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**Drug Threshold Enactments
(2009-2015)**

2015

Alabama SB 67

Lowers from a class C to class D felony first degree possession of marijuana if the person possesses marijuana for personal use after previously being convicted of certain marijuana possession offenses.

Connecticut HB 7104

Reduces from a felony to a class A misdemeanor possession of any amount of illegal drug. Reduces from a felony to a class A misdemeanor possession of a half-ounce or more of marijuana.

Kentucky SB 192

Creates a new class C felony of importing heroin and a new class B felony of aggravated trafficking in a controlled substance in the first degree if the substance trafficked was 100 grams or more of heroin. Increases the penalty from a class A misdemeanor to a class D felony for drug trafficking that involves more than 120 dosage units.

Louisiana HB 149

Creates graduated penalties for first time possession of marijuana offenses by weight, reduces penalties for second and third convictions for possession of marijuana offenses, and creates a penalty for fourth conviction of possession of marijuana.

- First offense possession of less than 14 grams of marijuana is punishable by not more than 15 days in jail and not more than \$300.
- First offense possession of more than 14 grams but less than two and a half pounds of marijuana is punishable by not more than six months jail and not more than \$500.
- Reduces second offense possession of marijuana from not more than 5 years and not less than \$250 but not more than \$2,000, to not more than 6 months in jail and not more than \$1,000.
- Reduces third offense possession of marijuana from not more than 20 years and not more than \$5,000, to not more than 2 years and not more than \$2,500.
- Creates penalties for fourth offense possession of marijuana punishable by not more than eight years and not more than \$5,000.

Creates a new offense of intentionally possessing more than 2.5 pounds but less than 60 pounds of marijuana or synthetic cannabinoids punishable by not less than 2 year nor more than 10 years and not less than \$10,000 nor more than \$30,000.

Maine SB 46

Decreases from a class B or C crime to a class D crime possession of heroin, cocaine, methamphetamine, oxycodone, hydrocodone or hydromorphone.

Nevada SB 447

Reduces the weight thresholds for trafficking in marijuana and creates thresholds for trafficking in concentrated cannabis.

- Reduces the threshold from 100 to 2,000 pounds to 50 to 1,000 pounds for category C felony trafficking in marijuana.
- Reduces the threshold from 2,000 to 10,000 pounds to 1,000 to 5,000 pounds for category B felony trafficking in marijuana.
- Reduces the threshold from 10,000 pounds or more to 5,000 pounds or more for category A felony trafficking in marijuana.
- Creates category C felony of trafficking in concentrated cannabis with a threshold of more than 1 but less than 20 pounds.
- Creates category B felony of trafficking in concentrated cannabis with a threshold of more than 20 but less than 100 pounds.
- Creates category A felony of trafficking in concentrated cannabis with a threshold of more than 100 pounds.

North Dakota HB 1394

Reduces from a class A to a class B misdemeanor possession of less than one ounce of marijuana.

Utah HB 348

- Changes the penalty from 1 to 15 years to 0 to 15 years for distribution of a controlled substance, allowing a defendant to be eligible for probation.
- Reduces penalties from third degree felony to class A misdemeanor a first or second conviction of possession of a controlled substance. A third or subsequent conviction remains a third degree felony.
- Removes the tiered penalty structure for possession of marijuana based on weight by reducing penalties for a first or second conviction of possession from either a third degree felony or class A misdemeanor to a class B misdemeanor.
- Reclassifies the penalty for a first or second conviction of acquiring a controlled substance by deception from a third degree felony to a class A misdemeanor. A third or subsequent conviction remains a third degree felony.

2014*California SB 1010*

Reduces the penalty for possession for sale of cocaine base to be the same as that for powder cocaine. Decreases the penalty from three, four or five years in county jail to two, three or four years.

Colorado SB 163

Updates language to clarify drug offense statutes changed by SB 250 (2013), including increasing from a level 1 drug misdemeanor to a level 4 drug felony criminal attempt or criminal conspiracy to commit a level 4 drug felony.

Mississippi HB 585

- Makes simple possession of a schedule I or II controlled substance punishable only as a misdemeanor. Increases the threshold for simple possession from one or less to two or less dosage units.
- Creates degrees of penalties for possession or manufacture a schedule I or II substance with intent to sell or distribute based on the amount possessed.
 - Penalizes possession of less than two grams or 10 dosage units by a maximum of eight years.
 - Penalizes possession of two to 10 grams or 10 to 20 dosage units by three to 20 years.
 - Penalizes possession of 10 to 30 grams or 20 to 40 dosage units by five to 30 years.
 - Also creates graduated penalties for possession or manufacture with intent to sell or distribute a schedule III, IV or V substance based on the amount possessed.
- Redefines trafficking to be based on the amount of drug possessed rather than the frequency of commercial drug offenses committed. Creates the crime of aggravated trafficking of a schedule I or II controlled substance that is based on the amount of drugs possessed. Permits the court to order a sentence lower than the required minimum if certain enumerated factors are present.
- Creates degrees of penalties for possession of precursor drugs or chemicals based on the quantity possessed.

Missouri SB 491

Reduces from a class A misdemeanor to a class D misdemeanor first time offense of possession of 10 grams or less of marijuana. Reduces from a class C to a class E felony the crime of maintaining a public nuisance used for the illegal use, keeping, or selling of drugs, including marijuana if a person knowingly keeps or maintains a room or building that is used for the illegal manufacture, distribution, storage or sale of drugs except for 35 grams or less of synthetic or real marijuana.

2013*Colorado SB 250*

- This bill creates new felony and misdemeanor drug sentencing grids with four levels of felonies and two levels of misdemeanors replacing the general six levels of felonies and three levels of misdemeanors; establishes aggravating sentencing ranges for level 2, 3, and 4 drug felonies. Assigns new drug penalties for each existing drug crime.
 - This chart depicts the new drug sentencing scheme. ([Colorado Legislative Council Staff Fiscal Note](#))

| Table 1. New Misdemeanor and Felony Drug Sentencing Scheme Under SB13-250 | | |
|---|---|---|
| Drug Misdemeanors (DM) | | |
| Level | Minimum Sentence | Maximum Sentence |
| DM1 | 6 months imprisonment, \$500 fine, or both | 18 months imprisonment, \$5,000 fine, or both |
| DM2 | \$50 fine | 12 months imprisonment, \$750 fine, or both |
| Drug Felonies (DF) | | |
| Level | Presumptive Range | Mandatory Parole Period |
| DF1 | 8 to 32 years imprisonment, \$5,000 to \$1 million fine, or both | 3 years |
| DF2 | 4 to 8 years imprisonment, \$3,000 to \$750,000 fine, or both | 2 years |
| DF3 | 2 to 4 years imprisonment, \$2,000 to \$500,000 fine, or both | 1 year |
| DF4 | 6 months to 1 year imprisonment, \$1,000 to \$100,000 fine, or both | 1 year |
| Level | Aggravated Range | Mandatory Parole Period |
| DF2 | 8 to 16 years imprisonment, \$3,000 to \$750,000 fine, or both | 2 years |
| DF3 | 4 to 6 years imprisonment, \$2,000 to \$500,000 fine, or both | 1 year |
| DF4 | 1 to 2 years imprisonment, \$1,000 to \$100,000 fine, or both | 1 year |

- These charts depict the previous presumptive ranges of penalties of imprisonment and fines which were authorized upon conviction of a felony:

| Felony Class | Minimum Sentence | Maximum Sentence | Mandatory Period of Parole |
|--------------|--------------------------|--------------------------------|----------------------------|
| 1 | Life imprisonment | Death | None |
| 2 | Eight years imprisonment | Twenty-four years imprisonment | Five years |
| 3 | Four years imprisonment | Twelve years imprisonment | Five years |
| 4 | Two years imprisonment | Six years imprisonment | Three years |
| 5 | One year imprisonment | Three years imprisonment | Two years |
| 6 | One year imprisonment | Eighteen months imprisonment | One year |

| Felony Class | Minimum Sentence | Maximum Sentence |
|--------------|------------------------|--------------------------------------|
| 1 | No fine | No fine |
| 2 | Five thousand dollars | One million dollars |
| 3 | Three thousand dollars | Seven hundred fifty thousand dollars |
| 4 | Two thousand dollars | Five hundred thousand dollars |
| 5 | One thousand | One hundred thousand dollars |

| | | |
|---|----------------------|------------------------------|
| | dollars | |
| 6 | One thousand dollars | One hundred thousand dollars |

