

CHAPTER 12.1-32 PENALTIES AND SENTENCING

12.1-32-01. Classification of offenses - Penalties.

Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

1. Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed. The court must designate whether the life imprisonment sentence imposed is with or without an opportunity for parole. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony and who receives a sentence of life imprisonment with parole, shall not be eligible to have that person's sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after that person's admission to the penitentiary.
2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of twenty thousand dollars, or both, may be imposed.
3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of twenty thousand dollars, or both, may be imposed.
4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.
5. Class A misdemeanor, for which a maximum penalty of imprisonment for three hundred sixty days, a fine of three thousand dollars, or both, may be imposed.
6. Class B misdemeanor, for which a maximum penalty of thirty days' imprisonment, a fine of one thousand five hundred dollars, or both, may be imposed.
7. Infraction, for which a maximum fine of one thousand dollars may be imposed. Any person convicted of an infraction who, within one year before commission of the infraction of which the person was convicted, has been convicted previously at least twice of the same offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint must specify the offense is a misdemeanor.

This section shall not be construed to forbid sentencing under section 12.1-32-09, relating to extended sentences.

12.1-32-01.1. Organizational fines.

Any organization, as defined in section 12.1-03-04, shall, upon conviction, be subject to a maximum fine in accordance with the following classification:

1. For a class A felony, a maximum fine of one hundred thousand dollars.
2. For a class B felony, a maximum fine of seventy thousand dollars.
3. For a class C felony, a maximum fine of fifty thousand dollars.
4. For a class A misdemeanor, a maximum fine of thirty thousand dollars.
5. For a class B misdemeanor, a maximum fine of twenty thousand dollars.

Nothing in this section shall be construed as preventing the imposition of the sanction provided for in section 12.1-32-03, nor as preventing the prosecution of agents of the organization under section 12.1-03-03.

12.1-32-02. Sentencing alternatives - Credit for time in custody - Diagnostic testing.

1. Every person convicted of an offense who is sentenced by the court must be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense or sentencing is deferred under subsection 4:
 - a. Payment of the reasonable costs of the person's prosecution.
 - b. Probation.
 - c. A term of imprisonment, including intermittent imprisonment:

- (1) In a state correctional facility in accordance with section 29-27-07, in a regional corrections center, or in a county jail, if convicted of a felony or a class A misdemeanor.
 - (2) In a county jail or in a regional corrections center, if convicted of a class B misdemeanor.
 - (3) In a facility or program deemed appropriate for the treatment of the individual offender, including available community-based or faith-based programs.
 - (4) In the case of persons convicted of an offense who are under eighteen years of age at the time of sentencing, the court is limited to sentencing the minor defendant to a term of imprisonment in the custody of the department of corrections and rehabilitation.
- d. A fine.
 - e. Restitution for damages resulting from the commission of the offense.
 - f. Restoration of damaged property or other appropriate work detail.
 - g. Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction, or mental disease or defect.
 - h. Commitment to a sexual offender treatment program.
 - i. Drug court program. A drug court is a district court supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and substance use disorder treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug court programs.
 - j. Veterans treatment docket. A veterans treatment docket is a district court supervised docket approved by the supreme court which combines judicial supervision with licensed treatment programs to treat substance use disorders, mental health conditions, behavioral health conditions, traumatic brain injuries, military sexual trauma, and co-occurring disorders. The supreme court may adopt rules, including rules of procedure, for veterans treatment dockets.
 - k. Completion of a restorative justice program. For purposes of this section, "restorative justice program" means a system of justice which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large.
 - l. Mental health court program. A mental health court is a district court supervised treatment program approved by the supreme court which combines judicial supervision with mental health services and treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for mental health court programs.

Except as provided by section 12.1-32-06.1, sentences imposed under this subsection may not exceed in duration the maximum sentences of imprisonment provided by section 12.1-32-01, section 12.1-32-09, or as provided specifically in a statute defining an offense. This subsection does not permit the unconditional discharge of an offender following conviction. A sentence under subdivision e or f must be imposed in the manner provided in section 12.1-32-08. If the person is sentenced to a term of imprisonment, the court may prohibit the person from contacting the victim during the term of imprisonment. For purposes of this subsection, "victim" means victim as defined in section 12.1-34-01.

2. Credit against any sentence to a term of imprisonment must be given by the court to a defendant for all time spent in custody as a result of the criminal charge for which the sentence was imposed or as a result of the conduct on which such charge was based. "Time spent in custody" includes time spent in custody in a jail or mental institution for the offense charged, whether that time is spent prior to trial, during trial, pending sentence, or pending appeal. The total amount of credit the defendant is entitled to for time spent in custody and any credit for sentence reduction under section 12-44.1-32 or 12-54.1-01 the defendant is entitled to must be stated in the criminal judgment.

3. A court may suspend the execution of all or a part of the sentence imposed. The court shall place the defendant on probation during the term of suspension.
4. A court, upon application or its own motion, may defer imposition of sentence. The court must place the defendant on probation during the period of deferment. An order deferring imposition of sentence is reviewable upon appeal from a verdict or judgment. In any subsequent prosecution, for any other offense, the prior conviction for which imposition of sentence is deferred may be pleaded and proved, and has the same effect as if probation had not been granted or the information or indictment dismissed under section 12.1-32-07.1.
5. A court may, prior to imposition of sentence, order the convicted offender committed to an appropriate licensed public or private institution for diagnostic testing for such period of time as may be necessary, but not to exceed thirty days. The court may, by subsequent order, extend the period of commitment for not to exceed thirty additional days. The court may also order such diagnostic testing without ordering commitment to an institution. Validity of a sentence must not be challenged on the ground that diagnostic testing was not performed pursuant to this subsection.
6. All sentences imposed must be accompanied by a written statement by the court setting forth the reasons for imposing the particular sentence. The statement must become part of the record of the case.
7. If an offender is sentenced to a term of imprisonment, that term of imprisonment commences at the time of sentencing, unless, upon motion of the defendant, the court orders the term to commence at some other time.
8. Unless otherwise specifically authorized in the statute defining the offense, a court may not include a minimum term of imprisonment as part of its sentence.
9. A person who is convicted of a felony and sentenced to imprisonment for not more than three hundred sixty days is deemed to have been convicted of a misdemeanor. However, if an order is entered revoking a term of probation that was imposed as part of a sentence, the person is deemed to have been convicted of a felony.
10. A court shall order a defendant to pay fifty dollars to the department of corrections and rehabilitation at the time a presentence investigation is initiated to partially defray the costs incurred by the department for the preparation of the presentence report. The court may also order that any additional costs incurred by the department relating to the presentence investigation and report be paid by the defendant at a rate of payment up to the full costs of conducting the investigation and preparing the report as established by the department.
11. Before sentencing a defendant on a felony charge under section 12.1-20-03, 12.1-20-03.1, 12.1-20-11, 12.1-27.2-02, 12.1-27.2-03, 12.1-27.2-04, or 12.1-27.2-05, a court shall order the department of corrections and rehabilitation to conduct a presentence investigation and to prepare a presentence report. A presentence investigation for a charge under section 12.1-20-03 must include a risk assessment. A court may order the inclusion of a risk assessment in any presentence investigation. In all felony or class A misdemeanor offenses, in which force, as defined in section 12.1-01-04, or threat of force is an element of the offense or in violation of section 12.1-22-02, or an attempt to commit the offenses, a court, unless a presentence investigation has been ordered, must receive a criminal record report before the sentencing of the defendant. Unless otherwise ordered by the court, the criminal record report must be conducted by the department of corrections and rehabilitation after consulting with the prosecuting attorney regarding the defendant's criminal record. The criminal record report must be in writing, filed with the court before sentencing, and made a part of the court's record of the sentencing proceeding.

12.1-32-02.1. Mandatory prison terms for armed offenders.

1. Notwithstanding any other provision of this title, a term of imprisonment must be imposed upon an offender and served without benefit of parole when:

- a. In the course of committing an offense, the offender inflicts or attempts to inflict bodily injury upon another, threatens or menaces another with imminent bodily injury with a dangerous weapon, explosive, destructive device, or firearm; or
 - b. An offender prohibited from possessing a firearm under section 62.1-02-01 possesses a firearm while in the course of committing any felony offense under subsection 1, 3, or 7 of section 19-03.1-23.
2. This requirement applies only when possession of a dangerous weapon, explosive, destructive device, or firearm has been charged and admitted or found to be true in the manner provided by law, and must be imposed as follows:
 - a. If the offense for which the offender is convicted is a class AA, class A, or class B felony, the court shall impose a minimum sentence of four years' imprisonment.
 - b. If the offense for which the offender is convicted is a class C felony, the court shall impose a minimum sentence of two years' imprisonment.
3. This section applies even when being armed is an element of the offense for which the offender is convicted.
4. This section applies even if the offender is prosecuted for a violation of section 62.1-02-01 for the same conduct.
5. An offender serving a sentence subject to this section may be eligible to participate in a release program under section 12-48.1-02 during the last six months of the offender's sentence.

12.1-32-02.2. Repayment of rewards paid by crimestoppers programs - Duties of attorney general - Qualified local programs - Disbursement of moneys collected.

1. After a defendant has been convicted of a felony, the court may order the defendant to repay all or part of any reward paid by a qualified local program. In determining whether the defendant must repay the reward or part of the reward, the court shall consider:
 - a. The ability of the defendant to make the payments, including any financial hardship that payment may cause to the defendant's dependents.
 - b. Whether the information that was reported to the qualified local program substantially contributed to the defendant being charged with the offense. To the extent allowed by law, the court shall respect the confidentiality of the records of the qualified local program.
2. "A qualified local program" means a program approved by the attorney general to receive repayment of rewards. The attorney general shall consider the organization, continuity, leadership, community support, and general conduct of the program to determine whether the repayments will be spent to further crime prevention purposes of the program. The attorney general also shall determine that the qualified local program provides rewards to persons who report information concerning criminal activity and whether that information substantially leads to defendants being charged with felonies.
3. If the court determines that a defendant is capable of repaying all or any part of a reward paid by a qualified local program, the judgment must include a statement of the amount owed, the identity of the qualified local program, and a schedule, if any, of payments to be made by the defendant. The clerk of court may establish an account within which to deposit repayments of rewards and at least quarterly shall pay over to each qualified local program the sums that have been collected for the benefit of that program.
4. A judgment that includes a repayment of reward, either alone or in conjunction with section 29-26-22, may be docketed and thereafter constitutes a lien upon the real estate of the defendant in the same manner as a judgment for money rendered in a civil action.

12.1-32-02.3. Mandatory sentences - Exceptions.

1. In addition to any other provision of law, when sentencing an individual convicted of a violation in chapter 19-03.1 for which there is a mandatory minimum sentence, the

court may depart from the applicable mandatory minimum sentence if the court, in giving due regard to the nature of the crime, history and character of the defendant, and the defendant's chances of successful rehabilitation, finds a compelling reason on the record that imposition of the mandatory minimum sentence would result in manifest injustice to the defendant and that the mandatory minimum sentence is not necessary for the protection of the public.

2. Subsection 1 does not apply if the individual is sentenced under section 12.1-32-02.1.
3. Upon departing from a mandatory minimum sentence, a judge shall report to the state court administrator who shall make available in electronic form and on the world wide web an annual report by July 1 of each year on the total number of departures from mandatory minimum sentences.

12.1-32-03. Special sanction for organizations.

When an organization is convicted of an offense, the court may, in addition to any other sentence which may be imposed, require the organization to give notice of its conviction to the persons or class of persons ostensibly harmed by the offense, by mail or by advertising in designated areas or by designated media or otherwise.

12.1-32-03.1. Procedure for trial of infraction - Incidents.

1. Except as provided in this subsection, all procedural provisions relating to the trial of criminal cases as provided in the statutes or rules relating to criminal procedure shall apply to the trial of a person charged with an infraction. A person charged with an infraction is not entitled to be furnished counsel at public expense nor to have a trial by jury unless the person may be subject to a sentence of imprisonment under subsection 7 of section 12.1-32-01.
2. Except as provided in this title, all provisions of law and rules of criminal procedure relating to misdemeanors shall apply to infractions, including, but not limited to, the powers of law enforcement officers, the jurisdiction of courts, the periods for commencing action and bringing a case to trial, and the burden of proof.
3. Following conviction of an infraction, the offender may be sentenced in accordance with subsection 1 of section 12.1-32-02, except that a term of imprisonment may not be imposed except in accordance with subsection 3 of section 12.1-32-05, or subsection 7 of section 12.1-32-01.
4. If a statute provides that conduct is an infraction without specifically including a requirement of culpability, no culpability is required.

12.1-32-04. Factors to be considered in sentencing decision.

The following factors, or the converse thereof where appropriate, while not controlling the discretion of the court, shall be accorded weight in making determinations regarding the desirability of sentencing an offender to imprisonment:

1. The defendant's criminal conduct neither caused nor threatened serious harm to another person or his property.
2. The defendant did not plan or expect that his criminal conduct would cause or threaten serious harm to another person or his property.
3. The defendant acted under strong provocation.
4. There were substantial grounds which, though insufficient to establish a legal defense, tend to excuse or justify the defendant's conduct.
5. The victim of the defendant's conduct induced or facilitated its commission.
6. The defendant has made or will make restitution or reparation to the victim of his conduct for the damage or injury which was sustained.
7. The defendant has no history of prior delinquency or criminal activity, or has led a law-abiding life for a substantial period of time before the commission of the present offense.
8. The defendant's conduct was the result of circumstances unlikely to recur.

9. The character, history, and attitudes of the defendant indicate that he is unlikely to commit another crime.
10. The defendant is particularly likely to respond affirmatively to probationary treatment.
11. The imprisonment of the defendant would entail undue hardship to himself or his dependents.
12. The defendant is elderly or in poor health.
13. The defendant did not abuse a public position of responsibility or trust.
14. The defendant cooperated with law enforcement authorities by bringing other offenders to justice, or otherwise cooperated.

Nothing herein shall be deemed to require explicit reference to these factors in a presentence report or by the court at sentencing.

12.1-32-04.1. Gross sexual imposition - Deferred imposition of sentence.

A person who violates subdivision d of subsection 1 or subdivision a of subsection 2 of section 12.1-20-03 may not receive a deferred imposition of sentence unless that person proves at sentencing by clear and convincing evidence that that person reasonably believed the victim to be fifteen years of age or older.

12.1-32-05. Imposition of fine - Response to nonpayment.

1. The court, in making a determination of the propriety of imposing a sentence to pay a fine, shall consider the following factors:
 - a. The ability of the defendant to pay without undue hardship.
 - b. Whether the defendant, other than a defendant organization, gained money or property as a result of commission.
 - c. Whether the sentence to pay a fine will interfere with the defendant's capacity to make restitution.
 - d. Whether a sentence to pay a fine will serve a valid rehabilitative purpose.
2. The court may allow the defendant to pay any fine imposed in installments. When a defendant is sentenced to pay a fine, the court shall not impose at the same time an alternative sentence to be served in the event that the fine is not paid.
3. If the defendant does not pay the fine, or make any required partial payment, the court, upon motion of the prosecuting attorney or on its own motion, may issue an order to show cause why the defendant should not be imprisoned for nonpayment. Unless the defendant shows that his default is excusable, the court may sentence him to the following periods of imprisonment for failure to pay a fine:
 - a. If the defendant was convicted of a misdemeanor, to a period not to exceed thirty days.
 - b. If the defendant was convicted of a felony, to a period not to exceed six months.

12.1-32-06. Incidents of probations.

Repealed by S.L. 1989, ch. 158, § 18.

12.1-32-06.1. Length and termination of probation - Additional probation for violation of conditions - Penalty.

1. Except as provided in this section, the length of unsupervised probation imposed in conjunction with a sentence to probation or a suspended execution or deferred imposition of sentence may not extend for more than five years for a felony and two years for a misdemeanor or infraction from the later of the date of:
 - a. The order imposing probation;
 - b. The defendant's release from incarceration; or
 - c. Termination of the defendant's parole.
2. Except as provided in this section, the length of supervised probation imposed in conjunction with a sentence of probation or a suspended execution or deferred imposition of sentence may not extend for more than five years for a felony offense subject to section 12.1-32-09.1, a felony offense subject to section 12.1-32-02.1, which

involves the use of a firearm or dangerous weapon, a second or subsequent violation of section 12.1-17-07.1, a second or subsequent violation of any domestic violence protection order, a violation of chapter 12.1-41, or a violation of section 14-09-22; three years for any other felony offense; two years for a class A misdemeanor; and three hundred sixty days for a class B misdemeanor offense from the later of the date of:

- a. The order imposing probation;
 - b. The defendant's release from incarceration; or
 - c. Termination of the defendant's parole.
3. If the defendant has pled or been found guilty of an offense for which the court imposes a sentence of restitution or reparation for damages resulting from the commission of the offense, the court may, following a restitution hearing pursuant to section 12.1-32-08, impose additional periods of unsupervised probation not to exceed five years for each additional period imposed.
 4. If the defendant has pled or been found guilty of a felony sexual offense in violation of chapter 12.1-20, the court shall impose at least five years but not more than ten years of supervised probation to be served after sentencing or incarceration. If the defendant has pled or been found guilty of a class AA felony sexual offense in violation of section 12.1-20-03 or 12.1-20-03.1, the court may impose lifetime supervised probation on the defendant. If the defendant has pled or been found guilty of a misdemeanor sexual offense in violation of chapter 12.1-20, the court may impose additional periods of probation not to exceed two years for each additional period imposed. If the unserved portion of the defendant's maximum period of incarceration is less than one year, a violation of the probation imposed under this subsection is a class A misdemeanor.
 5. If the defendant has pled or been found guilty of abandonment or nonsupport of spouse or children, the period of probation may be continued for as long as responsibility for support continues.
 6. In felony and misdemeanor cases, in consequence of violation of probation conditions, the court may impose additional probation if the defendant has not served the maximum sentence of imprisonment available to the court at the time of initial sentencing or deferment or the total time on probation authorized under this section.
 - a. For class B and greater felony offenses, an offense subject to section 12.1-32-09.1, a felony offense subject to section 12.1-32-02.1, which involves the use of a firearm or dangerous weapon, a second or subsequent violation of section 12.1-17-07.1, a second or subsequent violation of any domestic violence protection order, a violation of chapter 12.1-41, or a violation of section 14-09-22, the total time on probation may not exceed ten years.
 - b. For all other felony offenses, the total time on probation may not exceed five years.
 - c. For misdemeanor cases, the total time on probation may not exceed three years.
 - d. The court shall allow the defendant credit for a sentence of probation from the date the defendant began probation until the date a petition to revoke probation was filed with the court. If the defendant is on supervised probation, the defendant is not entitled to credit for a sentence of probation for any period the defendant has absconded from supervision. The total amount of credit a defendant is entitled to for time spent on probation must be stated in the criminal judgment or order of revocation of probation.
 7. The court may terminate a period of probation and discharge the defendant at any time earlier than that provided in subsection 1 if warranted by the conduct of the defendant and the ends of justice.
 8. Notwithstanding the fact that a sentence to probation subsequently can be modified or revoked, a judgment that includes such a sentence constitutes a final judgment for all other purposes.

