

28 finds the defendant has not otherwise been substantially prejudiced by the omission.

29 (3) The enhanced penalties for offenses committed under this section are:

30 (a) If the offense is a class B misdemeanor, the convicted person shall serve a minimum
31 term of 90 consecutive days in a jail or other secure correctional facility.

32 (b) If the offense is a class A misdemeanor, the convicted person shall serve a minimum
33 term of 180 consecutive days in a jail or other secure correctional facility.

34 (c) If the offense is a third degree felony, the convicted person shall be sentenced to an
35 enhanced minimum term of three years in prison.

36 (d) If the offense is a second degree felony, the convicted person shall be sentenced to an
37 enhanced minimum term of six years in prison.

38 (e) If the offense is a first degree felony, the convicted person shall be sentenced to an
39 enhanced minimum term of nine years in prison.

40 (f) If the offense is a capital offense for which a life sentence is imposed, the convicted
41 person shall be sentenced to a minimum term of 20 years in prison.

42 (4) Offenses referred to in Subsection (1) are:

43 (a) any criminal violation of Title 58, Chapter 37, 37a, 37b, or 37c, regarding drug-related
44 offenses;

45 (b) assault and related offenses under Title 76, Chapter 5, Part 1;

46 (c) any criminal homicide offense under Title 76, Chapter 5, Part 2;

47 (d) kidnapping and related offenses under Title 76, Chapter 5, Part 3;

48 (e) any felony sexual offense under Title 76, Chapter 5, Part 4;

49 (f) sexual exploitation of a minor as defined in Section 76-5a-3;

50 (g) any property destruction offense under Title 76, Chapter 6, Part 1;

51 (h) burglary, criminal trespass, and related offenses under Title 76, Chapter 6, Part 2;

52 (i) robbery and aggravated robbery under Title 76, Chapter 6, Part 3;

53 (j) theft and related offenses under Title 76, Chapter 6, Part 4;

54 (k) any fraud offense under Title 76, Chapter 6, Part 5, except Sections 76-6-503,
55 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513,
56 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

57 (l) any offense of obstructing government operations under Part 3, Title 76, Chapter 8,
58 except Sections 76-8-302, 76-8-303, 76-8-304, 76-8-307, 76-8-308, and 76-8-312;

- 59 (m) tampering with a witness or other violation of Section 76-8-508;
- 60 (n) extortion or bribery to dismiss criminal proceeding as defined in Section 76-8-509;
- 61 (o) any explosives offense under Title 76, Chapter 10, Part 3;
- 62 (p) any weapons offense under Title 76, Chapter 10, Part 5;
- 63 (q) pornographic and harmful materials and performances offenses under Title 76, Chapter
- 64 10, Part 12;
- 65 (r) prostitution and related offenses under Title 76, Chapter 10, Part 13;
- 66 (s) any violation of Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;
- 67 (t) any violation of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 68 (u) communications fraud as defined in Section 76-10-1801;
- 69 (v) any violation of Title 76, Chapter 10, Part 19, Money Laundering and Currency
- 70 Transaction Reporting Act; and
- 71 (w) burglary of a research facility as defined in Section 76-10-2002.
- 72 (5) (a) This section does not create any separate offense but provides an enhanced penalty
- 73 for the primary offense.
- 74 (b) It is not a bar to imposing the enhanced penalties under this section that the persons
- 75 with whom the actor is alleged to have acted in concert are not identified, apprehended, charged,
- 76 or convicted, or that any of those persons are charged with or convicted of a different or lesser
- 77 offense.
- 78 (c) (i) The sentencing judge rather than the jury shall decide whether to impose the
- 79 enhanced penalty under this section.
- 80 (ii) The imposition of the penalty is contingent upon a finding by the sentencing judge by
- 81 a preponderance of the evidence that this section is applicable.
- 82 (iii) In conjunction with sentencing the court shall enter written findings of fact concerning
- 83 the applicability of this section.
- 84 (6) The court may suspend the imposition or execution of the sentence required under this
- 85 section if the court:
- 86 (a) finds that the interests of justice would be best served; and
- 87 (b) states the specific circumstances justifying the disposition on the record and in writing.

Legislative Review Note
as of 12-4-98 12:05 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel