



State Laws With Alternatives to Incarceration for Marijuana Possession

| State | Year Law Passed | Amount of Marijuana the Policy Applies To | First Offense Penalty | Subsequent Offense Penalties | Classification for First Offense | Citations | Other Information |
|----------------------|--|---|--|--|---|---|---|
| Alaska | 2014 | One ounce, six plants, marijuana from those plants | No penalty for those 21 and older | No penalty for those 21 and older | N/A for adults 21 and older | Alaska Stat. § 17.38.020 | In 2014, voters approved Ballot Measure 2, to legalize, regulate, and tax marijuana for adult use. It did not change penalties for those under 21 or allow public use. |
| California | 2016 (legal for adults 21 and up); 1976 and 2010 | 28.5 grams (about an ounce) or less; six plants, and marijuana from the plants | Adults 21 and older: no penalty; ages 18-20: \$100 fine; minors: counseling, community service, drug education | Same as first offense | N/A for adults 21 and up; infraction for others | Cal. Health & Safety Code § 11362.1, §11357 | Regulated adult-use marijuana sales began in early January 2018. It remains illegal to use marijuana in public (other than in licensed cannabis cafés) or to have an open container in cars. |
| Colorado | 2012 (legal for adults 21 and up); 1975 and 2010 (fining possession) | For adults 21 and older: no penalty for up to one ounce, six plants, and marijuana from the plants For those under 21: fine applies to up to two ounces | No penalty for adults 21 and older; \$100 fine for those under 21 | No penalty | N/A for adults 21 and up; Criminal class 2 petty offense for others | Colorado Constitution Article XVIII, Section 16; C.R.S. § 18-18-406 (1)-(3) | In 2012, voters approved Amendment 64, to legalize, regulate, and tax marijuana for adults' use. It does not allow public consumption. |
| Connecticut | 2011 | Less than half an ounce | \$150 fine; minors under 21 also lose their driver's license for 60 days | \$200-\$500 fine and drug awareness counseling for a third offense | Civil violation | C.G.S.A. § 21a-279a | The burden of proof is preponderance of the evidence. |
| Delaware | 2015 | One ounce or less | \$100 civil fine if 18 or older | Same as first offense for those 21 and older; \$100 criminal fine for people 18-20 | Civil violation | Del. Code Ann. Title 16 § 4764 | Possession of marijuana paraphernalia is also decriminalized. Possession of marijuana by individuals under 18 is punishable by a \$100 criminal fine. |
| District of Columbia | 2014 | For adults 21 and older: Up to two ounces outside the home, plus six plants and the marijuana from the plants at home For those under 21: fine applies to up to one ounce | No penalty for adults 21 and older; \$25 fine for those under 21 | Same as first offense | N/A for adults 21 and older; civil violation for others | D.C. Official Code §§ 48-904.01 & 48-1203 | Parental notification is also required for minors. In November 2014, voters approved Initiative 71, which legalized personal possession and cultivation of marijuana for adults 21 and older. |
| Hawaii | 2019 | Three grams | \$130 | Same as first penalty | Non-criminal | H.R.S. 712-1249 | The effective date is January 11, 2020. |
| Illinois | 2019 (legal for adults 21 and up); 2016 | Residents: 30 grams, five grams concentrates, products with up to 500 mg THC; Non-residents: half those amounts | No penalty for adults 21 and older | Same | N/A for adults 21 and older | Not yet codified, Sec. 10-10 of Public Act 101-0027 | Legalization takes effect on January 1, 2020. For minors – and for adults until then – possession of up to 10 grams of cannabis is punishable by a \$100-200 fine. The legalization law also decriminalizes cultivation of up to five plants. |