- This chart depicts the previous penalties that were authorized upon conviction of a misdemeanor:

| Class | Minimum Sentence | Maximum Sentence |
|-------|---|---|
| 1 | Six months imprisonment, or five hundred dollars fine, or both | Eighteen months imprisonment, or five thousand dollars fine, or both |
| 2 | Three months imprisonment, or two hundred fifty dollars fine, or both | Twelve months imprisonment, or one thousand dollars fine, or both |
| 3 | Fifty dollars fine | Six months imprisonment, or seven hundred fifty dollars fine, or both |

- Under these new provisions various drug crimes have been re-scheduled resulting in a change in penalty:
 - Possession of any material, compound, mixture, or preparation weighing four grams or less that contains any quantity of flunitrazepam, ketamine, or a controlled substance listed in schedule I or II of part 2 of this article except methamphetamine was previously a class 6 felony. Possession of the same material, compound, mixture, or preparation weighing more than four grams was previously a class 4 felony.
 - Possession of these materials, compounds, mixtures, or preparations in any weight is now a level 4 drug felony.
 - This section now includes methamphetamine and no longer criminalizes it separately, making possession of methamphetamine in any of the prescribed amounts a level 4 drug felony
 - Possession of any material, compound, mixture, or preparation that contains any quantity of a controlled substance listed in schedule III, IV, or V of part 2 of this article except flunitrazepam or ketamine was previously a class 1 misdemeanor and is now a level 1 drug misdemeanor.
 - Use of any controlled substance (marijuana aside), except when it is dispensed by or under the direction of a person licensed or authorized by law to prescribe, administer, or dispense the controlled substance for bona fide medical needs, was previously a class 2 misdemeanor and is now a level two drug misdemeanor.
 - Unlawful manufacturing, dispensing, sale, or distribution, or possession with intent to manufacture, dispense, sell, or distribute, a controlled substance; or induce, attempt to induce, or conspire with one or more other persons, to manufacture, dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute, a controlled substance; or possess one or more chemicals or supplies or equipment with intent to manufacture a controlled substances...
 -

- New offenses to conform to the legalization of recreational marijuana
 - Creates a level 1 drug felony for sale, transfer, or dispersion of more than two and one half pounds of marijuana or more than one pound of marijuana concentrate to a minor if the person is an adult and two years older than the minor.
 - Creates a level 2 drug felony for sale, transfer, or dispersion of more than six ounces, but not more than two and one half pounds of marijuana or more than three ounces but not more than one pound of marijuana concentrate to a minor if the person is an adult and two years older than the minor.
 - Creates a level 3 drug felony for sale, transfer, or dispersion of more than one ounce, but not more than six ounces of marijuana or more than one half ounce, but not more than three ounces of marijuana concentrate to a minor if the person is an adult and two years older than the minor.
 - Creates a level 4 drug felony for sale, transfer, or dispersion of not more than one ounce of marijuana or not more than one half ounce of marijuana concentrate to a minor if the person is an adult and two years older than the minor.
 - Creates the crimes of unlawful manufacture or processing of marijuana, and knowingly allowing unlawful manufacture or processing of marijuana on land owned, occupied, or controlled by the subject when manufacture or processing do not comply with Title 12 or Title 27. These are level 3 drug felonies.
 - Creates the new crime of unlawful dispersion, sale, distribution, or possession with intent to manufacture, sell, or distribute marijuana or marijuana concentrate. Also includes any attempt, induce, attempt to induce, or conspire with one or more other persons to dispense, sell, distribute, or possess with intent to manufacture, dispense, sell or distribute marijuana or marijuana concentrate. Except as authorized in Title 12 or Title 27 and as excepted by the FDA drug dronabinol.
 - This is a level 1 drug felony if the amount of marijuana if more than fifty pounds or the amount of marijuana concentrate is more than twenty five pounds.
 - This is a level 2 drug felony if the amount of marijuana is more than five pounds, but not more than fifty pounds or the amount of marijuana concentrate is more than two and one half pounds, but not more than twenty five pounds.
 - This is a level 3 drug felony if the amount of marijuana is more than twelve ounces, but not more than five pounds or the amount of marijuana concentrate is more than six ounces, but not more than two and one half pounds.
 - This is a level 4 drug felony if the amount of marijuana is more than four ounces, but not more than twelve ounces or the amount of marijuana concentrate is more than two ounces, but not more than six ounces.
 - This is a level 1 drug misdemeanor if the amount of marijuana is not more than four ounces, or the amount of marijuana concentrate is not more than two ounces.

- Creates a new crime making it unlawful to knowingly cultivate, grow, or produce a marijuana plant or knowingly allow a marijuana plant to be cultivated, grown, or produced on land that the person owns, occupies or controls.
 - This is a level 3 drug felony if the offense involves more than thirty plants.
 - This is a level 4 drug felony if the offense involves more than six but not more than thirty plants.
 - This is a level 1 drug misdemeanor if the offense does not involve more than six plants.
- Creates a level 4 drug felony for possession of more than twelve ounces of marijuana or more than three ounces of marijuana concentrate.
- Creates a level 1 drug misdemeanor for possession of more than six ounces but not more than twelve ounces of marijuana or not more than three ounces of marijuana concentrate.
- Creates a level 2 drug misdemeanor for possession of more than two ounces but not more than six ounces of marijuana.
- Possession of not more than two ounces of marijuana commits a petty drug offense if drug immunity overdose provisions do not apply. (§18-1-711). This crime is subject to summons and complaint procedures. Failure to appear for a summons is a class 3 misdemeanor.
- Creates the crime of open and public consumption, display, or use of two ounces or less of marijuana. This is a petty drug offense and is subject to immunity for drug overdose (§18-1-711).
- Open and public display, consumption, or use of more than two ounces of marijuana or any amount of marijuana concentrate will be treated as possession and prosecuted as such.
- Transferring or dispensing not more than two ounces of marijuana from one person to another for no consideration is a petty drug offense and is not considered dispensing or sale.
- Crimes under distribution, manufacturing, dispensing, or sale
 - Previously
 - Schedule I or II controlled substances in violation of this section were previously a class 3 felony, or a class 2 felony if the offense is a second violation.
 - Schedule III controlled substances in violation of this section were previously a class 4 felony, or a class 3 felony for a second violation.
 - Schedule IV controlled substances in violation of this section were previously a class 5 felony, or a class 4 felony for a second violation.
 - Schedule V controlled substances in violation of this section were previously a class 1 misdemeanor, or a class 5 felony for a second violation.
 - Offenses involving flunitrazepam or ketamine were class 3 felonies except for a second offense which was a class 2 felony.

- Previously DOC sentence ranges were determined by the weight of controlled substances. These have been repealed and replaced by the drug felony and misdemeanor penalties discussed above.
- Current Law
 - It is now a level 1 drug felony if the mixture, compound or preparation weighs more than 225 grams and contains a schedule I or II controlled substance or more than 112 grams and contains methamphetamine, heroin, ketamine, cathinone, or more than 50 milligrams and contains flunitrazepam.
 - It is now a level 2 drug felony if an adult dispenses, distributes or otherwise transfers any amount of a schedule I or II controlled substance (including material, compound, mixture or preparation/excluding marijuana) to a minor and the adult is at least two years older than the minor. This includes between 14 and 225 grams of schedule I or II substances; between 7 and 112 grams of methamphetamine, heroin, ketamine, or cathinone; and between 10 and 50 milligrams of flunitrazepam.
 - It is now a level 3 drug felony if an adult dispenses, distributes or otherwise transfers any amount of a schedule III or IV controlled substance (including material, compound, mixture or preparation) to a minor and the adult is at least two years older than the minor. This includes not more than 14 grams of schedule I or II substances; not more than 7 grams of methamphetamine, heroin, ketamine, or cathinone; more than 4 grams of a schedule III or IV controlled substance; and not more than 10 milligrams of flunitrazepam. This is a level 4 drug felony if the distribution or transfer is for the purpose of consuming all of the substance with another person at the time of the transfer. The level 4 drug felony only applies if not more than 4 grams of a schedule I or II substance is involved or not more than 2 grams of methamphetamine, heroin, ketamine, or cathinone.
 - It is now a level 4 drug felony if the violation involves any compound, mixture, material, or preparation that weighs not more than 4 grams and contains a schedule II or IV substance or
 - It is a level 1 drug misdemeanor if the violation involves a schedule V substance or a transfer with no remuneration of not more than 4 grams of a schedule II or IV controlled substance.

