



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: H. 3623 Amended by the House of Representatives on April 28, 2021
Author: Allen
Subject: Early Release for Certain Inmates
Requestor: Senate Corrections and Penology
RFA Analyst(s): Gardner
Impact Date: October 19, 2021

Fiscal Impact Summary

This bill reduces the time served for inmates convicted of no parole offenses who have had no substantial or major disciplinary infractions and have substantially completed rehabilitation and reentry programs. In addition, it modifies the existing penalty structure for a number of drug-related offenses, reducing the required sentence time. Further, the bill creates a new offense for trafficking in fentanyl and prescribes a related penalty schedule.

This bill will have no expenditure impact for the Judicial Department. While the bill creates a new offense, there is no data available to determine any impact on court caseloads. However, the department intends to use existing General Fund resources to manage any increase in caseloads.

This bill will reduce General Fund expenditures for the Department of Corrections due to the early release of some inmates. However, the uncertainty regarding sentencing that may be imposed under the bill's new drug offense definitions renders the amount of any cost savings undetermined.

This bill may increase General Fund, Other Funds and/or Federal Fund expenditure for the Department of Probation, Parole and Pardon Services due to an increase in parolees with early release. As there is no way to predict how the courts may change offender sentencing under the provisions of the bill, the expenditure impact on the agency is undetermined.

This fiscal impact has been updated for additional responses from the Department of Corrections and the Department of Probation, Parole and Pardon Services.

Explanation of Fiscal Impact

Amended by the House of Representatives on April 28, 2021

State Expenditure

This bill reduces the time served for inmates convicted of no parole offenses who have had no substantial or major disciplinary infractions and have substantially completed rehabilitation and reentry programs. Currently, an inmate convicted of a no parole offense who has not been

sentenced to the death penalty or a term of life imprisonment may be eligible for early release, discharge, or community supervision if he had served at least 85 percent of the actual term of imprisonment imposed. Under the provisions of the bill, such an inmate who has been convicted of specific drug-related offenses may attain eligibility for early release, discharge, or community supervision when he has served at least 65 percent of the term of imprisonment imposed. The percentage of time served must be calculated without the application of any earned work, education, or good conduct credits, not including any portion of the sentence which has been suspended.

The bill also modifies the existing penalty structures for a number of drug related offenses. See the table below for additional detail. Additionally, this bill as amended adds fentanyl-related substances to the list of Schedule I drugs and creates the new offense of trafficking in fentanyl.

Judicial Department. This bill creates a new offense for trafficking in fentanyl. As the bill creates a new offense for which there is no data, the impact the bill may have on judicial caseloads is undetermined. However, the department intends to use existing General Fund resources to manage any increase in caseloads.

Department of Corrections. This bill reduces the time served for inmates convicted of specific drug-related offenses when certain criteria is met and modifies the sentencing for numerous drug-related offenses, including reducing imprisonment terms. In FY 2018-19, the agency admitted 411 inmates for drug trafficking and the average General Fund expenditure per inmate per year is \$3,421. The agency believes this bill will result in General Fund expenditure savings due to inmates serving shorter sentencing and potentially qualifying for an earlier release. However, due to the new sentencing structure, the agency is unable to determine the extent of the cost savings. Therefore, this bill will result in an undetermined reduction in General Fund expenditures for the Department of Corrections.

This fiscal impact has been updated for additional responses from the Department of Corrections.

Department of Probation, Parole and Pardon Services. This bill expands the list of drug offenses for which the courts are able to assign probation and will likely result in an increase in the offender population overseen by the department. As the agency cannot predict how the courts may change offender sentencing if the bill were enacted, the expenditure impact on the General Fund, Other Funds, and/or Federal Funds is undetermined.

This fiscal impact has been updated for additional responses from the Department Probation, Parole and Pardon Services.

State Revenue

This bill modifies the penalty structures for certain drug-related offenses and creates a new offense. Attached to this fiscal impact statement is a breakdown of these modifications. While this bill does not alter the fine amounts associated with these drug offenses, it does alter the drug offense classifications and the maximum imprisonments allowed per offense and creates a new

offense. This may alter how a court implements fines and fees, thereby altering the amount of fees and fines collected. The revenue generated from these fines and fees are distributed to the General Fund, Other Funds, and locals, dependent upon the type of fine or fee collected. Because the fine and fee amount that may be altered due to the modification to penalties is unknown, the General Fund and Other Funds revenue impact is undetermined.

Local Expenditure

N/A

Local Revenue

This bill modifies the penalty structures for certain drug-related offenses and creates a new offense. Attached to this fiscal impact statement is a breakdown of these modifications. While this bill does not alter the fine amounts associated with these drug offenses, it does alter the drug offense classifications and the maximum imprisonments allowed per offense and creates a new offense. This may alter how a court implements fines and fees, thereby altering the amount of fees and fines collected. The revenue generated from these fines and fees are distributed to the General Fund, Other Funds, and locals, dependent upon the type of fine or fee collected. Because the fine and fee amount that may be altered due to the modification to penalties is unknown, the local revenue impact is undetermined.

