

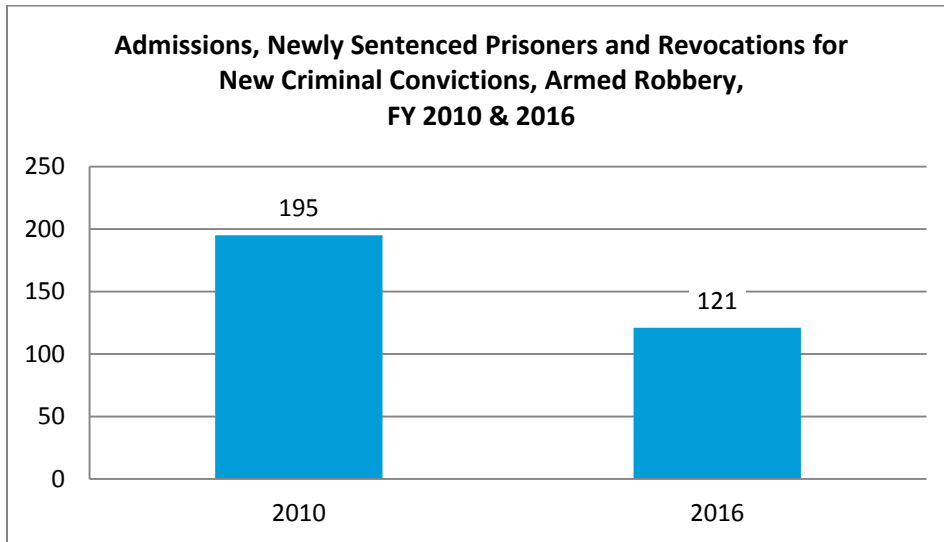
Agenda

Sentencing Classification Workgroup – November 7th, 10am – 12pm

1. **Introduction – Representative Smith**
2. **Policies impacting people convicted of armed robbery and aggravated burglary of a dwelling (at the request of Rep. Rutherford).—Emily Levett (Pew)**
 - a. Overview of the data on people convicted of armed robbery and aggravated burglary of a dwelling (burglary 1)
 - b. South Carolina armed robbery and burglary 1 statutes in context with neighboring jurisdictions
 - c. Policy options: armed robbery and burglary 1
3. **Policies impacting drug offenders in South Carolina cont. – Emily Levett (Pew)**
 - a. From last meeting, interest in the following policies:
 - i. To align South Carolina with neighboring states, raise the presumptive threshold differentiating possession and commercial drug offenses, and the threshold differentiating commercial and trafficking offenses
 - ii. To better differentiate between those involved in commercial drug activity to raise money for an addiction versus those involved in commercial drug activity as a profit-making venture, differentiate sentences for possession with intent to distribute compared to distribution/manufacturing
 - b. South Carolina possession, PWID, and trafficking offenses in context with neighboring jurisdictions
 - c. Questions for policy development
 - i. How should sentences be restructured?
 - ii. What drugs/drug conduct should be affected by this policy?
4. **Policies impacting property offenders in South Carolina cont.—Emily Levett (Pew)**
 - a. From last meeting, interest in the following policy:
 - i. To provide better graduation among penalties for common property offenses
 - b. South Carolina sentences for common property offenses in context with neighboring jurisdictions
 - c. Questions for policy development:
 - i. How should the additional tier be penalized?
 - ii. What offenses should be affected by this policy?
5. **Additional Meeting Times**
 - a. Sentencing Reform Oversight Commission: November 8th at 2pm
 - i. 4th Sentencing Classification Workgroup Meeting: December 5th at 10am
 - b. Sentencing Reform Oversight Commission: December 13th at 10am

Overview of the Data on People Convicted of Armed Robbery and Aggravated Dwelling Burglary (Burglary I).—

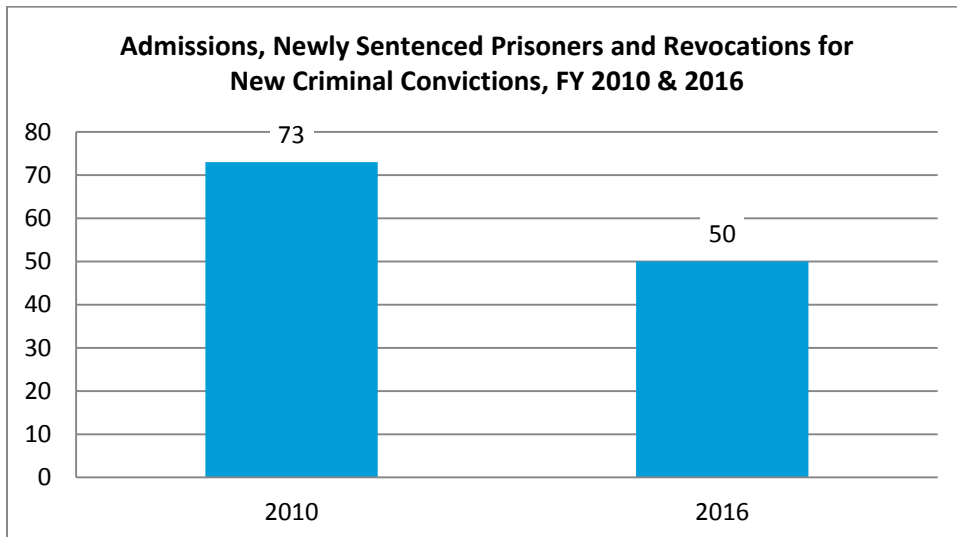
Admissions for armed robbery have declined 39% since 2010.¹—



Average sentence length for armed robbery relatively steady since 2010.²—

2010	2016
160 (~13.5 years)	163 months (~14 years)
<i>Mandatory minimum = 10 years</i>	

Admissions for burglary I have declined 34% since 2010.—



Average sentence length for burglary I relatively steady since 2010.³—

2010	2016
204 (17 years)	197 months (~16.5 years)
<i>Mandatory minimum = 15 years</i>	

Rate of admissions to prison for burglary I vary between counties. —

(Those with rates of roughly 15% or more are highlighted.)

County	Admissions for burglary I, newly sentenced prisoners and new criminal convictions (since 2010)	Rate (Admissions/100,000 county residents)
SPARTANBURG	45	14.9
GREENVILLE	42	8.4
CHARLESTON	40	10.1
RICHLAND	38	9.3
HORRY	34	10.5
YORK	24	9.3
BERKELEY	22	10.4
AIKEN	20	11.9
OCONEE	17	22.3
FLORENCE	15	10.8
ANDERSON	13	6.6
SUMTER	13	12.1
BEAUFORT	12	6.6
ORANGEBURG	12	13.7
PICKENS	12	9.8
LEXINGTON	11	3.8
CHEROKEE	9	15.9
DARLINGTON	9	13.4
COLLETON	8	21.1
GREENWOOD	8	11.4
LANCASTER	8	8.9
DILLON	6	19.4
DORCHESTER	6	3.9
GEORGETOWN	6	9.8
LAURENS	6	9.0
BARNWELL	5	23.3
CHESTER	5	15.5
NEWBERRY	5	13.1
WILLIAMSBURG	5	15.6
HAMPTON	4	20.1
JASPER	4	14.1
BAMBERG	3	20.8
CLARENDON	3	8.8
EDGEFIELD	3	11.4
MARION	3	9.5
SALUDA	3	14.9
UNION	2	7.2
ABBEVILLE	1	4.0
KERSHAW	1	1.6
MARLBORO	1	3.7
MCCORMICK	1	10.4

*Counties with no admissions are not listed above. Those counties are Allendale, Calhoun, Fairfield, and Lee.