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| Maine | 2016 (legal for adults 21 and up); 1976 and 2009 | 2.5 ounces; six plants and marijuana from the plants | No penalty for adults 21 and older; those under 21: \$350 - \$1,000 fine | Same as first offense | N/A for adults 21 and up; civil violation for others | 7 M.R.S.A. §2452; 22 M.R.S.A. § 2383 | In 2016, voters approved Question 1 to legalize, regulate, and tax marijuana for adult use. It remains illegal to use marijuana in public. |
| Maryland | 2014 | Less than 10 grams | \$100 fine | Second offense: \$250 fine; third and subsequent offenses: \$500 fine, mandatory drug education, and an assessment for substance abuse treatment | Civil offense | Md. Code Ann., Crim. Law § 5-601.1 | Minors will always be referred to mandatory drug education and an assessment for substance abuse treatment. Additional penalties similar to minors in possession of alcohol may be imposed as well. |
| Massachusetts | 2016 (legal for adults 21 and up); 2008 | One ounce; six plants, and marijuana from the plants | Adults 21 and older: no penalty; ages 18-20: \$100 fine; minors: fine, drug awareness class | Same as first offense | N/A for adults 21 and up; civil offense for others | M.G. L.A. 94G, Section 7; 94C § 32L-32N | In 2016, voters approved Question 4, to legalize, regulate, and tax marijuana for adult use. It remains illegal to use marijuana in public or to have an open container in cars. |
| Michigan | 2018 | 2.5 ounces, six plants, and marijuana from the plants | No penalty for those 21 and older | No penalty for those 21 and older | N/A for adults 21 and older | | Voters approved Prop. 1 in 2018 to legalize, regulate, and tax marijuana for adults 21 and older. Possession by those under 21 remains a crime and the law does not allow public consumption. |
| Minnesota | 1976 | 42.5 grams (about 1.5 ounces) or less | \$300 fine, participation in a drug education program unless exempted | Same as first offense | Criminal petty misdemeanor | M.S.A. § 152.027 (4) | A police officer may arrest someone without a warrant “when a public offense has been committed or attempted in the officer’s presence.” |
| Mississippi | 1977 | 30 grams (a little more than an ounce) or less | \$100-\$250 fine | Second conviction within two years – \$250 fine and 5-60 days jail, plus counseling; third conviction in two years is a misdemeanor | Civil summons (first or second); criminal misdemeanor (third conviction within two years) | Miss. Code Ann. § 41-29-139 (c) (2) | Offenders who provide proof of identity and agree in writing to appear in court are not subject to arrest. The Bureau of Narcotics maintains a record of first and second convictions, but the record does not constitute a criminal record, and the record of each conviction is expunged after two years. |
| Missouri | 2014 | Up to 10 grams | \$250 to \$1000 fine | Up to one year in jail and a fine of up to \$2,000 | Class D misdemeanor (an infraction) | Mo. Rev. St. §579.015 | A person can be arrested, but cannot be sentenced to jail, for simple possession of up to 10 grams of cannabis. A conviction still creates a criminal record for those convicted. |
| Nebraska | 1978 | One ounce or less | \$300 fine and a course if judge deems appropriate | Second conviction: \$400 fine, up to five days in jail; third conviction: \$500 fine, up to seven days in jail | Civil infraction (first); criminal misdemeanor (second and third) | Neb. Rev. Stat. § 28-416 (13) | The first offense is an infraction. A citation is issued in lieu of arrest or continued custody. A citation is also issued for second and third convictions, and thus, they are also not arrestable offenses. |
| Nevada | 2016 (legal for adults 21 and up); 2001 | One ounce; for those living 25 miles from retailers: six plants, and marijuana from the plants | No penalty for adults 21 and older; under 21: up to a \$600 fine, in some circumstances, treatment and rehabilitation | Second conviction: up to \$1,000 fine and treatment; subsequent penalties include possible jail sentences | N/A for adults 21 and up; criminal misdemeanor for others | Question 2 § 6; N.R.S. § 453.336 (4) | In 2016, voters approved Question 2, to legalize, regulate, and tax marijuana for adults’ use. It remains illegal to use marijuana in public (other than in licensed cannabis cafés). |

