



# House of Representatives

General Assembly

**File No. 616**

January Session, 2023

Substitute House Bill No. 6734

*House of Representatives, April 17, 2023*

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE DECRIMINALIZATION OF POSSESSION OF SMALL AMOUNTS OF PSILOCYBIN.***

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

1 Section 1. Subdivision (23) of section 21a-240 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective October*  
3 *1, 2023*):

4 (23) "Hallucinogenic substances" are psychodysleptic substances,  
5 other than cannabis-type substances, which assert a confusional or  
6 disorganizing effect upon mental processes or behavior and mimic  
7 acute psychotic disturbances. Exemplary of such drugs are mescaline,  
8 peyote, psilocybin, psilocyn and d-lysergic acid diethylamide, which are  
9 controlled substances under this chapter unless modified;

10 Sec. 2. (NEW) (*Effective October 1, 2023*) (a) Any person who possesses  
11 or has under such person's control less than one-half ounce of  
12 psilocybin, except as authorized in chapter 420b of the general statutes,  
13 shall (1) for a first offense, be fined one hundred fifty dollars, and (2) for  
14 a subsequent offense, be fined not less than two hundred dollars or more  
15 than five hundred dollars.

16 (b) The law enforcement officer issuing a complaint for a violation of  
17 subsection (a) of this section shall seize the psilocybin and cause such  
18 substance to be destroyed as contraband in accordance with law.

19 (c) Any person who, at separate times, has twice entered a plea of  
20 nolo contendere to, or been found guilty after trial of, a violation of  
21 subsection (a) of this section shall, upon a subsequent plea of nolo  
22 contendere to, or finding of guilty of, a violation of said subsection, be  
23 referred for participation in a drug education program at such person's  
24 own expense.

25 Sec. 3. Subdivision (1) of subsection (a) of section 21a-279 of the  
26 general statutes is repealed and the following is substituted in lieu  
27 thereof (*Effective October 1, 2023*):

28 (a) (1) [Any] Except as authorized in this chapter or chapter 420f, any  
29 person who possesses or has under such person's control any quantity  
30 of any controlled substance, except (A) any quantity of cannabis, as  
31 defined in section 21a-420, [and except as authorized in this chapter or  
32 chapter 420f] or (B) psilocybin in an amount less than one-half ounce,  
33 shall be guilty of a class A misdemeanor.

34 Sec. 4. Section 21a-267 of the general statutes is repealed and the  
35 following is substituted in lieu thereof (*Effective October 1, 2023*):

36 (a) No person shall use or possess with intent to use drug  
37 paraphernalia, as defined in subdivision (20) of section 21a-240, to plant,  
38 propagate, cultivate, grow, harvest, manufacture, compound, convert,  
39 produce, process, prepare, test, analyze, pack, repack, store, contain or  
40 conceal, or to ingest, inhale or otherwise introduce into the human body,  
41 any controlled substance, as defined in subdivision (9) of section 21a-  
42 240, other than cannabis in any amount or psilocybin in an amount less  
43 than one-half ounce. Any person who violates any provision of this  
44 subsection shall be guilty of a class C misdemeanor.

45 (b) No person shall deliver, possess with intent to deliver or  
46 manufacture with intent to deliver drug paraphernalia knowing, or

47 under circumstances where one reasonably should know, that it will be  
48 used to plant, propagate, cultivate, grow, harvest, manufacture,  
49 compound, convert, produce, process, prepare, test, analyze, pack,  
50 repack, store, contain or conceal, or to ingest, inhale or otherwise  
51 introduce into the human body, any controlled substance, other than  
52 cannabis in any amount or psilocybin in an amount less than one-half  
53 ounce. Any person who violates any provision of this subsection shall  
54 be guilty of a class A misdemeanor.

55 (c) Any person who violates subsection (a) or (b) of this section (1)  
56 with intent to commit such violation at a specific location that the trier  
57 of fact determines is (A) in or on the real property comprising a public  
58 or private elementary or secondary school, or (B) within two hundred  
59 feet of the perimeter of the real property comprising a public or private  
60 elementary or secondary school, and (2) who is not enrolled as a student  
61 in such school shall be imprisoned for a term of one year which shall not  
62 be suspended and shall be in addition and consecutive to any term of  
63 imprisonment imposed for violation of subsection (a) or (b) of this  
64 section.