12.1-32-07. Supervision of probationer - Conditions of probation - Revocation.

1. When the court imposes probation upon conviction for a felony offense subject to section 12.1-32-09.1 or 12.1-32-02.1, a second or subsequent violation of section

12.1-17-07.1, a second or subsequent violation of any domestic violence protection order, a violation of chapter 12.1-41, a violation of section 14-09-22, or a felony offense under chapter 39-08, the court shall place the defendant under the supervision and management of the department of corrections and rehabilitation. When the court imposes probation upon conviction or order of disposition in all other felony cases, the court may place the defendant under the supervision and management of the department of corrections and rehabilitation. In class A misdemeanor cases, the court may place the defendant under the supervision and management of the department of corrections and rehabilitation or other responsible party. In all other cases, the court may place the defendant under the supervision and management of a community corrections program other than the department of corrections and rehabilitation. A community corrections program means a program for the supervision of a defendant, including monitoring and enforcement of terms and conditions of probation set by the court.

2. The conditions of probation must be such as the court in its discretion deems reasonably necessary to ensure that the defendant will lead a law-abiding life or to assist the defendant to do so. The court shall provide as an explicit condition of every probation that the defendant not commit another offense during the period for which the probation remains subject to revocation. The court shall order supervision costs and fees of not less than fifty-five dollars per month unless the court makes a specific finding on record that the imposition of fees will result in an undue hardship. If the offender has not paid the full amount of supervision fees and costs before completion or termination of probation, the court may issue an order, after opportunity for hearing, to determine the amount of supervision fees and costs that are unpaid. The order may be filed, transcribed, and enforced by the department of corrections and rehabilitation in the same manner as civil judgments rendered by a district court of this state.
3. The court shall provide as an explicit condition of every probation that the defendant may not possess a firearm, destructive device, or other dangerous weapon while the defendant is on probation. Except when the offense is a misdemeanor offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-01.2, 12.1-17-05, or 12.1-17-07.1, or chapter 14-07.1, the court may waive this condition of probation if the defendant has pled guilty to, or has been found guilty of, a misdemeanor or infraction offense, the misdemeanor or infraction is the defendant's first offense, and the court has made a specific finding on the record before imposition of a sentence or a probation that there is good cause to waive the condition. The court may not waive this condition of probation if the court places the defendant under the supervision and management of the department of corrections and rehabilitation. The court shall provide as an explicit condition of probation that the defendant may not willfully defraud a urine test administered as a condition of probation. Unless waived on the record by the court, the court shall also provide as a condition of probation that the defendant undergo various agreed-to community constraints and conditions as intermediate measures of the department of corrections and rehabilitation to avoid revocation, which may include:
 - a. Community service;
 - b. Day reporting;
 - c. Curfew;
 - d. Home confinement;
 - e. House arrest;
 - f. Electronic monitoring;
 - g. Residential halfway house;
 - h. Intensive supervision program;
 - i. Up to five nonsuccessive periods of incarceration during any twelve-month period, each of which may not exceed forty-eight consecutive hours;
 - j. Participation in the twenty-four seven sobriety program; or
 - k. One period of incarceration during a period of probation not to exceed thirty consecutive days in lieu of a petition for revocation of probation.

4. When imposing a sentence to probation, probation in conjunction with imprisonment, or probation in conjunction with suspended execution or deferred imposition of sentence, the court may impose such conditions as it deems appropriate and may include any one or more of the following:
 - a. Work faithfully at a suitable employment or faithfully pursue a course of study or of career and technical education training that will equip the defendant for suitable employment.
 - b. Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
 - c. Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
 - d. Support the defendant's dependents and meet other family responsibilities.
 - e. Make restitution or reparation to the victim of the defendant's conduct for the damage or injury which was sustained or perform other reasonable assigned work. When restitution, reparation, or assigned work is a condition of probation, the court shall proceed as provided in subsection 1 or 2, as applicable, of section 12.1-32-08.
 - f. Pay a fine imposed after consideration of the provisions of section 12.1-32-05.
 - g. Refrain from excessive use of alcohol or any use of narcotics or of another dangerous or abusable drug without a prescription.
 - h. Permit the probation officer to visit the defendant at reasonable times at the defendant's home or elsewhere.
 - i. Remain within the jurisdiction of the court, unless granted permission to leave by the court or the probation officer.
 - j. Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.
 - k. Report to a probation officer at reasonable times as directed by the court or the probation officer.
 - l. Submit to a medical examination or other reasonable testing for the purpose of determining the defendant's use of narcotics, marijuana, or other controlled substance whenever required by a probation officer.
 - m. Refrain from associating with known users or traffickers in narcotics, marijuana, or other controlled substances.
 - n. Submit the defendant's person, place of residence, or vehicle to search and seizure by a probation officer at any time of the day or night, with or without a search warrant.
 - o. Serve a term of imprisonment of up to one-half of the maximum term authorized for the offense of which the defendant was convicted.
 - p. Reimburse the costs and expenses determined necessary for the defendant's adequate defense when counsel is appointed or provided at public expense for the defendant. When reimbursement of indigent defense costs and expenses is imposed as a condition of probation, the court shall proceed as provided in subsection 4 of section 12.1-32-08.
 - q. Provide community service for the number of hours designated by the court.
 - r. Refrain from any subscription to, access to, or use of the internet.
5. When the court imposes a sentence to probation, probation in conjunction with imprisonment, or probation in conjunction with suspended execution or deferred imposition of sentence, the defendant must be given a certificate explicitly setting forth the conditions on which the defendant is being released.
6. The court, upon notice to the probationer and with good cause, may modify or enlarge the conditions of probation at any time before the expiration or termination of the period for which the probation remains conditional. If the defendant violates a condition of probation at any time before the expiration or termination of the period, the court may continue the defendant on the existing probation, with or without modifying or enlarging the conditions, or may revoke the probation and impose any other sentence

that was available under section 12.1-32-02 or 12.1-32-09 at the time of initial sentencing or deferment.

7. The court may continue or modify probation conditions or revoke probation for a violation of probation conditions occurring before the expiration or termination of the period of probation notwithstanding that the order of the court is imposed after the expiration or termination has occurred. The petition for revocation must be issued within sixty days of the expiration or termination of probation.
8. Jurisdiction over a probationer may be transferred from the court that imposed the sentence to another court of this state with the concurrence of both courts. Retransfers of jurisdiction may also occur in the same manner. The court to which jurisdiction has been transferred under this subsection may exercise all powers permissible under this chapter over the defendant.
9. Notwithstanding any other provision of law, the court may authorize the defendant to assist law enforcement officers in an investigation of a criminal offense upon the terms and conditions as the court may require by written order. The court shall hold a hearing in camera before issuing an order under this subsection. The order must be sealed and is subject to inspection only upon order of the court.
10. The department of corrections and rehabilitation shall provide written notice to a defendant who is in the department's physical custody of any untried petition for revocation against the defendant of which the department has notice and of the defendant's right to make a request for final disposition of the petition.
 - a. Upon notice of an untried petition for revocation of probation, the defendant may request final disposition of the petition. The defendant's request must be in writing and name the court in which the petition for revocation of probation is pending and the prosecuting official charged with the duty of prosecuting the petition.
 - b. The defendant shall submit the request to the department. The department shall certify the term of commitment under which the defendant is being held, the time the defendant has served on the sentence, the time remaining to be served, sentence reduction credit the defendant has earned, the defendant's eligibility for parole, and whether the parole board has made a decision regarding the defendant's parole.
 - c. The department shall send by registered mail, return receipt requested, one copy of the request and certificate to the court and one copy to the prosecuting official to whom the request and certificate is addressed.
 - d. The petition for revocation of probation must be brought to the court for hearing within ninety days after the receipt of the request and certificate by the court and prosecuting official. If the petition is not brought to the court for hearing within the ninety days, the court shall dismiss the petition with prejudice.
 - e. The parties may stipulate for a continuance or the court may grant a continuance upon a showing of good cause by either party for a petition under this subsection.
 - f. If the defendant escapes from custody subsequent to the defendant's execution of a request for final disposition of a petition for revocation, the request is considered void.

12.1-32-07.1. Release, discharge, or termination of probation.

1. Whenever a person has been placed on probation and in the judgment of the court that person has satisfactorily met the conditions of probation, the court shall cause to be issued to the person a final discharge from further supervision.
2. Whenever a person has been placed on probation pursuant to subsection 4 of section 12.1-32-02, the court at any time, when the ends of justice will be served, and when reformation of the probationer warrants, may terminate the period of probation and discharge the person so held. A person convicted of gross sexual imposition under subdivision a of subsection 1 of section 12.1-20-03 is not entitled to early termination of probation pursuant to this section, unless the court finds after at least eight years of supervised probation that further supervision would impose a manifest injustice. Every defendant who has fulfilled the conditions of probation for the entire period, or who has

been discharged from probation prior to termination of the probation period, may at any time be permitted in the discretion of the court to withdraw the defendant's plea of guilty. The court may in its discretion set aside the verdict of guilty. In either case, the court may dismiss the information or indictment against the defendant. The court may, upon its own motion or upon application by the defendant and before dismissing the information or indictment, reduce to a misdemeanor a felony conviction for which the plea of guilty has been withdrawn or set aside. The defendant must then be released from all penalties and disabilities resulting from the offense or crime of which the defendant has been convicted except as provided by sections 12.1-32-15 and 62.1-02-01.

12.1-32-07.2. Records and filing of papers.

1. Whenever the court orders that a person convicted of a felony is to be placed on probation, the clerk of the court in which the order is entered immediately shall make full copies of the judgment or order of the court with the conditions of probation and shall certify the same to the director of parole and probation of the department of corrections and rehabilitation. Upon the disposition of any criminal case, the clerk of court shall transmit to the department of corrections and rehabilitation statistical data, in accordance with rules adopted by the department, regarding all defendants whether found guilty or discharged.
2. Whenever imposition of sentence is deferred and, pursuant to section 12.1-32-07.1, the plea of guilty is withdrawn by the defendant or the verdict of guilty is set aside by the court, the clerk of court shall file all papers, including the findings and final orders in proceedings under section 12.1-32-07.1, and shall note the date of filing on the papers. The records and papers are subject to examination by the clerk, a judge of the court, the juvenile commissioner, probation officers, the defendant or defendant's counsel, and the state's attorney. Others may examine the records and papers only upon the written order of a judge of the court.

12.1-32-07.3. When probationer deemed escapee and fugitive from justice.

A probationer is considered an escapee and a fugitive from justice if the probationer leaves the jurisdiction before the expiration of the probationary period without permission of the court or the department of corrections and rehabilitation.

12.1-32-07.4. Presumptive probation.

1. The sentencing court shall sentence an individual who has pled guilty to, or has been found guilty of, a class C felony offense or class A misdemeanor offense to a term of probation at the time of initial sentencing, except for an offense involving domestic violence; an offense subject to registration under section 12.1-32-15; an offense involving a firearm or dangerous weapon, explosive, or incendiary device; or if a mandatory term of incarceration is required by law.
2. The sentencing court may impose a sentence of imprisonment if the sentencing court finds there are aggravating factors present to justify a departure from presumptive probation. Aggravating factors include:
 - a. That the individual has plead guilty to, or has been found guilty of, a felony offense or class A misdemeanor offense prior to the date of the commission of the offense or offenses charged in the complaint, information, or indictment;
 - b. The age and vulnerability of the victim, whether the individual was in a position of responsibility or trust over the victim, or whether the individual abused a public position of responsibility or trust; or
 - c. If the individual used force, threats, or coercion in the commission of the offense.
3. This section does not preclude the sentencing court from deferring imposition of sentence in accordance with subsection 4 of section 12.1-32-02 or sentencing an individual to a term of incarceration with credit for time spent in custody if execution of the sentence is suspended.

12.1-32-08. Hearing prior to ordering restitution, reparation, or reimbursement of indigent defense costs and expenses - Conditions - Collection of restitution for insufficient funds checks - Continuing appropriation.

1. The court, when sentencing a person adjudged guilty of criminal activities that have resulted in pecuniary damages, in addition to any other sentence the court may impose, shall order that the defendant make restitution to the victim or other recipient as determined by the court. Restitution must include payment to the owner of real property that is contaminated by the defendant in the manufacturing of methamphetamine for the cost of removing the contamination and returning the property to the property's condition before contamination and to any other person that has incurred costs in decontaminating the property.
2. If the court has retained jurisdiction after the sentencing hearing for claims of restitution, to make a claim for restitution, the victim shall submit information by affidavit or declaration and, as applicable, documentary evidence within the time specified in the order. The information submitted must describe the items or elements of loss, itemize the total dollar amounts of restitution claimed, and present facts and evidence sufficient to support a finding the restitution is directly related to the offense and the amount awarded. The prosecutor shall serve the defendant with a copy of the information submitted by the victim no later than sixty days following sentencing.
3. The defendant may challenge restitution but must do so by requesting a hearing within thirty days of being served with the written notification of the amount of restitution requested. The hearing request must be made in writing and filed with the court. If no hearing is requested, the court may enter a judgment ordering restitution. A defendant may not challenge restitution after the thirty-day time period has passed.
4. In determining the amount of restitution, the court shall take into account the reasonable damages sustained by the victim or victims of the criminal offense, which damages are limited to those directly related to the criminal offense and expenses actually sustained as a direct result of the defendant's criminal action. This can include an amount equal to the cost of necessary and related professional services and devices relating to physical, psychiatric, and psychological care. The defendant may be required as part of the sentence imposed by the court to pay the prescribed treatment costs for a victim of a sexual offense as defined in chapters 12.1-20 and 12.1-27.2. The court shall fix the amount of restitution or reparation and shall fix the manner of performance of any condition or conditions of probation established pursuant to this subsection. The court may order the defendant to disclose income and assets on forms developed by the state court administrator to facilitate the setting of an appropriate payment plan. The court shall order restitution be paid to the division of adult services for any benefits the division has paid or may pay to the victim under chapter 54-23.4 unless the court, on the record, directs otherwise. Any payments made pursuant to the order must be deducted from damages awarded in a civil action arising from the same incident.
5. An order that a defendant make restitution or reparation as a sentence or condition of probation, unless the court directs otherwise, may be filed without filing fee, transcribed, and enforced by the person entitled to the restitution or reparation or by the division of adult services in the same manner as civil judgments rendered by the courts of this state may be enforced. Upon thirty days' written notice to the victim's last known address, the court may order the judgment imposing a duty to pay restitution or reparation be docketed in the same manner as a civil judgment under section 29-26-22.1.
6. When the restitution ordered by the court under subsection 1 is the result of a finding that the defendant issued a check or draft without sufficient funds or without an account, the court shall impose as costs the greater of the sum of ten dollars or an amount equal to twenty-five percent of the amount of restitution ordered. The costs imposed under this subsection, however, may not exceed one thousand dollars. The state-employed clerks of district court shall remit the funds collected as costs under this subsection to the state treasurer for deposit in the restitution collection assistance

fund. The funds deposited into the restitution collection assistance fund are appropriated to the judicial branch on a continuing basis for the purpose of defraying expenses incident to the collection of restitution, including operating expenses and the compensation of additional necessary personnel. The state's attorneys and county-employed clerks of district court shall remit the funds collected as costs under this subsection to the county treasurer to be deposited in the county general fund.

7. The court may order the defendant to perform reasonable assigned work as a condition of probation, which assigned work need not be related to the offense charged, but must not be solely for the benefit of a private individual other than the victim.
8. Under section 12.1-32-07, the court may order that the defendant reimburse indigent defense costs and expenses as a condition of probation.
 - a. Unless it finds that there is no likelihood that the defendant is or will be able to pay attorney's fees and expenses, the court, in its judgment of conviction, and in any order or amended judgment following a revocation or other postjudgment proceeding, shall notify the defendant, the defendant's probation officer, and the prosecuting attorney of the presumed amount of costs and expenses to be reimbursed, as determined by the commission on legal counsel for indigents, and of the right to a hearing on the reimbursement amount. The reimbursement amount must include an application fee imposed under section 29-07-01.1 if the fee has not been paid before disposition of the case and the court has not waived payment of the fee.
 - b. If the defendant or prosecutor requests a hearing within thirty days of receiving notice under this subdivision, the court shall schedule a hearing at which the actual amount of attorney's fees and expenses must be shown. In determining the amount and method of reimbursement, the court shall consider the financial resources of the defendant and the nature of the burden that reimbursement of costs and expenses will impose.
 - c. A defendant who is required to reimburse indigent defense costs and expenses as a condition of probation and who is not willfully in default in that reimbursement may at any time petition the court that imposed the condition to waive reimbursement of all or any portion of the costs and expenses. If the court is satisfied that reimbursement of the amount due will impose undue hardship on the defendant or the defendant's immediate family, the court may waive reimbursement of all or any portion of the amount due or modify the method of payment.
 - d. If at any time the court finds that the defendant is able to reimburse costs and expenses and has willfully failed to do so, the court may continue, modify, or enlarge the conditions of probation or revoke probation as provided in subsection 6 or 7, as applicable, of section 12.1-32-07.
9. If the court finds that the defendant is unable to pay a fine, supervision fee, reimbursement for indigent defense costs and expenses, or restitution or reparations, the court may order the defendant to perform reasonable assigned work in lieu of all or part of a fine, a supervision fee, reimbursement for indigent defense costs and expenses, or restitution or reparations. The defendant may not perform reasonable assigned work in lieu of restitution or reparations unless the person entitled to restitution or reparations has consented in writing or on the record.

12.1-32-09. Dangerous special offenders - Habitual offenders - Extended sentences - Procedure.

1. A court may sentence a convicted offender to an extended sentence as a dangerous special offender or a habitual offender in accordance with this section upon a finding of any one or more of the following:
 - a. The convicted offender is a dangerous, mentally abnormal person whose conduct has been characterized by persistent aggressive behavior and the behavior makes the offender a serious danger to other persons.

- b. The convicted offender is a professional criminal who has substantial income or resources derived from criminal activity.
- c. The convicted offender is a habitual offender. The court may not make such a finding unless the offender is an adult and has previously been convicted in any state or states or by the United States of two felonies of class C or above committed at different times when the offender was an adult. For the purposes of this subdivision, a felony conviction in another state or under the laws of the United States is considered a felony of class C or above if it is punishable by a maximum term of imprisonment of five years or more.
- d. The offender was convicted of an offense that seriously endangered the life of another person and the offender had previously been convicted of a similar offense.
- e. The offender is especially dangerous because the offender used a firearm, dangerous weapon, or destructive device in the commission of the offense or during the flight therefrom.