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| New Hampshire | 2017 | ¾ ounce | Adults: \$100 fine; Minors: determined by juvenile court | Second offense: \$100 civil fine; third offense: \$300 civil fine; fourth offense within three years: up to a \$1,200 criminal fine | Civil violation | RSA 318-B:2-c | The policy also applies to five grams of hashish and marijuana-infused products containing up to 300 mg of THC, if they were purchased from states where they were legally sold and are stored in the properly labeled, child-proof containers. |
| New Mexico | 2019 | Half an ounce or less | \$50 fine | Same as first penalty | Non-criminal | NMSA § 30-31-23 | The effective date is July 1, 2019. |
| New York | 1977, expanded in 2019 | One ounce | \$50 fine | Same as first penalty | Non-criminal | N.Y. Pen Law §§221.05 & 221.10, Criminal Procedure Law §§1.20, 440.10 & 160.50, Public Health Law §1399-n | In 2019, the legislature closed a “public view” loophole that had been used to continue to arrest tens of thousands of individuals, disproportionately people of color. It also reduced the fine. Possession of more than an ounce is now punishable by a \$200 fine. |
| North Carolina | 1977 | A half ounce or less | Up to a \$200 fine, possible suspended sentence | Second to fifth offenses: up to \$200 fine, 0-15 days in jail, suspended; on sixth offense, up to 20 days in jail, suspended at judges’ discretion | Criminal misdemeanor (Class 3) | N.C.G.S.A. § 90-95 (d)(4) | Any sentence of imprisonment imposed must be suspended and the judge may not require that the defendant serve a period of imprisonment as a special condition of probation. |
| North Dakota | 2019 | Up to half an ounce | For adults 21 and older: Infraction, up to \$1,000 fine | Third infraction within a year may become Class B misdemeanor, with up to 30 days in jail | Infraction | ND Cent. Code 19-03.1-23 | Paraphernalia is also decriminalized. The law classifies consumption of marijuana by a person under the age of 21 as a Class B misdemeanor. |
| Ohio | 1975, expanded in 2012 | Less than 100 grams (about 3.5 ounces) | \$150 fine | Same as first offense | Minor misdemeanor, non-criminal | O.R.C. § 2925.11(c)(3) | Although a law enforcement officer is authorized to arrest a person for a minor misdemeanor, the law states the officer shall issue a citation instead, unless the offender doesn’t produce ID, won’t sign the citation, or presents a health/safety risk. A minor misdemeanor violation does not constitute a criminal record. |
| Oregon | 2014 (legal for adults 21 and older); 1973 (fining possession) | For adults 21 and older: no penalty for up to eight ounces, four plants For those under 21: fine applies to less than one ounce | No penalty for adults 21 and older; \$650 presumptive fine for those under 21 | Same as first offense | N/A for adults 21 and older; civil violation for others | OR Rev. Stat § 475.864 | In 2014, voters approved Measure 91 to legalize, regulate, and tax marijuana for adults’ use. It remains illegal to use marijuana in public. |
| Rhode Island | 2012 | One ounce or less | \$150 fine for those 18 or older; individuals 17 and under face various possible sanctions | Third conviction within 18 months – misdemeanor, punishable by \$200-500 fine and/or six months jail | Civil offense | R.I. Gen. Laws § 21-28-4.01 | Penalties for minors vary based on age and may include an appearance in family court, substance abuse treatment, and a fine. Civil violations for marijuana possession will not be grounds for revocation of parole or probation. |
| Vermont | 2018 (legal for adults 21 and up), 2013 | One ounce or less; up to five grams of hash | For adults, no penalty; if under 21, generally diversion | For adults, no penalty; if under 21, generally diversion | N/A for adults 21 and up; infraction for others | 18 V.S.A. § 4230a-b | In 2018, the legislature approved a law allowing adults to cultivate and possess limited amounts of marijuana. It does not include sales. It remains illegal to use marijuana in public or to have an open container in cars. |
| Virginia | 2020 | One ounce or less | \$25 fine | Same as first offense | Civil offense | Code of Virginia 18.2-250.1 | Effective July 1, 2020. Also reduces possession with intent to distribute convictions by creating a rebuttable presumption that a person possessing no more than one ounce possesses it for personal use. |

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| Washington | 2012 (Initiative 502) | Allows adults 21 and older to possess up to one ounce | No penalty for those 21 and older | No penalty for those 21 and older | N/A for those 21 and older; misdemeanor for those under 21 | RCW 69.50.325-69.50.359 | In 2012, voters approved I-502 to legalize, regulate, and tax marijuana for adults' use. The law does not allow public consumption or home cultivation. Possession by those under 21 remains a crime. |