The following table is a summary of the modifications of the penalty structure for drug related offenses made by this bill:

Section 44-53-370(b)(1)		
Schedule I (b) or (c) Controlled Substances which are Narcotic Drugs or Lysergic Acid Diethylamide (LSD) or Schedule II (b) or (c) Controlled Substances which are Narcotic Drugs	Current Penalty	New Penalty
1st Offense	Imprisonment for ≤15 years or fine of ≤\$25,000, or both	Imprisonment for ≤5 years or fine of ≤\$25,000, or both
2nd Offense	Imprisonment for ≥5 but ≤30 years or fine of ≤\$50,000, or both	Imprisonment for ≤10 years or fine of ≤\$50,000, or both
3rd or Subsequent Offense	Imprisonment for ≥10 but ≤30 years or fine of ≤\$50,000, or both	Imprisonment for ≤15 years or fine of ≤\$50,000, or both
Section 44-53-370(b)(2)		
Any Other Schedule I, II, or III Controlled Substances, or Flunitrazepam or Controlled Substance Analogue	Current Penalty	New Penalty
1st Offense	Imprisonment for ≤5 years or fine of ≤\$5,000, or both	Imprisonment for ≤3 years or fine of ≤\$5,000, or both
2nd Offense	Imprisonment for ≤10 years or fine of ≤\$10,000, or both	Imprisonment for ≤5 years or fine of ≤\$10,000, or both
3rd or Subsequent Offense	Imprisonment for ≥5 but ≤20 years or fine of ≤\$20,000, or both	Imprisonment for ≤10 years or fine of ≤\$20,000, or both
Section 44-53-370(d)(1)		
<i>Unlawful Possession of Schedule I Narcotic Drug or LSD without a Valid Prescription – Felony Offense</i>	Current Format	New Format
	2 nd Offense, 3 rd or Subsequent Offense	2 nd or Subsequent Offense (original 2 nd offense penalty retained)
Section 44-53-370(d)(3)		
<i>Unlawful Possession of Cocaine without a Valid Prescription – Felony Offense</i>	Current Format	New Format
	2 nd Offense, 3 rd or Subsequent Offense	2 nd or Subsequent Offense (original 2 nd offense penalty retained)

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Section 44-53-370(d)(4)		
Substances Mentioned in §44-53-370(d)(4) which Constitute Prima Facie Guilt for Violation of §44-53-370(a)	Current Unlawful Possession Amount	New Unlawful Possession Amount
Cocaine	1 gram	4 grams
Opium	4 grains	10 grains
Morphine	4 grains	10 grains
Heroin	2 grains	10 grains
Marijuana	28 grams or 1 ounce	10 ounces
Hashish	10 grams	100 grams
LSD or its Compounds	50 micrograms	100 micrograms
3,4- methylenedioxymethamphetamine (MDMA)	15 tablets or equivalent	4 grams
Possession of marijuana or hashish (misdemeanor)	28 grams or 1 ounce of marijuana or ≤10 grams of hashish	≤10 ounces of marijuana or ≤28 grams of hashish

Section 44-53-370(e)(1)		
<i>Trafficking in Marijuana</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
	<i>10 pounds or more</i>	<i>20 pounds or more</i>
Violations Involving ≥20 Pounds but <200 Pounds (previously for ≥10 pounds)	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥1 year but ≤10 years, no portion of which may be suspended nor probation granted, and fine of \$10,000	Imprisonment for ≤10 years and fine of \$10,000
2nd Offense	Imprisonment for ≥5 years but ≤20 years, no portion of which may be suspended nor probation granted, and fine of \$15,000	Imprisonment for ≤15 years and fine of \$15,000

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Violations Involving ≥ 20 Pounds but < 200 Pounds <i>(previously for ≥ 10 pounds)</i>	Current Penalty	New Penalty
3rd or Subsequent Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 20 years and fine of \$25,000
Violations Involving ≥ 200 Pounds but $< 1,000$ Pounds or ≥ 100 but $< 1,000$ Marijuana Plants Regardless of Weight <i>(previously for ≥ 100 pounds but $\leq 2,000$ pounds, or > 100 but $< 1,000$ marijuana plants regardless of weight)</i>	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 15 years and fine of \$25,000
Violations Involving $\geq 1,000$ Pounds or $\geq 1,000$ Marijuana Plants Regardless of Weight <i>(previously for $\geq 2,000$ pounds but $\leq 10,000$ pounds or $> 1,000$ marijuana plants but $\leq 10,000$ marijuana plants regardless of weight)</i>	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
Section 44-53-370(e)(2)		
<i>Trafficking in Cocaine</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
	≥ 10 grams	≥ 28 grams
Violations Involving ≥ 28 Grams but < 100 Grams <i>(previously for ≥ 10 grams but ≤ 28 grams)</i>	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 3 years but ≤ 10 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 10 years and fine of \$25,000
2nd Offense	Imprisonment for ≥ 5 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000

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Violations Involving ≥ 28 Grams but < 100 Grams <i>(previously for ≥ 10 grams but ≤ 28 grams)</i>	Current Penalty	New Penalty
3rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years > 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
Violations Involving ≥ 100 Grams but < 400 Grams <i>(previously for ≥ 28 grams but ≤ 100 grams)</i>	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 7 years but ≤ 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000
2nd Offense	Imprisonment for ≥ 7 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
3rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 25 years and fine of \$50,000
Violations Involving ≥ 400 Grams <i>(previously for ≥ 100 grams but ≤ 200 grams)</i>	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$200,000	Imprisonment for ≤ 20 years and fine of \$50,000

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Section 44-53-370(e)(3)

Trafficking in Illegal Drugs (Morphine, Opium, Salt, Isomer, or Salt of An Isomer, Including Heroin and Any Mixture of Such Substances)