Indiana HB 1006

Creates degrees of penalties for drug possession and dealing and drug manufacturing based on weight of the drug. Generally lowers penalties for smaller amounts of drugs while maintaining penalties for higher amounts of drugs. Decreases, from a felony to a misdemeanor, possession of a schedule I, II, III, or IV controlled substance; possession of more than 30 grams of marijuana; and drug dealing and manufacturing of less than three grams of a schedule V controlled substance. The following tables

describe in further detail the drug weights that are proposed by this bill as compared to current law. (Tables provided by [IN Legislative Services Agency Office of Fiscal and Management Analysis](#)).

| Proposed Changes in Drug Dealing and Manufacturing Offenses for Cocaine, Methamphetamine, and Schedule I, II, or III Controlled Substances (IC 35-48-4-1, 1.1, and 2) | | | | | |
|---|--------------|--------------|---|-------------------|-------------------------------|
| | | | Average Number of Offenders Affected ¹ | | |
| | Felony Class | Felony Level | Involving Meth | Involving Cocaine | Involving Schedule I, II, III |
| Less than 3 grams | Class B | Level 5 | 256 | 606 | 220 |
| Between 3 and 10 grams or less than 3 grams and enhancing circumstance | Class A | Level 4 | 10 | 53 | 7 |
| Between 10 and 28 grams or between 3 and 10 grams and enhancing circumstance | Class A | Level 3 | 10 | 53 | 7 |
| More than 28 grams or between 10 and 28 grams and enhancing circumstance | Class A | Level 2 | 10 | 53 | 7 |
| Manufacturing meth and causing explosion that results in serious bodily injury | Class A or B | Level 2 | unknown | | |
| ¹ Based on commitments between CY 2008 and 2012. | | | | | |

| Proposed Changes in Drug Dealing and Manufacturing Offenses for Schedule IV Controlled Substances (IC 35-48-4-3) | | | |
|--|--------------|--------------|---------------------------------|
| | Felony Class | Felony Level | Offenders Affected ¹ |
| Less than 3 grams | Class C | Level 6 | 29 |
| Less than 3 grams and enhancing circumstance | Class B | Level 5 | unknown |
| Between 3 and 10 grams or less than 3 grams and enhancing circumstance | Class B | Level 5 | 2 |
| Between 10 and 28 grams or between 3 and 10 grams and enhancing circumstance | Class B | Level 4 | 2 |
| More than 28 grams or between 10 and 28 grams and enhancing circumstance | Class B | Level 3 | 2 |
| ¹ Based on average number of commitments between CY 2008 and 2012 | | | |

| Proposed Changes in Drug Dealing and Manufacturing Offenses for Schedule V Controlled Substances (IC 35-48-4-4) | | | |
|--|----------------|---------------------|---------------------------------|
| | Current Law | Proposed | Offenders Affected ¹ |
| Less than 3 grams | Class D Felony | Class A Misdemeanor | 2 |
| Between 3 and 10 grams or less than 3 grams and enhancing circumstance | Class B Felony | Level 6 Felony | 1 |
| Between 10 and 28 grams or between 3 and 10 grams and enhancing circumstance | Class B Felony | Level 5 Felony | 1 |
| More than 28 grams or between 10 and 28 grams and enhancing circumstance | Class B Felony | Level 4 Felony | 1 |
| ¹ Based on average number of commitments between CY 2008 and 2012 | | | |

| Proposed Changes in Possession Offenses for Cocaine or Methamphetamine (IC 35-48-4-6, 6.1) | | | |
|---|--------------|--------------|--------------------|
| | Current Law | Proposed | Offenders Affected |
| Less than 3 grams | Class D | Level 6 | 257 |
| Less than 3 grams and enhancing circumstances | Class C or B | Level 4 or 5 | 226 |
| Between 10 and 28 grams or between 3 and 10 grams and enhancing circumstance | Class A | Level 4 | 8 |
| More than 28 grams or between 10 and 28 grams and enhancing circumstance | Class A | Level 3 | |

| Proposed Changes in Possession Offenses for Schedule I, II, III, IV Controlled Substances (IC 35-48-4-7) | | | |
|---|----------------|---------------------|---------------------------------|
| | Current Law | Proposed | Offenders Affected ¹ |
| Any amount | Class D Felony | Class A Misdemeanor | 265 |
| Any amount and enhancing circumstances | Class C | Level 6 | 46 |
| ¹ Based on average number of commitments between CY 2008 and 2012 | | | |

| Proposed Changes in Dealing Offenses for Marijuana, Hash Oil, Hashish, Salvia Divinorum, or Synthetic Drug (IC 35-48-4-10) | | | |
|--|---------------------|----------------|---------------------------------|
| | Current Law | Proposed | Offenders Affected ¹ |
| Less than 30 grams (marijuana) | Class A Misdemeanor | no change | 46 |
| Between 30 grams and 10 pounds (marijuana) | Class D Felony | Level 6 Felony | |
| Prior conviction for drug offense and drug involved less than 30 grams (marijuana) | Class D Felony | Level 6 Felony | |
| More than 10 pounds (marijuana) | Class C Felony | Level 5 Felony | 30 |
| Recipient is a minor and any weight (marijuana) | Class D Felony | Level 5 Felony | |
| Prior conviction for drug offense and drug involved was greater than 10 pounds (marijuana) | Class C Felony | Level 5 Felony | |
| ¹ Based on average number of commitments between CY 2008 and 2012. | | | |

| Proposed Changes in Possession Offenses for Marijuana, Hash Oil, Hashish, Salvia Divinorum, or Synthetic Drug (IC 35-48-4-11) | | | |
|--|---------------------|---------------------|--------------------|
| | Current Law | Proposed | Offenders Affected |
| Less than 30 grams of marijuana or 2 grams of hash oil, hashish, salvia divinorum, or synthetic drug | Class A Misdemeanor | Class B Misdemeanor | unknown |
| Possessing more than 30 grams (marijuana) | Class D Felony | Class A Misdemeanor | 122 |
| Prior drug offense and possessing more than 30 grams (marijuana) | Class D Felony | Level 6 Felony | 100 |
| ¹ Based on average number of commitments between CY 2008 and 2012. | | | |

Kansas HB 2044

- Creates distribution of a controlled substance causing great bodily harm, a severity level 5, person felony, is defined as unlawfully distributing a controlled substance when great bodily harm results from the use of such controlled substance.
- Creates distribution of a controlled substance causing death, a severity level 1, person felony, is defined as unlawfully distributing a controlled substance when death results from the use of such controlled substance.
- The fact that a user contributed to the user's own great bodily harm or death by using the controlled substance or consenting to its administration by another is not a defense to either crime.

Oregon SB 40

- Reduces the penalty for marijuana manufacture from a class A felony to a class B felony.
- Defines "marijuana" as the leaves, stems and flowers of the cannabis plant. Defines "marijuana product" as all parts of the cannabis plant except the leaves, stems and flowers; resin extracted from the plant; and any compound, manufacture, derivative, mixture or preparation of the plant or its resin.

- Creates varying penalties for marijuana possession based on weight of the drug. Makes it a class C felony to possess more than four ounces, a class B misdemeanor to possess between one and four ounces and a class B violation to possess less than one ounce. Under previous law marijuana possession was a class B felony regardless of the weight. Creates a separate offense for possession of marijuana product as a class C felony for one-quarter of an ounce or more and a class B misdemeanor for less than one-quarter of an ounce.

Vermont HB 200

- Increases the minimum amount of marijuana necessary to constitute criminal possession to 1 ounce.
- Increases the minimum amount of hashish necessary to constitute criminal possession to 5 grams.
 - A first offense for either of these possession crimes shall be eligible for the Court Diversion Program unless the prosecutor makes a record as to why it would not serve the ends of justice.
- Creates a civil violation for anyone over the age of 21 in possession of 1 ounce or less of marijuana or 5 grams or less of hashish.
 - For a first offense the penalty fine shall not be more than \$200.
 - For a second offense the penalty fine shall not be more than \$300.
 - For a third or subsequent offense the penalty fine shall not be more than \$500.
- Creates a civil violation for anyone under 21 in possession of 1 ounce or less of marijuana or 5 grams or less of hashish
 - A person who commits this civil violation shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program.
 - Failure to complete the program results in a civil penalty of not more than \$300 and suspension of a person's operator's license and privilege to operate a motor vehicle for a period of 90 days for a first offense.
 - Failure to complete the program results in a civil penalty of not more than \$500 and suspension of a person's operator's license and privilege to operate a motor vehicle for a period of 180 days for a second offense.
 - A third violation of possession of 1 ounce or less of marijuana or 5 ounces or less of hashish results in a criminal prosecution and shall be imprisoned not more than 30 days and fined not more than \$600 or both.
- No person shall knowingly and unlawfully possess marijuana. A person under the age of 16 years who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a delinquent act and shall be subject to 33 V.S.A. chapter 52. The person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice.
- An offense in which the prohibited conduct occurred prior to July 1, 2013 shall not be deemed a prior offense for the purpose of determining increased penalties for second and subsequent offenses as provided in this act.

