-10 days C <u>1-30 days C/I/A</u>	1-15 days C/I <u>1-6 months C/I/A</u>	1-20 days C/I/A <u>1-12 months I/A</u>

35 "

36 Sec. 9. G.S. 15A-1343.2 reads as rewritten:

37 "**§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.**

38 (a) Applicability. – This section applies only to persons sentenced under Article
39 81B of this Chapter.

40 (b) Purposes of Probation for Community and Intermediate Punishments. – The
41 Department of Correction shall develop a plan to handle offenders sentenced to
42 community and intermediate punishments. The probation program designed to handle
43 these offenders shall have the following principal purposes: to hold offenders accountable

1 for making restitution, to ensure compliance with the court's judgment, to effectively
2 rehabilitate offenders by directing them to specialized treatment or education programs,
3 and to protect the public safety.

4 ~~(e) Probation Caseload Goals. — It is the goal of the General Assembly that,~~
5 ~~subject to the availability of funds, caseloads for probation officers supervising persons~~
6 ~~sentenced to community punishment should not exceed an average of 90 offenders per~~
7 ~~officer, and caseloads for offenders sentenced to intermediate punishments should not~~
8 ~~exceed an average of 60 offenders per officer by July 1, 1998.~~

9 (d) Lengths of Probation Terms Under Structured Sentencing. — Unless the
10 court makes specific findings that longer or shorter periods of probation are necessary,
11 the length of the original period of probation for offenders sentenced under Article 81B
12 shall be as follows:

- 13 (1) For misdemeanants sentenced to community punishment, not less than
14 six nor more than ~~18~~24 months;
- 15 (2) For misdemeanants sentenced to intermediate punishment, not less than
16 12 nor more than ~~24~~36 months;
- 17 (3) For felons sentenced to community punishment, not less than 12 ~~nor~~
18 ~~more than 30~~ months; and
- 19 (4) For felons sentenced to intermediate punishment, not less than 18 ~~nor~~
20 ~~more than 36~~ months.

21 If the court finds at the time of sentencing that a longer period of probation is
22 necessary, that period may not exceed a maximum of five years, as specified in G.S.
23 15A-1342 and G.S. 15A-1351.

24 Extension. — The court may with the consent of the offender extend the original
25 period of the probation if necessary to complete a program of restitution or to complete
26 medical or psychiatric treatment ordered as a condition of probation. This extension may
27 be for no more than three years, and may only be ordered in the last six months of the
28 original period of probation.

29 (e) Delegation to Probation Officer in Community Punishment. — The court may
30 delegate to the Division of Adult Probation and Parole in the Department of Correction
31 the authority to require an offender sentenced to community punishment to:

- 32 (1) Perform up to 20 hours of community service, and pay the fee
33 prescribed by law for this supervision;
- 34 (2) Report to the offender's probation officer on a frequency to be
35 determined by the officer; ~~or~~
- 36 (3) Submit to substance abuse monitoring or ~~treatment.~~ treatment; or
- 37 (4) Submit to electronic monitoring.

38 If the Division imposes any of the above requirements, then it may subsequently reduce
39 or remove those same requirements.

40 If the probation officer exercises authority delegated by the court pursuant to this
41 subsection, the offender may file a motion with the court to review the action taken by
42 the probation officer. The offender shall be given notice of the right to seek such a court
43 review. The Division may exercise any authority delegated to it under this subsection

1 only if it first determines that the offender has failed to comply with one or more of the
2 conditions of probation imposed by the court.

3 (f) Delegation to Probation Officer in Intermediate Punishments. – The court may
4 delegate to the Division of Adult Probation and Parole in the Department of Correction
5 the authority to require an offender sentenced to intermediate punishment to:

6 (1) Perform up to 50 hours of community service, and pay the fee
7 prescribed by law for this supervision;

8 ~~(2) Submit to electronic monitoring;~~

9 (3) Submit to substance abuse monitoring or treatment; or

10 (4) Participate in an educational or vocational skills development program.

11 If the Division imposes any of the above requirements, then it may subsequently reduce
12 or remove those same requirements.

