



OLR RESEARCH REPORT

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OLR BACKGROUNDER: DRUG POSSESSION, SALE, AND PARAPHERNALIA PENALTIES

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This report describes the penalties for the possession or sale of illegal drugs or drug paraphernalia under Connecticut law. It also describes the penalties under Connecticut law for the use of drug paraphernalia and related offenses. We do not discuss collateral consequences associated with certain convictions, such as restrictions on some types of employment.

CONNECTICUT DRUG POSSESSION CRIMES AND OFFENSES

It is illegal for any person to possess or have under his or her control any narcotic, hallucinogenic, or other controlled substance unless otherwise authorized by law (e.g., controlled substances obtained pursuant to a prescription). The penalty for personal drug possession in Connecticut depends on a number of different factors, including the amount and type of drug, where the criminal act takes place, and whether the criminal act was a first or repeat offense.

For drug possession offenses, the statutorily authorized penalties range from (1) a \$150 fine for a first offense of possession of less than ½ ounce of marijuana to (2) up to 25 years imprisonment, up to a \$250,000 fine, or both for three or more convictions for possession of narcotics. Penalties for drug possession crimes are generally enhanced when they occur within 1,500 feet of a school or licensed day care center. Table 1 below shows the drug possession offenses, the Connecticut General Statutes citation for each offense, and the authorized penalties.

The law generally prohibits prosecuting a person for possessing drugs solely on discovery of evidence arising from efforts to seek medical assistance for a drug overdose (see [CGS § 21a-279\(g\)](#)).

The possession of less than ½ ounce of marijuana is not a crime, but is punishable by fines (and other penalties in certain circumstances). Also, under specified conditions, the law provides protections from prosecution or other penalties related to marijuana for medical marijuana patients, their primary caregivers, and their doctors ([CGS § 21a-408](#) et seq). For more information on Connecticut’s medical marijuana program, including the recently approved regulations for the program, see the Department of Consumer Protection’s (DCP) website: <http://www.ct.gov/dcp/mmp>. For information on DCP’s Drug Control Division (such as information on controlled substances practitioner registration), see the division’s website: www.ct.gov/dcp/drugcontrol.

Table 1: Drug Possession

<i>Offense Descriptions</i>	<i>Authorized Penalties</i>
Less than ½ oz. marijuana Cite: CGS § 21a-279a	First offense: \$150 fine Subsequent offenses: \$200 to \$500 fine (three-time violators must attend drug education, at their own expense) Violators follow the procedures the law sets for infractions (e.g., they can pay the fine by mail) (CGS § 51-164n) 60-day suspension of the driver’s license or nonresident operating privileges of anyone under age 21 who is convicted of a violation (if the person does not have a license, he or she is ineligible for one for 150 days after meeting all licensing requirements) (CGS § 14-111e) Burden of proof is preponderance of the evidence (rather than beyond a reasonable doubt) (CGS § 51-164n(i))
Narcotics (i.e., heroin, cocaine, and crack) Cite: CGS § 21a-279(a)	First offense: up to 7-year prison term, up to a \$50,000 fine, or both Second offense: up to 15-year prison term, up to a \$100,000 fine, or both Subsequent offenses: up to 25-year prison term, up to a \$250,000 fine, or both Alternative sentence: up to 3-year indeterminate prison term with conditional release by correction commissioner (CGS § 21a-279(e))

Table 1 (continued)

Offense Descriptions	Authorized Penalties
<p>At least 4 oz. of marijuana or any quantity of other hallucinogens Cite: CGS § 21a-279(b)</p>	<p>First offense: up to 5-year prison term, up to a \$2,000 fine, or both. Effective October 1, 2013, the penalty is a class D felony, punishable by up to 5-year prison term, up to a \$5,000 fine, or both (PA 13-258, § 88).</p> <p>Subsequent offenses: up to 10-year prison term, up to a \$5,000 fine, or both. Effective October 1, 2013, the penalty is a class C felony, punishable by 1- to 10-year prison term, up to a \$10,000 fine, or both (PA 13-258, § 88).</p> <p>Alternative sentence: up to 3-year indeterminate prison term with conditional release by correction commissioner (CGS § 21a-279(e))</p>
<p>Any other illegal drug or at least ½ oz. but less than 4 oz. of marijuana Cite: CGS § 21a-279(c)</p>	<p>First offense: up to 1-year prison term, up to a \$1,000 fine, or both</p> <p>Subsequent offenses: up to 5-year prison term, up to a \$3,000 fine, or both. Effective October 1, 2013, the penalty is a class D felony, punishable by up to 5-year prison term, up to a \$5,000 fine, or both (PA 13-258, § 88).</p> <p>Alternative sentence for subsequent offenses: up to 3-year indeterminate prison term with conditional release by correction commissioner (CGS § 21a-279(e))</p>
<p>Possession of ½ oz. or more of marijuana or any quantity of other illegal drugs within 1,500 feet of (1) an elementary or secondary school by someone who is not attending the school or (2) a licensed day care center identified as such by a sign posted in a conspicuous place Cite: CGS § 21a-279(d)</p>	<p>Mandatory 2-year prison term running consecutively to the prison term imposed for the underlying possession crime</p> <p>Judge can depart from this sentence under certain circumstances (see below)*</p>