2012

Alabama HB 376

Creates the crime of unlawful possession with intent to distribute a controlled substance and makes it a class B felony.

Georgia HB 1176

- Reduces statutory minimum sentence for a Schedule I controlled substance or Schedule II narcotic from 2 years to 1 year, and also deletes the language increasing the penalty for a repeat offense.
- Reduces the statutory minimum for Schedule II substances that are not a narcotic from 2 years to 1 year and also deletes the language increasing the penalty for a repeat offense.
- Reduces statutory minimum for Schedule III, IV, or V from 5 to 3 years. Also makes repeat offender sentencing available only after the third instead of the second offense. The repeat offender sentence is also reduced from 10 to 5 years.
- Creates a separate crime of possession of a counterfeit substance by separating possession from manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute a counterfeit substance.
 - Possession of a counterfeit substances is punishable by 2 years.
 - Manufacture, delivery etc. is punishable by not less than 1 and not more than 10 years.
- Reduces the minimum punishment from 2 years to 1 year for possession of flunitrazepam.
- Possession of Schedule I controlled substances and Schedule II narcotics shall be punished:
 - If the aggregate weight is less than 1 gram of a solid, less than 1 milliliter of a liquid, or if the substance is placed onto a secondary medium with a combined weight of less than 1 gram, by imprisonment for not less than 1 nor more than 3 years;
 - If the aggregate weight is at least 1 gram but less than 4 grams of a solid, at least 1 milliliter but less than 4 milliliters of a liquid, or if the substance is placed onto a secondary medium with a combined weight of at least 1 gram but less than 4 grams, by imprisonment for not less than 1 nor more than 8 years; and
 - If the aggregate weight, including any mixture, is at least 4 grams but less than 28 grams of a solid, at least 4 milliliters but less than 28 milliliters of a liquid, or if the substance is placed onto a secondary medium with a combined weight of at least 4 grams but less than 28 grams, by imprisonment for not less than 1 nor more than 15 years.
 - ***None of these punishments shall apply to morphine, heroin, or opium or any salt, isomer, or salt of an isomer.
- Possession of a Schedule II controlled substance that is not a narcotic shall be punished:
 - If the aggregate weight, including any mixture, is less than 2 grams of a solid, less than 2 milliliters of a liquid, or if the substance is placed onto a secondary medium with a combined weight of less than 2 grams, by imprisonment for not less than 1 nor more than 3 years;
 - If the aggregate weight, including any mixture, is at least 2 grams but less than 4 grams of a solid, at least 2 milliliters but less than 4 milliliters of a liquid, or if the substance is placed onto a secondary medium with a combined weight of at least 2 grams but less than 4 grams, by imprisonment for not less than 1 nor more than 8 years; and
 - If the aggregate weight, including any mixture, is at least 4 grams but less than 28 grams of a solid, at least 4 milliliters but less than 28 milliliters of a liquid, or if the substance is

placed onto a secondary medium with a combined weight of at least 4 grams but less than 28 grams, by imprisonment for not less than 1 nor more than 15 years.

- Upon a 3rd conviction for a violation of the code the person shall be punished by a sentence not to exceed double the punishment otherwise available.

Kansas HB 2318

- The bill adopts a new drug sentencing grid with five levels, adding a new level 2 with penalties falling between the current first and second levels of the drug grid. The grid also expands the presumptive imprisonment boxes to include levels 4-C and 4-D (formerly levels 3-C and 3-D), making the presumed sentence for certain offenders convicted of level 4 crimes imprisonment, and expands the border boxes to include levels 5-C and 5-D (formerly levels 4-C and 4-D), allowing courts to impose an optional non-prison sentence for certain offenders convicted of level 5 offenses.
- Next, it amends as follows the severity levels for a violation of KSA 21-5703, manufacture or attempted manufacture of a controlled substance or controlled substance analog: (1) Change a violation from a drug severity level 1 felony to a drug severity level 2 felony for a first conviction; a second or subsequent conviction for manufacture will be a drug severity level 1 felony; and (2) Specify that manufacture of methamphetamine will remain a drug severity level 1 felony.
- In KSA 21-5705, the bill imposes new felony classifications on the drug grid, based on quantity, for the crimes of distribution or possession with the intent to distribute the drugs listed in subsection (a), including lisdexamphetamine, a schedule II substance, as follows: (1) Less than 3.5 grams, severity level 4; (2) At least 3.5 grams, but less than 100 grams, severity level 3; (3) At least 100 grams, but less than 1 kilogram, severity level 2; and (4) One kilogram or more, severity level 1.
- Exceptions to these penalties are created:
 - Marijuana: (1) Less than 25 grams, severity level 4; (2) At least 25 grams but less than 450 grams, severity level 3; (3) At least 450 grams but less than 30 kilograms, severity level 2; and (4) 30 kilograms or more, severity level 1 felony.
 - Heroin or Methamphetamine: (1) Less than one gram, severity level 4; (2) At least one gram, but less than 3.5 grams, severity level 3; (3) At least 3.5 grams, but less than 100 grams, severity level 2; and (4) 100 grams or more, severity level 1.
 - Substances Defined by KSA 65-4105, 65-4107, 65-4109, 65-4111 schedules I-IV: (1) Fewer than ten dosage units, severity level 4, (2) At least ten dosage units, but less than 100 dosage units, severity level 3, (3) At least 100 dosage units, but less than 1,000 dosage units, severity level 2; and (4) 1,000 dosage units or more, severity level 1.
- Violations within 1,000 feet of a school increase severity level by 1 level.
- The crime of distribution or possession with the intent to distribute a controlled substance listed in schedule V becomes a class A person misdemeanor, except that if distributed to or possessed with the intent to distribute to a minor, it is a nondrug severity level 7, person felony.
- Cultivation of a controlled substance listed in subsection (a) has the following felony classifications on the drug grid based on the number of plants cultivated: (1) More than four, but

fewer than 50, severity level 3; (2) At least 50, but fewer than 100, severity level 2; or (3) 100 or more, severity level 1.

- A rebuttable presumption of intent to distribute is created for possession of the following amounts of controlled substances: (1) 450 grams or more of marijuana; (2) 3.5 grams or more of heroin or methamphetamine; (3) 100 dosage units or more containing a controlled substance listed by statute in the Uniform Controlled Substances Act (Act); or (4) 100 grams or more of any other controlled substance listed under the Act.
- In KSA 21-5716, concerning crimes involving proceeds derived from the commission of any drug crime, the severity level of crimes involving proceeds of \$100,000–\$500,000 is lowered for proceeds of \$100,000–\$250,000, from a level 2 to a level 3, due to the adoption of the five-level grid. For proceeds of \$250,000–\$500,000, the severity level remains a level 2.

Maryland HB 350/SB 214

Establishes that a person convicted of the use or possession of less than 10 grams of marijuana is subject to imprisonment not exceeding 90 days or a fine not exceeding \$500 or both. Provides that, unless specifically charged by the state, the use or possession of less than 10 grams of marijuana may not be considered a lesser included crime of any other crime. Provides that a specified sentence imposed under this act may be stayed under specified circumstances without requiring an appeal bond.

Massachusetts HB 3818

- Reduces the mandatory minimums from for various other drug offenses.
- Trafficking of a class B substance amounts raised from 14 to 18 grams to 18 to 36 grams and reduces the penalty minimum from 3 to 15 years to 2 to 15 years.
- Trafficking of a class B substance amounts raised from 28 to 100 grams to 36 to 100 grams and reduces the penalty minimum from 5 to 20 years to 3 ½ to 20 years.

Missouri SB 628

- For substances with a cocaine base (crack) the minimum threshold for 1st degree trafficking was increased from 2 grams to 8 grams. For sentencing as a class A felony the amount range was increased from between 2 and 6 grams to between 8 and 24 grams. For sentencing as a class A felony without probation or parole the amount was changed from more than 6 grams to more than 24 grams.
- For substances with a cocaine base (crack) the minimum threshold for 2nd degree trafficking was increased from 2 to 8 grams. The quantity for a class B felony was increased from between 2 and 6 grams to between 8 and 24 grams. The amount to make trafficking in the 2nd degree is punishable as a class A felony was also increased from more than 6 grams to more than 24 grams.

Oklahoma HB 3052

Creates a decreased penalty for a second or subsequent conviction of possession of a schedule III, IV, or V substance or marijuana when 10 years or more have passed since the date of completion of the sentence.

- If more than 10 years have passed the penalty is not less than 1 nor more than 5 years.
- If fewer than 10 years have passed the penalty is not less than 2 nor more than 10 years.

