

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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SENATE BILL DRS45353-ML-107

Short Title: The Fair Sentencing Act.

(Public)

Sponsors: Senators Smith and Murdock (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO REMOVE THE MANDATORY MINIMUM SENTENCES REQUIRED FOR
CERTAIN CRIMINAL OFFENSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-7.41(a) reads as rewritten:

"(a) A person who is convicted of a firearm-related felony and is also convicted of the status offense must, upon conviction or plea of guilty under indictment as provided in this Article, be sentenced as a Class C felon (except where the felon has been sentenced as a Class A, B1, or B2 felon). ~~However, in no case shall the person receive a minimum term of imprisonment of less than 120 months.~~ The court may not suspend the sentence and may not place the person sentenced on probation."

SECTION 2. G.S. 20-179 reads as rewritten:

"§ 20-179. Sentencing hearing after conviction for impaired driving; determination of grossly aggravating and aggravating and mitigating factors; punishments.

...

(f3) Aggravated Level One Punishment. – A defendant subject to Aggravated Level One punishment may be fined up to ten thousand dollars (\$10,000) and shall be sentenced to a term of imprisonment that includes ~~a minimum term of not less than 12 months~~ and a maximum term of not more than 36 months. Notwithstanding G.S. 15A-1371, a defendant sentenced to a term of imprisonment pursuant to this subsection shall not be eligible for parole. However, the defendant shall be released from the Statewide Misdemeanant Confinement Program on the date equivalent to the defendant's maximum imposed term of imprisonment less four months and shall be supervised by the Division of Community Supervision and Reentry under and subject to the provisions of Article 84A of Chapter 15A of the General Statutes and shall also be required to abstain from alcohol consumption for the four-month period of supervision as verified by a continuous alcohol monitoring system. For purposes of revocation, violation of the requirement to abstain from alcohol or comply with the use of a continuous alcohol monitoring system shall be deemed a controlling condition under G.S. 15A-1368.4.

The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 120 days. If the defendant is placed on probation, the judge shall impose as requirements that the defendant (i) abstain from alcohol consumption for a minimum of 120 days to a maximum of the term of probation, as verified by a continuous alcohol monitoring system pursuant to subsection (h1) of this section, and (ii) obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.



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(g) Level One Punishment. – A defendant subject to Level One punishment may be fined up to four thousand dollars (\$4,000) and shall be sentenced to a term of imprisonment that includes ~~a minimum term of not less than 30 days and~~ a maximum term of not more than 24 months. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 30 days. A judge may reduce ~~the minimum term of imprisonment required to a term of not less than 10 days if~~ a condition of special probation is imposed to require that a defendant abstain from alcohol consumption and be monitored by a continuous alcohol monitoring system, of a type approved by the Division of Community Supervision and Reentry of the Department of Adult Correction, for a period of not less than 120 days. If the defendant is monitored on an approved continuous alcohol monitoring system during the pretrial period, up to 60 days of pretrial monitoring may be credited against the 120-day monitoring requirement for probation. If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

(h) Level Two Punishment. – A defendant subject to Level Two punishment may be fined up to two thousand dollars (\$2,000) and shall be sentenced to a term of imprisonment that includes ~~a minimum term of not less than seven days and~~ a maximum term of not more than 12 months. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least seven days or to abstain from consuming alcohol for at least 90 consecutive days, as verified by a continuous alcohol monitoring system, of a type approved by the Division of Community Supervision and Reentry of the Department of Adult Correction. If the defendant is subject to Level Two punishment based on a finding that the grossly aggravating factor in subdivision (1) or (2) of subsection (c) of this section applies, the conviction for a prior offense involving impaired driving occurred within five years before the date of the offense for which the defendant is being sentenced and the judge suspends all active terms of imprisonment and imposes abstention from alcohol as verified by a continuous alcohol monitoring system, then the judge must also impose as an additional condition of special probation that the defendant must complete 240 hours of community service. If the defendant is monitored on an approved continuous alcohol monitoring system during the pretrial period, up to 60 days of pretrial monitoring may be credited against the 90-day monitoring requirement for probation. If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

...

(i) Level Three Punishment. – A defendant subject to Level Three punishment may be fined up to one thousand dollars (\$1,000) and shall be sentenced to a term of imprisonment that includes ~~a minimum term of not less than 72 hours and~~ a maximum term of not more than six months. The term of imprisonment may be suspended. However, the suspended sentence shall include the condition that the defendant:

- (1) Be imprisoned for a term of at least 72 hours as a condition of special probation; or
- (2) Perform community service for a term of at least 72 hours; or
- (3) Repealed by Session Laws 2006-253, s. 23, effective December 1, 2006, and applicable to offenses committed on or after that date.
- (4) Any combination of these conditions.