65 (d) The provisions of subsection (a) of this section shall not apply to  
66 any person (1) who in good faith, seeks medical assistance for another  
67 person who such person reasonably believes is experiencing an  
68 overdose from the ingestion, inhalation or injection of intoxicating  
69 liquor or any drug or substance, (2) for whom another person, in good  
70 faith, seeks medical assistance, reasonably believing such person is  
71 experiencing an overdose from the ingestion, inhalation or injection of  
72 intoxicating liquor or any drug or substance, or (3) who reasonably  
73 believes he or she is experiencing an overdose from the ingestion,  
74 inhalation or injection of intoxicating liquor or any drug or substance  
75 and, in good faith, seeks medical assistance for himself or herself, if  
76 evidence of the use or possession of drug paraphernalia in violation of  
77 said subsection was obtained as a result of the seeking of such medical  
78 assistance. For the purposes of this subsection, "good faith" does not  
79 include seeking medical assistance during the course of the execution of  
80 an arrest warrant or search warrant or a lawful search.

81 (e) For purposes of this section, "cannabis" has the same meaning as  
82 provided in section 21a-240, as amended by this act.

83 Sec. 5. Section 14-111e of the general statutes is repealed and the  
84 following is substituted in lieu thereof (*Effective October 1, 2023*):

85 (a) (1) The Commissioner of Motor Vehicles shall suspend, for a  
86 period of one hundred fifty days, the motor vehicle operator's license or  
87 nonresident operating privilege of any person who has been convicted  
88 of a violation of section 30-88a involving the misuse of an operator's  
89 license and who was under the age of twenty-one at the time of such  
90 violation.

91 (2) The commissioner shall suspend, for a period of sixty days, the  
92 motor vehicle operator's license or nonresident operating privilege of  
93 any person who has been convicted of a violation of subdivision (1) of  
94 subsection (b) of section 30-89, section 2 of this act or subsection (b) [ ]  
95 or (c) of section 21a-279a and who was under the age of twenty-one at  
96 the time of such violation.

97 (3) The commissioner shall suspend, for a period of thirty days, the  
98 motor vehicle operator's license or nonresident operating privilege of  
99 any person who has been convicted of a violation of subdivision (2) of  
100 subsection (b) of section 30-89 and who was under the age of twenty-  
101 one at the time of such violation.

102 (b) The commissioner shall not issue a new motor vehicle operator's  
103 license under the provisions of section 14-36 to any person who has been  
104 convicted of a violation of section 30-88a or section 30-89, subsection (e)  
105 of section 1-1h, subsection (a) of section 21a-279a, [or] subsection (d) of  
106 section 21a-267, as amended by this act, or section 2 of this act, and who  
107 was under the age of twenty-one at the time of such violation until a  
108 period of one hundred fifty days has elapsed from the date all applicable  
109 requirements for any such license have been satisfied by such person.

110 Sec. 6. Subsection (b) of section 51-164n of the general statutes is  
111 repealed and the following is substituted in lieu thereof (*Effective October*

112 1, 2023):