Rhode Island SB 2253/HB 7092

- Makes possession of one ounce or less of marijuana by a person who is 18 years of age or older a civil offense with a civil penalty of \$150 and forfeiture of the marijuana for a first or second offense within 18 months. States that such possession is not subject to any other form of criminal or civil punishment or disqualification. For persons under the age of 18, possession of one ounce or less of marijuana carries same civil offense and penalty but in addition the person must complete an approved drug awareness program and any community service determined by the court. Requires notice to parents of under-18 year olds under these provisions. Sets \$300 penalty for failure to complete the drug awareness program. Allows arrest of a person who fails to produce standard form of identification to officer who informs that person that he or she is found in possession of what appears to be less than one ounce of marijuana. Civil fines collected go to a fund, 50 percent of which must be expended on drug awareness and treatment programs for youths.
- Notwithstanding any public, special, or general law to the contrary, a person not exempted from penalties pursuant to chapter 21-28.6 found in possession of one ounce or less of marijuana is guilty of a misdemeanor and upon conviction may be imprisoned for not more than 30 days or fined not less than \$200 nor more than \$500, or both, if that person has been previously adjudicated on a violation for possession of less than one ounce of marijuana.
- Modifies other existing law to accommodate these changes.

2011*Arkansas SB 750*

- Specifies the offenders convicted of felony controlled substances violations sentenced to imprisonment, rather than all controlled substances convictions sentenced to incarceration will be committed to the department of corrections.
- Authorizes offenders convicted of the crimes of delivery of a controlled substance, possession with intent to deliver a controlled substance and manufacture a controlled substance to be eligible for a community service work sentencing alternative; and prohibits offenders convicted of trafficking a controlled substance; violent habitual felons; and any offense requiring registration as a sex offender.
- Decreases from a class C felony to a class D felony to fraudulently distribute a schedule I or II controlled substance as a practitioner; to fraudulently acquire a controlled substance; to furnish false material required under the controlled substances act; and to make, distribute or possess trademarks upon any drug, container, or labeling so to render the drug a counterfeit substance.
- Decreases penalties for crimes associated with falsely representing a non-controlled substance as a controlled substance: Makes it a class C felony for a drug classified as a schedule I or II substance, under previous law narcotic schedule I and II substances were classified as class B felonies, non-narcotics were classified as class C felonies.
- Decreases from a class C felony to a class D felony for a drug classified as a schedule III, IV and V substance. Decreases from a class D felony to a class A misdemeanor for a drug classified as a schedule VI substance.
- Changes the crime of “distribution to minors” to “delivery to minors” and includes the acts of delivering and trafficking to a minor. Stipulates that offenders who commit the crime of

delivering a controlled substance to a minor and are not otherwise subject to enhanced penalties listed in statute are subject to an additional 10 years imprisonment.

- Creates the new crime of possession a schedule I or II controlled substance that is methamphetamine or cocaine and makes it a class D felony for less than two grams; a class C felony for two grams – 10 grams; and makes it a class B felony for 10 grams – 200 grams.
- Creates the new crime of possession of a schedule I or II controlled substance other than methamphetamine or cocaine and makes it a class D felony less than two grams; a class C felony for two grams – 28 grams; and a class B felony for 28 grams – 200 grams.
- Creates the new crime of possession of a schedule III controlled substance and makes it a class A misdemeanor for less than two grams; a class D felony for two grams – 28 grams; a class C felony for 28 grams – 200 grams; and a class B felony for 200 grams – 400 grams.
- Creates the new crime of possession of a schedule IV or V controlled substance and makes it a class A misdemeanor for less than 28 grams; a class D felony for 28 grams – 200 grams; a class C felony for 200 grams – 400 grams; and a class D felony for 400 grams – 800 grams.
- Creates the new crime of possession of a schedule VI controlled substance and makes it a class A misdemeanor for less than four ounces; a class D felony for one ounce – four ounces and the person has two previous convictions; a class D felony for four ounces – 10 pounds; a class C felony for ten pounds – 25 pounds; a class B felony for 25 pounds – 100 pounds; and a class A felony for one hundred pounds – 500 pounds.
- Separates the crime of manufacturing, delivering and possessing with intent to manufacture or deliver a schedule I or II narcotic drug or methamphetamine which was a class Y felony; and amends certain penalties based on the newly create crimes.
- Creates the crime of possession of methamphetamine or cocaine with the purpose to deliver and makes it a class C felony for less than 3 grams; a class B felony for two grams – 10 grams; and a class A felony for 10 grams to 200 grams.
- Creates the new crime of delivering methamphetamine or cocaine and makes it a class C felony to deliver less than two grams of methamphetamine or cocaine; makes it a class B felony to deliver two grams – 10 grams of methamphetamine or cocaine; and makes it a class Y felony to deliver 10 grams – 200 grams of methamphetamine or cocaine.
- Creates the new crime of manufacturing methamphetamine or cocaine and makes it a class C felony to manufacture less than two grams of methamphetamine; a class Y felony to manufacture more than two grams of methamphetamine except that it will be a class A felony if the defendant shows by a preponderance of evidence that it was for personal use only.
 - Lists the following factors the determine personal use: the person did not make a delivery of methamphetamine, quantity of methamphetamine manufactured by the person; or method of manufacturing the methamphetamine.
- Makes it a class Y felony for a second or subsequent offense. Makes it a class C felony to manufacture less than two grams of cocaine; makes it a class B felony to manufacture two grams – 10 grams of cocaine; and makes it a class Y felony to manufacture 10 grams – 200 grams of cocaine.
- Separates the crime of manufacturing, delivering and possessing with intent to manufacture or deliver other schedule I, II, or III which was a class B felony; and amends certain penalties based on the newly create crimes.

- Creates the new crime of possession of a schedule I or II controlled substance that is not methamphetamine or cocaine with the purpose to deliver; makes it a class C felony if the substance weighs less than two grams. Makes it a class B felony for 80 – 160 dosage units of hydromorphone hydrochloride or lysergic Acid Diethylamide (LSD); 80-160 dosage units but not more than 200 grams of any other schedule I or II depressant, hallucinogenic or stimulant drug; and two grams – 28 grams for all additional schedule I and II substances except methamphetamine and cocaine. Makes it a class A felony for 160 or more dosage units or 128 milligrams or more but less than 200 grams of hydromorphone hydrochloride; 1,600 micrograms or more or 160 dosage units or more but less than 200 grams of lysergic Acid Diethylamide (LSD); 160 dosage units or more regardless of weight but less than 200 grams of any other schedule I or II depressant, hallucinogenic or stimulant drug; and 28 grams – 200 grams for all additional schedule I and II substances except methamphetamine and cocaine.
- Creates the new crime of delivering a schedule I or II controlled substance that is not methamphetamine or cocaine. Makes it a class C felony if the aggregate weight is less than 2 grams. Makes it a class B felony for 80 – 160 dosage units of hydromorphone hydrochloride or lysergic Acid Diethylamide (LSD); 80-160 dosage units but less than 200 grams for any other schedule I or II depressant, hallucinogenic or stimulant drug; two grams – 28 grams for all additional schedule I and II substances except methamphetamine and cocaine. Makes it a class A felony for 160 or more dosage units but less than 200 grams of hydromorphone hydrochloride or lysergic Acid Diethylamide (LSD); 160 dosage units or more but less than 200 grams for any other schedule I or II depressant, hallucinogenic or stimulant drug; and 28 grams – 200 grams for all additional schedule I and II substances except methamphetamine and cocaine.
- Creates the new crime of manufacturing a schedule I or II controlled substance that is not methamphetamine or cocaine. Makes it a class C felony for less than 2 grams. Makes it a class B felony for 80 – 160 dosage units of hydromorphone hydrochloride or lysergic Acid Diethylamide (LSD); 80-160 dosage units for any other schedule I or II depressant, hallucinogenic or stimulant drug; and two grams – 28 grams for all additional schedule I and II substances except methamphetamine and cocaine. Makes it a class A felony for 160 or more dosage units of hydromorphone hydrochloride or lysergic Acid Diethylamide (LSD); 160 dosage units or more but less than 200 grams for any other schedule I or II depressant, hallucinogenic or stimulant drug; and 28 grams or more for all additional schedule I and II substances except methamphetamine and cocaine.
- Creates the new crime of possession a schedule III controlled substance with the purpose to deliver. Makes it a class C felony for 40 – 80 dosage units of a class III depressant, hallucinogenic or stimulant drug is and for less than less than 28 grams of all other schedule III drugs. Makes it a class B felony for 80 - 160 dosage units of a class III depressant, hallucinogenic or stimulant drug and for 28 grams – 200 grams of all other schedule III drugs. Makes it a class A felony for more than 160 dosage units of a class III depressant, hallucinogenic or stimulant drug; and for 200 grams – 400 grams of all other schedule III drugs.
- Creates the new crime of delivering a schedule III controlled substance. Makes is a class C felony for less than 28 grams; a class B felony for 28 grams – 200 grams; and a class A felony for 200 grams – 400 grams.