If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by

G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

(j) Level Four Punishment. – A defendant subject to Level Four punishment may be fined up to five hundred dollars (\$500.00) and shall be sentenced to a term of imprisonment that includes ~~a minimum term of not less than 48 hours and~~ a maximum term of not more than 120 days. The term of imprisonment may be suspended. However, the suspended sentence shall include the condition that the defendant:

- (1) Be imprisoned for a term of 48 hours as a condition of special probation; or
- (2) Perform community service for a term of 48 hours; or
- (3) Repealed by Session Laws 2006-253, s. 23, effective December 1, 2006, and applicable to offenses committed on or after that date.
- (4) Any combination of these conditions.

If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

(k) Level Five Punishment. – A defendant subject to Level Five punishment may be fined up to two hundred dollars (\$200.00) and shall be sentenced to a term of imprisonment that includes ~~a minimum term of not less than 24 hours and~~ a maximum term of not more than 60 days. The term of imprisonment may be suspended. However, the suspended sentence shall include the condition that the defendant:

- (1) Be imprisoned for a term of 24 hours as a condition of special probation; or
- (2) Perform community service for a term of 24 hours; or
- (3) Repealed by Session Laws 2006-253, s. 23, effective December 1, 2006, and applicable to offenses committed on or after that date.
- (4) Any combination of these conditions.

If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

...."

SECTION 3. G.S. 90-95(h) reads as rewritten:

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

- (1) Any person who sells, manufactures, delivers, transports, or possesses in excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a felony which felony shall be known as "trafficking in marijuana" and if the quantity of such substance involved:
 - a. Is in excess of 10 pounds, but less than 50 pounds, such person shall be punished as a Class H felon and shall be sentenced to a ~~minimum term of 25 months and~~ a maximum term of 39 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);
 - b. Is 50 pounds or more, but less than 2,000 pounds, such person shall be punished as a Class G felon and shall be sentenced to a ~~minimum term of 35 months and~~ a maximum term of 51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
 - c. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be punished as a Class F felon and shall be sentenced to a ~~minimum term of 70 months and~~ a maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);

- d. Is 10,000 pounds or more, such person shall be punished as a Class D felon and shall be sentenced to a ~~minimum term of 175 months and a~~ maximum term of 222 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).
- (1a) For the purpose of this subsection, a "dosage unit" shall consist of 3 grams of synthetic cannabinoid or any mixture containing such substance. Any person who sells, manufactures, delivers, transports, or possesses in excess of 50 dosage units of a synthetic cannabinoid or any mixture containing such substance, shall be guilty of a felony, which felony shall be known as "trafficking in synthetic cannabinoids," and if the quantity of such substance involved:
- a. Is in excess of 50 dosage units, but less than 250 dosage units, such person shall be punished as a Class H felon and shall be sentenced to a ~~minimum term of 25 months and a~~ maximum term of 39 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);
- b. Is 250 dosage units or more, but less than 1250 dosage units, such person shall be punished as a Class G felon and shall be sentenced to a ~~minimum term of 35 months and a~~ maximum term of 51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
- c. Is 1250 dosage units or more, but less than 3750 dosage units, such person shall be punished as a Class F felon and shall be sentenced to a ~~minimum term of 70 months and a~~ maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- d. Is 3750 dosage units or more, such person shall be punished as a Class D felon and shall be sentenced to a ~~minimum term of 175 months and a~~ maximum term of 222 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).
- (2) Any person who sells, manufactures, delivers, transports, or possesses 1,000 tablets, capsules or other dosage units, or the equivalent quantity, or more of methaqualone, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as "trafficking in methaqualone" and if the quantity of such substance or mixture involved:
- a. Is 1,000 or more dosage units, or equivalent quantity, but less than 5,000 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a ~~minimum term of 35 months and a~~ maximum term of 51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
- b. Is 5,000 or more dosage units, or equivalent quantity, but less than 10,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a ~~minimum term of 70 months and a~~ maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- c. Is 10,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a ~~minimum term of 175 months and a~~ maximum term of 222 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).

(3) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of cocaine and any salt, isomer (whether optical or geometric), salts of isomers, compound, derivative, or preparation thereof, or any coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, and any salt, isomer, salts of isomers, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances (except decocainized coca leaves or any extraction of coca leaves which does not contain cocaine) or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as "trafficking in cocaine" and if the quantity of such substance or mixture involved:

- a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class G felon and shall be sentenced to a ~~minimum term of 35 months and a~~ maximum term of 51 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class F felon and shall be sentenced to a ~~minimum term of 70 months and a~~ maximum term of 93 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
- c. Is 400 grams or more, such person shall be punished as a Class D felon and shall be sentenced to a ~~minimum term of 175 months and a~~ maximum term of 222 months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).