South Carolina's Armed Robbery and Aggravated Dwelling Burglary Statutes in Context with Neighboring Jurisdictions. —

South Carolina's armed robbery statute in context with North Carolina, Virginia. —

State	Sentence
South Carolina ⁴	<u>10</u> – 30 years (does not include attempted armed robbery)
North Carolina ⁵	~3 – ~13 years
Virginia ⁶	5 – life* *Statute includes, alongside armed robbery, robbery by violence (i.e. strangulation, striking or beating, or assault).

South Carolina's aggravated burglary of a dwelling statute in context with North Carolina, Virginia. —

State	Aggravating factors	Sentence
South Carolina ⁷ (Burglary 1st)	<ul style="list-style-type: none"> Actor is armed with deadly weapon; causes injury; uses or threatens use of a dangerous instrument; Actor has two or more convictions for burglary or similar offenses; or The entering occurs in the nighttime. 	<u>15</u> – life
North Carolina ⁸ (Burglary 1st)	<ul style="list-style-type: none"> A person is in actual occupation of the building during the commission of the crime. 	~3 – ~13 years
Virginia ⁹	<ul style="list-style-type: none"> The entering occurs in the nighttime. Actor is armed with a deadly weapon. 	5 – 20 years 20 – life

Policy Options: Armed Robbery and Aggravated Dwelling Burglary

Create carve-outs to South Carolina's armed robbery mandatory minimum (10 years). —

Current statute (<u>10</u> - 30 years)	Potential Mandatory Minimum Carve-Outs
<i>Committing robbery while armed with a dangerous weapon, or alleging that one is armed with a dangerous weapon.</i>	<ul style="list-style-type: none"> No actual weapon was brandished. Actor is of YOA age.

Create carve-outs to South Carolina's burglary I mandatory minimum (15 years). —

Current statute (<u>15</u> – life)	Potential Mandatory Minimum Carve-Outs
Burglary in the first degree. <i>Entering a dwelling without consent and with intent to commit a crime, and one of the following:</i> <ul style="list-style-type: none"> Actor is armed with deadly weapon; causes injury; uses or threatens use of a dangerous instrument; Actor has two or more convictions for burglary or similar offenses; or The entering occurs in the nighttime. 	<ul style="list-style-type: none"> No one in actual occupation of the building during the commission of the crime. Entering occurred in the nighttime. No actual weapon was brandished. Actor is of YOA age.

South Carolina Possession, PWID, and Trafficking Offenses in Context with Neighboring Jurisdictions

Possession and Possession with Intent to Distribute Statutes*			
Scenario	Prison Time (Unsuspending terms in years)		
	South Carolina	Alabama	North Carolina
Possession of 0.5g of cocaine with 1 prior conviction for felony drug possession	Poss: 0 – 5	Poss: 0 – 2	Poss: 0.33 - 0.8 PWID: 0.5 – 1.5
Possession of 0.8g of methamphetamine with two prior nonviolent felony burglary charges	Poss: 0 – 3	Poss: 0 – 2	Poss: 0.33 - 0.8 PWID: 0.5 – 1.5 years
Possession of 0.2g of heroin with one prior conviction for drug distribution	PWID: 5 – 30	Poss: 0 – 2	Poss: 0.33 - 0.8 PWID: 0.5 – 1.5
Possession of 4g of methamphetamine no prior convictions	PWID: 0 – 15	Poss: 0 – 2	Poss: 0.25 - 0.66 PWID: 0.33 - 0.66
Possession of 2.1g of heroin with 1 prior conviction for felony drug possession	PWID: 5 – 30	PWID: 2 – 20	Poss: 0.33 - 0.8 PWID: 0.5 – 1.5

- In general, South Carolina has higher maximum sentences for possession and PWID offenses than Alabama and North Carolina. This is due in part to the fact that South Carolina's presumptive threshold differentiating possession offenses from PWID offenses is comparatively low (e.g. 1 gram of cocaine or methamphetamine in South Carolina, compared to 8 grams in Alabama), and in part due to South Carolina's overall higher maximum sentences across possession and lower-weight PWID offenses.*

Trafficking Statutes*			
Scenario	Prison Time (Terms in years)		
	South Carolina	Federal Government	North Carolina
Trafficking 10g of cocaine, with no prior criminal convictions	<u>3</u> – 10	0.8 – 1.3	Considered a possession or PWID case.
Trafficking 6g of heroin, with three prior non-drug felony convictions	<u>7</u> – 25	2.5 – 3	6 – 7.5
Trafficking 125g of methamphetamine, with one prior felony drug conviction	<u>25</u>	<u>10</u>	6 – 7.75
Trafficking 200g of methamphetamine, with no prior felony convictions	<u>25</u>	5.25 – 6.5 years (<u>5</u> year minimum)	7.5 – 10
Trafficking 100 grams of heroin, with a prior possession conviction	<u>25</u> – 40	<u>10</u> – 10.5	<u>19</u> – 23.5

- In general, South Carolina has higher minimum and maximum sentences for trafficking offenses than North Carolina and the federal government. This is due in part to the fact that South Carolina's threshold differentiating commercial from trafficking offenses is comparatively low (e.g. 10g of cocaine in South Carolina, compared to 28g in Alabama), in part due to the ratcheting up of trafficking sentences in South Carolina based on the offender's previous convictions, and in part due to South Carolina's overall higher minimum and maximum sentences for trafficking offenses.*

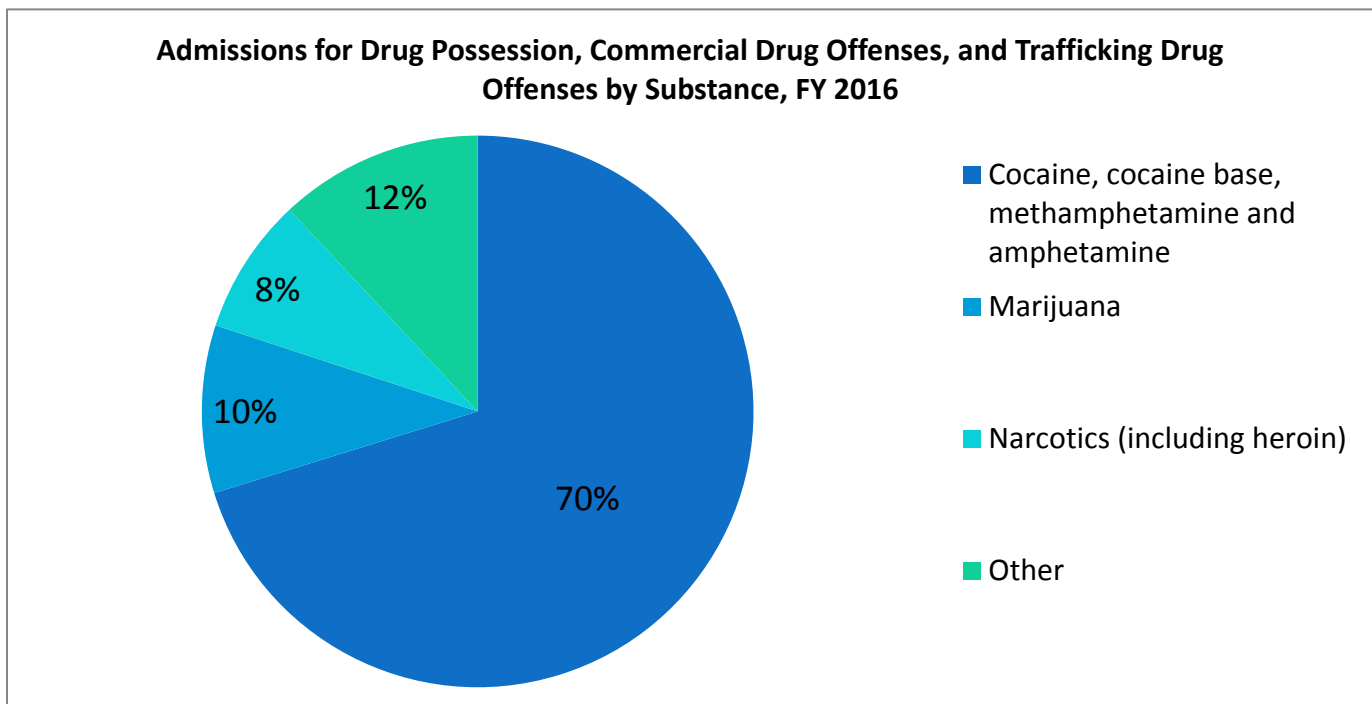
*See full side-by-side jurisdictional comparisons starting on page 19. An underlined number denotes a mandatory minimum.