Violations Involving ≥ 4 Grams but < 14 Grams	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 7 years but ≤ 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 10 years or fine of \leq \$50,000, or both
2nd or Subsequent Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$100,000	Imprisonment for ≤ 15 years and fine of \$100,000
Violations Involving ≥ 14 Grams but < 28 Grams	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$200,000	Imprisonment for ≤ 15 years and fine of \$200,000
Violations Involving ≥ 28 Grams	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for ≥ 25 but ≤ 40 years, no portion of which may be suspended nor probation granted, and fine of \$200,000	Imprisonment for ≤ 20 years or fine of \$200,000, or both

Section 44-53-370(e)(4)

Trafficking in Methaqualone

Violations Involving ≥ 15 Grams but < 150 Grams	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 1 year but ≤ 10 years, no portion of which may be suspended nor probation granted, and fine of \$10,000	Imprisonment for ≤ 10 years and fine of \$10,000

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Violations Involving ≥ 150 Grams but $< 1,500$ Grams	Current Penalty	New Penalty
2nd or Subsequent Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 15 years and fine of \$25,000
Any Level Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 20 years and fine of \$25,000
Violations Involving $\geq 1,500$ Grams (previously for $\geq 1,500$ grams but less than 15 kilograms)	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 25 years and fine of \$50,000
Section 44-53-370(e)(5)		
<i>Trafficking in LSD</i>		
Violations Involving ≥ 100 Dosage Units or Equivalent Quantity but < 500 Dosage Units or Equivalent Quantity	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 3 year but ≤ 10 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 10 years and fine of \$25,000
2nd Offense	Imprisonment for ≥ 5 year but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$40,000	Imprisonment for ≤ 15 years and fine of \$40,000
3 rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000

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Violations Involving ≥ 500 Dosage Units or Equivalent Quantity but $< 1,000$ Dosage Units or Equivalent Quantity	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 7 year but ≤ 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000
2nd Offense	Imprisonment for ≥ 7 year but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
3 rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000

Section 44-53-370(e)(6)

Trafficking in Flunitrazepam

Violations Involving ≥ 1 Gram but < 100 Grams	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 1 year but ≤ 10 years, no portion of which may be suspended nor probation granted, and fine of \$10,000	Imprisonment for ≤ 10 years or fine of \$10,000
2nd or Subsequent Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 15 years and fine of \$25,000
Violations Involving ≥ 100 Grams but $< 1,000$ Grams	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 20 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 20 years and fine of \$25,000

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Violations Involving 1,000 Grams or More <i>(previously for $\geq 1,000$ grams but ≤ 5 kilograms)</i>	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
Section 44-53-370(e)(7)		
<i>Trafficking in Gamma Hydroxybutyric Acid</i>		
Violations Involving ≥ 50 Milliliters or Milligrams	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 1 year but ≤ 10 years, no portion of which may be suspended nor probation granted, and fine of \$10,000	Imprisonment for ≤ 10 years or fine of \$10,000
Violations Involving ≥ 50 Milliliters or Milligrams	Current Penalty	New Penalty
2nd or Subsequent Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 15 years and fine of \$25,000
Section 44-53-370(e)(8)		
<i>Trafficking in 3, 4-methalenedioxymethamphetamine (MDMA) or Ecstasy</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
	<i>100 tablets, capsules, dosage units, or equivalent quantity</i>	<i>28 grams or more</i>
Violations Involving ≥ 28 Grams but < 100 Grams <i>(previously for ≥ 100 dosage units or equivalent quantity but ≤ 500 dosage units or equivalent quantity)</i>	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 3 years but ≤ 10 years, no portion of which may be suspended nor probation granted, and fine of \$20,000	Imprisonment for ≤ 10 years or fine of \$20,000
2nd Offense	Imprisonment for ≥ 5 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$40,000	Imprisonment for ≤ 15 years and fine of \$40,000

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Violations Involving ≥ 28 Grams but < 100 Grams (previously for ≥ 100 dosage units or equivalent quantity but ≤ 500 dosage units or equivalent quantity)	Current Penalty	New Penalty
3 rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
Violations Involving ≥ 100 Grams but < 400 Grams (previously for ≥ 500 dosage units or equivalent quantity but $\leq 1,000$ dosage units or equivalent quantity)	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 7 years but ≤ 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000
Violations Involving ≥ 100 Grams but < 400 Grams (previously for ≥ 500 dosage units or equivalent quantity but $\leq 1,000$ dosage units or equivalent quantity)	Current Penalty	New Penalty
2nd Offense	Imprisonment for ≥ 7 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
3 rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 25 years and fine of \$50,000
Violations Involving ≥ 400 Grams (previously for $\geq 1,000$ dosage units or equivalent quantity)	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$100,000	Imprisonment for ≤ 20 years and fine of \$100,000
Section 44-53-370(e)(number to be determined, new offense)		
<i>Trafficking in Fentanyl</i>		
Violations Involving ≥ 4 Grams but < 14 Grams	New Penalty	
1st Offense	Imprisonment for ≤ 10 years or fine of $\leq \$50,000$, or both	

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Violations Involving \geq4 Grams but $<$14 Grams	New Penalty
2nd or Subsequent Offense	Imprisonment for \leq 15 years and fine of \$100,000
Violations Involving \geq14 Grams but $<$28 Grams	New Penalty
Any Level Offense	Imprisonment for \leq 15 years and fine of \$200,000
Violations Involving \geq28 Grams	New Penalty
Any Level Offense	Imprisonment for \leq 20 years or fine of \$200,000, or both