13 If the probation officer exercises authority delegated to him or her by the court
14 pursuant to this subsection, the offender may file a motion with the court to review the
15 action taken by the probation officer. The offender shall be given notice of the right to
16 seek such a court review. The Division may exercise any authority delegated to it under
17 this subsection only if it first determines that the offender has failed to comply with one
18 or more of the conditions of probation imposed by the court.

19 (g) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 19, s. 3.

20 (h) Definitions. – For purposes of this section, the definitions in G.S. 15A-1340.11
21 apply."

22 Sec. 10. G.S. 15A-1340.22(a) reads as rewritten:

23 "(a) Limits on Consecutive Sentences. ~~—If the court elects to impose consecutive~~
24 ~~sentences for two or more misdemeanors and the most serious misdemeanor is classified~~
25 ~~in Class 1 or Class 2, the cumulative length of the sentences of imprisonment shall not~~
26 ~~exceed twice the maximum sentence authorized for the class and prior conviction level of~~
27 ~~the most serious offense.—~~Consecutive sentences shall not be imposed if all convictions
28 are for Class 3 misdemeanors."

29 Sec. 11. G.S. 14-12 reads as rewritten:

30 "**§ 14-12. Punishment for violations.**

31 Any person or persons violating any of the provisions of this Article shall, for the first
32 offense, be guilty of a Class 1 misdemeanor and be punished accordingly, and for the
33 second offense shall be punished as a Class ~~H~~G felon."

34 Sec. 12. G.S. 14-18 reads as rewritten:

35 "**§ 14-18. Punishment for manslaughter.**

36 Voluntary manslaughter shall be punishable as a Class ~~E~~C felony, and involuntary
37 manslaughter shall be punishable as a Class ~~F~~C felony."

38 Sec. 13. G.S. 14-27.7 reads as rewritten:

39 "**§ 14-27.7. Intercourse and sexual offenses with certain victims; consent no defense.**

40 If a defendant who has assumed the position of a parent in the home of a minor victim
41 engages in vaginal intercourse or a sexual act with a victim who is a minor residing in the
42 home, or if a person having custody of a victim of any age or a person who is an agent or
43 employee of any person, or institution, whether such institution is private, charitable, or

1 governmental, having custody of a victim of any age engages in vaginal intercourse or a
2 sexual act with such victim, the defendant is guilty of a Class ~~E~~D felony. Consent is not
3 a defense to a charge under this section."

4 Sec. 14. G.S. 14-44 reads as rewritten:

5 **"§ 14-44. Using drugs or instruments to destroy unborn child.**

6 If any person shall willfully administer to any woman, either pregnant or quick with
7 child, or prescribe for any such woman, or advise or procure any such woman to take any
8 medicine, drug or other substance whatever, or shall use or employ any instrument or
9 other means with intent thereby to destroy such child, he shall be punished as a Class ~~H~~F
10 felon."

11 Sec. 15. G.S. 14-45 reads as rewritten:

12 **"§ 14-45. Using drugs or instruments to produce miscarriage or injure pregnant
13 woman.**

14 If any person shall administer to any pregnant woman, or prescribe for any such
15 woman, or advise and procure such woman to take any medicine, drug or anything
16 whatsoever, with intent thereby to procure the miscarriage of such woman, or to injure or
17 destroy such woman, or shall use any instrument or application for any of the above
18 purposes, he shall be punished as a Class ~~I~~G felon."

19 Sec. 16. G.S. 14-49.1 reads as rewritten:

20 **"§ 14-49.1. Malicious damage of occupied property by use of explosive or
21 incendiary; punishment.**

22 Any person who willfully and maliciously damages any real or personal property of
23 any kind or nature, being at the time occupied by another, by the use of any explosive or
24 incendiary device or material is guilty of a felony punishable as a Class ~~D~~C felony."

25 Sec. 17. G.S. 14-52 reads as rewritten:

26 **"§ 14-52. Punishment for burglary.**

27 Burglary in the first degree shall be punishable as a Class D felony, and burglary in
28 the second degree shall be punishable as a Class ~~G~~F felony."