* Judges can impose less than the mandatory minimum sentence when no one was hurt during the crime and the defendant (1) did not use or attempt or threaten to use physical force; (2) was unarmed; and (3) did not threaten to use or suggest that he or she had a firearm, other deadly weapon (e.g., a switchblade knife), or other instrument that could cause death or serious injury. Defendants must show good cause and can invoke these provisions only once. Judges must state at sentencing hearings their reasons for (1) imposing the sentence and (2) departing from the mandatory minimum ([CGS § 21a-283a](#)).

CONNECTICUT DRUG SALE CRIMES

It is illegal for anyone to manufacture, distribute, sell, prescribe, dispense, compound, transport with intent to sell or dispense, possess with intent to sell or dispense, offer, give, or administer to another any controlled substance, except as otherwise authorized by law. As with possession, the penalty for these actions depends on a number of different factors. These include the amount and type of drug, where the criminal act takes place, whether the offender is addicted to drugs, the offender’s age, the buyer’s age, and whether the criminal act was a first or repeat offense.

There are mandatory minimum prison terms for several crimes involving drug sales or related actions, although a judge can depart from the mandatory minimum for certain crimes under certain circumstances. The penalties are generally enhanced when the crimes occur within 1,500 feet of a school, licensed day care center, or public housing project.

Table 2 shows the drug sale crimes, the Connecticut General Statutes citation for each offense, and the authorized penalties.

Table 2: Drug Sales

Offense Descriptions	Authorized Penalties
Sale by a nonaddicted person of at least 1 oz. of heroin or methadone; ½ oz. of cocaine or crack; or 5 mg. of LSD Cite: CGS § 21a-278(a)	Mandatory minimum 5- to 20-year prison term with a possible maximum term of life imprisonment Judge can suspend the mandatory minimum if, at the time of the offense, the person (1) was under age 18 or (2) had significantly impaired mental capacity Judge can depart from the mandatory sentence under certain other circumstances (see below)*
Sale by a nonaddicted person of at least 1 kg. of marijuana or any amount of narcotics, amphetamines, or other hallucinogens Cite: CGS § 21a-278(b)	First offense: mandatory minimum 5- to 20-year prison term Subsequent offenses: mandatory minimum 10- to 25- year prison term Judge can suspend the mandatory minimum if, at the time of the offense, the person (1) was under age 18 or (2) had significantly impaired mental capacity Judge can depart from the mandatory sentence under certain other circumstances (see below)*
Sale by nonaddicted adult of drugs to a minor at least two years younger Cite: CGS § 21a-278a(a)	Mandatory 2-year prison term running consecutively to prison term imposed for the underlying crime
Sale of illegal drugs within 1,500 feet of (1) an elementary or secondary school, (2) a licensed day care center identified as such by a sign posted in a conspicuous place, or (3) a public housing project Cite: CGS § 21a-278a(b)	Mandatory 3-year prison term running consecutively to prison term imposed for the underlying crime Judge can depart from this sentence under certain circumstances (see below)*
Hiring or persuading a minor to sell illegal drugs in violation of the laws prohibiting illegal drug sales Cite: CGS § 21a-278a(c)	Mandatory 3-year prison term running consecutively to prison term imposed for the underlying drug sale crime

Table 2 (continued)

