



## OLR BACKGROUNDER: DRUG POSSESSION, SALE, AND PARAPHERNALIA PENALTIES

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### ISSUE

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

This report updates OLR Report [2013-R-0342](#).

### CONNECTICUT DRUG POSSESSION CRIMES AND OFFENSES

It is illegal for anyone to possess or have under his or her control any controlled substance unless otherwise authorized by law (e.g., controlled substances obtained pursuant to a prescription).

[PA 15-2, June Special Session](#) replaced the prior penalty structure for drug possession crimes, which punished possession of most types of illegal drugs as felonies. The act created a new structure that punishes possession of ½ ounce or more of a cannabis-type substance (i.e., marijuana) or any amount of another illegal drug as a class A misdemeanor. A judge may suspend prosecution for a second-time offender who needs drug treatment. Subsequent offenders may still be subject to felony penalties. The act also reduced the enhanced penalty for drug possession near schools or day care centers from a two-year mandatory prison sentence to a class A misdemeanor with a required (1) prison term and (2) period of probation that includes community service.

By law, 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, see the Department of Consumer Protection’s website: <http://www.ct.gov/dcp/mmp>.

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\(d\)](#), as redesignated by PA 15-2, JSS).

Table 1 shows the drug possession crimes and offenses, the authorized penalties, and the related Connecticut General Statutes citations.

**Table 1: Drug Possession Crimes and Offenses**

<i>Brief Description</i>	<i>Authorized Penalties</i>
Possession of less than ½ oz. of marijuana Cite: <a href="#">CGS § 21a-279a</a>	First offense: \$150 fine  Subsequent offenses: \$200 to \$500 fine (third-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) ( <a href="#">CGS § 51-164n</a> )  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) ( <a href="#">CGS § 14-111e</a> )  Burden of proof is preponderance of the evidence (rather than beyond a reasonable doubt) ( <a href="#">CGS § 51-164n(i)</a> )
Possession of ½ oz. or more of marijuana or any quantity of other illegal drugs Cite: <a href="#">PA 15-2, June Special Session, § 1</a> (amending <a href="#">CGS § 21a-279</a> )	Class A misdemeanor, punishable by up to 1-year prison term, up to a \$2,000 fine, or both  Second offense: court must evaluate the defendant and may suspend prosecution and order substance abuse treatment if the person is drug dependent  Subsequent offenses: court may find the person to be a persistent controlled substance possession offender (a new designation created by PA 15-2, JSS), which is punishable by a class E felony prison sentence (i.e., up to three-year prison term)
Possession of ½ oz. or more of marijuana or any quantity of other illegal drugs within 1,500 feet of the property comprising (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: <a href="#">PA 15-2, June Special Session, § 1</a> (amending <a href="#">CGS § 21a-279</a> )	Class A misdemeanor  Court must sentence the person to a term of imprisonment and probation. The conditions of probation must include performing community service.

## CONNECTICUT DRUG SALE CRIMES

It is illegal to manufacture, distribute, sell, prescribe, dispense, compound, transport or possess with intent to sell or dispense, offer, give, or administer to another any controlled substance, except as otherwise authorized by law. The penalty for these actions depends on a number of different factors, including 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 some such 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, authorized penalties, and related Connecticut General Statutes citations.

**Table 2: Drug Sale Crimes**

<i>Brief Description</i>	<i>Authorized Penalties</i>
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: <a href="#">CGS § 21a-278(a)</a>	Mandatory minimum 5- to 20-year prison term with a possible maximum term of life imprisonment  Judge may 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 may 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: <a href="#">CGS § 21a-278(b)</a>	First offense: mandatory minimum 5- to 20-year prison term  Subsequent offenses: mandatory minimum 10- to 25- year prison term  Judge may 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 may 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: <a href="#">CGS § 21a-278a(a)</a>	Mandatory 2-year prison term running consecutively to prison term imposed for the underlying drug sale crime

Table 2 (continued)

<b>Brief Description</b>	<b>Authorized Penalties</b>
Sale of illegal drugs within 1,500 feet of the property comprising (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: <a href="#">CGS § 21a-278a(b)</a>	Mandatory 3-year prison term running consecutively to prison term imposed for the underlying drug sale crime  Judge may depart from this sentence under certain circumstances (see below)*
Hiring or persuading a minor to sell illegal drugs Cite: <a href="#">CGS § 21a-278a(c)</a>	Mandatory 3-year prison term running consecutively to prison term imposed for the underlying drug sale crime
Sale of any narcotics or hallucinogens other than marijuana Cite: <a href="#">CGS § 21a-277(a)</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 the possibility of conditional release by correction commissioner ( <a href="#">CGS § 21a-277(d)</a> )
Sale of any illegal drug other than (1) narcotics or (2) non-marijuana hallucinogens Cite: <a href="#">CGS § 21a-277(b)</a>	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 the possibility of conditional release by correction commissioner ( <a href="#">CGS § 21a-277(d)</a> )

\* Judges may 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 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, with enhanced penalties if the crimes occur near a school by someone who is not a student there. If these actions are done in connection with less than ½ ounce of marijuana, they are punishable as infractions, not crimes.

As with drug possession, the law generally prohibits prosecuting a person for using or 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 shows the drug paraphernalia crimes and offenses, the authorized penalties, and the related Connecticut General Statutes citations.

**Table 3: Drug Paraphernalia Crimes and Offenses**

<b>Brief Description</b>	<b>Authorized Penalties</b>
Use, possess with intent to use, or deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia in connection with less than ½ oz. of marijuana Cite: <a href="#">CGS § 21a-267(d)</a>	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 <a href="#">§ 21a-267(d)</a> 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) ( <a href="#">CGS § 14-111e</a> )  Burden of proof is preponderance of the evidence (rather than beyond a reasonable doubt) ( <a href="#">CGS § 51-164n(h)</a> )
Use or possess with intent to use drug paraphernalia in connection with ½ oz. or more of marijuana or any amount of another controlled substance Cite: <a href="#">CGS § 21a-267(a)</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 drug paraphernalia in connection with ½ oz. or more of marijuana or any amount of another controlled substance Cite: <a href="#">CGS § 21a-267(b)</a>	Class A misdemeanor, punishable by up to 1-year prison term, up to a \$2,000 fine, or both

Table 3 (continued)

<b>Brief Description</b>	<b>Authorized Penalties</b>
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 the property comprising an elementary or secondary school by someone who is not attending the school Cite: <a href="#">CGS § 21a-267(c)</a>	Mandatory 1-year prison term running consecutively to prison term imposed for the underlying crime  Judge may depart from this sentence under certain circumstances (see below)*
Knowing possession of drug paraphernalia in drug factory situation Cite: <a href="#">CGS § 21a-277(c)</a> (see <a href="#">CGS § 21a-255(b)</a> )	First offense: up to 2-year prison term, up to a \$3,500 fine, or both  Subsequent offense: Class C felony, punishable by 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: <a href="#">CGS § 21a-278a(c)</a>	Mandatory 3-year prison term running consecutively to prison term imposed for the underlying crime

\* Judges may impose less than the mandatory minimum sentence under the same circumstances as described above for certain drug sale offenses (see the footnote under Table 2).

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