Questions for Policy Development. —

Question #1: How can South Carolina restructure its drug policies to bring the state's thresholds differentiating possession, commercial, and trafficking offenses into line with those of neighboring states, as well as better differentiate between those involved in commercial drug activity to feed/support their own addiction and those involved as a profit-making venture?

- **Option A:** Increase the presumptive threshold differentiating possession and commercial drug crimes, and the threshold differentiating commercial and trafficking crimes to roughly half that of Alabama (excepting marijuana, for which Alabama does not have set weight thresholds).
- **Option B:** Increase the presumptive threshold differentiating possession and commercial drug crimes, and the threshold differentiating commercial and trafficking crimes to match that of Alabama (excluding marijuana), and differentiate sentences for PWID offenses from other types of commercial activity.

Question #2: Should penalties across drug crimes be restructured? Or should only certain drug penalties be amended? How should manufacture of methamphetamine be addressed?



**Not including manufacture of methamphetamine.*

Policy Options: Cocaine, Cocaine Base, Methamphetamine, Amphetamine*

Option A:

- Raises the presumptive threshold differentiating possession and commercial drug offenses to roughly half that of Alabama - 5g.
- Raises the threshold differentiating commercial and trafficking offenses to roughly half that of Alabama - 15g.
 - Accordingly adjusts subsequent trafficking sentences.

Option B:

- Raises the presumptive threshold differentiating possession and commercial drug offenses to match Alabama – 8g.
- Raises the threshold differentiating commercial and trafficking offenses to match that of Alabama – 28g.
- Differentiates sentences for PWID from sentences for other types of commercial drug activity (i.e. distribution, manufacture).

Offense	Distribution and Manufacture*	Possession with Intent to Distribute
1 st offense	0 – 15 years	0 – 10 years
2 nd offense	5 – 30 years	0 – 25 years
3 rd + offense, all priors possession:	10 – 30 years	5 – 25 years
3 rd + offense	<u>10</u> – 30 years	<u>5</u> – 25 years

- Accordingly adjusts possession offenses (such that they are lesser sentences than PWID offenses).

*Excepting manufacture of methamphetamine.

Policy Options: Cocaine, Cocaine Base, Methamphetamine, Amphetamine*

Weight	Current Law		Option A		Option B	
Amount	Amount	Sentence	Amount	Sentence	Amount	Sentence
0 to 1 g	0 – 1g	<i>Possession:</i> 1: 0 – 3 2: 0 – 5 3+: 0 – 10	0 – 5g	<i>Possession:</i> 1: 0 – 3 2: 0 – 5 3+: 0 – 10	0 – 8g	<i>Possession:</i> 1: 0 – 1 2: 0 – 3 3+: 0 – 5
1g to 2g	1 – 10g	<i>Commercial:</i> 1: 0 – 15 2: 5 – 30 3+, all priors possession: 10 – 30 3+: <u>10</u> – 30				
2g to 3g						
3g to 4g						
4g to 5g						
5g to 6g						
6g to 7g						
7g to 8g						
8g to 9g	10 – 28g	<i>Trafficking:</i> 1: <u>3</u> – 10 2: <u>5</u> – 30 3: <u>25</u> – 30	5 – 15g	<i>Commercial:</i> 1: 0 – 15 2: 5 – 30 3+, all priors possession: 10 – 30 3+: <u>10</u> – 30	8 – 28g	<i>PWID:</i> 1: 0 – 10 2: 0 – 25 3+, all priors possession: 5 – 25 3+: <u>5</u> – 25
9g to 10g						
10g to 11g						
11g to 12g						
12g to 13g						
13g to 14g						
14g to 15g						
15g to 16g	15g to 100g	<i>Trafficking:</i> 1: <u>3</u> – 10 2: <u>5</u> – 30 3: <u>25</u> – 30	<i>Dist. + Manf*</i> 1: 0 – 15 2: 5 – 30 3+, all priors possession: 10 – 30 3+: <u>10</u> – 30			
16g to 17g						
17g to 18g						
18g to 19g						
19g to 20g						
20g to 30g						
30g to 40g				28g to 100g	1: <u>7</u> – 25 2: <u>7</u> – 30 3+: <u>25</u> – 30	28g to 100g
40g to 50g						
50g to 60g						
60g to 70g						
70g to 80g						
80g to 90g						
90g to 100g						
100g to 200g	100g – 200g	<u>25</u>	100g – 200g	1: <u>7</u> – 25 2: <u>7</u> – 30 3+: <u>25</u> – 30	100g – 200g	1: <u>7</u> – 25 2: <u>7</u> – 30 3+: <u>25</u> – 30
200g to 300g	200g – 400g	<u>25</u>	200g – 400g	<u>25</u>	200g – 400g	<u>25</u>
300g to 400g						
400g+	400g+	<u>25</u> – 30	400g+	<u>25</u> to 30	400g+	<u>25</u> to 30

*Excepting manufacture of methamphetamine.

Policy Options: Narcotics (including heroin)

Option A:

- Raises the presumptive threshold differentiating possession and commercial drug offenses to 1g.
- Does not change the trafficking threshold or trafficking offenses (South Carolina's trafficking threshold – 4g – currently aligns with neighbor states).

Option B:

- Raises the presumptive threshold differentiating possession and commercial drug offenses to 2g to match Alabama.
- Does not change the trafficking threshold or trafficking offenses (South Carolina's trafficking threshold – 4g – currently aligns with neighbor states).
- Differentiates sentences for PWID from sentences for other types of commercial drug activity (i.e. distribution, manufacture).