113 (b) Notwithstanding any provision of the general statutes, any person  
114 who is alleged to have committed (1) a violation under the provisions of  
115 section 1-9, 1-10, 1-11, 2-71h, 4b-13, 7-13, 7-14, 7-35 or 7-41, subsection (c)  
116 of section 7-66, section 7-83, 7-147h, 7-148, 7-148f, 7-148o, 7-283, 7-325, 7-  
117 393, 8-12, 8-25, 8-27, 9-63, 9-322, 9-350, 10-185, 10-193, 10-197, 10-198, 10-  
118 230, 10-251, 10-254, 10a-35, 12-52, 12-54, 12-129b or 12-170aa, subdivision  
119 (3) of subsection (e) of section 12-286, section 12-286a, 12-292, 12-314b or  
120 12-326g, subdivision (4) of section 12-408, subdivision (3), (5) or (6) of  
121 section 12-411, section 12-435c, 12-476a, 12-476b, 12-476c, 12-487, 13a-71,  
122 13a-107, 13a-113, 13a-114, 13a-115, 13a-117b, 13a-123, 13a-124, 13a-139,  
123 13a-140, 13a-143b, 13a-253, 13a-263 or 13b-39f, subsection (f) of section  
124 13b-42, section 13b-90 or 13b-100, subsection (a) of section 13b-108,  
125 section 13b-221 or 13b-292, subsection (a) or (b) of section 13b-324,  
126 section 13b-336, 13b-337, 13b-338, 13b-410a, 13b-410b or 13b-410c,  
127 subsection (a), (b) or (c) of section 13b-412, section 13b-414 or 14-4,  
128 subdivision (2) of subsection (a) of section 14-12, subsection (d) of  
129 section 14-12, subsection (f) of section 14-12a, subsection (a) of section  
130 14-15a, section 14-16c, 14-20a or 14-27a, subsection (f) of section 14-34a,  
131 subsection (d) of section 14-35, section 14-43, 14-44j, 14-49, 14-50a, 14-58  
132 or 14-62a, subsection (b) of section 14-66, section 14-66a or 14-67a,  
133 subsection (g) of section 14-80, subsection (f) or (i) of section 14-80h,  
134 section 14-97a or 14-98, subsection (a), (b) or (d) of section 14-100a,  
135 section 14-100b, 14-103a, 14-106a, 14-106c, 14-145a or 14-146, subsection  
136 (b) of section 14-147, section 14-152, 14-153, 14-161 or 14-163b, subsection  
137 (f) of section 14-164i, section 14-213b or 14-219, subdivision (1) of section  
138 14-223a, subsection (d) of section 14-224, section 14-240, 14-250, 14-253a,  
139 14-261a, 14-262, 14-264, 14-266, 14-267a, 14-269, 14-270, 14-272b, 14-274,  
140 14-275 or 14-275a, subsection (c) of section 14-275c, section 14-276,  
141 subsection (a) or (b) of section 14-277, section 14-278, 14-279 or 14-280,  
142 subsection (b), (e) or (h) of section 14-283, section 14-283d, 14-283e, 14-  
143 283f, 14-283g, 14-291, 14-293b, 14-296aa, 14-298a, 14-300, 14-300d, 14-  
144 300f, 14-319, 14-320, 14-321, 14-325a, 14-326, 14-330 or 14-332a,  
145 subdivision (1), (2) or (3) of section 14-386a, section 15-15e, 15-25 or 15-  
146 33, subdivision (1) of section 15-97, subsection (a) of section 15-115,

147 section 16-15, 16-16, 16-44, 16-256e, 16-278 or 16a-15, subsection (a) of  
148 section 16a-21, section 16a-22, subsection (a) or (b) of section 16a-22h,  
149 section 16a-106, 17a-24, 17a-145, 17a-149 or 17a-152, subsection (b) of  
150 section 17a-227, section 17a-465, subsection (c) of section 17a-488, section  
151 17b-124, 17b-131, 17b-137, 19a-33, 19a-39 or 19a-87, subsection (b) of  
152 section 19a-87a, section 19a-91, 19a-102a, 19a-102b, 19a-105, 19a-107,  
153 19a-113, 19a-215, 19a-216a, 19a-219, 19a-222, 19a-224, 19a-286, 19a-287,  
154 19a-297, 19a-301, 19a-309, 19a-335, 19a-336, 19a-338, 19a-339, 19a-340,  
155 19a-425, 19a-442, 19a-502, 19a-565, 20-7a, 20-14, 20-153a, 20-158, 20-231,  
156 20-233, 20-249, 20-257, 20-265, 20-324e, 20-329c or 20-329g, subsection (b)  
157 of section 20-334, section 20-341l, 20-366, 20-482, 20-597, 20-608, 20-610,  
158 20-623, 21-1, 21-38, 21-39, 21-43, 21-47, 21-48 or 21-63, subsection (d) of  
159 section 21-71, section 21-76a or 21-100, subsection (c) of section 21a-2,  
160 subdivision (1) of section 21a-19, section 21a-20 or 21a-21, subdivision  
161 (1) of subsection (b) of section 21a-25, section 21a-26 or 21a-30,  
162 subsection (a) of section 21a-37, section 21a-46, 21a-61, 21a-63, 21a-70b  
163 or 21a-77, subsection (b) or (c) of section 21a-79, section 21a-85 or 21a-  
164 154, subdivision (1) of subsection (a) of section 21a-159, section 21a-278b,  
165 subsection (c), (d) or (e) of section 21a-279a, section 21a-421eee, 21a-  
166 421fff, 21a-421hhh, subsection (a) of section 21a-430, section 22-12b, 22-  
167 13, 22-14, 22-15, 22-16, 22-26g, 22-30, 22-34, 22-35, 22-36, 22-38, 22-39, 22-  
168 39f, 22-49, 22-54, 22-61j or 22-61l, subdivision (1) of subsection (n) of  
169 section 22-61l, subsection (f) of section 22-61m, subdivision (1) of  
170 subsection (f) of section 22-61m, section 22-84, 22-89, 22-90, 22-96, 22-98,  
171 22-99, 22-100 or 22-111o, subsection (d) of section 22-118l, section 22-167,  
172 subsection (c) of section 22-277, section 22-278, 22-279, 22-280a, 22-318a,  
173 22-320h, 22-324a or 22-326, subsection (b), subdivision (1) or (2) of  
174 subsection (e) or subsection (g) of section 22-344, subsection (a) or (b) of  
175 section 22-344b, section 22-344c, subsection (d) of section 22-344d,  
176 section 22-344f, 22-350a, 22-354, 22-359, 22-366, 22-391, 22-413, 22-414,  
177 22-415, 22-415c, 22a-66a or 22a-246, subsection (a) of section 22a-250,  
178 section 22a-256g, subsection (e) of section 22a-256h, section 22a-363 or  
179 22a-381d, subsections (c) and (d) of section 22a-381e, section 22a-449,  
180 22a-450, 22a-461, 23-4b, 23-38, 23-45, 23-46 or 23-61b, subsection (a) or  
181 subdivision (1) of subsection (c) of section 23-65, section 25-37 or 25-40,