A conviction shown on direct or collateral review or at the hearing to be invalid or for which the offender has been pardoned on the ground of innocence must be disregarded for purposes of subdivision c. In support of findings under subdivision b, it may be shown that the offender has had control of income or property not explained as derived from a source other than criminal activity. For purposes of subdivision b, a substantial source of income means a source of income which for any period of one year or more exceeds the minimum wage, determined on the basis of a forty-hour week and a fifty-week year, without reference to exceptions, under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, for an employee engaged in commerce or in the production of goods for commerce, and which for the same period exceeds fifty percent of the offender's declared adjusted gross income under chapter 57-38.

- 2. The extended sentence may be imposed in the following manner:
 - a. If the offense for which the offender is convicted is a class A felony, the court may impose a sentence up to a maximum of life imprisonment.
 - b. If the offense for which the offender is convicted is a class B felony, the court may impose a sentence up to a maximum of imprisonment for twenty years.
 - c. If the offense for which the offender is convicted is a class C felony, the court may impose a sentence up to a maximum of imprisonment for ten years.
- 3. Whenever an attorney charged with the prosecution of a defendant in a court of this state for an alleged felony committed when the defendant was over the age of eighteen years has reason to believe that the defendant is a dangerous special offender or a habitual offender, the attorney, at a reasonable time before trial or acceptance by the court of a plea of guilty, may sign and file with the court, and may amend, a notice specifying that the defendant is a dangerous special offender or a habitual offender who upon conviction for the felony is subject to the imposition of a sentence under subsection 2, and setting out with particularity the reasons why the attorney believes the defendant to be a dangerous special offender or a habitual offender. In no case may the fact that the prosecuting attorney is seeking sentencing of the defendant as a dangerous special offender or a habitual offender be disclosed to the jury before a verdict. If the court finds that the filing of the notice as a public record may prejudice fair consideration of a pending criminal matter, the court may order the notice sealed and the notice is not subject to subpoena or public inspection during the pendency of the criminal matter, except on order of the court, but is subject to inspection by the defendant alleged to be a dangerous special offender or a habitual offender and the offender's counsel.
- 4. Upon any plea of guilty, or verdict or finding of guilt of the defendant of such felony, a hearing must be held, before sentence is imposed, in accordance with this subsection as follows:
 - a. By a jury, or the court if a jury is waived by the defendant, if the notice alleges that the defendant is a dangerous special offender under subdivision a, b, d, or e of

subsection 1. The jury, or the court if a jury is waived, must find that the defendant is a dangerous special offender under one or more of these subdivisions by proof beyond a reasonable doubt. However, in the case of a notice alleging only subdivision e of subsection 1, the trial jury, or the trial court if a jury is waived, may make a special finding of proof of this subdivision without an additional hearing subsequent to a verdict or finding of guilt.

- b. By the court if the notice alleges that the defendant is a habitual offender under subdivision c of subsection 1. The court must find that the defendant is a habitual offender by a preponderance of the evidence.
5. Except in the most extraordinary cases, the court shall obtain a presentence report and may receive a diagnostic testing report under subsection 5 of section 12.1-32-02 before holding a hearing under this subsection. The court shall fix a time for the hearing and notice thereof must be given to the defendant and the prosecution at least five days prior thereto. The court shall permit the prosecution and counsel for the defendant, or the defendant if the defendant is not represented by counsel, to inspect the presentence report sufficiently before the hearing as to afford a reasonable opportunity for verification. In extraordinary cases, the court may withhold material not relevant to a proper sentence, diagnostic opinion that might seriously disrupt a program of rehabilitation, any source of information obtained on a promise of confidentiality, and material previously disclosed in open court. A court withholding all or part of a presentence report shall inform the parties of its action and place in the record the reasons therefor. The court may require parties inspecting all or part of a presentence report to give notice of any part thereof intended to be controverted. In connection with the hearing, the defendant is entitled to compulsory process and cross-examination of such witnesses as appear at the hearing. A duly authenticated copy of a former judgment or commitment is prima facie evidence of such former judgment or commitment. If the jury or the court finds, after hearing, one or more of the grounds set forth in subsection 1, that the defendant is a dangerous special offender or a habitual offender, the court shall sentence the defendant to imprisonment for an appropriate term within the limits specified in subsection 2.

12.1-32-09.1. Sentencing of violent offenders.

1. Except as provided under section 12-48.1-02 and pursuant to rules adopted by the department of corrections and rehabilitation, an offender who is convicted of a crime in violation of section 12.1-16-01, 12.1-16-02, subsection 2 of section 12.1-17-02, section 12.1-18-01, subdivision a of subsection 1 or subdivision b of subsection 2 of section 12.1-20-03, section 12.1-22-01, subdivision b of subsection 2 of section 12.1-22-02, or an attempt to commit the offenses, and who receives a sentence of imprisonment is not eligible for release from confinement on any basis until eighty-five percent of the sentence imposed by the court has been served or the sentence is commuted.
2. In the case of an offender who is sentenced to a term of life imprisonment with opportunity for parole under subsection 1 of section 12.1-32-01, the term "sentence imposed" means the remaining life expectancy of the offender on the date of sentencing. The remaining life expectancy of the offender must be calculated on the date of sentencing, computed by reference to a recognized mortality table as established by rule by the supreme court.
3. Notwithstanding this section, an offender sentenced under subsection 1 of section 12.1-32-01 may not be eligible for parole until the requirements of that subsection have been met.
4. An offender who is convicted of a class C felony in violation of section 12.1-17-02, or an attempt to commit the offense, and who has received a sentence of imprisonment or a sentence of imprisonment upon revocation of probation before August 1, 2015, is eligible to have the offender's sentence considered by the parole board.
5. Notwithstanding subsection 4, this section does not apply to a sentence imposed upon revocation of probation.

12.1-32-10. Mandatory parole components.

Repealed by S.L. 1989, ch. 51, § 5.

12.1-32-11. Merger of sentences - Sentencing for multiple offenses.

1. Unless the court otherwise orders, when a person serving a term of commitment imposed by a court of this state is committed for another offense or offenses, the shorter term or the shorter remaining term shall be merged in the other term. When a person on probation or parole for an offense committed in this state is sentenced for another offense or offenses, the period still to be served on probation or parole shall be merged in any new sentence of commitment or probation. A court merging sentences under this subsection shall forthwith furnish each of the other courts previously involved and the penal facility in which the defendant is confined under sentence with authenticated copies of its sentence, which shall cite the sentences being merged. A court which imposed a sentence which is merged pursuant to this subsection shall modify such sentence in accordance with the effect of the merger.
2. Repealed by S.L. 1977, ch. 129, § 1.
3. When sentenced only for misdemeanors, a defendant may not be consecutively sentenced to more than one year, except that a defendant being sentenced for two or more class A misdemeanors may be subject to an aggregate maximum not exceeding that authorized by section 12.1-32-01 for a class C felony if each class A misdemeanor was committed as part of a different course of conduct or each involved a substantially different criminal objective.

12.1-32-12. Penalties, sentences, and parole for offenses unclassified and in other titles.

Where an offense is defined by a statute or by the constitution without specification of its classification pursuant to section 12.1-32-01, the offense is punishable as provided in the statute or constitutional provision defining it, or:

1. If the offense is declared to be a felony, without further specification of punishment, it is punishable as if it were a class C felony.
2. If the offense is declared to be a misdemeanor, without further specification of punishment, it is punishable as if it were a class A misdemeanor.

The sentencing alternatives available under section 12.1-32-02 are available to a court sentencing an offender for commission of an offense defined by a statute outside this title.

12.1-32-13. Minor convicted of felony - Sentencing.

Whenever a minor is convicted of a felony, the sentencing court may commit the person to the North Dakota youth correctional center as provided in this title. Provided, however, that a minor over the age of sixteen who is convicted of a felony may be sentenced to a penal institution or detention facility.

12.1-32-13.1. Juveniles - Sentencing - Reduction.

1. Notwithstanding any other provision of law, a court may reduce a term of imprisonment imposed upon a defendant convicted as an adult for an offense committed and completed before the defendant was eighteen years of age if:
 - a. The defendant has served at least twenty years in custody for the offense;
 - b. The defendant filed a motion for reduction in sentence; and
 - c. The court has considered the factors provided in this section and determined the defendant is not a danger to the safety of any other individual, and the interests of justice warrant a sentence modification.
2. A defendant whose sentence is reduced under this section must be ordered to serve a period of supervised release of at least five years upon release from imprisonment. The conditions of supervised release and any modification or revocation of the term of supervised release must be in accordance with this chapter.

3. When determining whether to reduce a term of imprisonment under this section, the court shall consider:
 - a. The factors provided in section 12.1-32-04, including the nature of the offense;
 - b. The age of the defendant at the time of the offense;
 - c. A report and recommendation from the department of corrections and rehabilitation, including information relating to the defendant's ability to comply with the rules of the institution and whether the defendant completed any educational, vocational, or other prison programming;
 - d. A report and recommendation from the state's attorney for any county in which the defendant was prosecuted;
 - e. Whether the defendant has demonstrated maturity, rehabilitation, and a fitness to re-enter society sufficient to justify a sentence reduction;
 - f. A statement by a victim or a family member of a victim who was impacted by the actions of the defendant;
 - g. A report of a physical, mental, or psychiatric examination of the defendant conducted by a licensed health care professional;
 - h. The defendant's family and community circumstances at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system;
 - i. The role of the defendant in the offense and whether an adult also was involved in the offense;
 - j. The diminished culpability of juveniles compared to adults and the level of maturity and failure to appreciate the risks and consequences; and
 - k. Any additional information the court determines relevant.
4. A defendant may make a second motion for a reduction in sentence under this section no earlier than five years after the initial motion for reduction.
5. A defendant may make a final motion for a reduction in sentence no earlier than five years after the order for a second motion was filed.

12.1-32-14. Restoration of property or other work to be required of certain offenders.

Other provisions of this chapter notwithstanding, whenever a person convicted of criminal mischief is placed on probation pursuant to section 12.1-32-02 or 12.1-32-07, the court shall include as a condition of that probation the requirement that the person perform restoration or other assigned work as specified in subdivision e of subsection 4 of section 12.1-32-07.

12.1-32-15. Offenders against children and sexual offenders - Sexually violent predators - Registration requirement - Penalty.

1. As used in this section:
 - a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.
 - b. "Department" means the department of corrections and rehabilitation.
 - c. "Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.
 - d. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that

- predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
- e. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.
 - f. "Reside" means to live permanently or be situated for a considerable time in a home or a particular place.
 - g. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1, 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and subdivision b of subsection 1 if the offense involves only a demand for money, chapter 12.1-27.2, subsection 2 of section 12.1-22-03.1, subdivision b of subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or 12.1-41-06, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.
 - h. "Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.
 - i. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.
2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city of the individual's place of residence, or the sheriff of the county if the individual resides in an area other than a city. A homeless individual shall register every three days with the sheriff or chief of police of the jurisdiction in which the individual is physically present. The court shall require an individual to register by stating this requirement on the court records, if that individual:
- a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.
 - b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - c. Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual

- offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
- e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that registration is warranted by the nature of the crime and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.
3. If a court has not ordered an individual to register in this state, an individual who resides, is homeless, or is temporarily domiciled in this state shall register if the individual:
 - a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
 - b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or
 - c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.
 4. In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.
 5. When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement, or the department, shall obtain the address where the individual expects to reside, attend school, or work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall send three copies to the attorney general no later than forty-five days before the scheduled release of that individual. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release, one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.
 6. An individual who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be informed of the duty to register under this section by the court in which that individual is convicted. The court shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register under this section has been explained to that individual. The court shall obtain the address where the individual expects to reside, attend school, or work upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the individual and shall send two copies to the

attorney general. The attorney general shall forward one copy to the appropriate law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release.

7. Registration consists of a written or electronic statement signed by the individual, giving the information required by the attorney general, and the biometric data and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized database of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, biometric data, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall register, within three days after the change, with the law enforcement agency having local jurisdiction of the individual's place of residence of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall register, at least ten days before the change, with the law enforcement agency having local jurisdiction of the individual's place of residence of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section, the individual shall register within three days of the termination with the law enforcement agency having local jurisdiction of the individual's place of residence. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register also shall register within three days at the law enforcement agency having local jurisdiction of the new place of residence. If an individual required to register in North Dakota, including in a tribal registry, resides in another state or on tribal lands, that individual shall register employment and school addresses and any changes in required registration information with the law enforcement agency having local jurisdiction over the school or employment address. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the biometric data portion of the registration if that agency has a set of biometric data on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.
8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:
 - a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;
 - b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from

- incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or
- c. For the life of the individual, if that individual:
- (1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;
 - (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or
 - (3) Is assigned a high risk by the attorney general as provided in subsection 12.
9. An individual required to register under this section who violates this section is guilty of a class C felony. The failure of a homeless individual to register as required in subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.
10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.
11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.
12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:
- a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.
 - b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.
 - c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.

- d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.
13. An individual assessed as a high-risk sexual offender in accordance with subsection 12, may not reside within five hundred feet [152.4 meters] of a public or nonpublic preschool or elementary, middle, or high school.
14. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:
- a. Is required to register for a lifetime under subsection 8;
 - b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or
 - c. Has been determined to be a high risk to the public by an agency of another state or the federal government.
- If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.
15. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.
16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of health and human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.
17. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.
18. A sexual offender who is currently assigned a moderate or high-risk level by the attorney general may not use a state park of this state as a residence or residential address to comply with the registration requirements of this section. Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high-risk level by the attorney general shall notify a parks and recreation department law enforcement officer at the state park where the sexual offender will be staying.
19. When an individual who is required to register pursuant to this section plans to travel outside of the United States, at least twenty-one days before the intended travel, the individual shall inform the agency with which the individual last registered the

individual's residence address the details of the intended travel. Upon receipt of the information from the registering law enforcement agency, the attorney general shall report the travel to the United States marshal service.

12.1-32-16. Restitution to be required of certain offenders - Penalty.

Notwithstanding any other provision in this chapter, whenever a person whose license has been suspended for nonpayment of child support under section 50-09-08.6 is convicted of engaging in activity for which the license was required, the court shall require as a condition of the sentence that the person pay restitution in the amount of two hundred fifty dollars, or a higher amount set by the court, as specified in subdivision e of subsection 4 of section 12.1-32-07. Any restitution ordered under this section must be paid to the state disbursement unit for distribution under section 14-09-25.

N.D. Cent. Code § 19-03.1-22.3

Section 19-03.1-22.3 - Ingesting a controlled substance - Venue for violation - Penalty

1. Except as provided in subsection 2, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor. This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana or tetrahydrocannabinol.
2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of a class B misdemeanor.
3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

N.D.C.C. § 19-03.1-22.3

Amended by S.L. 2021, ch. 172 (HB 1213), § 4, eff. 5/3/2021.

Amended by S.L. 2019, ch. 186 (HB 1050), § 2, eff. 8/1/2019.

Amended by S.L. 2017, ch. 164 (HB 1269), § 5, eff. 8/1/2017.

Amended by S.L. 2017, ch. 108 (HB 1041), § 10, eff. 4/21/2017.

CHAPTER 19-03.1 UNIFORM CONTROLLED SUBSTANCES ACT

19-03.1-01. Definitions.

As used in this chapter and in chapters 19-03.2 and 19-03.4, unless the context otherwise requires:

1. "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:
 - a. A practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or
 - b. The patient or research subject at the direction and in the presence of the practitioner.
2. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.
3. "Anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids.
4. "Board" means the state board of pharmacy.
5. "Bureau" means the drug enforcement administration in the United States department of justice or its successor agency.
6. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in this chapter.
7. "Controlled substance analog":
 - a. Means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in a schedule I or II and:
 - (1) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system which is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or
 - (2) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.
 - b. Does not include:
 - (1) A controlled substance;
 - (2) Any substance for which there is an approved new drug application; or
 - (3) With respect to a particular individual, any substance, if an exemption is in effect for investigational use, for that individual, under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct with respect to the substance is pursuant to the exemption.
8. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
9. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship.
10. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.
11. "Dispenser" means a practitioner who dispenses.

12. "Distribute" means to deliver other than by administering or dispensing a controlled substance.
13. "Distributor" means a person who distributes.
14. "Drug" means:
 - a. Substances recognized as drugs in the official United States pharmacopeia national formulary, or the official homeopathic pharmacopeia of the United States, or any supplement to any of them;
 - b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;
 - c. Substances, other than food, intended to affect the structure or any function of the body of individuals or animals; and
 - d. Substances intended for use as a component of any article specified in subdivision a, b, or c. The term does not include devices or their components, parts, or accessories.
15. "Immediate precursor" means a substance:
 - a. That the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;
 - b. That is an immediate chemical intermediary used or likely to be used in the manufacture of the controlled substance; and
 - c. The control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.
16. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance:
 - a. By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or
 - b. By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.
17. "Marijuana" means all parts of the plant of the genus cannabis, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant. The term does not include:
 - a. The tetrahydrocannabinol extracted or isolated from the plant;
 - b. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination;
 - c. Hemp as defined in chapter 4.1-18.1; or
 - d. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].
18. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
 - a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.
 - b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
 - c. Opium poppy and poppy straw.

- d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.
- 19. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term does not include, unless specifically designated as controlled under section 19-03.1-02, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes its racemic and levorotatory forms.
- 20. "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds.
- 21. "Over-the-counter sale" means a retail sale of a drug or product other than a controlled, or imitation controlled, substance.
- 22. "Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
- 23. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- 24. "Practitioner" means:
 - a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other person licensed, registered, or otherwise permitted by the jurisdiction in which the individual is practicing to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research.
 - b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.
- 25. "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.
- 26. "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by a person, whether as principal, proprietor, agent, servant, or employee.
- 27. "Scheduled listed chemical product" means a product that contains ephedrine, pseudoephedrine, or phenylpropanolamine, or each of the salts, optical isomers, and salts of optical isomers of each chemical, and that may be marketed or distributed in the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug unless prescribed by a licensed physician.
- 28. "State" when applied to a part of the United States includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States.
- 29. "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

19-03.1-01.1. Board - Agreements - Gifts.

- 1. In carrying out its duties under this chapter, the board shall consult with representatives of each of the following interests: North Dakota board of medicine, board of dental examiners, board of registry in podiatry, board of veterinary medical examiners, board of nursing, the college of pharmacy, and the school of medicine.
- 2. To carry out its duties under this chapter, the board may enter into agreements or memorandums of understanding with the interests named in subsection 1. Additionally, the board may contract for and accept private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources. The income received

from these sources must be spent for the purpose designated in the gift, grant, or donation.