Offense	Distribution and Manufacture	Possession with Intent to Distribute
1 st offense	0 – 15 years	0 – 10 years
2 nd offense	5 – 30 years	0 – 25 years
3 rd + offense, all priors possession:	10 – 30 years	5 – 25 years
3 rd + offense	<u>10</u> – 30 years	<u>5</u> – 25 years

Policy Options: Narcotics (including heroin)

Weight	South Carolina		Option A		Option B	
Weights	Amount	Sentence	Amount	Sentence	Amount	Sentence
0 to .1g	0 - 0.13g (2 grains) of heroin; 0 - .26g of opium or morphine (no weight threshold otherwise)	<i>Possession:</i> 1: 0 – 2 2: 0 – 5 3+: 0 – 5	0 – 1g	<i>Possession:</i> 1: 0 – 2 2: 0 – 5 3+: 0 – 5	0 – 2g	<i>Possession:</i> 1: 0 – 2 2: 0 – 5 3+: 0 – 5
.1g to .2g						
.2g to .4g	0.13g – 4g	<i>PWID:</i> 1: 0 – 15 years 2: 5 – 30 years 3+, all priors possession: 10 – 30 years 3+: <u>10</u> – 30 years	1g – 4g	<i>PWID:</i> 1: 0 – 15 years 2: 5 – 30 years 3+, all priors possession: 10 – 30 years 3+: <u>10</u> – 30 years	2g – 4g	<i>PWID:</i> 1: 0 – 10 2: 0 – 25 3+, all priors possession: 5 – 25 3+: <u>5</u> – 25 <i>Dist. + Manf</i> 1: 0 – 15 years 2: 5 – 30 years 3+, all priors possession: 10 – 30 years 3+: <u>10</u> – 30 years
.4g to .6g						
.6g to .8g						
.8g to .1g						
1g to 1.2g						
1.2g to 1.4g						
1.4g – 1.6g						
1.6g to 1.8g						
1.8g – 2g						
2g to 2.2g						
2.2g – 2.4g						
2.4g – 2.6g						
2.6g – 2.8g						
2.8g – 3g						
3g – 3.2g						
3.2g – 3.4g						
3.4g – 3.6g						
3.6 to 3.8g						
3.8g to 4g						
4g to 5g	4g – 14g	<i>Trafficking:</i> 1: <u>7</u> – 25 2+: <u>25</u>	4g – 14g	<i>Trafficking:</i> 1: <u>7</u> – 25 2+: <u>25</u>	4g – 14g	<i>Trafficking:</i> 1: <u>7</u> – 25 2+: <u>25</u>
5g to 6g						
6g to 7g						
7g to 8g						
8g to 9g						
9g to 10g						
10g to 20g	14g – 28g	Any: <u>25</u>	14g – 28g	Any: <u>25</u>	14g – 28g	Any: <u>25</u>
20g to 30g						
30g to 40g	28g+	Any: <u>25</u> – 40	28g+	Any: <u>25</u> – 40	28g+	Any: <u>25</u> – 40

South Carolina’s marijuana possession and possession with intent to distribute statutes in context with neighboring jurisdictions.—

Weight	South Carolina		Federal Government ¹⁰		North Carolina ¹¹		
	Amount	Sentence	Amount	Sentence	Amount	Sentence	
0 to 5g	0 – 28g	<i>Possession:</i> ¹² 1: 0 – 30 years 2+: 0 – 1 year	0 – 2 lbs (0 – 1kg)	0 – .5 years (1 – 1.5 years)	0 – 5g	<i>Possession:</i> No active incarceratory time. ¹³ <i>If sentenced as possession: no active incarceratory time.</i> ¹⁴ <i>If sentenced as PWID: apply sentences below.</i> ¹⁵	
5 to 10g							
10g to 20g							
20g to 30g							
30g to 40g	28g – 10lbs	<i>PWID:</i> ¹⁶ 1: 0 – 5 years 2: 0 – 10 years 3+, all priors possession: 5 – 20 years * F: <u>5</u> – 20 years			42g – 10lbs	<i>PWID:</i> ¹⁷ Minimal criminal history: .25 - .66 years Moderate criminal history: .33 - .83 years Severe criminal history: .5 – 1 year	
40g to 50g							
50g to 100g							
100g to 200g							
200g to 300g							
300g to 400g							
400g to 1lb							
1lb to 2lb							
2lb to 3lb					2lbs – 5lbs (1 – 2.5kg)		0 - .5 years (1.5 – 2 years)
3lb to 4lb							
4lb to 5lb					5lbs – 11lbs (2.5 – 5kg)		.5 – 1 year (2 – 2.5 years)
5lb to 6lb							
6lb to 7lb							
7lb to 8lb							
8lb to 9lb							
9lb to 10lb							
10lb+	10lb+	<i>Trafficking offenses</i> ¹⁸	10lb+	<i>Trafficking offenses</i>		10lb+	

South Carolina’s marijuana trafficking statutes in context with neighboring jurisdictions.—

Weight	South Carolina ²⁰		Federal Government ²¹		North Carolina ²²					
	Amount	Sentence	Amount	Sentence	Amount	Sentence				
10lb to 20lb	10lb – 100lb	1: <u>1</u> – 10 2: <u>5</u> – 20 3+: <u>25</u> years	11lbs – 22lbs (5 – 10kg)	.8 – 1.3 years (2.5 – 3 years)	10lb – 50lb	~2 – 3.25 years				
20lb to 30lb			22lbs – 45lbs (10 – 20kg)	1.25 – 1.75 (3 – 4 years)						
30lb to 40lb			45lbs - 88lbs (20 – 40kg)	1.75 – 2.25 years (4 – 4.75 years)						
40lb to 50lb										
50lb to 60lb										
60lb to 70lb			100 lb – 2,000 lb	<u>25</u> years			88lbs – 132lbs (40 – 60kg)	2.25 – 2.75 years (4.75 – 6 years)	50lb – 2,000lb	~3 – 4.25 years
70lb to 80lb										
80lb to 90lb										
90lb to 100lb							132 – 196lbs (60kg – 80kg)	2.75 – 3.5 years (6 – 7.25 years)		
100lb to 110lb										
110lb to 120lb										
120 lb to 130lb										
130lb to 140lb										
140lb to 150lb										
150lb to 160lb										
170lb to 180lb	<i>Provides more graduation at higher weights</i>	<i>9 additional weight thresholds spanning 3.5 years – life</i>								
190lb to 200lb										
200lb to 2,000lb										
2,000 to 10,000 lb	2,000lb – 10,000 lb	<u>25</u> years			2,000lb – 10,000 lb	~6 – 7.75 years				
10,000lb+	10,000lb+	<u>25</u> – 30 years			10,000lb+	~14.5 – 18.5 years				

Marijuana

Option A:

- *Raises the presumptive threshold differentiating possession and commercial drug offenses to 1lb.*
- *Raises the threshold differentiating commercial and trafficking offenses to 30lbs.*

Option B:

- *Raises the presumptive threshold differentiating possession and commercial drug offenses to 2.5lbs.*
- *Raises the threshold differentiating commercial and trafficking offenses to 60lbs.*
- *Differentiates sentences for PWID from sentences for other types of commercial drug activity (i.e. distribution, manufacture).*

<i>Offense</i>	<i>Distribution and Manufacture*</i>	<i>Possession with Intent to Distribute</i>
<i>1st offense</i>	<i>0 – 5 years</i>	<i>0 – 3 years</i>
<i>2nd offense</i>	<i>0 – 10 years</i>	<i>0 – 5 years</i>
<i>3rd+ offense, all priors possession:</i>	<i>5 – 20 years</i>	<i>5 – 15 years</i>
<i>3rd+ offense</i>	<i><u>5</u> – 20 years</i>	<i><u>5</u> – 15 years</i>