- Creates the new crime of manufacturing a schedule III controlled substance. Makes is a class C felony for less than 28 grams; a class B felony for 28 grams – 200 grams; and a class A felony for 200 grams or more.
- Separates the crime of manufacturing, delivering and possessing with intent to manufacture or deliver schedule IV or V which was a class C felony; and amends certain penalties based on the newly create crimes.
- Creates the crime of possession of a schedule IV or V controlled substance with the purpose to deliver. Makes it a class D felony for less than 200 grams; or 40 – 80 dosage units of a schedule IV and V depressant; hallucinogenic or stimulant drug. Makes it a class C felony for 200 grams – 400 grams; or 80 – 160 dosage units of a schedule IV and V depressant; hallucinogenic or stimulant drug. Makes it a class B felony for 400 grams – 800 grams; or 160 – 800 dosage units of a schedule IV and V depressant; hallucinogenic or stimulant drug.
- Creates the crime of delivering a schedule IV or V controlled substance. Makes is a class D felony for less than 200 grams; a class C felony for 200 – 400 grams; and a class B felony for 400 – 800 grams.
- Creates the crime of manufacturing a schedule IV or V controlled substance. Makes is a class D felony for less than 200 grams; a class C felony for 200 grams – 400 grams; and a class B felony for 400 grams or more.
- Separates the crime of manufacturing, delivering and possessing with intent to manufacture or deliver schedule VI which ranged from a class C felony to a class Y felony; and amends certain penalties based on the newly create crimes.
- Creates the crime of possession a schedule VI controlled substance with the purpose to deliver. Makes it a class A misdemeanor for less than 14 grams; a class D felony for 14 grams – 4 ounces; a class C felony for 4 ounces – 25 pounds; a class B felony for 25 – 100 pounds; and a class A felony for 100 – 500 pounds.
- Creates the crime of delivering a schedule VI controlled substance. Makes is a class A misdemeanor for less than 14 grams; a class D felony for 14 grams – 4 ounces; a class C felony for 4 ounces – 25 pounds; a class B felony for 25 – 100 pounds ; and a class A felony to deliver 100 – 500 pounds.
- Creates the crime of manufacturing a schedule VI controlled substance. Makes is a class A misdemeanor for less than 14 grams; a class D felony for 14 grams – 4 ounces; a class C felony for 4 ounces – 25 pounds; a class B felony for 25 – 100 pounds; and a class A felony for 100 – 500 pounds.
- Creates the crime of trafficking a controlled substance. Defines trafficking as possessing: 200 grams or more of methamphetamine or cocaine; 200 grams or more of a schedule I or II substance that is not methamphetamine; 400 grams or more of a schedule III controlled substance; 800 grams or more of a schedule IV or V controlled substance; and 500 pounds or more of a schedule VI controlled substance. Makes it a class Y felony to traffic a controlled substance.
- Decreases from a class C felony to a class D felony, the penalty for possession of a counterfeit schedule I and II controlled substances.
- Decreases from a class D felony to a class A misdemeanor, the penalty for a second offense of possession of a counterfeit controlled substances other than schedule I and II.

- Decreases from a class C felony to a class D felony, the penalty for a third or subsequent offense of possession of a counterfeit controlled substances other than schedule I and II.
- Decreases the penalty from a class B felony to a class C felony for delivering or manufacturing a counterfeit schedule I or II narcotic drugs or methamphetamine.
- Decreases the penalty from a class C to a class D felony for counterfeit schedule III controlled substances.
- Decreases the penalty from class C felony to a class A misdemeanor for counterfeit schedule IV and VI controlled substances.
- Decreases the penalty from class D felony to a class A misdemeanor for counterfeit substances not classified.
- Makes it a class A misdemeanor for possession with the purpose to use drug paraphernalia with the purpose to use to inject, ingest, inhale or otherwise introduce a controlled substance into the human body; except that it is a class D felony if the controlled substance is methamphetamine or cocaine. Makes it a class D felony for use or possession with the purpose to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance; except that it is a class B felony if the substance is methamphetamine or cocaine.
- Makes it a class B felony for a person 18 years of age or older to deliver drug paraphernalia while in the course of a felony controlled substance violation to a person under 18 years of age and is at least three years younger. Makes it a class A misdemeanor for a person 18 years of age or older to deliver drug paraphernalia to a person under 18 years of age and is at least three years younger.
- Adds trafficking methamphetamine required to serve 70 percent of the term of incarceration when the offense was committed while in possession of a firearm.

Connecticut SB 1014

- Reduces possession or control of less than one-half ounce of a cannabis-type substance to an infraction, subject to a \$150 fine for a first offense, and \$200 to \$500 for any subsequent offense.
- Amends several controlled substance offenses and penalties as follows:
 - Penalizes the offense of possessing or having under one's control, any quantity of any controlled substance other than a narcotic, or a hallucinogenic substance other than marijuana, or one-half to four ounces of a cannabis-type substance, for a first offense, a fine of up to \$1,000, imprisonment up to one year, or both, and for any subsequent offense, a fine up to \$3,000, imprisonment up to 5 years, or both.
 - Classifies the illegal use or possession with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale, or otherwise introduce into the human body, any controlled substance, other than a cannabis-type substance in a quantity of one-half ounce or less, as a class D misdemeanor.
 - Classifies the delivery, possession with intent to deliver or manufacture with intent to deliver drug paraphernalia, or reasonably knowing that such paraphernalia would be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, any controlled substance, other than a

cannabis-type substance in a quantity of less than one-half ounce, as a class A misdemeanor.

- Penalizes both offenses, when committed in, on, or within 1,500 feet of the property of a public or private elementary or secondary school and the offender is not enrolled as a student at the school, with imprisonment for one year without eligibility for a suspended sentence, and requires the prison term to be served consecutively to any term imposed for the drug offense itself.
- Classifies the use or possession with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, less than one-half ounce of a cannabis-type substance, and the delivery, possession 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 to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, less than one-half ounce of a cannabis-type substance, as infractions.

Delaware HB 19

- Creates the crime of possessing a handgun or semi-automatic firearm while in possession of a controlled substance and makes it a class F felony. Narrows the crime of maintaining a dwelling or vehicle which is used to for consuming, keeping or delivering controlled substances to apply only to an owner, landlord or tenant of a property who knowingly consents to the use of the property for purposes related to controlled substances.
- Adds the crimes of drug dealing and aggravated possession to the list of crimes that constitute violent felonies and removes the crimes of possession and delivery of a non-controlled prescription drug, possession within 1000 feet of a school and possession within 300 feet of a park from that list. Adds the crimes of drug dealing and aggravated possession to the list of crimes eligible to be sentenced as a habitual criminal.
- Removes the crimes of delivering drug paraphernalia to a minor; delivery or distribution of narcotics within 1000 feet of a school; delivery or distribution of narcotics within 300 feet of a park; delivery or manufacture of narcotics causing death; delivery or manufacture or possession with intent to deliver narcotics (non-use); delivery or manufacture or possession with intent to deliver narcotics listed on schedule I or schedule II; delivery of narcotics to minor under 16 years of age; delivery of narcotics to minor; delivery of non-narcotic drugs to a minor under 16 years of age; delivery or distribution of non-narcotic drugs within 1000 feet of a school; delivery or distribution of non-narcotic drugs within 300 feet of parkland; delivery or manufacture or possession with intent to deliver a non-narcotic controlled substance; delivery or possession with intent to deliver a prescription body-building drug; manufacture or delivery or possession with intent to deliver any schedule I or schedule II narcotic; manufacture or delivery or possession with intent to deliver non-narcotics; trafficking in drugs; trafficking in illegal drugs; and unlawful delivery of a controlled substance from the list of crimes prohibited from placement in a boot camp program.