Section 44-53-370(g)(1)

Unlawful Administration, Distribution, Dispensation, Delivery, or Aiding, Abetting, Attempting, or Conspiring to Administer, Distribute, or Deliver a Controlled Substance Classified as a Narcotic Drug in Schedule I (b) or (c) or LSD or Classified as a Narcotic Drug in Schedule II to an Individual with Intent to Commit a Violent Crime	Current Penalty	New Penalty
2 nd Offense, or in the case of a first conviction of an offender under this subsection who has previously been convicted of an offense involving narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs	Imprisonment for \geq 5 years but \leq 30 years or fine of \leq \$50,000, or both	Imprisonment for \leq 30 years or fine of \$50,000, or both
3 rd or Subsequent Offense, or if an offender was previously convicted two or more times in the aggregate for offenses involving narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs	Imprisonment for \geq 15 years but \leq 30 years or fine of \leq \$50,000, or both	Imprisonment for \leq 30 years or fine of \$50,000, or both

Section 44-53-370(g)(2)

Unlawful Administration, Distribution, Dispensation, Delivery, or Aiding, Abetting, Attempting, or Conspiring to Administer, Distribute, or Deliver Gamma Hydroxybutyrate or a Controlled Substance Not Classified in Schedule I or Schedule II as a Narcotic Drug or LSD to an Individual with Intent to Commit a Violent Crime	Current Penalty	New Penalty
3 rd or Subsequent Offense, or if an offender was previously convicted two or more times in the aggregate for offenses involving narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs	Imprisonment for \geq 5 years but \leq 25 years or fine of \leq \$40,000, or both	Imprisonment for \leq 25 years or fine of \leq \$40,000, or both

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Section 44-53-375(A)		
<i>Possession of Methamphetamine or Cocaine Base (misdemeanor offense)</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
	≤ 1 gram	≤ 4 grams
Violations Involving ≤ 4 Grams (previously for ≤ 1 gram)	Current Format	New Format
	2 nd Offense, 3 rd or Subsequent Offense	2 nd or Subsequent Offense (original 2 nd offense penalty retained)

Section 44-53-375(B)		
<i>Manufacture, Distribution, Dispensation, Delivery, Purchase, or Aiding, Abetting, Attempting, or Conspiring to Manufacture, Distribute, Dispense, Deliver, or Purchase, or Possess with Intent to Distribute, Dispense, or Deliver Methamphetamine or Cocaine Base (felony offense)</i>		
Violations Involving ≤ 4 Grams (previously for ≤ 1 gram)	Current Penalty	New Penalty
1 st Offense	Imprisonment for ≤ 15 years or fine of $\leq \$25,000$, or both	Imprisonment for ≤ 5 years or fine of $\leq \$25,000$, or both
2 nd Offense	Imprisonment for ≥ 5 years but ≤ 30 years or fine of $\leq \$50,000$, or both	Imprisonment for ≤ 10 years or fine of $\leq \$50,000$, or both
Violations Involving ≤ 4 Grams (previously for ≤ 1 gram)	Current Penalty	New Penalty
3 rd or Subsequent Offense	Imprisonment for ≥ 10 years but ≤ 30 years or fine of $\leq \$50,000$, or both	Imprisonment for ≤ 15 years or fine of $\leq \$50,000$, or both

Section 44-53-375(C)		
<i>Trafficking in Methamphetamine or Cocaine Base</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
	≥ 10 grams	≥ 28 grams
Violations Involving ≥ 28 Grams but < 100 Grams (previously for ≥ 10 grams but ≤ 28 grams)	Current Penalty	New Penalty
1 st Offense	Imprisonment for ≥ 3 years but ≤ 10 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 10 years and fine of \$25,000

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Violations Involving ≥ 28 Grams but < 100 Grams <i>(previously for ≥ 10 grams but ≤ 28 grams)</i>	Current Penalty	New Penalty
2nd Offense	Imprisonment for ≥ 5 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000
3rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
Violations Involving ≥ 100 Grams but < 400 Grams <i>(previously for ≥ 28 grams but ≤ 100 grams)</i>	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 7 years but ≤ 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000
2nd Offense	Imprisonment for ≥ 7 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
Violations Involving ≥ 100 Grams but < 400 Grams <i>(previously for ≥ 28 grams but ≤ 100 grams)</i>	Current Penalty	New Penalty
3rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 25 years and fine of \$50,000
Violations Involving ≥ 400 Grams <i>(previously for ≥ 100 grams but ≤ 200 grams)</i>	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
Section 44-53-375(E)(1)		
<i>Trafficking in Ephedrine, Pseudoephedrine, or Phenylpropanolamine</i>		
Violations Involving ≥ 28 Grams but ≤ 100 Grams <i>(previously for ≥ 9 grams but ≤ 28 grams)</i>	Current Penalty	New Penalty
1st Offense	Imprisonment for ≤ 10 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 10 years and fine of \$25,000
2nd Offense	Imprisonment for ≥ 5 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000

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Violations Involving ≥ 28 Grams but ≤ 100 Grams <i>(previously for ≥ 9 grams but ≤ 28 grams)</i>	Current Penalty	New Penalty
3 rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
Violations Involving ≥ 100 Grams but ≤ 400 Grams <i>(previously for ≥ 28 grams but ≤ 100 grams)</i>	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 7 years but ≤ 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000
2nd Offense	Imprisonment for ≥ 7 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
3rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years but ≤ 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 25 years and fine of \$50,000
Violations Involving ≥ 400 Grams <i>(previously for ≥ 100 grams but ≤ 200 grams)</i>	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000