**Not including sentences for manufacture of methamphetamine.*

Alternative Option:

- *Maintain existing thresholds, while bringing South Carolina’s marijuana sentences into line with neighboring states.*

Policy Options: Marijuana

Weight	Current Law		Option A		Option B	
	Amount	Sentence	Amount	Sentence	Amount	Sentence
0 to 10g	0 – 28g	1: 0 – 30 years 2+: 0 – 1 year	0 – 1lb	1: 0 – 30 years 2+: 0 – 1 year	0 – 2.5lbs	1: 0 – 30 years 2+: 0 – 1 year
10g to 20g						
20g to 30g						
30g to 40g	28g – 10lbs	1: 0 – 5 years 2: 0 – 10 years 3+, all priors possession: 5 – 20 years * F: <u>5</u> – 20 years	1lb to 30lbs	1: 0 – 5 years 2: 0 – 10 years 3+, all priors possession: 5 – 20 years * F: <u>5</u> – 20 years	2.5lbs to 10lbs	<i>PWID:</i> 1: 0 – 3 years 2: 0 – 5 years 3+, all priors possession: 5 – 10 years 3+: <u>5</u> – 10 years <i>Dist. + Manf</i> 1: 0 – 5 years 2: 0 – 10 years 3+, all priors possession: 5 – 15 years * F: <u>5</u> – 15 years
40g to 50g						
50g to 100g						
100g to 200g						
200g to 300g						
300g to 400g						
400g to 1lb						
1lb to 2lb						
2lb to 3lb						
3lb to 4lb						
4lb to 5lb						
5lb to 6lb	10lb – 100lb	1: <u>1</u> – 10 2: <u>5</u> – 20 3+: <u>25</u> years	30lbs to 2,000lbs	1: <u>1</u> – 10 2: <u>5</u> – 20 3+: <u>25</u> years	60lbs – 2,000lbs	1: <u>1</u> – 10 2: <u>5</u> – 20 3+: <u>25</u> years
6lb to 7lb						
7lb to 8lb						
8lb to 9lb						
9lb to 10lb						
10lb to 20lb	100 lb – 2,000 lb	<u>25</u> years	2,000lb – 10,000 lb	<u>25</u> years	2,000lb – 10,000 lb	<u>25</u> years
20lb to 30lb						
30lb to 40lb						
40lb to 50lb						
50lb to 60lb						
60lb to 70lb						
70lb to 80lb						
80lb to 90lb						
90lb to 100lb						
100lb to 110lb						
110lb to 120lb						
120 lb to 130lb	10,000lb+	<u>25</u> – 30 years	10,000lb+	<u>25</u> – 30 years	10,000lb+	<u>25</u> – 30 years
130lb to 140lb						
140lb to 150lb						
150lb to 160lb						
160lb to 170lb						
170lb to 180lb						
180lb to 190lb						
190lb to 200lb						
200lb to 2,000lb						
2,000 to 10,000 lb						
10,000lb+						

South Carolina Sentences for Common Property Offenses in Context with Other Jurisdictions

In South Carolina, maximum sentences for common property crimes escalate significantly between the misdemeanor and the felony level (from a maximum of 30 days to a maximum of 5 years). A number of other states provide more graduation in their lowest felony levels.

Examples of states with more graduation in sentences for larceny crimes.—

Theft Amount	South Carolina ²³	Texas ²⁴	Wisconsin ²⁵
0 - \$500	<\$2,000 0 – 30 days (misd)	<\$2,500 0 – 1 year (misd)	≤\$2,500 0 – 1 year (misd)
\$500 - <\$1000			
\$1000 - <\$1500			
\$1500 - <\$2000			
\$2000 - <\$2500	\$2,000 – \$10,000 0 - 5 years	\$2,500 - \$30,000 180 days – 2 years	\$2,500 - \$5,000 0 – 3.5 years
\$2500 - <\$3000			
\$3000 - <\$3500			
\$3500 - <\$4000			
\$4000 - <\$4500			
\$4500 - <\$5000			
\$5000 - <\$5500			
\$5500 - <\$6000			
\$6000 – <\$6500			
\$6500 - <\$7000			
\$7000 - <\$7500			
\$7500 - <\$8000			
\$8000 – <\$8500			
\$8500 - <\$9000			
\$9000 - <\$9500	(Higher penalties for theft amounts higher than \$30,000.)	\$5,000 - \$10,000 0 – 6 years	
\$9500 - <\$10000			
\$10000+	>\$10,000 0 – 10 years	>\$10,000 0 – 10 years	>\$10,000 0 – 10 years

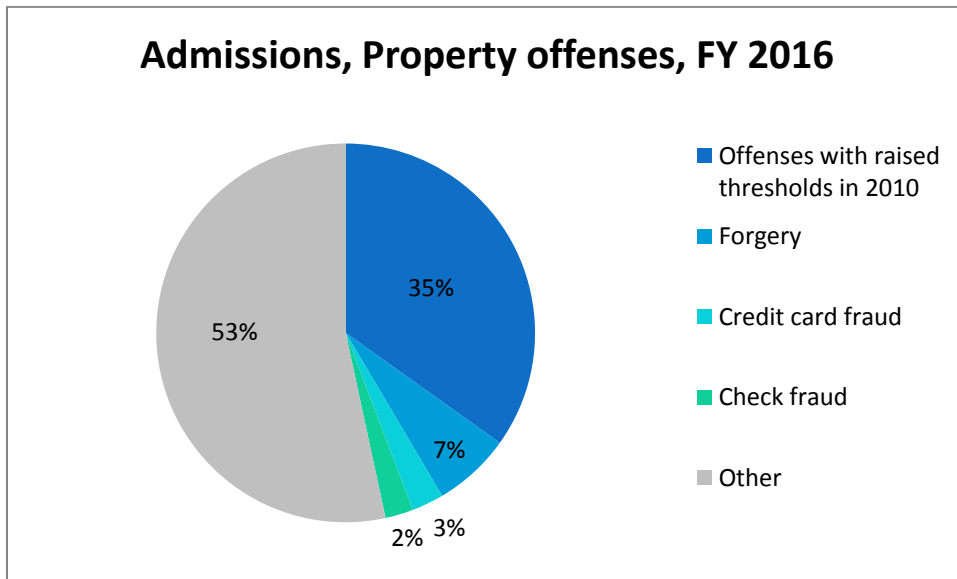
Questions for policy development. —

Question #1: How should the additional tier be penalized?

- Option A: Create an additional penalty tier between \$2,000 and \$5,000 with an accompanying sentence range of 0 to 1 year.
- Option B: Create an additional penalty tier between \$2,000 and \$5,000 with an accompanying sentence range of 0 to 3 years.

Question #2: What offenses should be affected by this policy?

- Group A: Theft, damage to property, and fraud offenses whose felony threshold level was raised to \$2,000 in 2010.
- Group B: Value-based check fraud offenses (i.e. passing checks with insufficient funds).
- Group C: Forgery.
- Group D: Value-based credit card fraud offenses.