29 Sec. 18. G.S. 14-58 reads as rewritten:

30 **"§ 14-58. Punishment for arson.**

31 There shall be two degrees of arson as defined at the common law. If the dwelling
32 burned was occupied at the time of the burning, the offense is arson in the first degree
33 and is punishable as a Class ~~D~~C felony. If the dwelling burned was unoccupied at the
34 time of the burning, the offense is arson in the second degree and is punishable as a Class
35 ~~G~~F felony."

36 Sec. 19. G.S. 14-69.2(b) reads as rewritten:

37 "(b) A violation of subsection (a) of this section that occurs in a hospital facility as
38 defined in G.S. 131E-6 is, upon a first conviction, a Class 1 misdemeanor punishable by a
39 minimum of 100 hours of mandatory community service. A second or subsequent
40 conviction under subsection (a) of this section is a Class ~~I~~H felony."

41 Sec. 20. G.S. 14-79 is repealed.

42 Sec. 21. G.S. 14-87(a) reads as rewritten:

1 "(a) Any person or persons who, having in possession or with the use or threatened
2 use of any firearms or other dangerous weapon, implement or means, whereby the life of
3 a person is endangered or threatened, unlawfully takes or attempts to take personal
4 property from another or from any place of business, residence or banking institution or
5 any other place where there is a person or persons in attendance, at any time, either day
6 or night, or who aids or abets any such person or persons in the commission of such
7 crime, shall be guilty of a Class ~~D~~C felony."

8 Sec. 22. G.S. 14-90 reads as rewritten:

9 "**§ 14-90. Embezzlement of property received by virtue of office or employment.**

10 If any person exercising a public trust or holding a public office, or any guardian,
11 administrator, executor, trustee, or any receiver, or any other fiduciary, or any officer or
12 agent of a corporation, or any agent, consignee, clerk, bailee or servant, except persons
13 under the age of 16 years, of any person, shall embezzle or fraudulently or knowingly and
14 willfully misapply or convert to his own use, or shall take, make away with or secrete,
15 with intent to embezzle or fraudulently or knowingly and willfully misapply or convert to
16 his own use any money, goods or other chattels, bank note, check or order for the
17 payment of money issued by or drawn on any bank or other corporation, or any treasury
18 warrant, treasury note, bond or obligation for the payment of money issued by the United
19 States or by any state, or any other valuable security whatsoever belonging to any other
20 person or corporation, unincorporated association or organization which shall have come
21 into his possession or under his care, he shall be punished as a Class ~~H~~G felon."

22 Sec. 23. G.S. 14-136 reads as rewritten:

23 "**§ 14-136. Setting fire to grass and brushlands and woodlands.**

24 If any person shall intentionally set fire to any grassland, brushland or woodland,
25 except it be his own property, or in that case without first giving notice to all persons
26 owning or in charge of lands adjoining the land intended to be fired, and without also
27 taking care to watch such fire while burning and to extinguish it before it shall reach any
28 lands near to or adjoining the lands so fired, he shall for every such offense be guilty of a
29 Class 2 misdemeanor for the first offense, and for a second or any subsequent similar
30 offense shall be guilty of a Class 1 misdemeanor. If intent to damage the property of
31 another shall be shown, said person shall be punished as a Class ~~F~~H felon. This section
32 shall not prevent an action for the damages sustained by the owner of any property from
33 such fires. For the purposes of this section, the term 'woodland' is to be taken to include
34 all forest areas, both timber and cutover land, and all second-growth stands on areas that
35 have at one time been cultivated. Any person who shall furnish to the State, evidence
36 sufficient for the conviction of a violation of this section shall receive the sum of five
37 hundred dollars (\$500.00) to be paid from the State Fire Suppression Fund."

38 Sec. 24. G.S. 14-190.6 reads as rewritten:

39 "**§ 14-190.6. Employing or permitting minor to assist in offense under Article.**

40 Every person 18 years of age or older who intentionally, in any manner, hires,
41 employs, uses or permits any minor under the age of 16 years to do or assist in doing any
42 act or thing constituting an offense under this Article and involving any material, act or

1 thing he knows or reasonably should know to be obscene within the meaning of G.S. 14-
2 190.1, shall be guilty of a Class ~~I~~G felony."