Introduced on January 12, 2021

State Expenditure

This bill reduces the time served for inmates convicted of no-parole offenses who have had no substantial or major disciplinary infractions and have substantially completed rehabilitation and re-entry programs. Currently, an inmate convicted of a no-parole offense who has not been sentenced to the death penalty or a term of life imprisonment may be eligible for early release, discharge, or community supervision if he had served at least 85% of the actual term of imprisonment imposed. Under the provisions of the bill, such an inmate who has been convicted of specific drug-related offenses would attain eligibility for early release, discharge, or community supervision when he has served at least 65% of the term of imprisonment imposed. The percentage of time served must be calculated without the application of any earned work,

education, or good conduct credits, not including any portion of the sentence which has been suspended.

The bill also modifies the existing penalty structures for a number of drug-related offenses under Section 44-53-370(a)(1)—manufacturing, distributing, dispensing, delivering, purchasing, aiding, abetting, attempting, or conspiring to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue, and Section 44-53-370(a)(2)—creating, distributing, dispensing, delivering, or purchasing, or aiding, abetting, attempting, or conspiring to create, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense, deliver, or purchase a counterfeit substance.

Department of Corrections. The expenditure impact of this bill is pending, contingent upon a response from the department.

Department of Probation, Parole and Pardon Services. The expenditure impact of this bill is pending, contingent upon a response from the department.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

Should this legislation be enacted, the penalty structures for the following drug-related offenses will be modified as follows:

Section 44-53-370(b)(1)		
Schedule I (b) or (c) Controlled Substances which are Narcotic Drugs or Lysergic Acid Diethylamide (LSD) or Schedule II (b) or (c) Controlled Substances which are Narcotic Drugs	Current Penalty	New Penalty
1st Offense	Imprisonment for ≤15 years or fine of ≤\$25,000, or both	Imprisonment for ≤5 years or fine of ≤\$25,000, or both
2nd Offense	Imprisonment for ≥5 nor >30 years or fine of ≤\$50,000, or both	Imprisonment for ≤10 years or fine of ≤\$50,000, or both
3rd or Subsequent Offense	Imprisonment for ≥10 nor >30 years or fine of ≤\$50,000, or both	Imprisonment for ≤15 years or fine of ≤\$50,000, or both

Section 44-53-370(b)(2)

Any Other Schedule I, II, or III Controlled Substances, or Flunitrazepam or Controlled Substance Analogue	Current Penalty	New Penalty
1st Offense	Imprisonment for ≤5 years or fine of ≤\$5,000, or both	Imprisonment for ≤3 years or fine of ≤\$5,000, or both
2nd Offense	Imprisonment for ≤10 years or fine of ≤\$10,000, or both	Imprisonment for ≤5 years or fine of ≤\$10,000, or both
3rd or Subsequent Offense	Imprisonment for ≥5 nor >20 years or fine of ≤\$20,000, or both	Imprisonment for ≤10 years or fine of ≤\$20,000, or both

Previously, persons whose prior offenses were solely for possession of a controlled substance without a valid prescription who were later convicted of a third or subsequent (felony) offense for violations of Section 44-53-370(b)(1), for a third or subsequent (felony) offense for violations involving a Schedule IV substance except for flunitrazepam, or for a third or subsequent (misdemeanor) offense for violations involving Schedule V substances were not eligible for sentence suspension, probation, parole, supervised furlough, community supervision, work release, work credits, education credits, or good conduct credits. The bill now enables any level of these types of offenses to be eligible for the noted options.

The bill also changes the penalty structure for the following offenses:

Section 44-53-370(d)(1)		
	Current Format	New Format
<i>Unlawful Possession of Schedule I Narcotic Drug or LSD without a Valid Prescription – Felony Offense</i>	2 nd Offense, 3 rd or Subsequent Offense	2 nd or Subsequent Offense (original 2 nd offense penalty retained)

Section 44-53-370(d)(3)		
	Current Format	New Format
<i>Unlawful Possession of Cocaine without a Valid Prescription – Felony Offense</i>	2 nd Offense, 3 rd or Subsequent Offense	2 nd or Subsequent Offense (original 2 nd offense penalty retained)

Section 44-53-370(d)(4)		
Substances Mentioned in §44-53-370(d)(4) which Constitute Prima Facie Guilt for Violation of §44-53-370(a)	Current Unlawful Possession Amount	New Unlawful Possession Amount
Cocaine	1 gram	4 grams
Opium	4 grains	10 grains
Morphine	4 grains	10 grains
Heroin	2 grains	10 grains
Marijuana	28 grams or 1 ounce	10 ounces
Hashish	10 grams	100 grams
LSD or its Compounds	50 micrograms	100 micrograms
Possession of marijuana or hashish (misdemeanor)	28 grams or 1 ounce of marijuana or ≤10 grams of hashish	≤10 ounces of marijuana or ≤28 grams of hashish

The bill also changes the penalty structure for the following felony drug trafficking offenses:

Section 44-53-370(e)(1)		
<i>Trafficking in Marijuana</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
	<i>10 pounds or more</i>	<i>20 pounds or more</i>
Violations Involving ≥ 20 Pounds but < 200 Pounds (previously for ≥ 10 pounds)	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 1 year nor > 10 years, no portion which may be suspended nor probation granted, and fine of \$10,000	Imprisonment for ≤ 10 years and fine of \$10,000
2nd Offense	Imprisonment for ≥ 5 years nor > 20 years, no portion which may be suspended nor probation granted, and fine of \$15,000	Imprisonment for ≤ 15 years and fine of \$15,000
3rd or Subsequent Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 20 years and fine of \$25,000
Violations Involving ≥ 200 Pounds but $< 1,000$ Pounds or > 100 to 1,000 Marijuana Plants Regardless of Weight (previously for ≥ 100 pounds but $< 2,000$ pounds, or > 100 to 1,000 marijuana plants regardless of weight)	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 15 years and fine of \$25,000
Violations Involving $\geq 1,000$ Pounds or $> 1,000$ Marijuana Plants Regardless of Weight (previously for $\geq 2,000$ pounds but $< 10,000$ pounds or $> 1,000$ marijuana plants but $< 10,000$ marijuana plants regardless of weight)	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000

The bill also deletes prior references to violations marijuana trafficking where the possession amounts are 10,000 pounds or more or 10,000 marijuana plants or more and the associated penalty.

Section 44-53-370(e)(2)		
<i>Trafficking in Cocaine</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
	<i>≥10 grams</i>	<i>≥28 grams</i>
Violations Involving ≥28 Grams but <100 Grams (previously for ≥10 grams but <28 grams)	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥3 years nor >10 years, no portion which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤10 years and fine of \$25,000
2nd Offense	Imprisonment for ≥5 years nor >30 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤15 years and fine of \$50,000
3rd or Subsequent Offense	Mandatory imprisonment for ≥25 years >30 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤20 years and fine of \$50,000
Violations Involving ≥100 Grams but <400 Grams (previously for ≥28 grams but <100 grams)	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥7 years nor >25 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤15 years and fine of \$50,000

Section 44-53-370(e)(2)		
<i>Trafficking in Cocaine</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
		≥10 grams
Violations Involving ≥100 Grams but <400 Grams (previously for ≥28 grams but <100 grams)	Current Penalty	New Penalty
2nd Offense	Imprisonment for ≥7 years nor >30 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤20 years and fine of \$50,000
3rd or Subsequent Offense	Mandatory imprisonment for ≥25 years nor >30 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤25 years and fine of \$50,000
Violations Involving >400 Grams (previously for ≥100 grams but <200 grams)	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$200,000	Imprisonment for ≤20 years and fine of \$50,000

The bill also deletes prior references to violations involving cocaine trafficking where the possession amounts involve 200 to more than 400 grams and deletes the associated penalties.

Section 44-53-370(e)(3)		
<i>Trafficking in Illegal Drugs (Morphine, Opium, Salt, Isomer, or Salt of An Isomer, Including Heroin and Any Mixture of Such Substances)</i>		
Violations Involving ≥4 Grams but <14 Grams	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥7 years nor >25 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤10 years or fine of ≤\$50,000, or both

Section 44-53-370(e)(3)

Trafficking in Illegal Drugs (Morphine, Opium, Salt, Isomer, or Salt of An Isomer, Including Heroin and Any Mixture of Such Substances)

Violations Involving ≥ 4 Grams but < 14 Grams	Current Penalty	New Penalty
2nd or Subsequent Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$100,000	Imprisonment for ≤ 15 years and fine of \$100,000
Violations Involving ≥ 14 Grams but < 28 Grams	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$200,000	Imprisonment for ≤ 15 years and fine of \$200,000
Violations Involving > 28 Grams	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for ≥ 25 nor > 40 years, no portion which may be suspended nor probation granted, and fine of \$200,000	Imprisonment for ≤ 20 years or fine of \$200,000, or both

Section 44-53-370(e)(4)

Trafficking in Methaqualone

Violations Involving ≥ 15 Grams but < 150 Grams	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 1 year nor > 10 years, no portion which may be suspended nor probation granted, and fine of \$10,000	Imprisonment for ≤ 10 years and fine of \$10,000
2nd or Subsequent Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 15 years and fine of \$25,000

Section 44-53-370(e)(4)		
<i>Trafficking in Methaqualone</i>		
Violations Involving ≥ 150 Grams but $< 1,500$ Grams	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 20 years and fine of \$25,000
Violations Involving $> 1,500$ Grams (previously for $\geq 1,500$ grams but less than 15 kilograms)	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 25 years and fine of \$50,000

The bill also deletes prior references to violations involving methaqualone trafficking where the possession amount involves 15 kilograms or more and deletes the associated penalty.

Section 44-53-370(e)(5)		
<i>Trafficking in LSD</i>		
Violations Involving ≥ 100 Dosage Units or Equivalent Quantity but < 500 Dosage Units or Equivalent Quantity	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 3 year nor > 10 years, no portion which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 10 years and fine of \$25,000
2nd Offense	Imprisonment for ≥ 5 year nor > 30 years, no portion which may be suspended nor probation granted, and fine of \$40,000	Imprisonment for ≤ 15 years and fine of \$40,000
3 rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years nor > 30 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000

Section 44-53-370(e)(5)

Trafficking in LSD

Violations Involving \geq500 Dosage Units or Equivalent Quantity but $<$1,000 Dosage Units or Equivalent Quantity	Current Penalty	New Penalty
1st Offense	Imprisonment for \geq 7 year nor $>$ 25 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for \leq 15 years and fine of \$50,000
2nd Offense	Imprisonment for \geq 7 year nor $>$ 30 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for \leq 20 years and fine of \$50,000
3 rd or Subsequent Offense	Mandatory imprisonment for \geq 25 years nor $>$ 30 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for \leq 20 years and fine of \$50,000

The bill also deletes prior references to violations involving LSD trafficking where the possession amount involves 15 kilograms or more and deletes the associated penalty.