Policy options for theft, damage to property, and fraud offenses whose felony threshold level was raised to \$2,000 in 2010:

Amount	South Carolina	Option A	Option B
\$1,000	(\$0 - \$2,000): 0 – 30 days	(\$0 - \$2,000): 0 – 30 days	(\$0 - \$2,000): 0 – 30 days
\$2,000			
\$3,000	(\$2,000 – \$10,000): 0 – 5 years	(\$2,000 - \$5,000): 0 – 1 year	(\$2,000 - \$5,000): 0 – 3 years
\$4,000			
\$5,000			
\$6,000		(5,000 - \$10,000): 0 – 5 years	(5,000 - \$10,000): 0 – 5 years
\$7,000			
\$8,000			
\$9,000			
\$10,000	(\$10,000+): 0 – 10 years	(\$10,000+): 0 – 10 years	(\$10,000+): 0 – 10 years
\$10,000+			

- Policy would carve out offenses with associated values of \$2,000 to \$5,000 and penalize them with a shorter maximum sentence.

Penalties would apply to the following crimes: malicious injury to animals or property (16-11-510); malicious injury to tree, house, fence or fixture (16-11-520); obtaining nonferrous metals unlawfully, disruption of communication or electrical service (16-11-523); forgery (16-13-10); larceny (petit and grand) (16-11-30); stealing of bonds and the like (16-11-40); stealing of livestock and the like (16-11-50); stealing vessels and equipment (16-11-70); shoplifting (16-3-110); receiving stolen goods (16-13-180); breach of trust with fraudulent intent (16-13-230); obtaining signature or property by false pretenses (16-13-240); obtaining property under false tokens or letters (16-13-260); failure to return rented objects (16-13-420); fraudulent acquisition of food stamps (16-13-430); receiving, possessing, concealing, or disposing of a stolen vehicle (16-21-80); unlawful sale or disposal of personal property subject to a security interest (39-9-410); presenting false claims for payment (38-55-170); damage to a lodging establishment (45-2-4(B)); stealing from a field (46-1-20); stealing a tobacco plant (46-1-40); stealing produce (46-1-60); commission merchants failing to account for product (46-1-70); and unlawful purchase or sale of drifted lumber or timber (49-1-50).

Policy options for check fraud offenses with an associated value (i.e. passing checks with insufficient funds):

Amount	South Carolina	Option A	Option B
\$500	(0 - \$1,000): 0 – 30 days	(0 - \$1,000): 0 – 30 days	(0 - \$1,000): 0 – 30 days
\$1,000			
\$2,000	(\$1,000+) 1: 0 – 2 years 2+: 30 days – 10 years	(\$1,000 - \$5,000): 0 – 1 year	(\$1,000 - \$5,000): 0 – 3 years
\$3,000			
\$4,000			
\$5,000		(\$5,000 - \$10,000): 0 – 5 years	(5,000 - \$10,000): 0 – 5 years
\$6,000			
\$7,000			
\$8,000			
\$9,000	(\$10,000+): 0 – 10 years*	(\$10,000+): 0 – 10 years*	
\$10,000			
\$10,000+			

- Policy would carve out offenses with associated values of \$1,000 to \$5,000 and penalize them with a shorter maximum sentence.
- *Policy would enhance sentences for high-value check-fraud offenses (those with associated values of \$10,000 or more) and raise the maximum penalty for those offenses to 10 years.

Penalties would apply to the the following crimes: uttering fraudulent checks (currently set at \$1,000), and stopping payment on check with intent to defraud (currently set at \$1,000).

Policy options for forgery.—

Amount	South Carolina	Option A	Option B
No \$	(No \$): 0 – 3 years	(No \$): 0 – 1 year*	(No \$): 0 – 3 years
\$1,000	(\$1 to \$10,000) F: 0 – 5 years	(\$0 to \$5,000) 0 – 1 year	(\$0 to \$5,000): 0 – 3 years
\$2,000			
\$3,000			
\$4,000			
\$5,000			
\$6,000			
\$7,000			
\$8,000			
\$9,000			
\$10,000			
\$10,000+	(10,000+) F: 0 – 10 years	(\$10,000+) F: 0 – 10 years	(\$10,000+) F: 0 – 10 years

- Policy would carve out offenses with associated values of under \$5,000 and penalize them with a shorter maximum sentence.
- *Pursuing option A (where the maximum penalty for the additional tier is 1 year) would necessitate ratcheting down maximum penalties for forgery crimes where there is not associated dollar amount to 1 year as well.

Penalties would apply to the following crime: forgery (16-13-10).

Policy options for value-based credit card fraud offenses.—

Amount	South Carolina		Option A		Option A	
	Financial Transaction Card Fraud	Criminally receiving goods	Financial Transaction Card Fraud	Criminally receiving goods	Financial Transaction Card Fraud	Criminally receiving goods
\$500	(0 - \$500): 0 – 1 year	(0 - \$1,000): 0 – 30 days	(0 - \$500): 0 – 30 days*	(0 - \$1,000) 0 – 30 days	(0 - \$500): 0 – 1 year	(0 - \$1,000) 0 – 30 days
\$1,000	(\$500+): 0 – 5 years	(\$1,000+): 0 – 5 years	(\$500 - \$5,000): 0 – 1 year	(\$1,000 - \$5,000): 0 – 1 year	(\$500 - \$5,000): 0 – 3 years	(\$1,000 - \$5,000): 0 – 3 years
\$2,000						
\$3,000						
\$4,000						
\$5,000						
\$6,000						
\$7,000						
\$8,000						
\$9,000						
\$10,000						
\$10,000+			(10,000+): 0 – 10 years**		(10,000+): 0 – 10 years**	

- Policy would carve out offenses with associated values of \$500/\$1,000 and \$5,000 and penalize them with a shorter maximum sentence.
- *Policy would necessitate ratcheting down maximum penalties for financial transaction card fraud offenses with values under \$500 to 30 days.
- **Policy would enhance sentences for high-value credit card fraud offenses (those with associated values of \$10,000 or more) and raise the maximum penalty to 10 years.

Penalties would apply to the following crimes: financial transaction card fraud (16-14-60) and criminally receiving goods and services fraudulently obtained (16-14-80).

South Carolina’s possession and possession with intent statutes in context with neighboring states (cocaine).—

State	South Carolina		Alabama		North Carolina	
Cocaine						
Amount	Amount	Sentence	Amount	Sentence	Crim. History	Sentence
0 to .1g	0 – 1g	<i>Possession:</i> ²⁶ 1: 0 – 3 years 2: 0 – 5 years 3+: 0 – 10 years	0 – 8g	<i>Possession:</i> ²⁷ Any: 0 – 2 years (and up to 3 years suspended over a term of probation)	<i>Possession</i> ²⁸	
.1g to .2g					Minimal criminal history	0.25 -0.66 years
.2g to .3g					Moderate criminal history	0.33 - 0.8 years
.3g to .4g						
.4g to .5g						
.5g to .6g					Serious criminal history	0.5 – 1 years
.6g to .7g						
.7g to .8g						
.8g to .9g						
.9g to 1g					1 – 10g	<i>PWID:</i> ²⁹ 1: 0 – 15 years 2: 5 – 30 years 3+, all priors possession: 10 – 30 years 3+: <u>10</u> – 30 years
1g to 2g	<i>PWID</i> ³⁰					
2g to 3g	Minimal criminal history	0.33 - 0.66 years				
3g to 4g						
4g to 5g	Moderate criminal history	0.5 – 1.5 years				
5g to 6g						
6g to 7g						
7g to 8g	Serious criminal history	1 - ~2 years				
8g to 9g						
9g to 10g						
10g to 20g	10 – 28g	<i>Trafficking:</i> ³² 1: <u>3</u> – 10 years 2: <u>5</u> – 30 years 3: <u>25</u> – 30 years	28g+	<i>Trafficking offenses</i>	28g+	<i>Trafficking offenses</i>
20g to 28g						
28g+	28g+	<i>Trafficking offenses</i>	28g+	<i>Trafficking offenses</i>	28g+	<i>Trafficking offenses</i>