3 Sec. 25. G.S. 14-190.7 reads as rewritten:

4 **"§ 14-190.7. Dissemination to minors under the age of 16 years.**

5 Every person 18 years of age or older who knowingly disseminates to any minor
6 under the age of 16 years any material which he knows or reasonably should know to be
7 obscene within the meaning of G.S. 14-190.1 shall be guilty of a Class ~~I~~H felony."

8 Sec. 26. G.S. 14-190.8 reads as rewritten:

9 **"§ 14-190.8. Dissemination to minors under the age of 13 years.**

10 Every person 18 years of age or older who knowingly disseminates to any minor
11 under the age of 13 years any material which he knows or reasonably should know to be
12 obscene within the meaning of G.S. 14-190.1 shall be punished as a Class ~~I~~G felon."

13 Sec. 27. G.S. 14-190.16(d) reads as rewritten:

14 "(d) Punishment and Sentencing. – Violation of this section is a Class ~~E~~D felony."

15 Sec. 28. G.S. 14-190.17(d) reads as rewritten:

16 "(d) Punishment and Sentencing. – Violation of this section is a Class ~~F~~E felony."

17 Sec. 29. G.S. 14-190.17A(d) reads as rewritten:

18 "(d) Punishment and Sentencing. – Violation of this section is a Class ~~I~~H felony."

19 Sec. 30. G.S. 14-190.18(c) reads as rewritten:

20 "(c) Punishment and Sentencing. – Violation of this section is a Class ~~F~~D felony."

21 Sec. 31. G.S. 14-190.19(c) reads as rewritten:

22 "(c) Punishment and Sentencing. – Violation of this section is a Class ~~F~~D felony."

23 Sec. 32. G.S. 14-202.1(b) reads as rewritten:

24 "(b) Taking indecent liberties with children is punishable as a Class ~~F~~D felony."

25 Sec. 33. G.S. 14-210 reads as rewritten:

26 **"§ 14-210. Subornation of perjury.**

27 If any person shall, by any means, procure another person to commit such willful and
28 corrupt perjury as is mentioned in G.S. 14-209, the person so offending shall be punished
29 as a Class ~~I~~H felon."

30 Sec. 34. G.S. 14-217(a) reads as rewritten:

31 "(a) If any person holding office under the laws of this State who, except in
32 payment of his legal salary, fees or perquisites, shall receive, or consent to receive,
33 directly or indirectly, anything of value or personal advantage, or the promise thereof, for
34 performing or omitting to perform any official act, which lay within the scope of his
35 official authority and was connected with the discharge of his official and legal duties, or
36 with the express or implied understanding that his official action, or omission to act, is to
37 be in any degree influenced thereby, he shall be punished as a Class ~~F~~D felon."

38 Sec. 35. G.S. 14-218 reads as rewritten:

39 **"§ 14-218. Offering bribes.**

40 If any person shall offer a bribe, whether it be accepted or not, he shall be punished as
41 a Class ~~F~~E felon."

42 Sec. 36. G.S. 14-221.2 reads as rewritten:

43 **"§ 14-221.2. Altering court documents or entering unauthorized judgments.**

1 Any person who without lawful authority intentionally enters a judgment upon or
2 materially alters or changes any criminal or civil process, criminal or civil pleading, or
3 other official case record is guilty of a Class ~~H~~G felony."

4 Sec. 37. G.S. 14-228 reads as rewritten:

5 **"§ 14-228. Buying and selling offices.**

6 If any person shall bargain away or sell an office or deputation of an office, or any
7 part or parcel thereof, or shall take money, reward or other profit, directly or indirectly, or
8 shall take any promise, covenant, bond or assurance for money, reward or other profit, for
9 an office or the deputation of an office, or any part thereof, which office, or any part
10 thereof, shall touch or concern the administration or execution of justice, or the receipt,
11 collection, control or disbursement of the public revenue, or shall concern or touch any
12 clerkship in any court of record wherein justice is administered; or if any person shall
13 give or pay money, reward or other profit, or shall make any promise, agreement, bond or
14 assurance for any of such offices, or for the deputation of any of them, or for any part of
15 them, the person so offending in any of the cases aforesaid shall be guilty of a Class ~~I~~H
16 felony."