Section 44-53-370(e)(6)

Trafficking in Flunitrazepam

Violations Involving \geq1 Gram but $<$100 Grams	Current Penalty	New Penalty
1st Offense	Imprisonment for \geq 1 year nor $>$ 10 years, no portion which may be suspended nor probation granted, and fine of \$10,000	Imprisonment for \leq 10 years or fine of \$10,000
2nd or Subsequent Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for \leq 15 years and fine of \$25,000

Section 44-53-370(e)(6)		
<i>Trafficking in Flunitrazepam</i>		
Violations Involving ≥ 100 Grams but $< 1,000$ Grams	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 20 years, no portion which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 20 years and fine of \$25,000
Violations Involving 1,000 Grams or More (previously for $\geq 1,000$ grams but < 5 kilograms)	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000

The bill also deletes prior references to violations involving flunitrazepam trafficking where the possession amount involves 5 kilograms or more and deletes the associated penalty.

Section 44-53-370(e)(7)		
<i>Trafficking in Gamma Hydroxybutyric Acid</i>		
Violations Involving ≥ 50 Milliliters or Milligrams	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 1 year nor > 10 years, no portion which may be suspended nor probation granted, and fine of \$10,000	Imprisonment for ≤ 10 years or fine of \$10,000
2nd or Subsequent Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 15 years and fine of \$25,000

A person who has been convicted and sentenced to mandatory imprisonment for trafficking in gamma hydroxybutyric acid may now be eligible for parole, extended work release, or supervised furlough.

Section 44-53-370(e)(8)		
<i>Trafficking in 3, 4-methalenedioxymethamphetamine (MDMA) or Ecstasy</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
	<i>100 tablets, capsules, dosage units, or equivalent quantity</i>	<i>28 grams or more</i>
Violations Involving ≥ 28 Grams but < 100 Grams <i>(previously for ≥ 100 dosage units or equivalent quantity but < 500 dosage units or equivalent quantity)</i>	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 3 years nor > 10 years, no portion which may be suspended nor probation granted, and fine of \$20,000	Imprisonment for ≤ 10 years or fine of \$20,000
2nd Offense	Imprisonment for ≥ 5 years nor > 30 years, no portion which may be suspended nor probation granted, and fine of \$40,000	Imprisonment for ≤ 15 years and fine of \$40,000
3 rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 nor > 30 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
Violations Involving ≥ 100 Grams but < 400 Grams <i>(previously for ≥ 500 dosage units or equivalent quantity but $< 1,000$ dosage units or equivalent quantity)</i>	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 7 years nor > 25 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000
2nd Offense	Imprisonment for ≥ 7 years nor > 30 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
3 rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 nor > 30 years, no portion which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 25 years and fine of \$50,000
Section 44-53-370(e)(8)		

<i>Trafficking in 3, 4-methalenedioxymethamphetamine (MDMA) or Ecstasy</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
	<i>100 tablets, capsules, dosage units, or equivalent quantity</i>	<i>28 grams or more</i>
Violations Involving ≥ 400 Grams (previously for $\geq 1,000$ dosage units or equivalent quantity)	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion which may be suspended nor probation granted, and fine of \$100,000	Imprisonment for ≤ 20 years and fine of \$100,000

The bill also modifies the penalty structures for violations involving the use of controlled substances or LSD in the commission of a violent crime:

Section 44-53-370(g)(1)		
Unlawful Administration, Distribution, Dispensation, Delivery, or Aiding, Abetting, Attempting, or Conspiring to Administer, Distribute, or Deliver a Controlled Substance Classified as a Narcotic Drug in Schedule I (b) or (c) or LSD or Classified as a Narcotic Drug in Schedule II to an Individual with Intent to Commit a Violent Crime	Current Penalty	New Penalty
2 nd Offense, or in the case of a first conviction of an offender under this subsection who has previously been convicted of an offense involving narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs	Imprisonment for ≥ 5 years nor > 30 years or fine of $\leq \$50,000$, or both	Imprisonment for ≤ 30 years or fine of \$50,000, or both
3 rd or Subsequent Offense, or if an offender was previously convicted two or more times in the aggregate for offenses involving narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs	Imprisonment for ≥ 15 years nor > 30 years or fine of $\leq \$50,000$, or both	Imprisonment for ≤ 30 years or fine of \$50,000, or both

A person who is convicted of a second or subsequent offense under Section 44-53-370(g)(1) may now be eligible to have his sentence suspended or to receive probation.

Section 44-53-370(g)(2)		
Unlawful Administration, Distribution, Dispensation, Delivery, or Aiding, Abetting, Attempting, or Conspiring to Administer, Distribute, or Deliver Gamma Hydroxybutyrate or a Controlled Substance Not Classified in Schedule I or Schedule II as a Narcotic Drug or LSD to an Individual with Intent to Commit a Violent Crime	Current Penalty	New Penalty
3 rd or Subsequent Offense, or if an offender was previously convicted two or more times in the aggregate for offenses involving narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs	Imprisonment for ≥ 5 years nor > 25 years or fine of $\leq \$40,000$, or both	Imprisonment for ≤ 25 years or fine of $\leq \$40,000$, or both

A person convicted of a second or subsequent offense under Section 44-53-370(g)(2) may now be eligible to have his sentence suspended or to receive probation.

In addition, the bill modifies the penalty schedule for a number of offenses under Section 44-53-375, including the following:

Section 44-53-375(A)		
<i>Possession of Methamphetamine or Cocaine Base (misdemeanor offense)</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
	<1 gram	<4 grams
Violations Involving <4 Grams (previously for <1 gram)	Current Format	New Format
	2 nd Offense, 3 rd or Subsequent Offense	2 nd or Subsequent Offense (original 2 nd offense penalty retained)

Section 44-53-375(B)		
<i>Manufacture, Distribution, Dispensation, Delivery, Purchase, or Aiding, Abetting, Attempting, or Conspiring to Manufacture, Distribute, Dispense, Deliver, or Purchase, or Possess with Intent to Distribute, Dispense, or Deliver Methamphetamine or Cocaine Base (felony offense)</i>		
Violations Involving <4 Grams (previously for <1 gram)	Current Penalty	New Penalty
1 st Offense	Imprisonment for ≤15 years or fine of ≤\$25,000, or both	Imprisonment for ≤5 years or fine of ≤\$25,000, or both
2 nd Offense	Imprisonment for ≥5 years nor >30 years or fine of ≤\$50,000, or both	Imprisonment for ≤10 years or fine of ≤\$50,000, or both
3 rd or Subsequent Offense	Imprisonment for ≥10 years nor >30 years or fine of ≤\$50,000, or both	Imprisonment for ≤15 years or fine of ≤\$50,000, or both

In addition, the bill changes the amount of methamphetamine or cocaine base in a person's possession that would constitute prima facie evidence of a violation of Section 44-53-375(B) from one or more grams to four or more grams and now allows a person convicted of a third or subsequent offense to have his sentence suspended or to be eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

The bill also modifies the penalty structure for the following felony offense:

Section 44-53-375(C)		
<i>Trafficking in Methamphetamine or Cocaine Base</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
	≥ 10 grams	≥ 28 grams
Violations Involving ≥ 28 Grams but < 100 Grams <i>(previously for ≥ 10 grams but < 28 grams)</i>	Current Penalty	New Penalty
1 st Offense	Imprisonment for ≥ 3 years nor > 10 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 10 years and fine of \$25,000
2nd Offense	Imprisonment for ≥ 5 years nor > 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000
3rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years nor > 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
Violations Involving ≥ 100 Grams but < 400 Grams <i>(previously for ≥ 28 grams but < 100 grams)</i>	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 7 years nor > 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000
2nd Offense	Imprisonment for ≥ 7 years nor > 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
3rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years nor > 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 25 years and fine of \$50,000

Section 44-53-375(C)		
<i>Trafficking in Methamphetamine or Cocaine Base</i>	Current Unlawful Possession Amount	New Unlawful Possession Amount
		≥ 10 grams
Violations Involving ≥ 400 Grams (previously for ≥ 100 grams but < 200 grams)	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000

In addition, the bill deletes current references to methamphetamine or cocaine base trafficking violations involving 200 to more than 400 grams of methamphetamine or cocaine base and eliminates the prior penalties.

Further, the bill modifies the existing penalty structure for the following felony offense:

Section 44-53-375(E)(1)		
<i>Trafficking in Ephedrine, Pseudoephedrine, or Phenylpropanolamine</i>		
Violations Involving ≥ 28 Grams but < 100 Grams (previously for ≥ 9 grams but < 28 grams)	Current Penalty	New Penalty
1st Offense	Imprisonment for ≤ 10 years, no portion of which may be suspended nor probation granted, and fine of \$25,000	Imprisonment for ≤ 10 years and fine of \$25,000
2nd Offense	Imprisonment for ≥ 5 years nor > 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000
3 rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years nor > 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000

Section 44-53-375(E)(1)

Trafficking in Ephedrine, Pseudoephedrine, or Phenylpropanolamine

Violations Involving ≥ 100 Grams but < 400 Grams <i>(previously for ≥ 28 grams but < 100 grams)</i>	Current Penalty	New Penalty
1st Offense	Imprisonment for ≥ 7 years nor > 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 15 years and fine of \$50,000
2nd Offense	Imprisonment for ≥ 7 years nor > 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000
3rd or Subsequent Offense	Mandatory imprisonment for ≥ 25 years nor > 30 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 25 years and fine of \$50,000
Violations Involving ≥ 400 Grams <i>(previously for ≥ 100 grams but < 200 grams)</i>	Current Penalty	New Penalty
Any Level Offense	Mandatory imprisonment for 25 years, no portion of which may be suspended nor probation granted, and fine of \$50,000	Imprisonment for ≤ 20 years and fine of \$50,000

The bill also deletes current references to trafficking violations involving 200 to more than 400 grams of ephedrine, pseudoephedrine, or phenylpropanolamine and eliminates the associated penalties.

Additionally, the bill allows a person convicted of trafficking in methamphetamine or cocaine base or trafficking in ephedrine, pseudoephedrine, or phenylpropanolamine to be eligible for parole, extended work release, or supervised furlough.

Frank A. Rainwater, Executive Director