South Carolina's possession and possession with intent to distribute statutes in context with neighboring states (heroin).—

State	South Carolina		Alabama		North Carolina	
Heroin						
Weights	Amount	Sentence	Amount	Sentence	Amount	Sentence
0 to .1g	0 - 0.13g (2 grains)	<i>Possession</i> ³³ : 1: 0 – 2 years 2: 0 – 5 years 3+: 0 – 5 years	0 – 2g	<i>Possession</i> ³⁴ : Any: 0 – 2 years (and up to 3 years suspended over a term of probation) ³⁵	<i>Possession</i> ³⁶	
.1g to .2g					Minimal criminal history	0.25 -0.66 years
.2g to .3g	0.13g – 4g	<i>PWID</i> ³⁷ : 1: 0 – 15 years 2: 5 – 30 years 3+, all priors possession: 10 – 30 years 3+: <u>10</u> – 30 years			Moderate criminal history	0.33 - 0.8 years
.4g to .5g					Serious criminal history	0.5 – 1 years
.5g to .6g						
.6g to .7g					<i>PWID</i> ³⁸	
.7g to .8g					Minimal criminal history	0.33 - 0.66 years
.8g to .9g					Moderate criminal history	0.5 – 1.5 years
.9g to 1g						
1g to 2g					2g – 4g	<i>PWID</i> ³⁹ : Any: 2 – 20 years
2g to 3g						
3g to 4g						
4g+	4g+	<i>Trafficking offenses</i>	4g+	<i>Trafficking offenses</i>	4g+	<i>Trafficking offenses</i>

South Carolina's possession and possession with intent statutes in context with neighboring states (meth).—

State	South Carolina		Alabama		North Carolina	
Methamphetamine						
Weights	Amount	Sentence	Amount	Sentence	Amount	Sentence
0 to .1g	0 – 1g	<i>Possession:</i> ⁴⁰ 1: 0 – 3 years 2: 0 – 5 years 3+: 0 – 10 years	0 – 8g	<i>Possession:</i> ⁴¹ 0 – 2 years (and up to 3 years suspended over a term of probation)	<i>Possession</i> ⁴²	
.1g to .2g					Minimal criminal history	.25 - .66 years
.2g to .3g					Moderate criminal history	.33 - .8 years
.4g to .5g					Serious criminal history	.5 – 1 years
.5g to .6g						
.6g to .7g						
.7g to .8g						
.8g to .9g						
.9g to 1g						
1g to 2g					1g – 10g	<i>PWID:</i> ⁴³ 1: 0 – 15 years 2: 5 – 30 years 3+, all priors possession: 10 – 30 years 3+: <u>10</u> – 30 years
2g to 3g	Minimal criminal history	33 - .66 years				
3g to 4g	Moderate criminal history	.5 – 1.5 years				
4g to 5g	Serious criminal history	1 - ~2 years				
5g to 6g						
6g to 7g						
7g to 8g						
8g to 9g						
9g to 10g						
10g to 20g	10g – 28g	<i>Trafficking:</i> ⁴⁶ 1: <u>3</u> – 10 years 2: <u>5</u> – 10 years 3: <u>25</u> – 30 years	28g+	<i>Trafficking offenses</i>		
20g to 28g						
28g+	28g+	<i>Trafficking offenses</i>	28g+	<i>Trafficking offenses</i>	28g+	<i>Trafficking offenses</i>

South Carolina’s trafficking statutes in context with neighboring states (cocaine).—

State	South Carolina ⁴⁷		Federal Government ⁴⁸		North Carolina ⁴⁹	
Cocaine						
Amount	Amount	Sentence	Amount	Sentence	Amount	Sentence
10g to 20g	10 – 28g	1: <u>3</u> – 10 years 2: <u>5</u> – 30 years 3: <u>25</u> – 30 years	<50 g	~0.8 - ~1.3 years (2.5 -~3 years)	<i>See page 5 for North Carolina’s penalties for weights of cocaine less than 28g.</i>	
20g to 30g						
30g to 40g	28g to 100g	1: <u>7</u> – 25 years 2: <u>7</u> – 30 years 3+: <u>25</u> – 30 years	50 – 100g	1.25 – 1.75 years (3 – ~4 years)	28g – 200g	Trafficking ~3 – 4.25 years
40g to 50g						
50g to 60g						
60g to 70g						
70g to 80g						
80g to 90g						
90g to 100g						
100g to 200g	100g – 200g	Any: <u>25</u> years	100 – 200g	1.75 – 2.25 years (~4 – 4.75 years)		
200g to 300g	200g – 400g	Any: <u>25</u> years	200 – 300g	2.25 - 2.75 years (4.75 – ~6 years)	200g – 400g	~6 – 7.75 years
300g to 400g			300 – 400g	2.75 –~3.5 years (~6 – 7.25))		
400g to 500g	400g+	Any: <u>25</u> – 30 years	400 – 500g	~3.5 – 4.25 years (7– 8.75 years)	400g+	175 – 222 months
500g+			500g+	<u>5 years</u> – life (tiered by additional weights) (With previous drug conviction, <u>10 year minimum</u>)		

South Carolina’s trafficking statutes in context with neighboring states (meth). —

State	South Carolina ⁵⁰		Federal Government ⁵¹		North Carolina ⁵²	
Methamphetamine						
Weights	Amount	Sentence	Amount	Sentence	Amount	Sentence
10g to 20g	10g – 28g	1: <u>3</u> – 10 years 2: <u>5</u> – 10 years 3: <u>25</u> – 30 years	10g – 20g	1.75 – 2.25 years (~4 – 4.75 years)	<i>See page 6 for North Carolina’s penalties for weights of methamphetamine less than 28g.</i>	
20g to 30g			20g – 30g	2.25 – 2.75 years (4.75 – ~6 years)		
30g to 40g	28g – 100g	1: 7 – 25 years 2: 7 – 30 years 3+: <u>25</u> – 30 years	30g – 40g	2.75 – ~3.5 years (~6 – 7.25)	28g – 200g	Any: ~6 – 7.75 years
40g to 50g			40g – 50g	~3.5 – 4.25 years (7– 8.75 years)		
50g to 60g			50g – 200g	5 years – 5.25 (~8– ~10.5 years) (With previous drug conviction, <u>10 year minimum</u>)		
60g to 70g						
70g to 80g						
80g to 90g						
90g to 100g						
100g to 200g			100g – 200g	Any: <u>25</u> years		
200g to 300g	200g – 400g	Any: <u>25</u> years	200g – 350g	5.25 – 6.5 years (<u>10</u> – 12.5) (With previous drug conviction, <u>10 year minimum</u>)	200g – 4000g	Any: 7.5 – 10 years
300g to 400g						
400g to 500g	400g+	Any: <u>25</u> – 30 years	350g – 500g	6.5 – ~8 years (~12 – ~14.5 years) (With previous drug conviction, <u>10 year minimum</u>)	400g+	Any: <u>18.75</u> – 23.5 years
500g+			500+	~8 years – life (tiered by additional weights) (With previous drug conviction, <u>10 year minimum</u>)		