182 subsection (a) of section 25-43, section 25-43d, 25-135, 26-18, 26-19, 26-  
183 21, 26-31, 26-40, 26-40a, 26-42, 26-43, 26-49, 26-54, 26-55, 26-56, 26-58 or  
184 26-59, subdivision (1) of subsection (d) of section 26-61, section 26-64,  
185 subdivision (1) of section 26-76, section 26-79, 26-87, 26-89, 26-91, 26-94,  
186 26-97, 26-98, 26-104, 26-105, 26-107, 26-114a, 26-117, subsection (b) of  
187 section 26-127, 26-128, 26-128a, 26-131, 26-132, 26-138, 26-139 or 26-141,  
188 subdivision (1) of section 26-186, section 26-207, 26-215, 26-217 or 26-  
189 224a, subdivision (1) of section 26-226, section 26-227, 26-230, 26-231, 26-  
190 232, 26-244, 26-257a, 26-260, 26-276, 26-280, 26-284, 26-285, 26-286, 26-  
191 287, 26-288, 26-290, 26-291a, 26-292, 26-294, 27-107, 28-13, 29-6a, 29-16,  
192 29-17, 29-25, 29-143o, 29-143z or 29-156a, subsection (b), (d), (e), (g) or  
193 (h) of section 29-161q, section 29-161y or 29-161z, subdivision (1) of  
194 section 29-198, section 29-210, 29-243 or 29-277, subsection (c) of section  
195 29-291c, section 29-316 or 29-318, subsection (b) of section 29-335a,  
196 section 29-381, 30-19f, 30-48a or 30-86a, subsection (b) of section 30-89,  
197 subsection (c) or (d) of section 30-117, section 31-3, 31-10, 31-11, 31-12,  
198 31-13, 31-14, 31-15, 31-16, 31-18, 31-23, 31-24, 31-25, 31-32, 31-36, 31-38,  
199 31-40, 31-44, 31-47 or 31-48, subsection (b) of section 31-48b, section 31-  
200 51, 31-51g, 31-52, 31-52a, 31-53 or 31-54, subsection (a) or (c) of section  
201 31-69, section 31-70, 31-74, 31-75, 31-76, 31-76a, 31-89b or 31-134,  
202 subsection (i) of section 31-273, section 31-288, 31-348, 33-624, 33-1017,  
203 34-13d or 34-412, subdivision (1) of section 35-20, subsection (a) of  
204 section 36a-57, subsection (b) of section 36a-665, section 36a-699, 36a-  
205 739, 36a-787, 38a-2 or 38a-140, subsection (a) or (b) of section 38a-278,  
206 section 38a-479qq, 38a-479rr, 38a-506, 38a-548, 38a-626, 38a-680, 38a-713,  
207 38a-733, 38a-764, 38a-786, 38a-828, 38a-829, 38a-885, 42-133hh, 42-230,  
208 42-470 or 42-480, subsection (a) or (c) of section 43-16q, section 45a-283,  
209 45a-450, 45a-634 or 45a-658, subdivision (13) or (14) of section 46a-54,  
210 section 46a-59, 46a-81b, 46b-22, 46b-24, 46b-34, 46b-38d, 47-34a, 47-47 or  
211 47-53, subsection (i) of section 47a-21, subdivision (1) of subsection (k)  
212 of section 47a-21, section 49-2a, 49-8a, 49-16, 52-143 or 52-289, subsection  
213 (j) of section 52-362, section 53-133, 53-199, 53-212a, 53-249a, 53-252, 53-  
214 264, 53-280, 53-290a, 53-302a, 53-303e, 53-311a, 53-314, 53-321, 53-322, 53-  
215 323 or 53-331, subsection (b) of section 53-343a, section 53-344,  
216 subsection (b) or (c) of section 53-344b, subsection (b) of section 53-345a,