19-03.1-02. Authority to control.

1. The board shall administer this chapter and may add substances to or delete or reschedule all substances enumerated in the schedules in sections 19-03.1-05, 19-03.1-07, 19-03.1-09, 19-03.1-11, or 19-03.1-13 pursuant to the procedures of chapter 28-32. In making a determination regarding a substance, the board shall consider the following:
 - a. The actual or relative potential for abuse;
 - b. The scientific evidence of its pharmacological effect, if known;
 - c. The state of current scientific knowledge regarding the substance;
 - d. The history and current pattern of abuse;
 - e. The scope, duration, and significance of abuse;
 - f. The risk to the public health;
 - g. The potential of the substance to produce psychic or physiological dependence liability; and
 - h. Whether the substance is an immediate precursor of a substance already controlled under this chapter.
2. After considering the factors enumerated in subsection 1, the board shall make findings with respect thereto and issue a rule controlling the substance if it finds the substance has a potential for abuse.
3. If the board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor are not subject to control solely because they are precursors of the controlled precursor.
4. If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the board, the board shall similarly control the substance under this chapter after the expiration of thirty days from publication in the federal register of a final order designating a substance as a controlled substance or rescheduling, or deleting a substance, unless within that thirty-day period, the board objects to inclusion, rescheduling, or deletion. In that case, the board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall publish its decision, which is final unless altered by statute. Upon publication of objection to inclusion, rescheduling, or deletion under this chapter by the board, control under this chapter is stayed until the board publishes its decision.
5. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in title 5.

19-03.1-03. Nomenclature.

The controlled substances listed or to be listed in the schedules in sections 19-03.1-05, 19-03.1-07, 19-03.1-09, 19-03.1-11, and 19-03.1-13 are included by whatever official, common, usual, chemical, or trade name designated.

19-03.1-04. Schedule I tests.

The board shall place a substance in schedule I if it finds that the substance:

1. Has high potential for abuse; and
2. Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

19-03.1-05. Schedule I.

1. The controlled substances listed in this section are included in schedule I.
2. Schedule I consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

3. Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:
- a. Acetylmethadol.
 - b. Allylprodine.
 - c. Alphacetylmethadol.
 - d. Alphameprodine.
 - e. Alphamethadol.
 - f. Benzethidine.
 - g. Betacetylmethadol.
 - h. Betameprodine.
 - i. Betamethadol.
 - j. Betaprodine.
 - k. Brorphine.
 - l. Clonitazene.
 - m. Dextromoramide.
 - n. Diampromide.
 - o. Diethylthiambutene.
 - p. Difenoxin.
 - q. Dimenoxadol.
 - r. Dimepheptanol.
 - s. Dimethylthiambutene.
 - t. Dioxaphetyl butyrate.
 - u. Dipipanone.
 - v. Ethylmethylthiambutene.
 - w. Etonitazene.
 - x. Etoxeridine.
 - y. Furethidine.
 - z. Hydroxypethidine.
 - aa. Isotonitazene (also known as N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine).
 - bb. Ketobemidone.
 - cc. Levomoramide.
 - dd. Levophenacymorphan.
 - ee. Morpheridine.
 - ff. MPPP (also known as 1-methyl-4-phenyl-4-propionoxypiperidine).
 - gg. Noracymethadol.
 - hh. Norlevorphanol.
 - ii. Normethadone.
 - jj. Norpipanone.
 - kk. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-acetoxypiperidine).
 - ll. Phenadoxone.
 - mm. Phenampromide.
 - nn. Phenomorphan.
 - oo. Phenoperidine.
 - pp. Piritramide.
 - qq. Proheptazine.
 - rr. Properidine.
 - ss. Propiram.
 - tt. Racemoramide.
 - uu. Tilidine.
 - vv. Trimeperidine.
 - ww. 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-47700).
 - xx. 1-cyclohexyl-4-(1,2-diphenylethyl)piperazine (also known as MT-45).

- yy. 3,4-dichloro-*N*-{[1-(dimethylamino)cyclohexyl]methyl}benzamide (also known as AH-7921).
- zz. Zipeprol.
- aaa. 2-(2-(4-butoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-*N,N*-diethylethan-1-amine (also known as Butonitazene).
- bbb. 2-(2-(4-ethoxybenzyl)-1H-benzimidazol-1-yl)-*N,N*-diethylethan-1-amine (also known as Etodesnitazene and etazene).
- ccc. *N,N*-diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine (also known as Flunitazene).
- ddd. *N,N*-diethyl-2-(2-(4-methoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine (also known as Metodesnitazene).
- eee. *N,N*-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine (also known as Metonitazene).
- fff. 2-(4-ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1H-benzimidazole (also known as *N*-Pyrrolidino Etonitazene and Etonitazepyne).
- ggg. *N,N*-diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine (also known as Protonitazene).
- hhh. Fentanyl derivatives. Unless specifically excepted or unless listed in another schedule or are not FDA approved drugs, and are derived from *N*-(1-(2-Phenylethyl)-4-piperidiny)-*N*-phenylpropanamide (Fentanyl) by any substitution on or replacement of the phenethyl group, any substitution on the piperidine ring, any substitution on or replacement of the propanamide group, any substitution on the anilido phenyl group, or any combination of the above. Examples include:
 - (1) *N*-[1-(1-methyl-2-phenethyl)-4-piperidiny]-*N*-phenylacetamide (also known as Acetyl-alpha-methylfentanyl).
 - (2) *N*-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(*N*-propanilido)piperidine (also known as Alpha-methylfentanyl).
 - (3) *N*-[1-methyl-2-(2-thienyl)ethyl-4-piperidiny]-*N*-phenylpropanamide (also known as Alpha-methylthiofentanyl).
 - (4) *N*-[1-(2-hydroxy-2-phenethyl)-4-piperidiny]-*N*-phenylpropanamide (also known as Beta-hydroxyfentanyl).
 - (5) *N*-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-*N*-phenylpropanamide (also known as Beta-hydroxy-3-methylfentanyl).
 - (6) *N*-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-*N*-phenylpropanamide (also known as 3-Methylfentanyl).
 - (7) *N*-[3-methyl-1-(2-thienyl)ethyl-4-piperidiny]-*N*-phenylpropanamide (also known as 3-Methylthiofentanyl).
 - (8) *N*-(4-fluorophenyl)-*N*-[1-(2-phenethyl)-4-piperidiny]propanamide (also known as Para-fluorofentanyl).
 - (9) *N*-phenyl-*N*-[1-(2-thienyl)ethyl-4-piperidiny]propanamide (also known as Thiofentanyl).
 - (10) *N*-(1-phenylethylpiperidin-4-yl)-*N*-phenylfuran-2-carboxamide (also known as Furanyl Fentanyl).
 - (11) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutyramide; *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutanamide (also known as Butyryl Fentanyl).
 - (12) *N*-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-*N*-phenylpropionamide; *N*-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidiny]-*N*-phenylpropanamide (also known as Beta-Hydroxythiofentanyl).
 - (13) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide (also known as Acetyl Fentanyl).
 - (14) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacrylamide (also known as Acryl Fentanyl).
 - (15) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylpentanamide (also known as Valeryl Fentanyl).

- (16) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (also known as 4-Fluoroisobutyryl Fentanyl).
 - (17) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide (also known as Ortho-fluorofentanyl, 2-Fluorofentanyl).
 - (18) N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (also known as Tetrahydrofuranyl Fentanyl).
 - (19) 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (also known as Methoxyacetyl Fentanyl).
 - (20) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (also known as Cyclopropyl Fentanyl).
 - (21) N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide (also known as Ocfentanil).
 - (22) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide (also known as Cyclopentyl Fentanyl).
 - (23) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide (also known as Isobutyryl Fentanyl).
 - (24) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (also known as Para-chloroisobutyryl Fentanyl).
 - (25) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (also known as Para-methoxybutyryl Fentanyl).
 - (26) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (also known as Para-fluorobutyryl Fentanyl).
 - (27) N-(1-(2-fluorophenethyl)piperidin-4-yl)-N-(2-fluorophenyl)propionamide (also known as 2'-fluoro Ortho-fluorofentanyl; 2'-fluoro 2-fluorofentanyl).
 - (28) N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide (also known as Ortho-methyl Acetylfentanyl; 2-methyl acetylfentanyl).
 - (29) N-(1-phenethylpiperidin-4-yl)-N,3-diphenylpropanamide (also known as Beta'-phenyl Fentanyl; 3-phenylpropanoyl fentanyl and Hydrocinnamoyl Fentanyl).
 - (30) N-(1-phenethylpiperidin-4-yl)-N-phenylthiophene-2-carboxamide (also known as Thiofuranyl Fentanyl; 2-thiofuranyl fentanyl; thiophene fentanyl).
 - (31) (E)-N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide (also known as Crotonyl Fentanyl).
 - (32) N-(1-(4-methylphenethyl)piperidin-4-yl)-N-phenylacetamide (4'-methyl acetyl fentanyl).
 - (33) N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)propionamide (beta-methyl fentanyl).
 - (34) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (ortho-fluorobutyryl fentanyl; 2-fluorobutyryl fentanyl).
 - (35) 2-methoxy-N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide (ortho-methyl methoxyacetylfentanyl; 2-methyl methoxyacetyl fentanyl).
 - (36) N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)propionamide (para-methylfentanyl; 4-methylfentanyl).
 - (37) N-(1-phenethylpiperidin-4-yl)-N-phenylbenzamide (phenyl fentanyl; benzoyl fentanyl).
 - (38) Ethyl (1-phenethylpiperidin-4-yl)(phenyl)carbamate (fentanyl carbamate).
 - (39) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)acrylamide (ortho-fluoroacryl fentanyl).
 - (40) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (ortho-fluoroisobutyryl fentanyl).
 - (41) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide (para-fluoro furanyl fentanyl).
4. Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- a. Acetorphine.
 - b. Acetyldihydrocodeine.
 - c. Benzylmorphine.
 - d. Codeine methylbromide.
 - e. Codeine-N-Oxide.
 - f. Cyprenorphine.
 - g. Desomorphine.
 - h. Dihydromorphine.
 - i. Drotebanol.
 - j. Etorphine (except hydrochloride salt).
 - k. Heroin.
 - l. Hydromorphanol.
 - m. Methyldesorphine.
 - n. Methyldihydromorphine.
 - o. Morphine methylbromide.
 - p. Morphine methylsulfonate.
 - q. Morphine-N-Oxide.
 - r. Myrophine.
 - s. Nicocodeine.
 - t. Nicomorphine.
 - u. Normorphine.
 - v. Pholcodine.
 - w. Thebacon.
5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers):
- a. Alpha-ethyltryptamine, its optical isomers, salts, and salts of isomers (also known as etryptamine; α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole).
 - b. Alpha-methyltryptamine.
 - c. 4-methoxyamphetamine (also known as 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine; PMA).
 - d. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy- α -methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA).
 - e. Ibogaine (also known as 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5 H-pyrido [1', 2':1,2] azepino (5,4-b) indole; Tabernanthe iboga).
 - f. Lysergic acid diethylamide.
 - g. Marijuana.
 - h. Parahexyl (also known as 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl-6H-dibenzol[b,d]pyran; Synhexyl).
 - i. Peyote (all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or its extracts).
 - j. N-ethyl-3-piperidyl benzilate.
 - k. N-methyl-3-piperidyl benzilate.
 - l. Psilocybin.
 - m. (1) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant; such as the following:

- (a) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers.
Other names: Delta-9-tetrahydrocannabinol.
 - (b) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.
Other names: Delta-8-tetrahydrocannabinol.
 - (c) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)
- (2) Tetrahydrocannabinols do not include:
 - (a) The allowable amount of total tetrahydrocannabinol found in hemp or an allowed hemp commodity or product as defined in chapter 4.1-18.1; or
 - (b) A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].
- n. Cannabinoids, synthetic. It includes the chemicals and chemical groups listed below, including their homologues, salts, isomers, and salts of isomers. The term "isomer" includes the optical, position, and geometric isomers.
 - (1) Indole acetamides. Any compound structurally derived from 1H-indole-3-acetamide or 1H-2-acetamide substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydrogen of the acetamide by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:
 - (a) Substitution to the indole ring to any extent; or
 - (b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group to any extent; or
 - (c) A nitrogen heterocyclic analog of the indole ring; or
 - (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
 - (e) Examples include:
 - [1] N-cyclohexyl-2-(1-pentylindol-3-yl)acetamide - Other names: CH-PIATA, Cyclohexyl-PIATA, CHX-PIATA, CH-PIACA, and CHX-PIACA.
 - [2] N-cyclohexyl-2-[1-[(4-fluorophenyl)methyl]indol-3-yl]acetamide - Other names: CH-FUBIATA and CH-FUBIACA.
 - [3] 2-[[2-[1-[(4-fluorophenyl)methyl]indol-3-yl]acetyl]amino]-3,3-dimethyl-butanamide - Other names: ADB-FUBIATA, FUB-ACADB, and AD-18.
 - (2) Indole carboxaldehydes. Any compound structurally derived from 1H-indole-3-carboxaldehyde or 1H-2-carboxaldehyde substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydrogen of the carboxaldehyde by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:
 - (a) Substitution to the indole ring to any extent; or

- (b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
- (e) Examples include:
 - [1] 1-Pentyl-3-(1-naphthoyl)indole - Other names: JWH-018 and AM-678.
 - [2] 1-Butyl-3-(1-naphthoyl)indole - Other names: JWH-073.
 - [3] 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole - Other names: JWH-081.
 - [4] 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole - Other names: JWH-200.
 - [5] 1-Propyl-2-methyl-3-(1-naphthoyl)indole - Other names: JWH-015.
 - [6] 1-Hexyl-3-(1-naphthoyl)indole - Other names: JWH-019.
 - [7] 1-Pentyl-3-(4-methyl-1-naphthoyl)indole - Other names: JWH-122.
 - [8] 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole - Other names: JWH-210.
 - [9] 1-Pentyl-3-(4-chloro-1-naphthoyl)indole - Other names: JWH-398.
 - [10] 1-(5-fluoropentyl)-3-(1-naphthoyl)indole - Other names: AM-2201.
 - [11] 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole - Other names: RCS-8.
 - [12] 1-Pentyl-3-(2-methoxyphenylacetyl)indole - Other names: JWH-250.
 - [13] 1-Pentyl-3-(2-methylphenylacetyl)indole - Other names: JWH-251.
 - [14] 1-Pentyl-3-(2-chlorophenylacetyl)indole - Other names: JWH-203.
 - [15] 1-Pentyl-3-(4-methoxybenzoyl)indole - Other names: RCS-4.
 - [16] (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole) - Other names: AM-694.
 - [17] (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone - Other names: WIN 48,098 and Pravadoline.
 - [18] (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone -- Other names: UR-144.
 - [19] (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: XLR-11.
 - [20] (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: A-796,260.
 - [21] (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone -- Other names: THJ-2201.
 - [22] 1-naphthalenyl(1-pentyl-1H-indazol-3-yl)-methanone -- Other names: THJ-018.
 - [23] (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone - Other names: FUBIMINA.
 - [24] 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-oyl) indole - Other names: AM-1248.
 - [25] 1-Pentyl-3-(1-adamantoyl)indole - Other names: AB-001 and JWH-018 adamantyl analog.
- (3) Indole carboxamides. Any compound structurally derived from 1H-indole-3-carboxamide or 1H-2-carboxamide substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,

2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the nitrogen of the carboxamide by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

- (a) Substitution to the indole ring to any extent; or
- (b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
- (e) Examples include:
 - [1] N-Adamantyl-1-pentyl-1H-indole-3-carboxamide - Other names: JWH-018 adamantyl carboxamide, APICA, SDB-001, and 2NE1.
 - [2] N-Adamantyl-1-fluoropentylindole-3-carboxamide - Other names: STS-135.
 - [3] N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide - Other names: AKB 48 and APINACA.
 - [4] N-1-naphthalenyl-1-pentyl-1H-indole-3-carboxamide - Other names: NNEI and MN-24.
 - [5] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide - Other names: ADBICA.
 - [6] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: AB-PINACA.
 - [7] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide - Other names: AB-FUBINACA.
 - [8] N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5-Fluoro AB-PINACA and 5F-AB-PINACA.
 - [9] N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: ADB-PINACA.
 - [10] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: AB-CHMINACA.
 - [11] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: ADB-FUBINACA.
 - [12] N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: FUB-AKB48, FUB-APINACA, and AKB48 N-(4-FLUOROBENZYL).
 - [13] 1-(5-fluoropentyl)-N-(quinolin-8-yl)-1H-indazole-3-carboxamide - Other names: 5-fluoro-THJ.
 - [14] methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: 5-fluoro AMB and 5F-AMB.
 - [15] methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: FUB-AMB, MMB-FUBINACA, and AMB-FUBINACA.
 - [16] N-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: MAB-CHMINACA and ADB-CHMINACA.
 - [17] Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-ADB and 5F-MDMB-PINACA.
 - [18] N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5F-APINACA and 5F-AKB48.