South Carolina’s trafficking statutes in context with neighboring states (heroin). —

State	South Carolina ⁵³		Federal Government ⁵⁴		North Carolina ⁵⁵	
Heroin						
Weights	Amount	Sentence	Amount	Sentence	Amount	Sentence
4g to 5g	4g – 14g	1: <u>7</u> – 25 years 2+: <u>25</u> years	<10 g	~.8 - ~1.3 years (2.5 -~3 years)	4g – 14g	Any: <u>~6</u> - ~7.5 years
5g to 6g						
6g to 7g						
7g to 8g						
8g to 9g						
9g to 10g						
10g to 20g	14g – 28g	Any: <u>25</u> years	10g – 20g	1.25 – 1.75 years (3 – ~4 years)	14g – 28g	Any: <u>7.5</u> – 10 years
20g to 30g			20g – 40g	1.75 – 2.25 years (~4 – 4.75 years)		
30g to 40g	28g+	Any: <u>25</u> – 40 years	40g – 60g	2.25 - 2.75 years (4.75 – ~6 years)	28g+	Any: <u>~19</u> – 23.5 years
40g to 50g			60g – 80g	2.75 –~3.5 years (~6 – 7.25)		
50g to 60g			80g – 100g	~3.5 – 4.25 years (7– 8.75 years)		
60g to 70g			100g – 400g	<u>5</u> – 5.25 years (~8– ~10.5 years) (With previous drug conviction, <u>10 year minimum</u>)		
70g to 80g			400g – 700g	5.25 – 6.5 years (10 – 12.5 years) (With previous drug conviction, <u>10 year minimum</u>)		
80g to 90g						
90g to 100g						
100g to 200g						
200g to 300g						
300g to 400g						
400g+						

Endnotes

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- ¹ Does not include attempted armed robbery.
- ² Includes life sentences using a 40-year stand-in average; excludes YOA sentences.
- ³ Includes life sentences using a 40-year stand-in average; excludes YOA sentences.
- ⁴ S.C. Code Ann § 16-11-330(A).
- ⁵ N.C. Gen. Stat. § 14-87.
- ⁶ Va. Code Ann. § 18.2-58.
- ⁷ S.C. Code Ann § 16-11-311.
- ⁸ N.C. Gen. Stat. § 14-52.
- ⁹ Va. Code Ann. § 18.2-91.
- ¹⁰ United States Sentencing Commission, (2016) “2016 Guidelines Manual,” Chapter 2 –D, <https://www.ussc.gov/guidelines/2016-guidelines-manual/2016-chapter-2-d#NaN>; sentences in parentheses represent the maximum possible range for those offenders with significant criminal history.
- ¹¹ N.C. Gen. Stat. § 90-95(h)(3).
- ¹² S.C. Code Ann. § 44-53-370(d)(2).
- ¹³ N.C. Gen. Stat. § 90-95(d)(4).
- ¹⁴ N.C. Gen. Stat. § 90-95(d)(4).
- ¹⁵ N.C. Gen. Stat. § 90-95(b)(2).
- ¹⁶ S.C. Code Ann. § 44-53-370(b)(2).
- ¹⁷ N.C. Gen. Stat. § 90-95(b)(2).
- ¹⁸ S.C. Code Ann. § 44-53-370(e)(1).
- ¹⁹ N.C. Gen. Stat. § 90-95(h).
- ²⁰ S.C. Code Ann. § 44-53-370(e)(1).
- ²¹ United States Sentencing Commission, (2016) “2016 Guidelines Manual,” Chapter 2 –D, <https://www.ussc.gov/guidelines/2016-guidelines-manual/2016-chapter-2-d#NaN>; sentences in parentheses represent the maximum possible range for those offenders with significant criminal history.
- ²² N.C. Gen. Stat. § 90-95(h)(3).
- ²³ S.C. Code Ann. §16-13-30.
- ²⁴ Texas Code Ann. §31.03.
- ²⁵ Wis. Stat. Ann. § 943.20.
- ²⁶ S.C. Code Ann. § 44-53-370(d)(3).
- ²⁷ Code of Ala. § 13A-12-212.
- ²⁸ N.C. Gen. Stat. § 90-95(d)(2).
- ²⁹ S.C. Code Ann. § 44-53-370(b)(1); In South Carolina, weight of the controlled substances gives rise to an assumption of intent to distribute, though intent would still need to be proven at trial.
- ³⁰ N.C. Gen. Stat. § 90-95(b)(1).
- ³¹ Code of Ala. § 13A-12-211(c)(1).
- ³² S.C. Code Ann. § 44-53-370(e)(2).
- ³³ S.C. Code Ann. § 44-53-370(d)(1).
- ³⁴ Code of Ala. § 13A-12-212.
- ³⁵ Can also be sentenced as unlawful distribution of a controlled substance, if the defendant sells, furnishes, or delivers a controlled substance; Code of Ala. § 13A-12-211(a).
- ³⁶ N.C. Gen. Stat. § 90-95(d)(1).
- ³⁷ S.C. Code Ann. § 44-53-370(d)(1); In South Carolina, weight of the controlled substances gives rise to an assumption of intent to distribute, though intent would still need to be proven at trial.
- ³⁸ N.C. Gen. Stat. § 90-95(b)(1).
- ³⁹ Code of Ala. § 13A-12-211(c)(2).
- ⁴⁰ S.C. Code Ann. § 44-53-375(A).
- ⁴¹ Code of Ala. § 13A-12-212.
- ⁴² N.C. Gen. Stat. § 90-95(d)(2).
- ⁴³ S.C. Code Ann. § 44-53-375(B); In South Carolina, weight of the controlled substances gives rise to an assumption of intent to distribute, though intent would still need to be proven at trial.
- ⁴⁴ N.C. Gen. Stat. § 90-95(b)(1).
- ⁴⁵ Code of Ala. § 13A-12-211(c)(6).
- ⁴⁶ S.C. Code Ann. § 44-53-375(C).
- ⁴⁷ S.C. Code Ann. § 44-53-370(e)(2).
- ⁴⁸ United States Sentencing Commission, (2016) “2016 Guidelines Manual,” Chapter 2 –D, <https://www.ussc.gov/guidelines/2016-guidelines-manual/2016-chapter-2-d#NaN>.
- ⁴⁹ N.C. Gen. Stat. § 90-95(h)(3).
- ⁵⁰ S.C. Code Ann. § 44-53-375(C).
- ⁵¹ United States Sentencing Commission, (2016) “2016 Guidelines Manual,” Chapter 2 –D, <https://www.ussc.gov/guidelines/2016-guidelines-manual/2016-chapter-2-d#NaN>; sentences in parentheses represent the maximum possible range for those offenders with significant criminal history.
- ⁵² N.C. Gen. Stat. § 90-95(h)(3)(b).
- ⁵³ S.C. Code Ann. § 44-53-370(e)(3).
- ⁵⁴ United States Sentencing Commission, (2016) “2016 Guidelines Manual,” Chapter 2 –D, <https://www.ussc.gov/guidelines/2016-guidelines-manual/2016-chapter-2-d#NaN>; sentences in parentheses represent the maximum possible range for those offenders with significant criminal history..
- ⁵⁵ N.C. Gen. Stat. § 90-95(h)(4).