Drug Possession Penalties and Sentencing

Those convicted on drug possession charges face a wide gamut of penalties at sentencing, varying from state to state. Penalties for simple possession range from a fine of less than $100 and/or a few days in jail to thousands of dollars and several years in state prison for the same offense. Simple drug possession sentences tend to be the lightest, while intent to distribute drugs or the cultivation/manufacturing of drugs carry much heavier penalties. Prosecutors sometimes offer plea deals to defendants who may be able to help them with a higher-priority investigation, perhaps leading to the arrest of an organized crime leader.

Federal lawmakers enacted mandatory minimum sentencing guidelines for drug offenses in 1986 in an attempt to target high-level distributors, although they also impact lower-level drug defendants. Most states have adopted a similar approach to drug sentencing. These fixed sentences are based on the type of drug, the weight of the drug and the number of prior convictions. Kentucky, which has adopted similar mandatory minimum sentencing guidelines, has some of the toughest provisions. For simple possession, first offenders in Kentucky get two to 10 years in prison and a fine of up to $20,000. In contrast, California has some of the lightest drug possession sentences: between $30 and $500 in fines and/or 15 to 180 days in jail.

Many states have instituted what are known as drug courts, programs for felony drug defendants overseen by a judge that aim to rehabilitate the defendant (often repeat offenders) instead of taking the case to trial. Judges have substantial control over the operation of drug courts. A drug defendant who agrees to drug court spends roughly 12 to 15 months attending treatment sessions and undergoing random drug tests while appearing before the drug court judge on a regular basis. Those who fail to appear in court or fail drug tests are arrested and often given a brief jail sentence.

Factors that influence penalties for drug possession -- aside from mandatory minimum sentences -- include the defendant's past record, the amount and type of drug. Some states have effectively decriminalized possession of marijuana, making it a simple infraction (not unlike a traffic ticket), while possession of crack cocaine once carried the harshest penalties in most states. Depending on a given state's sentencing rules, judges have a certain degree of discretion and can impose sentences ranging from fines, community service hours and probation to lengthy prison sentences. Talk to a criminal defense attorney experienced in drug possession cases for more detailed information.
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