- [19] Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-CHMICA and MMB-CHMINACA.
 - [20] Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-FUBINACA.
 - [21] 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide - Other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN-BINACA; SGT-78.
 - [22] methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate - Other names: MMB-CHMICA, AMB-CHMICA.
 - [23] 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide - Other names: 5F-CUMYL-P7AICA.
 - [24] ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-EDMB-PINACA.
 - [25] methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-MDMB-PICA and 5F-MDMB-2201.
 - [26] 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide - Other names: 5F-CUMYL-PINACA, SGT-25.
 - [27] (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) methanone - Other names: FUB-144.
 - [28] methyl 2-(1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (4F-MDMB-BINACA, 4F-MDMB-BUTINACA).
 - [29] Methyl 3,3-dimethyl-2-[(1-pent-4-enylindazole-3-carbonyl)amino]butanoate - Other names: MDMB-4en-PINACA, MDMB-PENINACA, and 5-CL-ADB-A.
 - [30] Methyl 2-[[1-(5-fluoropentyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate - Other names: 5F-MDMB-PICA and 5F-MDMB-2201.
 - [31] 1-butyl-N-(1-carbamoyl-2,2-dimethyl-propyl)indazole-3-carboxamide - Other names: ADB-BINACA and ADB-BUTINACA.
 - [32] 5-bromo-N-(1-carbamoyl-2,2-dimethyl-propyl)-1H-indazole-3-carboxamide - Other names: ADB-5Br-INACA.
 - [33] Methyl 2-[(5-bromo-1H-indazole-3-carbonyl)amino]-3,3-dimethyl-butanoate - Other names: MDMB-5Br-INACA.
 - [34] 5-bromo-1-butyl-N-(1-carbamoyl-2,2-dimethyl-propyl)indazole-3-carboxamide - Other names: ADB-5'Br-BINACA and ADB-5'Br-BUTINACA.
- (4) Indole carboxylic acids. Any compound structurally derived from 1H-indole-3-carboxylic acid or 1H-2-carboxylic acid substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydroxyl group of the carboxylic acid by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:
- (a) Substitution to the indole ring to any extent; or
 - (b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, propionaldehyde group to any extent; or
 - (c) A nitrogen heterocyclic analog of the indole ring; or
 - (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

- (e) Examples include:
- [1] 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: BB-22 and QUCHIC.
 - [2] naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FDU-PB-22.
 - [3] 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: PB-22 and QUPIC.
 - [4] 1-(5-Fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: 5-Fluoro PB-22 and 5F-PB-22.
 - [5] quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FUB-PB-22.
 - [6] naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate - Other names: NM2201 and CBL2201.
- (5) Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:
- (a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane - Other names: JWH-175.
 - (b) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane - Other names: JWH-184.
- (6) Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone - Other names: JWH-307.
- (7) Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane - Other names: JWH-176.
- (8) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not substituted in the cyclohexyl ring to any extent. Examples include:
- (a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: CP 47,497.
 - (b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: Cannabicyclohexanol and CP 47,497 C8 homologue.
 - (c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol - Other names: CP 55,940.
- (9) Others specifically named:

- (a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: HU-210.
 - (b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: Dexanabinol and HU-211.
 - (c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone - Other names: WIN 55,212-2.
 - (d) Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone - Other names: CB-13.
 - (e) N-[(Z)-(1-hexyl-2-oxo-indolin-3-ylidene)amino]benzamide - Other names: BZO-HEXOXIZID and MDA-19.
 - (f) N-[(Z)-(2-oxo-1-pentyl-indolin-3-ylidene)amino]benzamide - Other names: BZO-POXIZID, Pentyl MDA-19, and 5C-MDA-19.
 - (g) N-[(Z)-[1-(5-fluoropentyl)-2-oxo-indolin-3-ylidene]amino]benzamide - Other names: 5F-BZO-POXIZID and 5F-MDA-19.
 - (h) N-[(Z)-(2-oxo-1-pent-4-enyl-indolin-3-ylidene)amino]benzamide - Other names: BZO-4en-POXIZID and 4en-pentyl MDA-19.
 - (i) N-[(Z)-[1-(cyclohexylmethyl)-2-oxo-indolin-3-ylidene]amino]benzamide - Other names: BZO-CHMOXIZID, Cyclohexylmethyl MDA-19 and CHM-MDA-19.
 - (j) N-(1-carbamoyl-2-methyl-propyl)-2-(5-fluoropentyl)-5-(4-fluorophenyl)pyrazole-3-carboxamide - Other Names: 5F-AB-PFUPPYCA.
- o. Substituted phenethylamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from phenylethan-2-amine by substitution on the phenyl ring in any of the following ways, that is to say, by substitution with a fused methylenedioxy ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems.
- (1) Whether or not the compound is further modified in any of the following ways, that is to say:
 - (a) By substitution of phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or alkylthio groups;
 - (b) By substitution at the 2-position by any alkyl groups; or
 - (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.
 - (2) Examples include:
 - (a) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine).
 - (b) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine).
 - (c) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine).
 - (d) 2-(2,5-Dimethoxyphenyl)ethanamine (also known as 2C-H or 2,5-Dimethoxyphenethylamine).
 - (e) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine).
 - (f) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine).
 - (g) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine).

- (h) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine).
- (i) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine).
- (j) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine).
- (k) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine).
- (l) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine).
- (m) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine).
- (n) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine).
- (o) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-B-NBOMe; 2,5B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine).
- (p) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-I-NBOMe; 2,5I-NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine).
- (q) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine (also known as mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-methoxybenzyl)phenethylamine).
- (r) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-C-NBOMe; 2,5C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine).
- (s) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (also known as 2CB-5-hemiFLY).
- (t) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine (also known as 2C-B-FLY).
- (u) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine (also known as 2C-B-butterFLY).
- (v) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane (also known as 2C-B-FLY-NBOMe).
- (w) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (also known as bromo-benzodifuranyl-isopropylamine or bromo-dragonFLY).
- (x) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine (also known as 2C-I-NBOH or 2,5I-NBOH).
- (y) 5-(2-Aminopropyl)benzofuran (also known as 5-APB).
- (z) 6-(2-Aminopropyl)benzofuran (also known as 6-APB).
- (aa) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 5-APDB).
- (bb) 6-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 6-APDB).
- (cc) 2,5-dimethoxy-amphetamine (also known as 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA).
- (dd) 2,5-dimethoxy-4-ethylamphetamine (also known as DOET).
- (ee) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (also known as 2C-T-7).
- (ff) 5-methoxy-3,4-methylenedioxy-amphetamine.
- (gg) 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy-a-methylphenethylamine; DOM and STP).
- (hh) 3,4-methylenedioxy amphetamine (also known as MDA).
- (ii) 3,4-methylenedioxymethamphetamine (also known as MDMA).

- (jj) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA).
- (kk) 3,4,5-trimethoxy amphetamine.
- (ll) Mescaline (also known as 3,4,5-trimethoxyphenethylamine).
- p. Substituted tryptamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha-position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Examples include:
 - (1) 5-methoxy-N,N-diallyltryptamine (also known as 5-MeO-DALT).
 - (2) 4-acetoxy-N,N-dimethyltryptamine (also known as 4-AcO-DMT or O-Acetylpsilocin).
 - (3) 4-hydroxy-N-methyl-N-ethyltryptamine (also known as 4-HO-MET).
 - (4) 4-hydroxy-N,N-diisopropyltryptamine (also known as 4-HO-DIPT).
 - (5) 5-methoxy-N-methyl-N-isopropyltryptamine (also known as 5-MeO-MIPT).
 - (6) 5-methoxy-N,N-dimethyltryptamine (also known as 5-MeO-DMT).
 - (7) Bufotenine (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine).
 - (8) 5-methoxy-N,N-diisopropyltryptamine (also known as 5-MeO-DIPT).
 - (9) Diethyltryptamine (also known as N,N-Diethyltryptamine; DET).
 - (10) Dimethyltryptamine (also known as DMT).
 - (11) Psilocyn.
- q. 1-[3-(trifluoromethylphenyl)]piperazine (also known as TFMPP).
- r. 1-[4-(trifluoromethylphenyl)]piperazine.
- s. 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (also known as 5,6-Methylenedioxy-2-aminoindane or MDAI).
- t. 2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexanone (also known as Methoxetamine or MXE).
- u. Ethylamine analog of phencyclidine (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE).
- v. Pyrrolidine analog of phencyclidine (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP).
- w. Thiophene analog of phencyclidine (also known as (1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienylanalog of phencyclidine; TPCP, TCP).
- x. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).
- y. Salvia divinorum, salvinorin A, or any of the active ingredients of salvia divinorum.
- 6. Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Gamma-hydroxybutyric acid.
 - b. Mecloqualone.
 - c. Methaqualone.
 - d. Clonazepam (also known as Clonitrazepam).
 - e. Etizolam.
 - f. Flualprazolam.
 - g. Flubromazepam.
 - h. Flubromazolam.
 - i. Adinazolam.
 - j. Bromazolam.

- k. Deschloroetizolam.
 - l. Diclazepam.
7. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
- a. Aminorex (also known as 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine).
 - b. Cathinone.
 - c. Substituted cathinones. Any compound, material, mixture, preparation, or other product, unless listed in another schedule or an approved food and drug administration drug (e.g., bupropion, pyrovalerone), structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
 - (1) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
 - (2) By substitution at the 3-position with an acyclic alkyl substituent;
 - (3) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or
 - (4) By inclusion of the 2-amino nitrogen atom in a cyclic structure.
 Some trade or other names:
 - (a) 3,4-Methylenedioxy-alpha-pyrrolidinopropiophenone (also known as MDPPP).
 - (b) 3,4-Methylenedioxy-N-ethylcathinone (also known as Ethylone, MDEC, or bk-MDEA).
 - (c) 3,4-Methylenedioxy-N-methylcathinone (also known as Methylone or bk-MDMA).
 - (d) 3,4-Methylenedioxypyrovalerone (also known as MDPV).
 - (e) 3,4-Dimethylmethcathinone (also known as 3,4-DMMC).
 - (f) 2-(methylamino)-1-phenylpentan-1-one (also known as Pentedrone).
 - (g) 2-Fluoromethcathinone (also known as 2-FMC).
 - (h) 3-Fluoromethcathinone (also known as 3-FMC).
 - (i) 4-Methylethcathinone (also known as 4-MEC and 4-methyl-N-ethylcathinone).
 - (j) 4-Fluoromethcathinone (also known as Flephedrone and 4-FMC).
 - (k) 4-Methoxy-alpha-pyrrolidinopropiophenone (also known as MOPPP).
 - (l) 4-Methoxymethcathinone (also known as Methedrone; bk-PMMA).
 - (m) 4'-Methyl-alpha-pyrrolidinobutiophenone (also known as MPBP).
 - (n) Alpha-methylamino-butyrophenone (also known as Buphedrone or MABP).
 - (o) Alpha-pyrrolidinobutiophenone (also known as alpha-PBP).
 - (p) Alpha-pyrrolidinopropiophenone (also known as alpha-PPP).
 - (q) Alpha-pyrrolidinopentiophenone (also known as Alpha-pyrrolidinovalerophenone or alpha-PVP).
 - (r) Beta-keto-N-methylbenzodioxolylbutanamine (also known as Butylone or bk-MBDB).
 - (s) Ethcathinone (also known as N-Ethylcathinone).
 - (t) 4-Methylmethcathinone (also known as Mephedrone or 4-MMC).
 - (u) Methcathinone.
 - (v) N,N-dimethylcathinone (also known as metamfepramone).
 - (w) Naphthylpyrovalerone (naphyrone).
 - (x) B-Keto-Methylbenzodioxolylpentanamine (also known as Pentylone).
 - (y) 4-Methyl-alpha-pyrrolidinopropiophenone (also known as 4-MePPP and MPPP).

- (z) 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one (also known as Ephylone and N-Ethylpentylone).
- (aa) N-ethylhexedrone (also known as alpha - ethylaminohexanophenone and 2-(ethylamino)-1-phenylhexan-1-one)).
- (bb) Alpha-pyrrolidinohexanophenone (also known as alpha-PHP, alpha-pyrrolidinohexiophenone, and 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one)).
- (cc) 4-methyl-alpha-ethylaminopentiophenone (also known as 4-MEAP and 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one)).
- (dd) 4'-methyl-alpha-pyrrolidinohexiophenone (also known as MPHP, 4'-methyl-alpha-pyrrolidinohexanophenone and 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one)).
- (ee) Alpha-pyrrolidinoheptaphenone (also known as PV8 and 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one)).
- (ff) 4-chloro-alpha-pyrrolidinovalerophenone (also known 4-chloro-alpha-PVP, 4'-chloro-alpha-pyrrolidinopentiophenone, and 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one)).
- d. Fenethylamine.
- e. Fluoroamphetamine.
- f. Fluoromethamphetamine.
- g. (±)cis-4-methylaminorex (also known as (±)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine).
- h. N-Benzylpiperazine (also known as BZP, 1-benzylpiperazine).
- i. N-ethylamphetamine.
- j. N, N-dimethylamphetamine (also known as N,N-alpha-trimethylbenzeneethanamine; N,N-alpha-trimethylphenethylamine).
- k. 1-(4-methoxyphenyl)-N-methylpropan-2-amine (also known as paramethoxymethamphetamine and PMMA).
- l. 4,4'-Dimethylaminorex (4,4'-DMAR; 4,5-dihydro-4-methyl-5-(4-methylphenyl)-2-oxazolamine; 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine).
- m. Amineptine (Also known as 7- [(10,11-dihydro-5Hdibenzo[a,d]cyclohepten-5-yl)amino]heptanoic acid).
- n. Mesocarb (Also known as N-phenyl-N' -(3-(1- phenylpropan-2-yl)-1,2,3-oxadiazol-3-ium-5-yl)carbamimidate).
- o. Methiopropamine (Also known as N-methyl-1-(thiophen-2-yl)propan-2-amine).

19-03.1-06. Schedule II tests.

The board shall place a substance in schedule II if it finds that:

1. The substance has high potential for abuse;
2. The substance has currently accepted medical use in treatment in the United States or currently accepted medical use with severe restrictions; and
3. The abuse of the substance may lead to severe psychic or physical dependence.

19-03.1-07. Schedule II.

1. The controlled substances listed in this section are included in schedule II.
2. Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
 - a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, naldemedine, nalmefene, naloxegol, naloxone, 6 beta-naltrexol,

naltrexone, and samidorphan and their respective salts, but including the following:

- (1) Codeine.
 - (2) Dihydroetorphine.
 - (3) Ethylmorphine.
 - (4) Etorphine hydrochloride.
 - (5) Granulated opium.
 - (6) Hydrocodone.
 - (7) Hydromorphone.
 - (8) Metopon.
 - (9) Morphine.
 - (10) Noroxymorphone.
 - (11) Opium extracts.
 - (12) Opium fluid.
 - (13) Oripavine.
 - (14) Oxycodone.
 - (15) Oxymorphone.
 - (16) Powder opium.
 - (17) Raw opium.
 - (18) Thebaine.
 - (19) Tincture of opium.
 - b. Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
 - c. Opium poppy and poppy straw.
 - d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives, and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of these substances, except that the nondosage substances must include decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.
 - e. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy).
4. Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:
- a. Alfentanil.
 - b. Alphaprodine.
 - c. Anileridine.
 - d. Bezitramide.
 - e. Bulk dextropropoxyphene (nondosage forms).
 - f. Carfentanil.
 - g. Dihydrocodeine.
 - h. Diphenoxylate.
 - i. Fentanyl.
 - j. Isomethadone.
 - k. Levo-alphaacetylmethadol (LAAM).
 - l. Levomethorphan.
 - m. Levorphanol.
 - n. Metazocine.
 - o. Methadone.
 - p. Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.

- q. Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
 - r. Oliceridine (N-[(3-methoxythiophen-2-yl)methyl] ({2-[(9R)-9-(pyridin-2-yl)-6-oxaspiro [4.5]decan-9-yl]ethyl})amine fumarate).
 - s. Pethidine (also known as meperidine).
 - t. Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
 - u. Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
 - v. Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
 - w. Phenazocine.
 - x. Priminodine.
 - y. Racemethorphan.
 - z. Racemorphan.
 - aa. Remifentanil.
 - bb. Sufentanil.
 - cc. Tapentadol.
 - dd. Thiafentanil.
5. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
 - a. Amphetamine, its salts, optical isomers, and salts of its optical isomers.
 - b. Lisdexamfetamine, its salts, isomers, and salts of isomers.
 - c. Methamphetamine, its salts, isomers, and salts of isomers.
 - d. Phenmetrazine and its salts.
 - e. Methylphenidate.
 6. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Amobarbital.
 - b. Glutethimide.
 - c. Pentobarbital.
 - d. Phencyclidine.
 - e. Secobarbital.
 7. Hallucinogenic substances.
 - a. Nabilone [another name for nabilone (\pm)-trans-3-(1, 1-dimethylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6, 6-dimethyl-9Hdibenzo [b, d] pyran-9-one].
 - b. Dronabinol [(-)-delta-9-trans tetrahydrocannabinol] in an oral solution in a drug product approved for marketing by the federal food and drug administration.
 8. Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances:
 - a. Immediate precursor to amphetamine and methamphetamine: Phenylacetone. Some trade or other names: phenyl-2-propanone; P2P, benzyl methyl ketone; methyl benzyl ketone.
 - b. Immediate precursors to phencyclidine (PCP):
 - (1) 1-phenylcyclohexylamine.
 - (2) 1-piperidinocyclohexanecarbonitrile (PCC).
 - c. Immediate precursors to fentanyl:
 - (1) 4-anilino-N-phenethylpiperidine (ANPP).
 - (2) N-phenyl-N-(piperidin-4-yl)propionamide (norfentanyl).

19-03.1-08. Schedule III tests.

The board shall place a substance in schedule III if it finds that:

1. The substance has a potential for abuse less than the substances listed in schedules I and II;

2. The substance has currently accepted medical use in treatment in the United States; and
3. Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

19-03.1-09. Schedule III.

1. The controlled substances listed in this section are included in schedule III.
2. Schedule III consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II and any other drug of the quantitative composition shown in that schedule for those drugs or which is the same except that it contains a lesser quantity of controlled substances.
 - b. Benzphetamine.
 - c. Chlorphentermine.
 - d. Clortermine.
 - e. Phendimetrazine.
4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system:
 - a. Any compound, mixture, or preparation containing:
 - (1) Amobarbital;
 - (2) Secobarbital;
 - (3) Pentobarbital;or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.
 - b. Any suppository dosage form containing:
 - (1) Amobarbital;
 - (2) Secobarbital;
 - (3) Pentobarbital;or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository.
 - c. Any substance that contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules thereof.
 - d. Chlorhexadol.
 - e. Embutramide.
 - f. Gamma-hydroxybutyric acid in a United States food and drug administration-approved drug product.
 - g. Ketamine.
 - h. Lysergic acid.
 - i. Lysergic acid amide.
 - j. Methyprylon.
 - k. Perampanel.
 - l. Sativex or its successor name as determined by the federal food and drug administration.
 - m. Sulfondiethylmethane.
 - n. Sulfonethylmethane.
 - o. Sulfonmethane.