- Requires the Delaware Sentencing Accountability Commission to develop sentencing guidelines that are commensurate with the seriousness of the offense of drug dealing when the quantity of the controlled substance significantly exceeds the minimum required for tier 2 quantities.
- Adds and amends definitions in the uniform controlled substances act. Expands the definition of a controlled substance to include “designer drugs”. Defines “dose” as an amount or unit of a compound, mixture, or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual; a dose includes but is not limited to a pill, a capsule, a tablet or a vial. Adds the definitions of “protected park or recreation area”, “protected school zone” and “purported controlled substance” from other areas of law; narrows the definition of a “protected park or recreation are” to only include a protective zone around places of worship that have a school or recreation area; and narrows the definition of a “protected school zone” from within 1000 feet of a school to 300 feet of a school.
- Repeals the crimes of delivery causing death, distribution to persons under 21 years of age, purchase of drugs from minors, possession of a controlled substance within 300 feet of a park, and possession of controlled substances within 1000 feet of a school. Establishes committing a controlled substance crime within a protected school zone; within protected park, recreation, church, synagogue, or other place of worship; in a vehicle; or having a juvenile co-conspirator as aggravating factors. Also adds the aggravating factor of resisting arrest by force or violence during or immediately following the commission of any controlled substance offense. Stipulates that both protected school zone and protected park, recreation, church, synagogue, or other place of worship may be alleged and proven but will only count as one aggravated factor for determining which offense the defendant committed.
- Establishes prior qualifying drug convictions and applies criminal penalties in the same manner as an aggravating factor which is defined within each drug offense. Defines a prior qualifying drug conviction as a prior adult drug conviction where a new drug offense occurs within five years of the date of conviction or date of termination incarceration, whichever is later. Defines two prior qualifying drug convictions as, in addition to a prior qualifying drug conviction, an additional prior adult drug conviction or juvenile drug adjudication where a new drug offense occurs within 10 years of the date of conviction / adjudication or date of termination incarceration, whichever is later, and the juvenile must have reached his or her 16th birthday at the time the offense was committed.
- Establishes tier weights for various controlled substances for the purpose of applying criminal penalties.
 - Defines tier 5 controlled substances quantity as: 25 grams or more of cocaine; 5 grams or more of any morphine, opium or any salt, isomer or salt of an isomer thereof, including heroin; 5000 grams or more of marijuana; 25 grams or more of methamphetamine, including its salt, isomer or salt of an isomer; 25 grams or more of amphetamine, including its salts, optical isomers and salt of its optical isomers; 25 grams or more of phencyclidine; 500 or more doses or, in a liquid form, 50 milligrams or more of lysergic acid diethylamide (LSD); or 62.5 or more doses or 12.5 or more grams or 12.5 milliliters or more of a designer drug or 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers.

- Defines tier 4 controlled substances quantity as: 20 grams or more of cocaine; 4 grams or more of any morphine, opium or any salt, isomer or salt of an isomer thereof, including heroin; 4000 grams or more of marijuana; 20 grams or more of methamphetamine, including its salt, isomer or salt of an isomer; 20 grams or more of amphetamine, including its salts, optical isomers and salt of its optical isomers; 20 grams or more of phencyclidine; 250 or more doses or, in a liquid form, 25 milligrams or more of lysergic acid diethylamide (LSD); 50 or more doses or 10 or more grams or 10 milliliters or more of a designer drug or 3,4-methylenedioxymethamphetamine (MDMA); or 60 or more substantially identical doses of a narcotic Schedule II or III controlled substance that is a prescription drug, or 6 grams or more of any mixture that contains a narcotic Schedule II or III controlled substance that is a prescription drug.
- Defines tier 3 controlled substances quantity as: 15 grams or more of cocaine; 3 grams or more of any morphine, opium or any salt, isomer or salt of an isomer thereof, including heroin; 3000 grams or more of marijuana; 15 grams or more of methamphetamine, including its salt, isomer or salt of an isomer; 15 grams or more of amphetamine, including its salts, optical isomers and salt of its optical isomers; 15 grams or more of phencyclidine; 100 or more doses or, in a liquid form, 10 milligrams or more of lysergic acid diethylamide (LSD); or 37.5 or more doses or 7.5 or more grams or 7.5 milliliters or more of a designer drug or 3,4-methylenedioxymethamphetamine (MDMA).
- Defines a tier 2 controlled substances quantity as 10 grams or more of cocaine; 2 grams or more of any morphine, opium or any salt, isomer or salt of an isomer thereof, including heroin; 1500 grams or more of marijuana; 10 grams or more of methamphetamine, including its salt, isomer or salt of an isomer; 10 grams or more of amphetamine, including its salts, optical isomers and salt of its optical isomers; 10 grams or more of phencyclidine; 50 or more doses or, in a liquid form, 5 milligrams or more of lysergic acid diethylamide (LSD); 25 or more doses or 5 or more grams or 5 milliliters or more of a designer drug or 3,4-methylenedioxymethamphetamine (MDMA); or 30 or more substantially identical doses of a narcotic Schedule II or III controlled substance that is a prescription drug, or 3 grams or more of any mixture that contains a narcotic Schedule II or III controlled substance that is a prescription drug.
- Defines a tier 1 controlled substances quantity as: 5 grams or more of cocaine; 1 gram or more of any morphine, opium or any salt, isomer or salt of an isomer thereof, including heroin; 175 grams or more of marijuana; 5 grams or more of methamphetamine, including its salt, isomer or salt of an isomer; 5 grams or more of amphetamine, including its salts, optical isomers and salt of its optical isomers; 5 grams or more of phencyclidine; 25 or more doses or, in a liquid form, 2.5 milligrams or more of lysergic acid diethylamide (LSD); 12.5 or more doses or 2.5 or more grams or 2.5 milliliters or more of a designer drug or 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers.
- Repeals and combines the crimes of manufacturing, delivering or possessing with intent to manufacture or deliver a non-narcotic controlled substance or counterfeit controlled substance which was a class E felony and unlawful delivery or attempt to deliver a non-controlled substance which was a class D felony; to create the crime of unlawful dealing in a counterfeit or purported controlled substance as class E felony.

- Repeals the crimes related to trafficking marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). Creates the crime of drug dealing as a class B felony as: manufacture, deliver or possess with the intent to manufacture or deliver a controlled substance in a tier 4 quantity; manufactures, deliver, or possess with the intent to manufacture or deliver a controlled substance in a tier 2 quantity if there is an aggravating factor; possession of a controlled substance in a tier 5 quantity; possession of a controlled substance in a tier 3 quantity if there is an aggravating factor; or possession of a controlled substance in a tier 2 quantity if there are 2 aggravating factors. Creates the crime of drug dealing as a class C felony as: manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance in a tier 2 quantity; manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance if there is an aggravating factor; possession a controlled substance in a tier 4 quantity; possession of a controlled substance in a tier 2 quantity if there is an aggravating factor; or possession of a controlled substance in a tier 1 quantity if there are 2 aggravating factors. Creates the crime of drug dealing as a class D felony as: manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance; possession of a controlled substance in a tier 3 quantity; or possession of a controlled substance in a tier 1 quantity if there is an aggravating factor. Creates the crime of aggravated possession as a class E felony as any person who possesses a controlled substance in a tier 2 quantity. Creates the crime of aggravated possession as a class F felony as any person who possesses a controlled substance in a tier 1 quantity.
- Repeals and combines the crimes of possession of a narcotic controlled substance or counterfeit substance which was a class A misdemeanor and possession of a non-narcotic controlled substance or counterfeit substance which was a class B misdemeanor; and creates the crime of possession of a controlled substance or counterfeit substance. Makes it a class B misdemeanor to possesses, use or consume a controlled substance or counterfeit, except marijuana; except it will be a class A misdemeanor if there is an aggravating factor. Creates the crime of possession of marijuana; makes it an unclassified misdemeanor to possesses, use or consume marijuana except it will be a class B misdemeanor if there is an aggravating factor.
- Repeals and combines the crimes of possession of a non-controlled prescription drug which was a class B misdemeanor, possession of a non-narcotic prescription drug which was a class B misdemeanor, and delivery or possession with intent to deliver a non-controlled prescription drug which was a class F felony. Creates the crime of illegal possession of non-controlled prescription drugs and makes it an unclassified misdemeanor; except it will be a class B misdemeanor if there is an aggravating factor; a class G felony for delivery or possession with intent to deliver a prescription drug; and a class F felony for delivery of possession with intent to deliver a substance intended for medical or scientific use.
- Decreases from a class A misdemeanor to a class B misdemeanor, the crime of possession of drug paraphernalia.
- Creates the crime of solicitation of multiple prescription drug crimes as a class C felony for soliciting, directing, hiring, employing, or otherwise using 1 or more other persons, 3 or more times within a 30-day period; except that it will be a class B felony if there is an aggravating factor.

