

## 2009 Rockefeller Drug Law Reform Sentencing Chart<sup>6</sup>

Class Felony	Determinate Sentence Term	Post-Release Supervision	Probation Permitted	Alternative Definite Sentence Permitted	Y.O. Permitted	Parole Supervision Sentence	Shock Permitted <sup>4</sup>	Judicially Ordered Shock	CASAT Sentence Permitted	Judicial Diversion <sup>5, 8</sup>
A-I First Offense	8 - 20	5	No	No	No	No	No	No	Yes	No
A-I Major Trafficker	15/25-Life <sup>9</sup>	5 <sup>9</sup>	No	No	No	No	No	No	Yes	No
A-I Prior Non-Violent	12 - 24	5	No	No	No	No	No	No	Yes	No
A-I Prior Violent	15 - 30	5	No	No	No	No	No	No	Yes	No
A-II First Offense	3 - 10	5	Yes/life <sup>1</sup>	No	No	No	Yes	Yes <sup>3</sup>	Yes	No
A-II Prior Non-Violent	6 - 14	5	Yes/life <sup>1</sup>	No	No	No	Yes	Yes <sup>3</sup>	Yes	No
A-II Prior Violent	8 - 17	5	No	No	No	No	Yes	Yes <sup>3</sup>	Yes	No
B First Offense	1 - 9	1 - 2	Yes/5	Yes 1 yr. or less	Yes	Yes <sup>2</sup>	Yes	Yes <sup>3</sup>	Yes	Yes <sup>5</sup>
B Sale Near School	2 - 9	1 - 2	Yes/5	Yes 1 yr. or less	Yes	Yes <sup>2</sup>	Yes	Yes <sup>3</sup>	Yes	Yes <sup>5</sup>
B Sale to a Child	2 - 9	1 - 2	Yes/25 <sup>1</sup>	No	NA	No	Yes	Yes <sup>3</sup>	Yes	Yes <sup>5</sup>
B Prior Non-Violent	2 - 12	1 ½ - 3	Yes/life <sup>1</sup>	No	No	No	Yes	Yes <sup>3</sup>	Yes <sup>7</sup>	Yes <sup>5</sup>
B Prior Violent	6 -15	1 ½ - 3	No	No	No	No	Yes <sup>10</sup>	Yes <sup>3, 10</sup>	Yes <sup>7</sup>	No
C First Offense	1 - 5 ½	1 - 2	Yes/5	Yes 1 yr. or less	Yes	No	Yes	Yes <sup>3</sup>	Yes	Yes <sup>5</sup>
C Prior Non-Violent	1 ½ - 8	1 ½ - 3	Yes/5	Yes 1 yr. or less	No	Yes <sup>2</sup>	Yes	Yes <sup>3</sup>	Yes	Yes <sup>5</sup>
C Prior Violent	3 ½ - 9	1 ½ - 3	No	No	No	No	Yes	Yes <sup>3</sup>	Yes	No
D First Offense	1 - 2 ½	1	Yes/5	Yes 1 yr. or less	Yes	No	Yes	Yes <sup>3</sup>	Yes	Yes <sup>5</sup>
D Prior Non-Violent	1 ½ - 4	1 - 2	Yes/5	Yes 1 yr. or less	No	Yes <sup>2</sup>	Yes	Yes <sup>3</sup>	Yes	Yes <sup>5</sup>
D Prior Violent	2 ½ - 4 ½	1 - 2	No	No	No	No	Yes	Yes <sup>3</sup>	Yes	No
E First Offense	1 - 1 ½	1	Yes/5	Yes 1 yr. or less	Yes	No	Yes	Yes <sup>3</sup>	Yes	Yes <sup>5</sup>
E Prior Non-Violent	1 ½ - 2	1 - 2	Yes/5	Yes 1 yr. or less	No	Yes <sup>2</sup>	Yes	Yes <sup>3</sup>	Yes	Yes <sup>5</sup>
E Prior Violent	2 - 2 ½	1 - 2	No	No	No	No	Yes	Yes <sup>3</sup>	Yes	No

<sup>1</sup> Requires recommendation of DA, material assistance in prosecution of drug offense, and court approval. (Penal Law §65.00(1)(b)).

<sup>2</sup> Excluded if convicted of another felony offense, prior violent felony, a class A or B non-drug or subject to an undischarged term. CPL §410.91 (2).

<sup>3</sup> Eligible if served no state prison time on prior violent felony. (Effective 8/13/10). Less than 50 yrs old. Must be within 3 years to parole or conditional release. Excludes crimes listed in (Corr.L. §865(1)).

<sup>4</sup> For terms of more than 3 years must wait for rolling admissions.

<sup>4</sup> Same as ft. note 3. For terms of more than 3 years must wait for rolling admission. (Corr.L. §865(2)).

<sup>5</sup> See CPL §216.00(1)(a) for exclusions, but D.A. may consent to include exclusions.

<sup>6</sup> Effective 4/7/09.

<sup>7</sup> Must serve 9 months jail or prison time to be eligible.

<sup>8</sup> Judicial Diversion effective 10/7/09. Applies to crimes committed prior to Act not yet sentenced.

<sup>9</sup> Alternative determinate sentence possible (8-20).

<sup>10</sup> Effective 8/13/10.

## Center for Community Alternatives

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