- p. Tiletamine and zolazepam or any salt thereof. Some trade or other names for a tiletamine-zolazepam combination product: Telazol. Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Some trade or other names for zolazepam: 4-2(2-fluorophenyl)-6, 8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one, flupyrzapon.
- 5. Nalorphine.
- 6. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
 - a. (1) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.
 - (2) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
 - (3) Not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
 - (4) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
 - (5) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
 - (6) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
 - b. Buprenorphine.
- 7. Anabolic steroids. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following anabolic steroids:
 - a. 3beta,17-dihydroxy-5a-androstane;
 - b. 3alpha,17beta-dihydroxy-5a-androstane;
 - c. 5alpha-androstan-3,17-dione;
 - d. 1-androstenediol (3beta,17beta-dihydroxy-5alpha-androst-1-ene);
 - e. 1-androstenediol (3alpha,17beta-dihydroxy-5alpha-androst-1-ene);
 - f. 4-androstenediol (3beta,17beta-dihydroxy-4-ene);
 - g. 5-androstenediol (3beta,17beta-dihydroxy-androst-5-ene);
 - h. 1-androstenedione ([5alpha]-androst-1-en-3,17-dione);
 - i. 4-androstenedione (androst-4-en-3,17-dione);
 - j. 5-androstenedione (androst-5-en-3,17-dione);
 - k. Bolasterone (7alpha,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);
 - l. Boldenone (17beta-hydroxyandrost-1,4,-diene-3-one);
 - m. Boldione (androsta-1,4-diene-3,17-dione);
 - n. Calusterone (7beta,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);
 - o. Clostebol (4-chloro-17beta-hydroxyandrost-4-en-3-one);
 - p. Dehydrochloromethyltestosterone (4-chloro-17beta-hydroxy-17alpha-methyl-androst-1,4-dien-3-one);
 - q. Delta-1-dihydrotestosterone (also known as '1-testosterone') (17beta-hydroxy-5alpha-androst-1-en-3-one);
 - r. Desoxymethyltestosterone (17a-methyl-5a-androst-2-en-17ol) (also known as madol);
 - s. 4-dihydrotestosterone (17beta-hydroxy-androstan-3-one);
 - t. Drostanolone (17beta-hydroxy-2alpha-methyl-5alpha-androstan-3-one);
 - u. Ethylestrenol (17alpha-ethyl-17beta-hydroxyestr-4-ene);

- v. Fluoxymesterone (9-fluoro-17alpha-methyl-11beta, 17beta-dihydroxyandrost-4-en-3-one);
- w. Formebolone (2-formyl-17alpha-methyl-11alpha, 17beta-dihydroxyandrost-1,4-dien-3-one);
- x. Furazabol (17alpha-methyl-17beta-hydroxyandrostano[2,3-c]-furazan);
- y. 13beta-ethyl-17alpha-hydroxygon-4-en-3-one;
- z. 4-hydroxytestosterone (4,17beta-dihydroxy-androst-4-en-3-one);
- aa. 4-hydroxy-19-nortestosterone (4,17beta-dihydroxy-estr-4-en-3-one);
- bb. Mestanolone (17alpha-methyl-17beta-hydroxy-5-androstan-3-one);
- cc. Mesterolone (1alpha-methyl-17beta-hydroxy-[5alpha]-androstan-3-one);
- dd. Methandienone (17alpha-methyl-17beta-dihydroxyandrost-1,4-dien-3-one);
- ee. Methandriol (17alpha-methyl-3beta,17beta-dihydroxyandrost-5-ene);
- ff. Methasterone (2[alpha],17[alpha]-dimethyl-5[alpha]-androstan-17[beta]-ol-3-one);
- gg. Methenolone (1-methyl-17beta-hydroxy-5alpha-androst-1-en-3-one);
- hh. 17alpha-methyl-3beta,17beta-dihydroxy-5a-androstane;
- ii. 17alpha-methyl-3alpha,17beta-dihydroxy-5a-androstane;
- jj. 17alpha-methyl-3beta,17beta-dihydroxyandrost-4-ene;
- kk. 17alpha-methyl-4-hydroxynandrolone (17alpha-methyl-4-hydroxy-17beta-hydroxyestr-4-en-3-one);
- ll. Methyldienolone (17alpha-methyl-17beta-hydroxyestra-4,9(10)-dien-3-one);
- mm. Methyltrienolone (17alpha-methyl-17beta-hydroxyestra-4,9(11)-trien-3-one);
- nn. Methyltestosterone (17alpha-methyl-17beta-hydroxyandrost-4-en-3-one);
- oo. Mibolerone (7alpha,17alpha-dimethyl-17beta-hydroxyestr-4-en-3-one);
- pp. 17alpha-methyl-delta1-dihydrotestosterone (17beta-hydroxy-17alpha-methyl-5alpha-androst-1-en-3-one) (also known as '17-alpha-methyl-1-testosterone');
- qq. Nandrolone (17beta-hydroxyestr-4-en-3-one);
- rr. 19-nor-4-androstenediol (3beta,17beta-dihydroxyestr-4-ene);
- ss. 19-nor-4-androstenediol (3alpha,17beta-dihydroxyestr-4-ene);
- tt. 19-nor-5-androstenediol (3beta,17beta-dihydroxyestr-5-ene);
- uu. 19-nor-5-androstenediol (3alpha,17-beta-dihydroxyester-5-ene);
- vv. 19-nor-4-androstenedione (estr-4-en-3,17-dione);
- ww. 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);
- xx. 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- yy. Norbolethone (13beta,17alpha-diethyl-17beta-hydroxygon-4-en-3-one);
- zz. Norclostebol (4-chloro-17beta-hydroxyestr-4-en-3-one);
- aaa. Norethandrolone (17alpha-ethyl-17beta-hydroxyestr-4-en-3-one);
- bbb. Normethandrolone (17alpha-methyl-17beta-hydroxyestr-4-en-3-one);
- ccc. Oxandrolone (17alpha-methyl-17beta-hydroxy-2-oxa-[5alpha]-androstan-3-one);
- ddd. Oxymesterone (17alpha-methyl-4-17beta-dihydroxyandrost-4-en-3-one);
- eee. Oxymetholone (17alpha-methyl-2-hydroxymethylene-17beta-hydroxy [5alpha]-androstan-3-one);
- fff. Stanozolol (17alpha-methyl-17beta-hydroxy[5alpha]-androst-2-eno[3,2-c]-pyrazole);
- ggg. Stenbolone (17beta-hydroxy-2-methyl-[5alpha]-androst-1-en-3-one);
- hhh. Prostanazol (17[beta]-hydroxy-5[alpha]-androstan-3-one);
- iii. Testolactone (13-hydroxy-3-oxo-13,17-secoandrost-1,4-dien-17-oic acid lactone);
- jjj. Testosterone (17beta-hydroxyandrost-4-en-3-one);
- kkk. Tetrahydrogestrinone (13beta,17alpha-diethyl-17beta-hydroxygon-4,9,11-trien-3-one);
- lll. Trenbolone (17beta-hydroxyestr-4,9,11-trien-3-one);

or any salt, ester, or isomer of a drug or substance described or listed in this subsection, if that salt, ester, or isomer promotes muscle growth.

The term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for administration

- unless any person prescribes, dispenses, possesses, delivers, or distributes for human use.
8. Hallucinogenic substances.
 - a. Dronabinol (synthetic) [(–)-delta-9-(trans)-tetrahydrocannabinol] in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration-approved drug product.
 - b. Any product in hard or soft gelatin capsule form containing natural dronabinol (derived from the cannabis plant) or synthetic dronabinol (produced from synthetic materials) in sesame oil, for which an abbreviated new drug application has been approved by the food and drug administration under section 505(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355(j)] which references as its listed drug the drug product referred to in subdivision a.
 9. The board may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections 3 and 4 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

19-03.1-10. Schedule IV tests.

The board shall place a substance in schedule IV if it finds that:

1. The substance has a low potential for abuse relative to substances in schedule III;
2. The substance has currently accepted medical use in treatment in the United States; and
3. Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in schedule III.

19-03.1-11. Schedule IV.

1. The controlled substances listed in this section are included in schedule IV.
2. Schedule IV consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
 - a. Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
 - b. Dextropropoxyphene (also known as alpha-(+)-4-dimethylamino- 1,2-diphenyl-3-methyl-2-propionoxybutane).
 - c. 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers including Tramadol.
4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Alprazolam.
 - b. Alfaxalone.
 - c. Barbital.
 - d. Brexanolone.
 - e. Bromazepam.
 - f. Camazepam.
 - g. Carisoprodol.

- h. Chloral betaine.
- i. Chloral hydrate.
- j. Chlordiazepoxide.
- k. Clobazam.
- l. Clonazepam.
- m. Clorazepate.
- n. Clotiazepam.
- o. Cloxazolam.
- p. Daridorexant.
- q. Delorazepam.
- r. Diazepam.
- s. Dichloralphenazone.
- t. Estazolam.
- u. Ethchlorvynol.
- v. Ethinamate.
- w. Ethyl loflazepate.
- x. Fludiazepam.
- y. Flunitrazepam.
- z. Flurazepam.
- aa. Fospropofol.
- bb. Halazepam.
- cc. Haloxazolam.
- dd. Indiplon.
- ee. Ketazolam.
- ff. Lemborexant.
- gg. Loprazolam.
- hh. Lorazepam.
- ii. Lorcaserin.
- jj. Lormetazepam.
- kk. Mebutamate.
- ll. Medazepam.
- mm. Meprobamate.
- nn. Methohexital.
- oo. Methylphenobarbital (also known as mephobarbital).
- pp. Midazolam.
- qq. Nimetazepam.
- rr. Nitrazepam.
- ss. Nordiazepam.
- tt. Oxazepam.
- uu. Oxazolam.
- vv. Paraldehyde.
- ww. Petrichloral.
- xx. Phenobarbital.
- yy. Pinazepam.
- zz. Propofol.
- aaa. Prazepam.
- bbb. Quazepam.
- ccc. Remimazolam.
- ddd. Suvorexant.
- eee. Temazepam.
- fff. Tetrazepam.
- ggg. Triazolam.
- hhh. Zaleplon.
- iii. Zolpidem.
- jjj. Zopiclone.

5. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
 - a. Cathine.
 - b. Diethylpropion.
 - c. Fencamfamin.
 - d. Fenproporex.
 - e. Mazindol.
 - f. Mefenorex.
 - g. Modafinil.
 - h. Pemoline (including organometallic complexes and chelates thereof).
 - i. Phentermine.
 - j. Pipradrol.
 - k. Serdexmethylphenidate.
 - l. Sibutramine.
 - m. Solriamfetol.
 - n. SPA ((-)-1-dimethylamino-1, 2-diphenylethane).
6. Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of:
 - a. Pentazocine, including its salts.
 - b. Butorphanol, including its optical isomers.
 - c. Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl]][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers.
7. The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection 2 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

19-03.1-12. Schedule V tests.

The board shall place a substance in schedule V if it finds that:

1. The substance has low potential for abuse relative to the controlled substances listed in schedule IV;
2. The substance has currently accepted medical use in treatment in the United States; and
3. The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in schedule IV.

19-03.1-13. Schedule V.

1. The controlled substances listed in this section are included in schedule V.
2. Schedule V consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts.
4. Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which includes one or more non-narcotic active medicinal ingredients in

sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone.

- a. Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
 - b. Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
 - c. Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
 - d. Ganaxolone (3alpha-hydroxy-3beta-methyl-5alpha-pregnan-20-one).
 - e. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
 - f. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
 - g. Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
5. Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible:
- a. Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (also referred to as BRV; UCB-34714; Briviact) (including its salts).
 - b. Cenobamate [(1R)-1-(2-chlorophenyl)-2-(tetrazol-2-yl)ethyl] carbamate; 2H-tetrazole-2-ethanol, alpha-(2-chlorophenyl)-, carbamate (ester), (alphaR)-; carbamic acid (R)-(+)-1-(2-chlorophenyl)-2-(2H-tetrazol-2-yl)ethyl ester).
 - c. Ezogabine N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester.
 - d. Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide].
 - e. Lasmiditan [2,4,6-trifluoro-N-(6-(1-methylpiperidine-4-carbonyl)pyridine-2-yl-benzamide].
 - f. Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].
 - g. Gabapentin [2-[1-(aminomethyl) cyclohexyl] acetic acid].
6. Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers: Pyrovalerone.

19-03.1-14. Republishing of schedules.

The board shall revise and republish the schedules annually.

19-03.1-15. Rules.

The board may adopt rules pursuant to chapter 28-32 and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

19-03.1-16. Registration requirements.

1. Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state shall obtain annually a registration issued by the board in accordance with its rules.
2. Persons registered by the board under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this chapter.
3. The following persons need not register and may lawfully possess controlled substances under this chapter:

- a. An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if an agent or employee is acting in the usual course of an agent's or employee's business or employment.
 - b. A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment.
 - c. An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a schedule V substance.
4. The board may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.
 5. A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.
 6. The board may inspect the establishment of a registrant or applicant for registration in accordance with the rules of the board.

19-03.1-17. Registration.

1. The board shall register an applicant to manufacture or distribute controlled substances included in sections 19-03.1-05, 19-03.1-07, 19-03.1-09, 19-03.1-11, and 19-03.1-13 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:
 - a. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
 - b. Compliance with applicable state and local laws;
 - c. Any convictions of the applicant under any federal and state laws relating to any controlled substance;
 - d. Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion;
 - e. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;
 - f. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and
 - g. Any other factors relevant to and consistent with the public health and safety.
2. Registration under subsection 1 does not entitle a registrant to manufacture and distribute controlled substances in schedule I or II other than those specified in the registration.
3. Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in schedules II through V if they are authorized to dispense or conduct research under the laws of this state. The board need not require separate registration under this chapter for practitioners engaging in research with non-narcotic controlled substances in schedules II through V where the registrant is already registered under this chapter in another capacity. Practitioners registered under federal law to conduct research with schedule I substances may conduct research with schedule I substances within this state upon furnishing the department evidence of that federal registration.
4. Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this chapter.

19-03.1-17.1. Criminal history record checks.

The board may require an applicant for registration or a registrant whose registration is subject to revocation or suspension or employees or officers of an applicant or registrant to submit to a statewide and nationwide criminal history record check. The nationwide criminal

history record check must be conducted in the manner provided by section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant or registrant.

19-03.1-18. Revocation and suspension of registration.

1. A registration under section 19-03.1-17 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the board upon a finding that the registrant:
 - a. Has furnished false or fraudulent material information in any application filed under this chapter;
 - b. Has been convicted of a felony under any state or federal law relating to any controlled substance; or
 - c. Has had the registrant's federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.
2. The board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.
3. If the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.
4. The board shall promptly notify the bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.

19-03.1-19. Order to show cause.

1. Before denying, suspending, or revoking a registration, or refusing a renewal of registration, the board shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause must contain a statement of the basis therefor and must call upon the applicant or registrant to appear before the board at a time and place not less than thirty days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order must be served not later than thirty days before the expiration of the registration. These proceedings must be conducted in accordance with chapter 28-32 without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration do not abate the existing registration which remains in effect pending the outcome of the administrative hearing.
2. The board may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under section 19-03.1-18, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension continues in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or dissolved by a court of competent jurisdiction.

19-03.1-20. Records of registrants.

Persons registered to manufacture, distribute, or dispense controlled substances under this chapter shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with any additional rules the board issues.

19-03.1-20.1. Report of any theft or loss.

The registrant shall immediately, within one business day, notify the state board of pharmacy of any theft or significant loss of controlled substances. This report may be

telephoned, faxed, or electronic mailed to the state board of pharmacy. In addition, significant loss has been further defined to include a list of factors that are relevant in deciding whether a loss was significant. This list is as follows:

1. The actual quantity of controlled substances lost in relation to the type of business;
2. The specific controlled substances lost;
3. Whether the loss of the controlled substances can be associated with access to those controlled substances by specific individuals, or whether the loss can be attributed to unique activities that may take place involving the controlled substances;
4. A pattern of losses over a specific time period, whether the losses appear to be random, and the results of efforts taken to resolve the losses; and, if known
5. Whether specific controlled substances are likely candidates for diversion; and
6. Local trends and other indicators of the diversion potential of the missing controlled substance.

19-03.1-21. Order forms.

Controlled substances in schedules I and II must be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms must be deemed compliance with this section.

19-03.1-22. Prescriptions.

1. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner. When the patient is a hospice patient or resides in a licensed long-term care facility and the prescription has been signed by the practitioner before faxing, the facsimile may serve as the original prescription without another signature. The prescription may not be filled more than six months after the date it was written.
2. In emergency situations, as defined by rule of the board, schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing, and filed by the pharmacy. Prescriptions must be retained in conformity with the requirements of section 19-03.1-20. No prescription for a schedule II substance may be refilled.
3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under this chapter or chapter 19-02.1, may not be dispensed without a written or oral prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner. Any oral prescription for such drugs must be promptly reduced to writing by the pharmacist, intern, or technician on a new prescription blank. When the patient is a hospice patient or resides in a licensed long-term care facility and the prescription has been signed by the practitioner before faxing, the facsimile may serve as the original prescription without another signature.
4. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance included in schedule V must be dispensed without the written or oral prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times unless renewed by the practitioner. Any oral prescription for such compound, mixture, or preparation must be promptly reduced to writing by the pharmacist, intern, or technician on a new prescription blank. When the patient is a hospice patient or resides in a licensed long-term care facility and the prescription has been signed by the practitioner before faxing, the facsimile may serve as the original prescription without another signature.

19-03.1-22.1. Volatile chemicals - Inhalation of vapors prohibited - Definitions - Penalty.

1. An individual is guilty of a class B misdemeanor if that individual intentionally inhales the vapors of a volatile chemical in a manner designed to affect the individual's central nervous system; to create or induce a condition of intoxication, hallucination, or elation; or to distort, disturb, or change the individual's eyesight, thinking processes, balance, or coordination. An individual is guilty of a class A misdemeanor if that individual violates this section for a third or subsequent offense within one year of the first offense. For a third or subsequent offense, the sentence must include an order for an addiction evaluation by, and compliance with recommendations from, an appropriate licensed addiction treatment program.
2. This section does not apply to inhalations specifically prescribed for medical, dental, or optometric treatment purposes or to controlled substances described in this chapter. For the purposes of this section, "volatile chemical" includes the following chemicals or their isomers:
 - a. Acetone.
 - b. Aliphatic hydrocarbons.
 - c. Amyl nitrite.
 - d. Butane.
 - e. Butyl nitrite.
 - f. Carbon tetrachloride.
 - g. Chlorinated hydrocarbons.
 - h. Chlorofluorocarbons.
 - i. Chloroform.
 - j. Cyclohexane.
 - k. Diethyl ether.
 - l. Ethyl acetate.
 - m. Fluorocarbon.
 - n. Glycol ether inter solvent.
 - o. Glycol ether solvent.
 - p. Hexane.
 - q. Ketone solvent.
 - r. Methanol.
 - s. Methyl cellosolve acetate.
 - t. Methyl ethyl ketone.
 - u. Methyl isobutyl ketone.
 - v. Nitrous oxide.
 - w. Petroleum distillate.
 - x. Toluene.
 - y. Trichloroethane.
 - z. Trichloroethylene.
 - aa. Xylol or xylene.

19-03.1-22.2. Endangerment of child or vulnerable adult.