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

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

- a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class F felon and shall be sentenced to a ~~minimum term of 70 months and a~~ maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class E felon and shall be sentenced to a ~~minimum term of 90 months and a~~ maximum term of 120 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
- c. Is 400 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a ~~minimum term of 225 months and a~~ maximum term of 282 months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).

(3c) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of amphetamine or any mixture containing such substance shall be guilty of a felony, which felony shall be known as "trafficking in amphetamine", and if the quantity of such substance or mixture involved:

- a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class H felon and shall be sentenced to a ~~minimum term of 25 months and a~~ maximum term of 39 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);

- b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class G felon and shall be sentenced to a ~~minimum term of 35 months and a~~ maximum term of 51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
- c. Is 400 grams or more, such person shall be punished as a Class E felon and shall be sentenced to a ~~minimum term of 90 months and a~~ maximum term of 120 months in the State's prison and shall be fined at least one hundred thousand dollars (\$100,000).
- (3d) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of any substituted cathinone, as defined in G.S. 90-89(5)(j), or any mixture containing such substance shall be guilty of a felony, which felony shall be known as "trafficking in substituted cathinones," and if the quantity of such substance or mixture involved:
- a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class F felon and shall be sentenced to a ~~minimum term of 70 months and a~~ maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class E felon and shall be sentenced to a ~~minimum term of 90 months and a~~ maximum term of 120 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
- c. Is 400 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a ~~minimum term of 225 months and a~~ maximum term of 282 months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).
- (3e) Repealed by Session Laws 2018-44, s. 7, effective December 1, 2018.
- (4) Any person who sells, manufactures, delivers, transports, or possesses four grams or more of opium, opiate, or opioid, or any salt, compound, derivative, or preparation of opium, opiate, or opioid (except apomorphine, nalbuphine, analoxone and naltrexone and their respective salts), including heroin, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as "trafficking in opium, opiate, opioid, or heroin" and if the quantity of such controlled substance or mixture involved:
- a. Is four grams or more, but less than 14 grams, such person shall be punished as a Class F felon and shall be sentenced to a ~~minimum term of 70 months and a~~ maximum term of 93 months in the State's prison and shall be fined as follows:
1. A fine of five hundred thousand dollars (\$500,000) if the controlled substance is heroin, fentanyl, or carfentanil, or any salt, compound, derivative, or preparation thereof, or any mixture containing any of these substances.
 2. A fine of not less than fifty thousand dollars (\$50,000) for any controlled substance described in this subdivision and not otherwise subject to sub-sub-subdivision 1. of this sub-subdivision.
- b. Is 14 grams or more, but less than 28 grams, such person shall be punished as a Class E felon and shall be sentenced to a ~~minimum term of 90 months and a~~ maximum term of 120 months in the State's prison and shall be fined as follows:

1. A fine of seven hundred fifty thousand dollars (\$750,000) if the controlled substance is heroin, fentanyl, or carfentanil, or any salt, compound, derivative, or preparation thereof, or any mixture containing any of these substances.
 2. A fine of not less than one hundred thousand dollars (\$100,000) for any controlled substance described in this subdivision and not otherwise subject to sub-sub-subdivision 1. of this sub-subdivision.
- c. Is 28 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a ~~minimum term of 225 months and a~~ maximum term of 282 months in the State's prison and shall be fined as follows:
1. A fine of one million dollars (\$1,000,000) if the controlled substance is heroin, fentanyl, or carfentanil, or any salt, compound, derivative, or preparation thereof, or any mixture containing any of these substances.
 2. A fine of not less than five hundred thousand dollars (\$500,000) for any controlled substance described in this subdivision and not otherwise subject to sub-sub-subdivision 1. of this sub-subdivision.
- (4a) Any person who sells, manufactures, delivers, transports, or possesses 100 tablets, capsules, or other dosage units, or the equivalent quantity, or more, of Lysergic Acid Diethylamide, or any mixture containing such substance, shall be guilty of a felony, which felony shall be known as "trafficking in Lysergic Acid Diethylamide". If the quantity of such substance or mixture involved:
- a. Is 100 or more dosage units, or equivalent quantity, but less than 500 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a ~~minimum term of 35 months and a~~ maximum term of 51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
 - b. Is 500 or more dosage units, or equivalent quantity, but less than 1,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a ~~minimum term of 70 months and a~~ maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - c. Is 1,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a ~~minimum term of 175 months and a~~ maximum term of 222 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).
- (4b) Any person who sells, manufactures, delivers, transports, or possesses 100 or more tablets, capsules, or other dosage units, or 28 grams or more of 3,4-methylenedioxymphetamine (MDA), including its salts, isomers, and salts of isomers, or 3,4-methylenedioxymphetamine (MDMA), including its salts, isomers, and salts of isomers, or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as "trafficking in MDA/MDMA." If the quantity of the substance or mixture involved:
- a. Is 100 or more tablets, capsules, or other dosage units, but less than 500 tablets, capsules, or other dosage units, or 28 grams or more, but less than 200 grams, the person shall be punished as a Class G felon