Offense Descriptions	Authorized Penalties
Sale of any narcotics or hallucinogens other than marijuana Cite: CGS § 21a-277(a)	First offense: up to 15-year prison term, up to a \$50,000 fine, or both Second offense: up to 30-year prison term, up to a \$100,000 fine, or both Subsequent offenses: up to 30-year prison term, up to a \$250,000 fine, or both Alternative sentence: up to 3-year indeterminate prison term with conditional release by correction commissioner (CGS § 21a-277(d))
Sale of any other illegal drug Cite: CGS § 21a-277(b)	First offense: up to 7-year prison term, up to a \$25,000 fine, or both Subsequent offenses: up to 15-year prison term, up to a \$100,000 fine, or both Alternative sentence: up to 3-year indeterminate prison term with conditional release by correction commissioner (CGS § 21a-277(d))

* Judges can impose less than the mandatory minimum sentence under the same circumstances as described above for certain drug possession offenses (see the footnote under Table 1).

CONNECTICUT DRUG PARAPHERNALIA CRIMES AND OFFENSES

It is illegal for anyone to use or possess with intent to use drug paraphernalia for various drug-related purposes (e.g., growing, preparing, ingesting, or inhaling controlled substances). It is also illegal to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used for the same purposes. These actions are generally subject to criminal misdemeanor penalties. If the actions are done in connection with less than ½ ounce of marijuana, they are punishable as infractions, not crimes.

Penalties for the drug paraphernalia crimes described above are generally enhanced when they occur within 1,500 feet of a school by someone who is not a student there.

As with drug possession, the law generally prohibits prosecuting a person for possessing drug paraphernalia solely on discovery of evidence arising from efforts to seek medical assistance for a drug overdose (see [CGS § 21a-267\(e\)](#)).

The law also prohibits the knowing possession of drug paraphernalia in a drug factory situation for the unlawful mixing, compounding, or otherwise preparing of any amount of a controlled substance for

purposes of violating drug laws. This is a felony, and there is a mandatory minimum prison term if a minor is hired or otherwise used to commit the offense.

The law’s definition of “drug paraphernalia” lists several specific examples (see [CGS § 21a-240\(20\)\(A\)](#)). The law also sets out factors courts or other authorities must consider when determining whether an object or material is drug paraphernalia (see [CGS § 21a-270](#)).

Table 3: Drug Paraphernalia

Offense Descriptions	Authorized Penalties
Use, possess with intent to use, or deliver, possess with intent to deliver, or manufacture with intent to deliver, in connection with less than ½ oz. of marijuana Cite: CGS § 21a-267(d)	Infraction (punishable by fines of between \$35 and \$90, plus a surcharge and additional fee based on the amount of the fine; the current total amount due for violating § 21a-267(d) is \$136) 60-day suspension of the driver’s license or nonresident operating privileges of anyone under age 21 who is convicted of this infraction (if the person does not have a license, he or she is ineligible for one for 150 days after meeting all licensing requirements) (CGS § 14-111e) Burden of proof is preponderance of the evidence (rather than beyond a reasonable doubt) (CGS § 51-164n(h))
Use or possess with intent to use in connection with ½ oz. or more of marijuana or any amount of another controlled substance Cite: CGS § 21a-267(a)	Class C misdemeanor, punishable by up to three months in prison, up to a \$500 fine, or both
Deliver, possess with intent to deliver, or manufacture with intent to deliver in connection with ½ oz. or more of marijuana or any amount of another controlled substance Cite: CGS § 21a-267(b)	Class A misdemeanor, punishable by up to 1-year prison term, up to a \$2,000 fine, or both
Commit the above acts in connection with ½ oz. or more of marijuana or any amount of another controlled substance, within 1,500 feet of an elementary or secondary school by someone who is not attending the school Cite: CGS § 21a-267(c)	Mandatory 1-year prison term running consecutively to prison term imposed for the underlying crime Judge can depart from this sentence under certain circumstances (see below)*
Knowing possession of drug paraphernalia in drug factory situation Cite: CGS § 21a-277(c) (see CGS § 21a-255(b))	First offense: up to 2-year prison term, up to a \$1,000 fine, or both Subsequent offense: up to 10-year prison term, up to a \$10,000 fine, or both
Hiring or persuading a minor to possess drug paraphernalia in drug factory situation Cite: CGS § 21a-278a(c)	Mandatory 3-year prison term running consecutively to prison term imposed for the underlying crime

* Judges can impose less than the mandatory minimum sentence under the same circumstances as described above for certain drug possession offenses (see the footnote under Table 1).

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