1. For purposes of this section:
 - a. "Chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors or to manufacturing equipment.
 - b. "Child" means an individual who is under the age of eighteen years.
 - c. "Controlled substance" means the same as that term is defined in section 19-03.1-01, except the term does not include less than one-half ounce [14.175 grams] of marijuana or less than two grams of tetrahydrocannabinol.
 - d. "Drug paraphernalia" means the same as that term is defined in section 19-03.4-01.

- e. "Prescription" means the same as that term is described in section 19-03.1-22.
 - f. "Vulnerable adult" means a vulnerable adult as the term is defined in section 50-25.2-01.
2. Unless a greater penalty is otherwise provided by law, a person who knowingly or intentionally causes or permits a child or vulnerable adult to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug paraphernalia as defined in subsection 1, is guilty of a class C felony.
 3. Unless a greater penalty is otherwise provided by law, a person who violates subsection 2, and a child or vulnerable adult actually suffers bodily injury by exposure to, ingestion of, inhalation of, or contact with a controlled substance, chemical substance, or drug paraphernalia, is guilty of a class B felony unless the exposure, ingestion, inhalation, or contact results in the death of the child or vulnerable adult, in which case the person is guilty of a class A felony.
 4. It is an affirmative defense to a violation of this section that the controlled substance was provided by lawful prescription for the child or vulnerable adult and that it was administered to the child or vulnerable adult in accordance with the prescription instructions provided with the controlled substance.

19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.

1. Except as provided in subsection 2, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor. This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana or tetrahydrocannabinol.
2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of a class B misdemeanor.
3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

19-03.1-22.4. Controlled substances dispensed by means of the internet.

1. As used in this section:
 - a. "Covering practitioner" means, with respect to a patient, a practitioner who conducts a medical evaluation, other than an in-person medical evaluation, at the request of a practitioner who:
 - (1) Has conducted at least one in-person medical evaluation of the patient or an evaluation of the patient through the practice of telemedicine, within the previous twenty-four months; and
 - (2) Is temporarily unavailable to conduct the evaluation of the patient.
 - b. "Deliver, distribute, or dispense by means of the internet" refers, respectively, to delivery, distribution, or dispensing of a controlled substance that is caused or facilitated by means of the internet.
 - c. "In-person medical evaluation" means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals.
 - d. "Internet" and "practice of telemedicine" have the meanings set forth in the Ryan Haight Online Pharmacy Consumer Protection Act of 2008 [Pub. L. 110-425; 21 U.S.C. 802-803].
 - e. "Valid prescription" means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by a:
 - (1) Practitioner who has conducted at least one in-person medical evaluation of the patient; or

(2) Covering practitioner.

2. A controlled substance that is a prescription drug may not be delivered, distributed, or dispensed by means of the internet without a valid prescription, but nothing in this subsection may be construed to imply that one in-person medical evaluation by itself demonstrates that a prescription has been validly issued for a legitimate medical purpose within the usual course of professional practice.
3. This section applies to the delivery, distribution, and dispensing of a controlled substance by means of the internet from a location whether within or outside this state to a person or an address in this state.
4. Nothing in this section applies to the delivery, distribution, or dispensing of a controlled substance by a practitioner engaged in the practice of telemedicine in accordance with applicable federal and state laws.
5. Nothing in this section may be construed as authorizing, prohibiting, or limiting the use of electronic prescriptions for controlled substances.

19-03.1-22.5. Controlled substance analog use - Venue for violation - Penalty.

1. The use of controlled substance analog includes the ingestion, inhalation, absorption, or any other method of taking the controlled substance analog into the body. An individual who intentionally uses a controlled substance analog is guilty of a class A misdemeanor for a first offense and a class C felony for a second or subsequent offense, unless the individual obtains the analog directly from a practitioner or pursuant to a valid prescription or order of a practitioner.
2. The venue for a violation under this section exists in the jurisdiction in which the substance was used or in which the substance was detected.

19-03.1-22.6. Distribution of illegal drugs - Special penalty for death or injury.

1. As used in this section:
 - a. "Consume" means to inject, ingest, or inhale a controlled substance.
 - b. "Controlled substance" includes derivatives or analogs to a scheduled controlled substance.
 - c. "Injury" means an overdose that puts an individual's life at immediate risk.
 - d. "Supplies" includes delivering, supplying, directing, or willfully assisting another to supply or deliver a controlled substance.
2. An individual is guilty of causing death or injury by distributing a controlled substance if the individual willfully delivers a controlled substance, or supplies another to deliver or consume a controlled substance, and an individual dies or is injured from overdosing after consuming a portion of that controlled substance.
 - a. A violation of this section is a class A felony.
 - b. This section does not limit a conviction under chapter 12.1-16, but an individual may not be found guilty of this section and an offense under chapter 12.1-16 if the conduct arises out of the same course of conduct.
3. Venue for an offense under this section is in the county where the death or injury occurred or any county where the controlled substance was directly or indirectly obtained by the deceased or injured individual.
 - a. An individual may not be convicted in more than one county for the death or injury of the same individual who overdosed on a controlled substance.
 - b. Notwithstanding chapter 29-03, an individual outside the state may be prosecuted within the state under this section.
 - c. The charging document for a violation of this section must list an overt act in which the individual engaged to violate this section.
 - d. Injury or death by an overdose may be proven by direct or circumstantial evidence.
4. An individual may not be charged under this section if the individual supplied or administered a controlled substance as part of a medical procedure or the individual was in a lawful position to dispense a medication prescription.

- a. An individual may not be charged under this section if the individual complied with section 19-3.1-23.4.
- b. It is not a defense to this section that the deceased or injured individual had other controlled substances or alcohol in the individual's system which the defendant did not supply at the time of an overdose.

19-03.1-23. Prohibited acts - Penalties.

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:
 - a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.
 - b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog, except marijuana or tetrahydrocannabinol is guilty of a class B felony.
 - c. Marijuana, tetrahydrocannabinol, or a substance classified in schedule IV, is guilty of a class C felony.
 - d. A substance classified in schedule V, is guilty of a class A misdemeanor.
2. A prior misdemeanor conviction under subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under subsection 1.
3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
 - a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.
 - b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
 - c. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.
4. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.
5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title or a law of another state or the federal government which is equivalent to an offense with respect to the manufacture, delivery, or intent to deliver a controlled substance under this title committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsection 1. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.
6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:
 - a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or

dispensing of a controlled substance in a manner not authorized by this chapter;
or

- b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.

A person who violates this subsection is guilty of a class C felony.

- 7.
 - a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.
 - b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense under this subsection and a class C felony for a second or subsequent offense under this subsection.
 - c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana or tetrahydrocannabinol.
 - d. A person who violates this subsection by possessing:
 - (1) Marijuana:
 - (a) In an amount of less than one-half ounce [14.175 grams] is guilty of an infraction.
 - (b) At least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.
 - (c) More than 500 grams of marijuana is guilty of a class A misdemeanor.
 - (2) Tetrahydrocannabinol:
 - (a) In an amount less than two grams is guilty of an infraction.
 - (b) At least two grams but not more than six grams of tetrahydrocannabinol is guilty of a class B misdemeanor.
 - (c) More than six grams of tetrahydrocannabinol is guilty of a class A misdemeanor.
 - e. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.
 - f. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.
 - g. Probation under this subsection may include placement in another facility, treatment program, drug court, mental health court, or veterans treatment docket. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.
 - h. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.
 - i. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.
- 8. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted

to the court before imposing punishment for a felony violation or a misdemeanor violation.

9. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana or two grams or less of tetrahydrocannabinol and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.
10. Upon successful completion of a drug court program, mental health court program, or veterans treatment docket, a person who has been convicted of a felony under this section and sentenced to drug court, mental health court, or veterans treatment docket is deemed to have been convicted of a misdemeanor.
11. If a person convicted of a misdemeanor under this section is sentenced to drug court, mental health court, or veterans treatment docket and successfully completes a drug court program, mental health court, or veterans treatment docket, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.
12. If an individual under the age of twenty-one pleads guilty or is found guilty of a first offense regarding possession of one-half ounce [14.175 grams] or less of marijuana, the court also may sentence the individual to an evidence-based alcohol and drug education program operated under rules adopted by the department of health and human services under section 50-06-44. For a second or subsequent offense regarding possession of one-half ounce [14.175 grams] or less of marijuana, the court also shall sentence the individual to an evidence-based alcohol and drug education program operated under rules adopted by the department of health and human services under section 50-06-44.

19-03.1-23.1. Increased penalties for aggravating factors in drug offenses - Penalty.

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:
 - a. The offense was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of the real property comprising a preschool facility, a public or private elementary or secondary school, or a public career and technical education school, the defendant was at least twenty-one years of age at the time of the offense, and the offense involved the delivery of a controlled substance to a minor;
 - b. The offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance, other than marijuana or tetrahydrocannabinol, in, on, or within three hundred feet [91.4 meters] of the real property comprising a public park;
 - c. The offense involved:
 - (1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;
 - (2) Fifty grams or more of a mixture or substance containing a detectable amount of:
 - (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - (d) Any compound, mixture, or preparation that contains any quantity of any of the substance referred to in subparagraphs a through c;
 - (3) Twenty-eight grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;

- (4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;
 - (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
 - (6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide or ten grams or more of a mixture or substance containing a detectable amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide;
 - (7) Fifty grams or more of a mixture or substance containing a detectable amount of methamphetamine;
 - (8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of 3,4-methylenedioxy-N-methylamphetamine, C₁₁H₁₅NO₂;
 - (9) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of gamma-hydroxybutyrate or gamma-butyrolactone or 1,4 butanediol or any substance that is an analog of gamma-hydroxybutyrate; or
 - (10) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of flunitrazepam;
 - d. The defendant had a firearm in the defendant's actual possession at the time of the offense; or
 - e. The defendant sells, distributes, delivers, or conspires to deliver a controlled substance to an individual which results in the death of the individual due to the use of that controlled substance and the death of the individual would not have occurred in the absence of the defendant's conduct. This subdivision does not apply to an individual who is immune from prosecution under section 19-03.1-23.4.
2. The offense is:
- a. A class A felony if the violation of section 19-03.1-23 is designated as a class B felony.
 - b. A class B felony if the violation of section 19-03.1-23 is designated as a class C felony.
 - c. A class C felony if the violation of section 19-03.1-23 is designated as a class A misdemeanor.

19-03.1-23.2. Mandatory terms of imprisonment - Deferred or suspended sentence limited.

Repealed by S.L. 2019, ch. 187, § 9.

19-03.1-23.3. Drug currency forfeiture.

- 1. There is a presumption of forfeiture for money, coin, currency, and everything of value, furnished or intended to be furnished, in exchange for a controlled substance in violation of chapter 19-03.1 or imitation controlled substance in violation of chapter 19-03.2, if the state offers a reasonable basis to believe, based on the following circumstances, that there is a substantial connection between the property and an offense listed in chapter 19-03.1 or 19-03.2:
 - a. The property at issue is currency in excess of ten thousand dollars which, at the time of seizure, was being transported through an airport, on a highway, or at a port-of-entry, and the property was packaged or concealed in a highly unusual manner, the person transporting the property provided false information to any law enforcement officer who lawfully stopped the person for investigative purposes, the property was found in close proximity to a measurable quantity of any controlled substance, or the property was the subject of a positive alert by a properly trained dog;

- b. The property at issue was acquired during a period of time when the person who acquired the property was engaged in an offense under chapter 19-03.1 or 19-03.2 or within a reasonable time after the period, and there is no likely source for the property other than that offense;
 - c. The property at issue was, or was intended to be, transported, transmitted, or transferred to or from a major drug-transit country, a major illicit drug-producing country, or a major money-laundering country, and the transaction giving rise to the forfeiture:
 - (1) Occurred in part in a state or foreign country whose bank secrecy laws render this state unable to obtain records relating to the transaction; or
 - (2) Was conducted by, to, or through a corporation that does not conduct any ongoing and significant commercial or manufacturing business or any other form of commercial operation which was not engaged in any legitimate business activity; or
 - d. A person involved in the transaction giving rise to the forfeiture action has been convicted in a federal, state, or foreign jurisdiction of an offense equivalent to an offense under chapter 19-03.1 or 19-03.2 or a felony involving money laundering, or is a fugitive from prosecution for any of these offenses.
2. The presumption in this section does not preclude the use of other presumptions or the establishment of probable cause based on criteria other than those set forth in this section.

19-03.1-23.4. Overdose prevention and immunity.

An individual is immune from criminal prosecution under sections 19-03.1-22.1, 19-03.1-22.3, 19-03.1-22.5, subsection 7 of section 19-03.1-23, subsection 3 of section 19-03.2-03, and section 19-03.4-03 if in good faith that individual seeks medical assistance for another individual in need of emergency medical assistance due to a drug overdose. To receive immunity under this section, the individual receiving immunity must have remained on the scene until assistance arrived, cooperated with the medical treatment of the reported drug overdosed individual, and the overdosed individual must have been in a condition a layperson would reasonably believe to be a drug overdose requiring immediate medical assistance. Neither the individual who experiences a drug-related overdose and is in need of emergency medical assistance nor the cooperating individual seeking medical assistance may be charged or prosecuted for the criminal offenses listed in this section or for the sharing of controlled substances among those present. Immunity from prosecution under this section does not apply unless the evidence for the charge or prosecution was obtained as a result of the drug-related overdose and the need for emergency medical assistance. Good faith does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or during a lawful search.

19-03.1-23.5. Fentanyl reporting - Report to legislative management - Fentanyl awareness campaign.

- 1. By November first of each year, the department of health and human services shall submit to the legislative management and the governor a written report summarizing the number of deaths that occurred in the state caused by or related to fentanyl consumption during the preceding calendar year, including the county in which the deaths occurred and the age and gender of the deceased individuals.
- 2. The department of health and human services shall make the data reported under subsection 1 available to the public by:
 - a. Making the information easily accessible on the department's government website;
 - b. Publishing easily comprehensible printed materials on fentanyl awareness, information, and resources;
 - c. Placing visible billboards in high-traffic areas to inform the public of the dangers of fentanyl; and

- d. Developing a media and social media campaign to expand statewide awareness of fentanyl drug deaths and the fentanyl overdose epidemic occurring within the state.

19-03.1-24. Prohibited acts B - Penalties.

1. It is unlawful for any person:
 - a. Who is subject to the provisions of sections 19-03.1-15 through 19-03.1-22 to distribute or dispense a controlled substance in violation of section 19-03.1-22;
 - b. Who is a registrant, to manufacture a controlled substance not authorized by their registration, or to distribute or dispense a controlled substance not authorized by their registration to another registrant or other authorized person;
 - c. To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this chapter;
 - d. To refuse an entry into any premises for any inspection authorized by this chapter; or
 - e. Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.
2. Any person who violates this section is guilty of a class C felony.

19-03.1-25. Prohibited acts C - Penalties.

1. It is unlawful for any person:
 - a. To distribute as a registrant a controlled substance classified in schedule I or II, except pursuant to an order form as required by section 19-03.1-21;
 - b. To use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;
 - c. To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;
 - d. To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter; or
 - e. To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.
2. Any person who violates this section is guilty of a class C felony.

19-03.1-26. Disposing of needles and paraphernalia - Penalty.

Any registrant who shall use, administer, or dispense or cause to be used, administered, or dispensed any drug or controlled substance in a manner requiring the use of any type of syringe, needle, eyedropper, or other similar paraphernalia shall destroy and dispose of said syringe, needle, eyedropper, or other similar paraphernalia in a manner that will prevent its reuse by any person other than the registrant. The board may adopt rules pursuant to chapter 28-32 setting out the specific manner in which the provisions of this section must be carried out. Any registrant who violates the provisions of this section is guilty of a class A misdemeanor.

19-03.1-27. Penalties under other laws.

Any penalty imposed for violation of this chapter is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

19-03.1-28. Bar to prosecution.

If a violation of this chapter is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

19-03.1-29. Distribution to persons under age eighteen.

Repealed by S.L. 1975, ch. 106, § 673.

19-03.1-30. Conditional discharge for possession as first offense.

Repealed by S.L. 2005, ch. 196, § 4.

19-03.1-31. Second or subsequent offenses.

Repealed by S.L. 1975, ch. 106, § 673.

19-03.1-32. Powers of enforcement personnel - Search warrants.

1. Any officer of the bureau of criminal investigation designated by the attorney general of this state may:
 - a. Carry firearms in the performance of official duties.
 - b. Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state.
 - c. Make arrests without warrant for any offense under this chapter committed in the officer's presence, or if the officer has probable cause to believe that the person to be arrested has committed or is committing a violation of this chapter which may constitute a felony.
 - d. Make seizures of property pursuant to this chapter.
 - e. Perform other law enforcement duties as the attorney general designates.
2. A search warrant relating to offenses involving controlled substances may be issued and executed at any time of the day or night, if the judge or magistrate issuing the warrant so specifies in the warrant.
3. Any officer authorized to execute a search warrant, without notice of the officer's authority and purpose, may break open an outer or inner door or window of a building, or any part of the building, or anything therein, if the judge or magistrate issuing the warrant has probable cause to believe that if such notice were to be given the property sought in the case may be easily and quickly destroyed or disposed of, or that danger to the life or limb of the officer or another may result, and has included in the warrant a direction that the officer executing it is not required to give such notice. Any officers acting under such warrant, as soon as practicable after entering the premises, shall identify themselves and state the purpose of entering the premises and the authority for doing so.

19-03.1-33. Administrative inspections and warrants.

1. Issuance and execution of administrative inspection warrants must be as follows:
 - a. A district judge within a district judge's jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rules hereunder and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter or rules thereunder, sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant.
 - b. A warrant may issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to

believe they exist, the judge or magistrate shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant must:

- (1) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;
 - (2) Be directed to a person authorized to execute it;
 - (3) Command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;
 - (4) Identify the item or types of property to be seized, if any; and
 - (5) Direct that it be served during normal business hours and designate the judge or magistrate to whom it shall be returned.
- c. A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy must be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant must be made promptly, accompanied by a written inventory of any property taken. The inventory must be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory must be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.
- d. The judge or magistrate who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the district court for the county in which the inspection was made.
2. The board may make administrative inspections of controlled premises in accordance with the following provisions:
- a. For purposes of this section only, "controlled premises" means:
 - (1) Places where persons registered or exempted from registration requirements under this chapter are required to keep records; and
 - (2) Places, including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.
 - b. When authorized by an administrative inspection warrant issued pursuant to subsection 1, an officer or employee designated by the board, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.
 - c. When authorized by an administrative inspection warrant, an officer or employee designated by the board may:
 - (1) Inspect and copy records required by this chapter to be kept;
 - (2) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subdivision e, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this chapter; and
 - (3) Inventory any stock of any controlled substance therein and obtain samples thereof.
 - d. This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with section 28-32-33, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

- (1) If the owner, operator, or agent in charge of the controlled premises consents;
 - (2) In situations presenting imminent danger to health or safety;
 - (3) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;
 - (4) In any other exceptional emergency circumstances in which time or opportunity to apply for a warrant is lacking; or
 - (5) In all other situations in which a warrant is not constitutionally required.
- e. An inspection authorized by this section may not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

19-03.1-34. Injunctions.