- 1 and shall be sentenced to a ~~minimum term of 35 months and a~~
2 maximum term of 51 months in the State's prison and shall be fined
3 not less than twenty-five thousand dollars (\$25,000);
- 4 b. Is 500 or more tablets, capsules, or other dosage units, but less than
5 1,000 tablets, capsules, or other dosage units, or 200 grams or more,
6 but less than 400 grams, the person shall be punished as a Class F felon
7 and shall be sentenced to a ~~minimum term of 70 months and a~~
8 maximum term of 93 months in the State's prison and shall be fined
9 not less than fifty thousand dollars (\$50,000);
- 10 c. Is 1,000 or more tablets, capsules, or other dosage units, or 400 grams
11 or more, the person shall be punished as a Class D felon and shall be
12 sentenced to a ~~minimum term of 175 months and a~~ maximum term of
13 222 months in the State's prison and shall be fined not less than two
14 hundred fifty thousand dollars (\$250,000).
- 15 (5) Except as provided in this subdivision or subdivision (5a) of this subsection,
16 a person being sentenced under this subsection may not receive a suspended
17 sentence or be placed on probation. The sentencing judge may reduce the fine,
18 ~~or impose a prison term less than the applicable minimum prison term~~
19 ~~provided by this subsection,~~ or suspend the prison term imposed and place a
20 person on probation when such person has, to the best of the person's
21 knowledge, provided substantial assistance in the identification, arrest, or
22 conviction of any accomplices, accessories, co-conspirators, or principals if
23 the sentencing judge enters in the record a finding that the person to be
24 sentenced has rendered such substantial assistance.
- 25 (5a) A judge sentencing a person for a conviction pursuant to G.S. 90-95(h) or
26 G.S. 90-95(i) for conspiracy to commit a violation of G.S. 90-95(h) shall
27 impose the applicable ~~minimum~~ prison term provided by this subsection. The
28 sentencing judge may reduce the fine and sentence the person consistent with
29 the applicable offense classification and prior record level provided in
30 G.S. 15A-1340.17, if after a hearing and an opportunity for the district
31 attorney to present evidence, including evidence from the investigating law
32 enforcement officer, other law enforcement officers, or witnesses with
33 knowledge of the defendant's conduct at any time prior to sentencing, the
34 judge enters into the record specific findings that all of the following are met:
- 35 a. The defendant has accepted responsibility for the defendant's criminal
36 conduct.
- 37 b. The defendant has not previously been convicted of a felony under
38 G.S. 90-95.
- 39 c. The defendant did not use violence or a credible threat of violence, or
40 possess a firearm or other dangerous weapon, in the commission of the
41 offense for which the defendant is being sentenced.
- 42 d. The defendant did not use violence or a credible threat of violence, or
43 possess a firearm or other dangerous weapon, in the commission of
44 any other violation of law.
- 45 e. The defendant has admitted that he or she has a substance abuse
46 disorder involving a controlled substance and has successfully
47 completed a treatment program approved by the Court to address the
48 substance abuse disorder.
- 49 f. ~~Imposition of the mandatory minimum prison term would result in~~
50 ~~substantial injustice.~~

- 1 g. ~~Imposition of the mandatory minimum prison sentence is not~~
2 ~~necessary for the protection of the public.~~
3 h. The defendant is being sentenced solely for trafficking, or conspiracy
4 to commit trafficking, as a result of possession of a controlled
5 substance.
6 i. There is no substantial evidence that the defendant has ever engaged
7 in the transport for purpose of sale, sale, manufacture, or delivery of a
8 controlled substance or the intent to transport for purpose of sale, sell,
9 manufacture, or deliver a controlled substance.
10 j. The defendant, to the best of his or her knowledge, has provided all
11 reasonable assistance in the identification, arrest, or conviction of any
12 accomplices, accessories, co-conspirators, or principals.
13 k. The defendant is being sentenced for trafficking, or conspiracy to
14 commit trafficking, for possession of an amount of a controlled
15 substance that is not of a quantity greater than the lowest category for
16 which a defendant may be convicted for trafficking of that controlled
17 substance under G.S. 90-95(h).

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

21 "

22 **SECTION 4.** This act becomes effective December 1, 2025, and applies to offenses
23 committed on or after that date.