17 Sec. 38. G.S. 14-256 reads as rewritten:

18 **"§ 14-256. Prison breach and escape from county or municipal confinement
19 facilities or officers.**

20 If any person shall break any prison, jail or lockup maintained by any county or
21 municipality in North Carolina, being lawfully confined therein, or shall escape from the
22 lawful custody of any superintendent, guard or officer of such prison, jail or lockup, he
23 shall be guilty of a Class 1 misdemeanor, except that the person is guilty of a Class ~~I~~E
24 felony if:

25 (1) He has been convicted of a felony and has been committed to the
26 facility pending transfer to the State prison system; or

27 (2) He is serving a sentence imposed upon conviction of a felony."

28 Sec. 39. G.S. 14-258 reads as rewritten:

29 **"§ 14-258. Conveying messages and weapons to or trading with convicts and other
30 prisoners.**

31 If any person shall convey to or from any convict any letters or oral messages, or shall
32 convey to any convict or person imprisoned, charged with crime and awaiting trial any
33 weapon or instrument by which to effect an escape, or that will aid him in an assault or
34 insurrection, or shall trade with a convict for his clothing or stolen goods, or shall sell to
35 him any article forbidden him by prison rules, he shall be guilty of a Class ~~H~~F felony:
36 Provided, that when a murder, an assault or an escape is effected with the means
37 furnished, the person convicted of furnishing the means shall be punished as a Class F
38 felon."

39 Sec. 40. G.S. 14-258.2 reads as rewritten:

40 **"§ 14-258.2. Possession of dangerous weapon in prison.**

41 (a) Any person while in the custody of the Division of Prisons, or any person
42 under the custody of any local confinement facility as defined in G.S. 153A-217, who
43 shall have in his possession without permission or authorization a weapon capable of

1 inflicting serious bodily injuries or death, or who shall fabricate or create such a weapon
2 from any source, shall be guilty of a Class ~~H-F~~ felony; and any person who commits any
3 assault with such weapon and thereby inflicts bodily injury or by the use of said weapon
4 effects an escape or rescue from imprisonment shall be punished as a Class F felon.

5 (b) A person is guilty of a Class ~~H-D~~ felony if he assists a prisoner in the custody
6 of the Division of Prisons or of any local confinement facility as defined in G.S. 153A-
7 217 in escaping or attempting to escape and:

8 (1) In the perpetration of the escape or attempted escape he commits an
9 assault with a deadly weapon and inflicts bodily injury; or

10 (2) By the use of a deadly weapon he effects the escape of the prisoner."

11 Sec. 41. G.S. 14-258.3 reads as rewritten:

12 **"§ 14-258.3. Taking of hostage, etc., by prisoner.**

13 Any prisoner in the custody of the Department of Correction, including persons in the
14 custody of the Department of Correction pending trial or appellate review or for
15 presentence diagnostic evaluation, or any prisoner in the custody of any local
16 confinement facility (as defined in G.S. 153A-217), or any person in the custody of any
17 local confinement facility (as defined in G.S. 153A-217) pending trial or appellate review
18 or for any lawful purpose, who by threats, coercion, intimidation or physical force takes,
19 holds, or carries away any person, as hostage or otherwise, shall be punished as a Class ~~F~~
20 C felon. The provisions of this section apply to: (i) violations committed by any prisoner
21 in the custody of the Department of Correction, whether inside or outside of the facilities
22 of the North Carolina Department of Correction; (ii) violations committed by any
23 prisoner or by any other person lawfully under the custody of any local confinement
24 facility (as defined in G.S. 153A-217), whether inside or outside the local confinement
25 facilities (as defined in G.S. 153A-217)."

26 Sec. 42. G.S. 14-288.2(c) reads as rewritten:

27 "(c) Any person who willfully engages in a riot is guilty of a Class ~~H-G~~ felony, if:

28 (1) In the course and as a result of the riot there is property damage in
29 excess of fifteen hundred dollars (\$1,500) or serious bodily injury; or

30 (2) Such participant in the riot has in his possession any dangerous weapon
31 or substance."

32 Sec. 43. G.S. 14-288.6(b) reads as rewritten:

33 "(b) Any person who commits the crime of trespass during emergency and, without
34 legal justification, obtains or exerts control over, damages, ransacks, or destroys the
35 property of another is guilty of the felony of looting and shall be punished as a Class ~~H-G~~
36 H-G felon."

37 Sec. 44. G.S. 14-288.9(c) reads as rewritten:

38 "(c) Any person who commits an assault upon emergency personnel is guilty of a
39 Class 1 misdemeanor. Any person who commits an assault upon emergency personnel
40 with or through the use of any dangerous weapon or substance shall be punished as a
41 Class ~~F-E~~ F-E felon."

42 Sec. 45. G.S. 14-288.20(b) reads as rewritten:

43 "(b) A person is guilty of a Class ~~H-G~~ H-G felony, if he:

1 (1) Teaches or demonstrates to any other person the use, application, or
2 making of any firearm, explosive or incendiary device, or technique
3 capable of causing injury or death to persons, knowing or having reason
4 to know or intending that the same will be unlawfully employed for use
5 in, or in furtherance of, a civil disorder; or

6 (2) Assembles with one or more persons for the purpose of training with,
7 practicing with, or being instructed in the use of any firearm, explosive
8 or incendiary device, or technique capable of causing injury or death to
9 persons, intending to employ unlawfully the training, practicing,
10 instruction, or technique for use in, or in furtherance of, a civil
11 disorder."

12 Sec. 46. G.S. 14-318.4 reads as rewritten:

13 **"§ 14-318.4. Child abuse a felony.**

14 (a) A parent or any other person providing care to or supervision of a child less
15 than 16 years of age who intentionally inflicts any serious physical injury upon or to the
16 child or who intentionally commits an assault upon the child which results in any serious
17 physical injury to the child is guilty of a Class ~~E~~D felony.

18 (a1) Any parent of a child less than 16 years of age, or any other person providing
19 care to or supervision of the child, who commits, permits, or encourages any act of
20 prostitution with or by the juvenile is guilty of child abuse and shall be punished as a
21 Class ~~E~~C felon.

22 (a2) Any parent or legal guardian of a child less than 16 years of age who commits
23 or allows the commission of any sexual act upon a juvenile is guilty of a Class ~~E~~D
24 felony.

25 (b) The felony of child abuse is an offense additional to other civil and criminal
26 provisions and is not intended to repeal or preclude any other sanctions or remedies."

27 Sec. 47. G.S. 14-401.11(b) reads as rewritten:

28 "(b) Penalties.

29 (1) Any person violating the provisions of G.S. 14-401.11(a)(1):

30 a. Where the actual or possible effect on a person eating the food or
31 substance was or would be limited to mild physical discomfort
32 without any lasting effect, shall be guilty of a Class I felony.

33 b. Where the actual or possible effect on a person eating the food or
34 substance was or would be greater than mild physical discomfort
35 without any lasting effect, shall be punished as a Class ~~H~~F felon.

36 (2) Any person violating the provisions of G.S. 14-401.11(a)(2) shall be
37 punished as a Class ~~F~~E felon.

38 (3) Any person violating the provisions of G.S. 14-401.11(a)(3) shall be
39 punished as a Class C felon."

40 Sec. 48. G.S. 20-141.4(b) reads as rewritten:

41 "(b) Punishments. – Felony death by vehicle is a Class ~~G~~E felony. Misdemeanor
42 death by vehicle is a Class 1 misdemeanor."

43 Sec. 49. G.S. 90-95(b) reads as rewritten:

1 "(b) Except as provided in subsections (h) and (i) of this section, any person who
2 violates G.S. 90-95(a)(1) with respect to:

- 3 (1) A controlled substance classified in Schedule I or II shall be punished as
4 a Class H felon;
- 5 (2) A controlled substance classified in Schedule III, IV, V, or VI shall be
6 punished as a Class ~~I~~H felon, but the transfer of less than 5 grams of
7 marijuana for no remuneration shall not constitute a delivery in
8 violation of G.S. 90-95(a)(1)."