217 section 53-377, 53-422 or 53-450 or subsection (i) of section 54-36a or  
218 section 2 of this act, or (2) a violation under the provisions of chapter  
219 268, or (3) a violation of any regulation adopted in accordance with the  
220 provisions of section 12-484, 12-487 or 13b-410, or (4) a violation of any  
221 ordinance, regulation or bylaw of any town, city or borough, except  
222 violations of building codes and the health code, for which the penalty  
223 exceeds ninety dollars but does not exceed two hundred fifty dollars,  
224 unless such town, city or borough has established a payment and  
225 hearing procedure for such violation pursuant to section 7-152c, shall  
226 follow the procedures set forth in this section.

227 Sec. 7. Subsection (i) of section 51-164n of the general statutes is  
228 repealed and the following is substituted in lieu thereof (*Effective October*  
229 *1, 2023*):

230 (i) In any trial for the alleged commission of a violation specified in  
231 subsection (b) of this section, the practice, procedure, rules of evidence  
232 and burden of proof applicable in criminal proceedings shall apply,  
233 except that in any trial for the alleged commission of a violation under  
234 section 2 of this act or subsection (a) of section 21a-279a, the burden of  
235 proof shall be by the preponderance of the evidence. Any person found  
236 guilty at the trial or upon a plea shall be guilty of the commission of a  
237 violation and shall be fined not more than the statutory amount  
238 applicable to such violation.

239 Sec. 8. Subdivision (2) of section 46b-120 of the general statutes is  
240 repealed and the following is substituted in lieu thereof (*Effective October*  
241 *1, 2023*):

242 (2) (A) A child may be adjudicated as "delinquent" who has, while  
243 under sixteen years of age, (i) violated any federal or state law, except a  
244 first or second offense under subdivision (1) of subsection (b) of section  
245 21a-279a or section 2 of this act, or except section 53a-172, 53a-173, 53a-  
246 222, 53a-222a, 53a-223 or 53a-223a, or violated a municipal or local  
247 ordinance, except an ordinance regulating behavior of a child in a family  
248 with service needs, (ii) wilfully failed to appear in response to a  
249 summons under section 46b-133 or at any other court hearing in a



250 delinquency proceeding of which the child had notice, (iii) violated any  
251 order of the Superior Court in a delinquency proceeding, except as  
252 provided in section 46b-148, or (iv) violated conditions of probation  
253 supervision or probation supervision with residential placement in a  
254 delinquency proceeding as ordered by the court;

255 (B) A child may be adjudicated as "delinquent" who has (i) while  
256 sixteen or seventeen years of age, violated any federal or state law, other  
257 than (I) an infraction, (II) a violation, (III) a motor vehicle offense or  
258 violation under title 14, (IV) a violation of a municipal or local  
259 ordinance, (V) a violation of section 51-164r, 53a-172, 53a-173, 53a-222,  
260 53a-222a, 53a-223 or 53a-223a, or (VI) a first or second offense under  
261 subdivision (1) of subsection (b) of section 21a-279a or section 2 of this  
262 act, (ii) while sixteen years of age or older, wilfully failed to appear in  
263 response to a summons under section 46b-133 or at any other court  
264 hearing in a delinquency proceeding of which the child had notice, (iii)  
265 while sixteen years of age or older, violated any order of the Superior  
266 Court in a delinquency proceeding, except as provided in section 46b-  
267 148, or (iv) while sixteen years of age or older, violated conditions of  
268 probation supervision or probation supervision with residential  
269 placement in a delinquency proceeding as ordered by the court;