1. The district courts of this state shall have jurisdiction to restrain or enjoin violations of this chapter.
2. The defendant may demand trial by jury for an alleged violation of an injunction or restraining order under this section.

19-03.1-35. Cooperative arrangements and confidentiality.

1. The board shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, it may:
 - a. Arrange for exchange of information among governmental officials concerning the use and abuse of controlled substances.
 - b. Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels.
 - c. Cooperate with the bureau by establishing a centralized unit to accept, catalog, file, and collect statistics, including records of drug-dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state, and local law enforcement purposes. It may not furnish the name or identity of a patient or research subject whose identity could not be obtained under subsection 3.
 - d. Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.
2. Results, information, and evidence received from the bureau relating to regulatory functions of this chapter, including results of inspections conducted by it, may be relied and acted upon by the board in the exercise of its regulatory functions under this chapter.
3. A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the board nor may the practitioner be compelled in any state or local civil, criminal, administrative, legislative, or other proceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

19-03.1-36. Forfeitures.

1. The following are subject to forfeiture:
 - a. All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter.
 - b. All imitation controlled substances as defined by sections 19-03.2-01 and 19-03.2-02.
 - c. All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter.

- d. All property which is used, or intended for use, as a container for property described in subdivision a, b, or c.
 - e. All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in subdivision a, b, or c, but:
 - (1) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter.
 - (2) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent.
 - (3) A conveyance is not subject to forfeiture for a violation of subsection 7 of section 19-03.1-23 or subsection 3 of section 19-03.2-03.
 - (4) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission.
 - f. All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter.
 - g. All drug paraphernalia as defined in chapter 19-03.4.
 - h. All money, coin, currency, and everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of this chapter or an imitation controlled substance in violation of chapter 19-03.2, and all real and personal property, assets, profits, income, proceeds, or an interest therein, acquired or derived from the unlawful purchase, attempted purchase, delivery, attempted delivery, manufacturing, or attempted manufacturing of any controlled substance or imitation controlled substance.
2. Property subject to forfeiture under this chapter, except conveyances, may be seized by the board upon process issued by any district court having jurisdiction over the property. A conveyance subject to forfeiture under this chapter may be seized by a state, county, or city law enforcement agency upon process issued by any district court having jurisdiction over the conveyance. Seizure without process may be made if:
 - a. The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant.
 - b. The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceedings based upon this chapter.
 - c. The board or a law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety.
 - d. The board or a law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter.
 3. In the event of seizure pursuant to subsection 2, proceedings under subsection 4 must be instituted promptly.
 4. Property taken or detained under this section is not subject to replevin, but is deemed to be in custody of the board or a law enforcement agency subject only to the orders and decrees of the district court having jurisdiction over the forfeiture proceedings as set out in subsection 2. When property is seized under this chapter, the board or a law enforcement agency may:
 - a. Place the property under seal.
 - b. Remove the property to a place designated by it.
 - c. Require the attorney general to take custody of the property and remove it to an appropriate location for disposition in accordance with law.
 5. When property is forfeited under this chapter, the board or a law enforcement agency may:

- a. Retain it for official use or transfer the custody or ownership of any forfeited property to any federal, state, or local agency. The board shall ensure the equitable transfer of any forfeited property to the appropriate federal, state, or local law enforcement agency so as to reflect generally the contribution of that agency participating directly in any of the acts that led to the seizure or forfeiture of the property. A decision to transfer the property is not subject to review.
 - b. Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds must be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs, with any remaining proceeds to be deposited, subject to section 54-12-14, in the appropriate state, county, or city general fund. When two or more law enforcement agencies are involved in seizing a conveyance, the remaining proceeds may be divided proportionately.
 - c. Require the attorney general to take custody of property and remove it for disposition in accordance with law.
 - d. Forward it to the bureau for disposition.
 - e. Use the property, including controlled substances, imitation controlled substances, and plants forfeited under subsections 6 and 7, in enforcement of this chapter. However, in a case involving the delivery of a forfeited controlled substance by a law enforcement officer or a person acting as an agent of a law enforcement officer, no prosecution or conviction for simple possession of a controlled substance under subsection 5 of section 19-03.1-23 may be based upon the forfeited controlled substances supplied by the law enforcement officer or the officer's agent.
6. Controlled substances as defined in this chapter and imitation controlled substances as defined in chapter 19-03.2 that are possessed, transferred, sold, or offered for sale in violation of this chapter and drug paraphernalia as defined in chapter 19-03.4 are contraband and must be seized and summarily forfeited to the state. Controlled substances as defined in this chapter and imitation controlled substances as defined in chapter 19-03.2, which are seized or come into the possession of the state and drug paraphernalia as defined in chapter 19-03.4, the owners of which are unknown, are contraband and must be summarily forfeited to the state.
 7. Species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.
 8. The failure, upon demand by the board, or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration, or proof that the person is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

19-03.1-36.1. Manner of forfeiture.

Property subject to forfeiture under this chapter, other than property that may be summarily forfeited, may be forfeited by order of a district court only after:

1. A written consent to forfeiture executed by the owner of the property and all persons with a legal interest in the property to be forfeited has been filed with the court; or
2. Commencement of forfeiture proceedings.

19-03.1-36.2. Forfeiture proceeding as civil action - Standard of proof.

1. Forfeiture proceedings are civil actions against the property to be forfeited and the standard of proof is clear and convincing evidence.
2. Forfeiture proceedings are separate and distinct from any related criminal action, and may not be initiated until the owner of the property has been convicted of or pled guilty to a criminal offense, or the individual has died, fled the jurisdiction, been deported by the United States government, been granted immunity or a reduced sentence in exchange for testifying or assisting a law enforcement investigation or prosecution,

has abandoned the property, or it can be established beyond a reasonable doubt the property was used in the commission of a crime or constituted the proceeds of criminal activity. As used in this subsection, "abandoned the property" or "fled the jurisdiction" means for a period of more than one year, the owner has not responded to any of the reasonable efforts made by the seizing agency to contact the owner or has not contacted the seizing agency.

3. Two or more law enforcement agencies and courts from different jurisdictions may coordinate, cooperate, and engage in interjurisdictional prosecution under this section.

19-03.1-36.3. Summons and complaint for forfeiture of property - Contents of complaint - Notice.

When property described in subsection 1 of section 19-03.1-36 is to be forfeited, other than property described in subsection 6 of section 19-03.1-36, and in the absence of a written consent to forfeiture, forfeiture proceedings must be commenced by the filing of a summons and complaint for forfeiture of the property in the district court of the county in which the property was seized, is being held, or is located. In the case of real property, the summons and complaint must be filed in the county in which the real property, or some part of the real property, is located. The proceedings must be brought in the name of the state. The complaint must describe the property, state its location, state its present custodian, state the name of each owner if known, state the name of each party with a legal interest in the property if known or of legal record, allege the essential elements of the violation that is claimed to exist, and must conclude with a prayer to enforce the forfeiture. Notice of the forfeiture proceedings must be given to each known owner and known person with a legal interest in the property to be forfeited by serving a copy of the summons and complaint in accordance with the North Dakota Rules of Civil Procedure. The procedure governing the proceedings, except as otherwise provided in this chapter, is the same as that prescribed for civil proceedings.

19-03.1-36.4. Answer by claimant of property - Time for filing.

Within twenty days after the service of the summons and complaint for forfeiture, the owner of the property to be forfeited and any other person with a legal interest in the property may file an answer claiming an interest in that property and claiming that person's interest is not subject to forfeiture under this chapter.

19-03.1-36.5. Disposition of property if no answer filed.

If at the end of twenty days after the summons and complaint have been served there is no answer filed with the court against the complaint for forfeiture, the court shall order the forfeiture and disposition of the property as prayed for in the complaint.

19-03.1-36.6. Hearing on contested forfeiture - Order releasing or forfeiting property.

1. If an answer is filed within the time limits in this chapter, the forfeiture proceedings must be set for hearing before the court. At the hearing, the state shall establish a valid seizure of the property to be forfeited, and the property meets the requirements of subsection 2 of section 19-03.1-36.2. Following the state's case, any owner or person with a legal interest in the property to be forfeited who has filed an answer to the complaint has the burden of proving that the property to be forfeited is not subject to forfeiture under this chapter. If the court finds that the property is not subject to forfeiture under this chapter, the court shall order the property released to the owner or other person with a legal interest in the property as that person's right, title, or interest appears. The court shall order the property forfeited if it determines that such property or an interest therein is subject to forfeiture.
2. A court ordering property forfeited under subsection 1 may order only the forfeited property or proceeds from the sale of forfeited property to be deposited with a political subdivision if the political subdivision has created a civil asset forfeiture fund. If the political subdivision does not have a civil asset forfeiture fund, any forfeited property

and proceeds from the sale of forfeited property must be deposited in the attorney general's asset forfeiture fund.

3. A political subdivision that has a civil asset forfeiture fund shall establish an application process, including eligibility criteria, to accept and process applications from law enforcement agencies within the political subdivision's jurisdiction for an appropriation from the civil asset forfeiture fund.
4. This section does not prohibit the state and a political subdivision from entering an agreement to divide forfeited property and the proceeds from the sale of forfeited property.

19-03.1-36.7. Legal interest in property.

1. A person alleging a bona fide legal interest in property to be forfeited must establish by a preponderance of the evidence that such legal interest existed at the time of seizure or taking of custody of the property. In the case of a claimed bona fide security interest in the property, the person claiming such interest must establish by a preponderance of the evidence that the security interest in the property to be forfeited existed or was of public record at the time of seizure or taking of custody of the property.
2. Upon a determination by the court that property is subject to forfeiture, the owner of the property to be forfeited or any other person with a legal interest in the property may petition the court to determine whether the forfeiture is unconstitutionally excessive.
 - a. A vehicle valued at less than two thousand dollars may not be forfeited unless the court finds the vehicle has been modified to conceal contraband or currency.
 - b. Real property constituting a homestead may not be forfeited.
 - c. In determining whether a forfeiture is excessive, the court shall consider all factors, including the fair market value of the property, the extent to which the owner or person participated in the offense, the extent to which the property was used or received in committing the offense, and the possible penalty that could be imposed for the alleged or committed offense subject to forfeiture.
 - d. The court may not consider the value of the property to the state in determining whether the forfeiture is unconstitutionally excessive.

19-03.1-36.8. Reporting.

1. As used in this section, "law enforcement agency" means a nonfederal public agency authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law, including the authority to conduct or engage in seizure and forfeiture of property or to collaborate with a federal agency under federal law to conduct or engage in seizure and forfeiture of property. The term includes a multijurisdictional task force.
2. Every civil forfeiture judgment issued by a district court must be made publicly available and include the following information in the findings of fact:
 - a. Case number of the forfeiture proceeding and the district court where the case was filed.
 - b. Location of the seizure, including whether the location was a residence or business or occurred during a traffic stop.
 - c. The crime with which the suspect was charged.
 - d. The disposition of the suspect's criminal case.
 - e. Who filed a claim or counterclaim for the seized property, or whether there was a default in the litigation of the seized property.
 - f. Date the forfeiture order was issued.
 - g. Whether a forfeiture settlement agreement was reached.
 - h. The date and the final disposition of the property.
 - i. Estimated value of the forfeited property.
 - j. Estimate of the total costs accrued by the law enforcement agency for storage and disposal of the civilly forfeited property.
 - k. Amount of any attorney fees awarded to owners of seized and forfeited property.

3. Annually, any law enforcement agency that seizes property shall provide to the attorney general a completed civil asset forfeiture case report form for every seizure and the total value of the forfeited property held by the agency at the end of the reporting period.
4. By November first of each year, the attorney general shall submit to the legislative management and the governor a written report summarizing activity in the state for the preceding fiscal year, the type, approximate value, and disposition of any civilly forfeited property, and the amount of proceeds received.
 - a. Summary data and civilly forfeited property must be disaggregated by agency.
 - b. The attorney general shall make the report available on the attorney general's website.
 - c. The report must include the case reports provided by the law enforcement agencies.
5. The attorney general may recover any costs under this section by withdrawing money from the asset forfeiture fund.
6. A law enforcement agency may use forfeiture proceeds to pay the costs of compiling and reporting data under this section.
7. The data and reports compiled under this section are public information and not exempt from disclosure.
8. The attorney general may require the reporting of additional information not specified in this section. The attorney general shall develop standard forms, processes, and deadlines for annual submission of forfeiture data by law enforcement agencies.
9. If a law enforcement agency fails to file a report within thirty days after the report is due, the attorney general may compel compliance by any means until the report is filed.
10. Any property seized with a value of less than fifty dollars is not required to be included in the written report submitted by the attorney general.
11. A state's attorney may establish a minimum value amount for seizures in the interests of justice and efficient use of governmental resources in the state's attorney's jurisdiction. The minimum value amount may be based on the state's attorney's determination of the:
 - a. Type and number of occurrences of offenses that include the seizure of property; and
 - b. Average value of seized property less the costs to seize and forfeit the property.

19-03.1-37. Burden of proof - Liabilities.

1. It is not necessary for the state to negate any exemption or exception in this chapter in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this chapter. The burden of proof of any exemption or exception is upon the person claiming it.
2. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this chapter, the person is presumed not to be the holder of the registration or form. The burden of proof is upon the person to rebut the presumption.
3. No liability is imposed by this chapter upon any authorized state, county, or municipal officer engaged in the lawful performance of the officer's duties.
4. In all prosecutions under this chapter, chapter 19-03.2, or chapter 19-03.4 involving the analysis of a substance or sample thereof, a certified copy of the analytical report signed by the director of the state crime laboratory or the director's designee, or electronically posted by the director of the state crime laboratory or the director's designee on the crime laboratory information management system and certified by a law enforcement officer or individual who has authorized access to the crime laboratory information management system through the criminal justice data information sharing system, must be accepted as prima facie evidence of the results of the analytical findings.
5. Superseded by N.D.R.Ev., Rule 707.

6. In all cases of conspiracy to violate chapter 19-03.1, 19-03.2, or 19-03.4, the state is not required to prove or establish that a conspirator knew the other person to the agreement intended to deliver or possess with intent to deliver a controlled substance, an imitation controlled substance, or drug paraphernalia to a third person.

19-03.1-38. Judicial review.

All final determinations, findings, and conclusions of the board under this chapter are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision in the district court. Findings of fact by the board, if supported by substantial evidence, are conclusive.

19-03.1-39. Education and research.

1. The board shall carry out educational programs designed to prevent and deter misuse of controlled substances. In connection with these programs it may:
 - a. Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations.
 - b. Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances.
 - c. Consult with interested groups and organizations to aid them in solving administrative and organizational problems.
 - d. Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances.
 - e. Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them.
 - f. Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.
2. The board shall encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this chapter, it may:
 - a. Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse.
 - b. Make studies and undertake programs of research to:
 - (1) Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this chapter.
 - (2) Determine patterns of misuse and abuse of controlled substances and the social effects thereof.
 - (3) Improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances.
 - c. Enter contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.
3. The board may enter into contracts for educational and research activities without performance bonds and without regard to statutory provisions affecting such contracts.
4. The board may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.
5. The board may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

19-03.1-40. Pending proceedings.

Repealed by S.L. 1985, ch. 262, § 27.

19-03.1-41. Continuation of rules.

Any orders and rules promulgated under any law affected by this chapter in effect on July 1, 1971, and not in conflict with it continue in effect until modified, superseded, or repealed.

19-03.1-42. Uniformity of interpretation.

Repealed by S.L. 1983, ch. 82, § 154.

19-03.1-43. Short title.

This chapter may be cited as the Uniform Controlled Substances Act.

19-03.1-44. Comprehensive status and trends report.

Repealed by S.L. 2017, ch. 366, § 6.

19-03.1-45. Drug abuse assessment and treatment - Presentence investigation - Certified drug abuse treatment programs.

1. If a person has pled guilty or has been found guilty of a felony violation of subsection 7 of section 19-03.1-23, if that person has not previously pled guilty or been found guilty of any offense involving the use, possession, manufacture, or delivery of a controlled substance or of any other felony offense of this or another state or the federal government, the court shall impose a period of probation up to the length authorized under section 12.1-32-06.1 with a suspended execution of a sentence of imprisonment, a sentence to probation, or an order deferring imposition of sentence.
2. Upon a plea or finding of guilt of a person subject to subsection 1, the court shall order a presentence investigation to be conducted by the department. The presentence investigation must include a drug and alcohol evaluation conducted by a licensed addiction counselor.
3. If the licensed addiction counselor recommends treatment, the court shall require the person to participate in an addiction program licensed by the department of health and human services as a condition of the probation. The court shall commit the person to treatment through a licensed addiction program until determined suitable for discharge by the court. The term of treatment may not exceed eighteen months and may include an aftercare plan. During the commitment and while subject to probation, the department shall supervise the person.
4. If the person fails to participate in, or has a pattern of intentional conduct that demonstrates the person's refusal to comply with or participate in the treatment program, as established by judicial finding, the person is subject to revocation of the probation. Notwithstanding subsection 2 of section 12.1-32-02, the amount of time participating in the treatment program under this section is not "time spent in custody" and will not be a credit against any sentence to term of imprisonment.
5. In this section:
 - a. "Department" means the department of corrections and rehabilitation; and
 - b. "Licensed addiction counselor" is a person licensed pursuant to section 43-45-05.1.

19-03.1-46. Bail - Additional conditions of release.

A court shall impose as a condition of release or bail that an individual who has been arrested upon a felony violation of this chapter or chapter 19-03.4 not use a controlled substance without a valid prescription from a licensed medical practitioner and that the individual submit to a medical examination or other reasonable random testing for the purpose of determining the person's use of a controlled substance. The court shall order the frequency of the random testing and the location at which random testing must occur. The court shall provide notice to the selected provider of the required examination or testing. The provider shall notify

the court if the individual fails to appear for the examination or testing. The testing must be at the individual's own cost. Submission of an individual to a medical examination or other reasonable random testing as a condition for release is not required if the court makes a specific finding on the record that:

1. The individual has not been arrested for a felony offense relating to the use, possession, manufacture, or delivery of methamphetamine;
2. The individual will appear as required by the court and will comply with all conditions of release without submission to an examination or testing; and
3. Not imposing examination or testing as a condition of release will pose no danger to the individual or to the community.