9 Sec. 50. G.S. 90-95(d) reads as rewritten:

10 "(d) Except as provided in subsections (h) and (i) of this section, any person who
11 violates G.S. 90-95(a)(3) with respect to:

- 12 (1) A controlled substance classified in Schedule I shall be punished as a
13 Class ~~I~~H felon;
- 14 (2) A controlled substance classified in Schedule II, III, or IV shall be
15 guilty of a Class 1 misdemeanor. If the controlled substance exceeds
16 four tablets, capsules, or other dosage units or equivalent quantity of
17 hydromorphone or if the quantity of the controlled substance, or
18 combination of the controlled substances, exceeds one hundred tablets,
19 capsules or other dosage units, or equivalent quantity, the violation shall
20 be punishable as a Class ~~I~~H felony. If the controlled substance is
21 phencyclidine, or cocaine and any salt, isomer, salts of isomers,
22 compound, derivative, or preparation thereof, or coca leaves and any
23 salt, isomer, salts of isomers, compound, derivative, or preparation of
24 coca leaves, or any salt, isomer, salts of isomers, compound, derivative
25 or preparation thereof which is chemically equivalent or identical with
26 any of these substances (except decocanized coca leaves or any
27 extraction of coca leaves which does not contain cocaine or ecgonine),
28 the violation shall be punishable as a Class ~~I~~H felony.
- 29 (3) A controlled substance classified in Schedule V shall be guilty of a
30 Class 2 misdemeanor;
- 31 (4) A controlled substance classified in Schedule VI shall be guilty of a
32 Class 3 misdemeanor, but any sentence of imprisonment imposed must
33 be suspended and the judge may not require at the time of sentencing
34 that the defendant serve a period of imprisonment as a special condition
35 of probation. If the quantity of the controlled substance exceeds one-
36 half of an ounce (avoirdupois) of marijuana or one-twentieth of an
37 ounce (avoirdupois) of the extracted resin of marijuana, commonly
38 known as hashish, the violation shall be punishable as a Class 1
39 misdemeanor. If the quantity of the controlled substance exceeds one
40 and one-half ounces (avoirdupois) of marijuana or three-twentieths of an
41 ounce (avoirdupois) of the extracted resin of marijuana, commonly
42 known as hashish, or if the controlled substance consists of any quantity
43 of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated

1 from the resin of marijuana, the violation shall be punishable as a Class
2 ~~F-H~~ felony."

3 Sec. 51. G.S. 90-95(e) reads as rewritten:

4 "(e) The prescribed punishment and degree of any offense under this Article shall
5 be subject to the following conditions, but the punishment for an offense may be
6 increased only by the maximum authorized under any one of the applicable conditions:

7 (1),(2) Repealed by Session Laws 1979, c. 760, s. 5.

8 (3) If any person commits a Class 1 misdemeanor under this Article and if
9 he has previously been convicted for one or more offenses under any
10 law of North Carolina or any law of the United States or any other state,
11 which offenses are punishable under any provision of this Article, he
12 shall be punished as a Class ~~F-H~~ felon. The prior conviction used to
13 raise the current offense to a Class ~~F-H~~ felony shall not be used to
14 calculate the prior record level;

15 (4) If any person commits a Class 2 misdemeanor, and if he has previously
16 been convicted for one or more offenses under any law of North
17 Carolina or any law of the United States or any other state, which
18 offenses are punishable under any provision of this Article, he shall be
19 guilty of a Class 1 misdemeanor. The prior conviction used to raise the
20 current offense to a Class 1 misdemeanor shall not be used to calculate
21 the prior conviction level;

22 (5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by
23 selling or delivering a controlled substance to a person under 16 years of
24 age or a pregnant female shall be punished as a Class E felon. Mistake
25 of age is not a defense to a prosecution under this section. It shall not be
26 a defense that the defendant did not know that the recipient was
27 pregnant;

28 (6) For the purpose of increasing punishment under G.S. 90-95(e)(3) and
29 (e)(4), previous convictions for offenses shall be counted by the number
30 of separate trials at which final convictions were obtained and not by the
31 number of charges at a single trial;

32 (7) If any person commits an offense under this Article for which the
33 prescribed punishment requires that any sentence of imprisonment be
34 suspended, and if he has previously been convicted for one or more
35 offenses under any law of North Carolina or any law of the United
36 States or any other state, which offenses are punishable under any
37 provision of this Article, he shall be guilty of a Class 2 misdemeanor;

38 (8) Any person 21 years of age or older who commits an offense under G.S.
39 90-95(a)(1) on property used for an elementary or secondary school or
40 within 300 feet of the boundary of real property used for an elementary
41 or secondary school shall be punished as a Class ~~E-D~~ felon. For
42 purposes of this subdivision, the transfer of less than five grams of

1 marijuana for no remuneration shall not constitute a delivery in
2 violation of G.S. 90-95(a)(1).