270 Sec. 9. Subdivision (7) of section 46b-120 of the general statutes is  
271 repealed and the following is substituted in lieu thereof (*Effective October*  
272 *1, 2023*):

273 (7) "Delinquent act" means (A) the violation by a child under the age  
274 of sixteen of any federal or state law, except a first or second offense  
275 under subdivision (1) of subsection (b) of section 21a-279a or section 2  
276 of this act, the violation of section 53a-172, 53a-173, 53a-222, 53a-222a,  
277 53a-223 or 53a-223a, or the violation of a municipal or local ordinance,  
278 except an ordinance regulating behavior of a child in a family with  
279 service needs, (B) the violation by a child sixteen or seventeen years of  
280 age of any federal or state law, other than (i) an infraction, (ii) a violation,  
281 (iii) a motor vehicle offense or violation under title 14, (iv) the violation  
282 of a municipal or local ordinance, (v) the violation of section 51-164r,

283 53a-172, 53a-173, 53a-222, 53a-222a, 53a-223 or 53a-223a, or (vi) a first or  
 284 second offense under subdivision (1) of subsection (b) of section 21a-  
 285 279a or section 2 of this act, (C) the wilful failure of a child, including a  
 286 child who has attained the age of eighteen, to appear in response to a  
 287 summons under section 46b-133 or at any other court hearing in a  
 288 delinquency proceeding of which the child has notice, (D) the violation  
 289 of any order of the Superior Court in a delinquency proceeding by a  
 290 child, including a child who has attained the age of eighteen, except as  
 291 provided in section 46b-148, or (E) the violation of conditions of  
 292 probation supervision or probation supervision with residential  
 293 placement in a delinquency proceeding by a child, including a child who  
 294 has attained the age of eighteen, as ordered by the court;

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	21a-240(23)
Sec. 2	October 1, 2023	New section
Sec. 3	October 1, 2023	21a-279(a)(1)
Sec. 4	October 1, 2023	21a-267
Sec. 5	October 1, 2023	14-111e
Sec. 6	October 1, 2023	51-164n(b)
Sec. 7	October 1, 2023	51-164n(i)
Sec. 8	October 1, 2023	46b-120(2)
Sec. 9	October 1, 2023	46b-120(7)

**Statement of Legislative Commissioners:**

In Section 7, the exception for section 2 was moved from subsection (h) to subsection (i) for conformity with the treatment of violations.

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Savings	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Loss	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill reduces the penalty for possession of small amounts of psilocybin<sup>1</sup> resulting in a potential savings to the Department of Correction and to the Judicial Department for reductions in incarceration and probation, and a potential revenue loss from fines. On average, the marginal cost to the state for incarcerating an offender for the year is \$2,500<sup>2</sup> while the average marginal cost for supervision in the community is less than \$800<sup>3</sup> each year.

**The Out Years**

<sup>1</sup> Under current law this is a class A misdemeanor, the bill would make violations a fine of \$150 to \$500.

<sup>2</sup> Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

<sup>3</sup> Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

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**OLR Bill Analysis**

**sHB 6734**

**AN ACT CONCERNING THE DECRIMINALIZATION OF POSSESSION OF SMALL AMOUNTS OF PSILOCYBIN.**

**SUMMARY**

This bill reduces the penalty for possessing less than half an ounce of psilocybin from a crime that carries a possible prison term to a (1) \$150 fine for a first offense and (2) \$200 to \$500 fine for a subsequent offense. (Psilocybin is the chemical compound obtained from certain types of hallucinogenic mushrooms.)

Under the bill, people fined for this possession must follow the procedures set by law for infractions. For example, they can pay the fine by mail without making a court appearance. But the bill provides a lower burden of proof than is generally required for infractions or other violations that follow infraction procedures.

It requires a law enforcement officer who issues a complaint for this violation to seize the psilocybin and have it destroyed as contraband according to law.

