

Recommendations from the SGC Criminal Code Review Committee on Projects #2 Related to Drug Sentences

Project #2 - a review of sentences for drug offenses and recommendations to reduce the reliance on punitive sanctions and to restructure outcomes to prioritize a therapeutic model for associated drug offenses.

Recommendation: Review the penalties for Manufacture, Deliver, or Possess with Intent to Manufacture or Deliver – Cannabis (RCW 69.50.401(2)(c)) as it was not changed after cannabis became legal.

Chapter 311, Laws of 2021 made knowingly possessing cannabis a misdemeanor offense.

- The penalty under RCW 69.50.4013 (Possession of controlled substance—Penalty—Possession of useable cannabis, cannabis concentrates, or cannabis-infused products—Delivery) was reduced to a misdemeanor
- The language for RCW 69.50.4014 (Possession of forty grams or less of cannabis—Penalty) was modified to require a person to ‘knowingly’ possess 40 grams or less of cannabis in order to be charged with a misdemeanor.
- Both changes are effective until July 1, 2023

The penalty for manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance (cannabis) is still a class C felony ranked at seriousness Level I on the drug grid.

RCW 69.50.401 Prohibited acts: A—Penalties.

(1) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(2) Any person who violates this section with respect to:

(c) Any other controlled substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW, except as provided in RCW 69.50.475;

ANNUAL CONVICTIONS

Offense	2021				2019				2017			
	Pris	Mos	Non-pris	Mos	Pris	Mos	Non-pris	Mos	Pris	Mos	Non-pris	Mos
Mfg Del Pos w/I Marijuana - 1st offense	4	19.5	27	1.4	4	14.5	39	1.3	7	16	83	2.4
Mfg Del Pos w/I Marijuana - 1st offense - attempt			2	0			1	0.5			2	1.5
Mfg Del Pos w/I Marijuana - 1st offense - conspiracy			2	0.5			3	1.8			1	2
Mfg Del Pos w/I Marijuana - Correctional Facility					1	16						
Mfg Del Pos w/I Marijuana - Subseq					1	24					2	3

Source: Caseload Forecast Council Statistical Summary of Adult Felony Sentencing annual reports

Recommendation: Advise the Legislature that there is a need for a statewide process to evaluate fidelity to standards and promising practices, and make sure that 'justice by geography' is not occurring, to make sure programs are targeting the correct population of high risk, high need individuals, and that best practices are being employed.

Many of the drug courts in the state have not been evaluated. It is important for the program's success to know if it is maintaining fidelity and targeting the correct population.

Proposed Language:

Institute a statewide quality assurance and continuous quality improvement process through ongoing data collection, evaluation and best practice principles or model(s) recommendations through AOC or WSIPP? The rest of the suggested language regarding fidelity, geography etc. could be additional considerations.

(This would then apply to existing drug courts and potentially advise current and future best practice.)