3 (9) Any person who violates G.S. 90-95(a)(3) on the premises of a penal
4 institution or local confinement facility shall be guilty of a Class I
5 felony."

6 Sec. 52. G.S. 90-108(b) reads as rewritten:

7 "(b) Any person who violates this section shall be guilty of a Class 1 misdemeanor.
8 Provided, that if the criminal pleading alleges that the violation was committed
9 intentionally, and upon trial it is specifically found that the violation was committed
10 intentionally, such violations shall be a Class ~~I~~H felony. A person who violates
11 subdivision (7) of subsection (a) of this section and also fortifies the structure, with the
12 intent to impede law enforcement entry, (by barricading windows and doors) shall be
13 punished as a Class ~~I~~H felon."

14 Sec. 53. G.S. 90-113.23(c) reads as rewritten:

15 "(c) Violation of this section is a Class 1 misdemeanor. However, delivery of drug
16 paraphernalia by a person over 18 years of age to someone under 18 years of age who is
17 at least three years younger than the defendant shall be punishable as a Class ~~I~~H felony."

18 Sec. 54. G.S. 120-86(e) reads as rewritten:

19 "(e) Violation of subsection (a) or (b) is a Class ~~F~~D felony. Violation of
20 subsection (c) is not a crime but is punishable under G.S. 120-103."

21 Sec. 55. G.S. 148-45(a) reads as rewritten:

22 "(a) Any person in the custody of the Department of Correction in any of the
23 classifications hereinafter set forth who shall escape from the State prison system, shall
24 for the first such offense, except as provided in subsection (g) of this section, be guilty of
25 a Class ~~I~~F felony:

26 (1) A prisoner serving a sentence imposed upon conviction of a
27 misdemeanor;

28 (2) A person who has been charged with a misdemeanor and who has been
29 committed to the custody of the Department of Correction under the
30 provisions of G.S. 162-39;

31 (3) Repealed by Session Laws 1985, c. 226, s. 4.

32 (4) A person who shall have been convicted of a misdemeanor and who
33 shall have been committed to the Department of Correction for
34 presentence diagnostic study under the provisions of G.S. 15A-
35 1332(c)."

36 Sec. 56. G.S. 148-45(b) reads as rewritten:

37 "(b) Any person in the custody of the Department of Correction, in any of the
38 classifications hereinafter set forth, who shall escape from the State prison system, shall,
39 except as provided in subsection (g) of this section, be punished as a Class ~~I~~E felon.

40 (1) A prisoner serving a sentence imposed upon conviction of a felony;

41 (2) A person who has been charged with a felony and who has been
42 committed to the custody of the Department of Correction under the
43 provisions of G.S. 162-39;

- 1 (3) Repealed by Session Laws 1985, c. 226, s. 5.
2 (4) A person who shall have been convicted of a felony and who shall have
3 been committed to the Department of Correction for presentence
4 diagnostic study under the provisions of G.S. 15A-1332(c); or
5 (5) Any person previously convicted of escaping or attempting to escape
6 from the State prison system."

7 Sec. 57. G.S. 163-237(c) reads as rewritten:

8 "(c) Fraud in Connection with Absentee Vote; Forgery. – Any person attempting to
9 aid and abet fraud in connection with any absentee vote cast or to be cast, under the
10 provisions of this Article, shall be guilty of a misdemeanor. Attempting to vote by
11 fraudulently signing the name of a regularly qualified voter is a Class ~~F~~H felony."

12 Sec. 58. This act becomes effective December 1, 1995, and applies to offenses
13 committed on or after that date.