The bill requires referral to a drug education program, at the person's expense, for anyone who for a third time (1) enters a plea of no contest to, or (2) is found guilty after trial of, possessing less than half an ounce of psilocybin.

It prohibits minors from being adjudicated delinquent for a first or second offense of possessing less than half an ounce of psilocybin. Currently, because possession is a crime, they may be adjudicated delinquent for possession of any amount. (Under existing law, 16- and 17-year-olds may not be adjudicated delinquent for non-criminal

violations.)

It requires a 60-day suspension of the driver’s license of anyone under age 21 who is convicted of a violation under the bill.

The bill also eliminates criminal penalties for specified actions involving drug paraphernalia relating to less than half an ounce of psilocybin.

Lastly, the bill specifically includes psilocybin as an example of a “hallucinogenic substance” under the state’s controlled substances law. (Existing Department of Consumer Protection regulations already classify psilocybin as a schedule I controlled substance.)

EFFECTIVE DATE: October 1, 2023

### **PSILOCYBIN POSSESSION**

The bill makes the first offense of possessing less than half an ounce of psilocybin punishable by a \$150 fine. A second or subsequent offense is punishable by a fine of \$200 to \$500. Three-time violators must be referred to a drug education program at their own expense.

Currently, it is a crime to illegally possess any amount of psilocybin, the same as for any controlled substances other than cannabis. The current penalties are shown in the following table. (These penalties continue to apply to the possession of one-half ounce or more.)

**Table: Penalties for Psilocybin Possession Under Current Law**

<b><i>Brief Description</i></b>	<b><i>Authorized Penalties</i></b>
Possession	<p>First offense: Class A misdemeanor, punishable by up to 364 days in prison, up to a \$2,000 fine, or both</p> <p>Second offense: The court must evaluate the defendant and may suspend prosecution and order substance abuse treatment if it determines that the person is drug dependent</p> <p>Subsequent offenses: The court may find the person to be a persistent offender for controlled substance possession and impose the prison term</p>

<i>Brief Description</i>	<i>Authorized Penalties</i>
	that applies to class E felonies (i.e., up to three years)
Possession within 200 feet of the property of a (1) K-12 school by a non-student or (2) licensed child care center identified by a sign in a conspicuous place	Class A misdemeanor The court must sentence the person to a term of imprisonment and probation. The conditions of probation must include community service.

The law imposes certain other restrictions on people who are convicted of criminal drug possession. For example, they (1) may be denied licensure in certain areas, such as a family child care home (CGS § 19a-87e); (2) are prohibited from getting licensed in certain others, such as bail enforcement agents (CGS § 29-152f); and (3) are ineligible for various firearm credentials. Under the bill, these restrictions do not apply to people convicted of possessing less than half an ounce of psilocybin.

**Burden of Proof (§ 7)**

Current law generally extends to trials for violations that follow infraction procedures the same rules of evidence, procedure, burden of proof, and practice that apply to criminal proceedings. The bill creates an exception for trials involving the possession of less than half an ounce of psilocybin. For these trials, the bill lowers the burden of proof from beyond a reasonable doubt to a preponderance of the evidence.

**Driver’s License Penalties for People Under Age 21 (§ 5)**

The bill sets driver’s license penalties for people under age 21 who are convicted of possessing less than half an ounce of psilocybin. It requires the motor vehicles commissioner to suspend the person’s driver’s license or nonresident operating privilege for 60 days. If someone under age 21 commits this violation but does not have a driver’s license, they are ineligible for one for 150 days after meeting all licensing requirements.

**§ 3 — DRUG PARAPHERNALIA RELATED TO PSILOCYBIN USE**

Current law has criminal penalties for drug paraphernalia-related

actions involving all controlled substances other than cannabis. The bill eliminates these penalties for actions involving less than half an ounce of psilocybin.

The current penalties are as follows:

1. a class C misdemeanor (punishable by up to three months in prison, a fine of up to \$500, or both) to use or possess with intent to use drug paraphernalia for various drug-related purposes (e.g., planting, preparing, or ingesting);
2. a class A misdemeanor to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where the person should know, it will be used for these purposes; and
3. a specified mandatory minimum for offenses near schools by non-students (although the court can depart from this under certain conditions).

Under the bill, these penalties continue to apply to the listed actions involving one-half ounce or more of psilocybin.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 26    Nay 11    (03/30/2023)