- Adds quantity thresholds for the crime of first degree trafficking in controlled substance as four grams or of cocaine, two grams or more of heroin or methamphetamine, and 10 or more dosage units of schedule I or II narcotic controlled substances; except any quantity of lysergic acid diethylamide; phencyclidine, gamma hydroxybutyric acid (GHB), or flunitrazepam, qualifies.
 - Specifies that amounts may occur in a single transaction or accumulated in a series of transactions during a 90-day period.
 - Maintains current penalties for higher quantities of drugs and adds decreased penalties for quantities of drugs that are less than the newly established thresholds: a class D felony for the first offenses and a class C felony for second and subsequent offenses.
- Adds quantity thresholds for the crime of second degree trafficking in controlled substances as 10 or more dosage units of a non-narcotic schedule I and II drug or 20 or more dosage units of a schedule III controlled substance that is not a synthetic cannabinoid, salvia or marijuana.
 - Maintains current penalties for higher quantities of drugs and adds decreased penalties for quantities of drugs that are less than the newly established thresholds: class D felony with a maximum sentence of three years for the first offense and class D felony for second or subsequent offenses.
- Adds quantity thresholds for the crime of third degree trafficking in a controlled substance as 20 or more dosage units of a schedule IV or V controlled substance.
 - Maintains current penalties for higher quantities of drugs and adds decreased penalties for quantities of drugs that are less than the newly established thresholds: class A misdemeanor for the first offense and subject to presumptive probation; and class D felony with a maximum sentence of three years for second or subsequent offenses.
- Maintains the penalty for first degree possession of a controlled substance as a class D felony, limits incarceration to a maximum of three years; and removes the penalty enhancement for second and subsequent offenses. Authorizes deferred prosecution and presumptive probation for the first and second offenses; requires deferred prosecution to be the preferred alternative for a first offense; and requires, if a person does not enter a deferred prosecution program for the first or second offense, presumptive probation unless the court determines the defendant is not eligible.
- Maintains the penalty for second degree possession of a controlled substance as a class A misdemeanor and removes the penalty enhancement for second and subsequent offenses.
- Maintains the penalty for third degree possession of a controlled substance as a class A misdemeanor and removes the penalty enhancement for second and subsequent offenses.
- Decreases from a class A misdemeanor to a class B misdemeanor, the penalty of possession of marijuana and limits the term of incarceration to 45 days. Limits the term of incarceration to 30 days for possession of synthetic cannabinoids. Limits the terms of incarceration to 30 days for possession of salvia.
- Prohibits a conviction for first degree possession of a controlled substance to trigger the application of persistent felony offender enhancement, regardless of the number or type of prior felony convictions; however, permits first degree possession to be used as a prior felony if the offender is subsequently convicted of a different felony offense that qualifies as a trigger.
- Prohibits applying persistent felony offender sentencing for an offense if the penalty was increased from a misdemeanor to a felony or from a lower felony classification to a higher classification due to application of a sentencing enhancement for a second or subsequent offense;

except for certain crimes related to driving under the influence, driving with a revoked license, criminal gang membership, assault of a family member, first degree stalking, and third or subsequent conviction of misdemeanor sex offenses, or felony offenses not enhanced to a higher level because the offender was prosecuted as a first-time offender.

Ohio HB 86

- Removes the mandatory minimum prison term and adds a presumption of prison for certain first-time third degree felony drug offenders.
- Creates new penalty classes for crimes related to trafficking or possession of marijuana or hashish that carry shorter mandatory prison terms.
- Equalizes penalties for crack cocaine and powder cocaine offenses.
- Removes the presumption of prison for fourth degree felony drug offenses.

2010

California SB 1449

Makes the crimes of possession of not more than 28.5 grams of marijuana and possession of not more than 28.5 grams of marijuana while driving on a highway or lands an infraction rather than a misdemeanor. Maintains the maximum penalty of \$100, eliminates provisions related to diverting offenders found guilty of these crimes.

Colorado HB 1352

Lowers the penalty for unlawful use of a controlled substance from a class 1 misdemeanor or a class 6 felony to a class 2 misdemeanor, regardless of the circumstances. Lowers the threshold for unlawful possession of a controlled substance from possessing one gram or less to possessing four grams or less that constitutes a class 6 felony and from possessing more than one gram to possessing more than four grams that constitutes a class 4 felony, except methamphetamine. Makes possessing two grams or less of methamphetamine a class 6 felony and possessing more than two grams a class 4 felony. Makes possessing a schedule III drug a class 1 misdemeanor, except for fluoxetine or ketamine. Lowers the penalty for fraud and deceit related to a controlled substance from a class 5 felony or class 4 felony to a class 6 felony, regardless of the circumstance. Separates the crime of possession of a controlled substance from the crime of manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell or distribute. Adds the sale of a controlled substance to a minor to the definition of unlawful distribution, manufacturing, dispensing, sale or possession of a controlled substance and makes it a class 3 felony with a mandatory prison term. Mandates a period of incarceration for a conviction of transferring or dispensing any amount of marijuana to a person under the age of 15 years. Adds a minimum of more than four grams of any schedule I or II controlled substance or more than two grams of methamphetamine to the aggravating circumstance of unlawfully introducing, distributing, or importing into the state that qualifies a defendant for a "special offender" enhanced sentence. Revises offenses related to marijuana with regard to the amount required to constitute a crime and lowers associated penalties. Revises offenses related to processing or manufacturing marijuana, dispensing, selling, or distributing marijuana, and cultivating, growing, or producing a marijuana plant to provide for lawful activities related to the offenses.

South Carolina SB 1154

- Authorizes a diversion sentence for certain drug offenses. Permits the court to sentence offenders convicted of a first or second offense for of manufacturing, distributing, dispensing, delivering, or purchasing a controlled substance, methamphetamine or cocaine or for a third or subsequent offense in which all prior offenses were for possession of a controlled substance to a suspended sentence and order probation and makes them is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Permits the court to sentence offenders convicted of possession of a controlled substance to a suspended sentence and order probation and makes them is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Prohibits diversion for a conviction of trafficking of a controlled substance.
- Equalizes the penalties for possession of crack and powder cocaine by increasing from 10 grains or less of cocaine to one gram or less of cocaine that constitutes a misdemeanor offense of possession and increasing from more than 10 grains of cocaine to more than 10 grams of cocaine that constitutes a felony offense of manufacturing, distributing, dispensing, delivering, or purchasing.
- Restructures what constitutes a second or subsequent offense for a marijuana conviction, a first conviction for marijuana possession will count if the conviction with within five years of the second offense or for a marijuana conviction, except first time possession, the conviction will count at any time.
- Restructures what constitutes a second or subsequent offense for a controlled substance conviction, a first conviction will count if the second conviction is within 10 years or for a second or subsequent conviction the conviction will count at any time.
- For a conviction of distribution of a controlled substance within the proximity of school grounds, requires that the person had knowledge that he or she was within a half-mile radius of school grounds and that the distribution actually took place. Prohibits a person being convicted under the law if he or she is stopped by a law enforcement officer within the half-mile radius.

2009

New York AB 156

- Creates the Class B felony crime of criminal sale of a controlled substance to a child and defines it as when a person over 21 knowingly and unlawfully sells a controlled substance in violation of 220.347 or 220.39 to a person less than 17.
 - A person convicted of this crime must be sentenced to a determinate sentence of imprisonment in accordance with 70.70 [penalty of at least 2 but not more than 9 years] or to a sentence of probation in accordance with 65.00(b)[eligible for a sentence of probation (25 years) if a prosecutor recommends that such a person has or is providing material assistance in the investigation, apprehension, or prosecution of any person for a felony defined in article 220].
- Adds Class B felonies (excluding sale of a controlled substance to a child) to the crimes eligible for alternative definite sentencing where the court may impose a definite sentence of imprisonment and fix a term of one year or less. (Also eligible now are Class C, D, and E felonies.
 - The court may also direct that Class B felonies (excluding sale of a controlled substance to a child) be executed as a sentence of parole supervision via section 410.91.

- Class B repeat felony offenders may be eligible for a sentence to probation in accordance with 65.00(b) - eligible for a sentence of probation (life term) if a prosecutor recommends that such a person has or is providing material assistance in the investigation, apprehension, or prosecution of any person for a felony defined in article 220.
- Creates the Class A-I felony crime of Operating as a Major Trafficker and defines it as a person who acts as a director of a controlled substance organization during any period of twelve months or less, during which period such controlled substance organization sells one or more controlled substances, and the proceeds collected or due from such sale or sales have a total aggregate value of seventy-five thousand dollars or more; or as a profiteer, such person knowingly and unlawfully sells, on one or more occasions within six months or less, a narcotic drug, and the proceeds collected or due from such sale or sales have a total aggregate value of seventy-five thousand dollars or more; or as a profiteer, such person knowingly and unlawfully possesses, on one or more occasions within six months or less, a narcotic drug with intent to sell the same, and such narcotic drugs have a total aggregate value of seventy-five thousand dollars or more.
 - A person convicted of this crime should be sentenced to an indeterminate term under article 70.00 (15-25 years), however they may qualify for an alternative determinate sentence if the court thinks that imprisonment is necessary but could be unduly harsh.

NCSL's Criminal Justice Program is in Denver, Colorado, at 303-364-7700; or cj-info@ncsl.org

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