



General Assembly

January Session, 2007

**Raised Bill No. 7219**

LCO No. 4368

\*04368 \_\_\_\_\_ JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING THE TRIAL OF DRUG-DEPENDENT PERSONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-278 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) Any person who manufactures, distributes, sells, prescribes,  
4 dispenses, compounds, transports with the intent to sell or dispense,  
5 possesses with the intent to sell or dispense, offers, gives or  
6 administers to another person one or more preparations, compounds,  
7 mixtures or substances containing an aggregate weight of one ounce or  
8 more of heroin or methadone or an aggregate weight of one-half ounce  
9 or more of cocaine or one-half ounce or more of cocaine in a free-base  
10 form, or a substance containing five milligrams or more of lysergic  
11 acid diethylamide, except as authorized in this chapter, and who is not,  
12 at the time of such action, a drug-dependent person, shall be  
13 imprisoned for a minimum term of not less than five years or more  
14 than twenty years; and, a maximum term of life imprisonment. The  
15 execution of the mandatory minimum sentence imposed by the  
16 provisions of this subsection shall not be suspended, except the court

17 may suspend the execution of such mandatory minimum sentence if at  
18 the time of the commission of the offense (1) such person was under  
19 the age of eighteen years, or (2) such person's mental capacity was  
20 significantly impaired, but not so impaired as to constitute a defense to  
21 prosecution.

22 (b) Any person who manufactures, distributes, sells, prescribes,  
23 dispenses, compounds, transports with the intent to sell or dispense,  
24 possesses with the intent to sell or dispense, offers, gives or  
25 administers to another person any narcotic substance, hallucinogenic  
26 substance other than marijuana, amphetamine-type substance, or one  
27 kilogram or more of a cannabis-type substance except as authorized in  
28 this chapter, and who is not at the time of such action a drug-  
29 dependent person, for a first offense shall be imprisoned not less than  
30 five years nor more than twenty years; and for each subsequent offense  
31 shall be imprisoned not less than ten years nor more than twenty-five  
32 years. The execution of the mandatory minimum sentence imposed by  
33 the provisions of this subsection shall not be suspended except the  
34 court may suspend the execution of such mandatory minimum  
35 sentence if at the time of the commission of the offense (1) such person  
36 was under the age of eighteen years, or (2) such person's mental  
37 capacity was significantly impaired but not so impaired as to  
38 constitute a defense to prosecution.

39 (c) Upon motion of a defendant charged with a violation of  
40 subsection (a) or (b) of this section, the court shall conduct a hearing to  
41 determine whether the defendant was a drug-dependent person at the  
42 time of the offense charged. If, after such hearing, the court finds that  
43 the defendant was a drug-dependent person at the time of the offense  
44 charged, it shall dismiss the information without prejudice to the right  
45 of the state to file a substitute information charging the defendant with  
46 a violation of section 21a-277 or 21a-279.

47 (d) Any information charging a defendant with a violation of  
48 subsection (a) or (b) of this section shall be in two separate parts, each

49 signed by the prosecuting authority. The first part shall set forth the  
50 particular violation of the provision of this section and the second part  
51 shall allege the non-drug-dependency of the defendant. Upon a  
52 finding of guilty on the first part of the information, a plea shall be  
53 taken and, if necessary, election made as to a trial by the court or by a  
54 jury on the second part and the trial thereon shall proceed. If the  
55 defendant elects a trial by jury on the second part of the information,  
56 the jury for such trial shall be the same jury that determined the  
57 defendant's guilt, unless the court otherwise directs for good cause  
58 shown.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	21a-278

**Statement of Purpose:**

To establish a procedure for the trial of a person charged with a violation of the statute penalizing the sale of drugs by a non-drug-dependent person.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*