

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 580

By: Senator C. Tucker

For An Act To Be Entitled

AN ACT TO DECRIMINALIZE POSSESSION OF MARIJUANA UPON
LEGALIZATION OF RECREATIONAL MARIJUANA IN THIS STATE;
TO AUTHORIZE COURTS TO REVOKE OR RESCIND SENTENCES OF
PERSONS CONVICTED OF POSSESSION OF MARIJUANA AND TO
SEAL THE RECORDS OF POSSESSION OF MARIJUANA; AND FOR
OTHER PURPOSES.

Subtitle

TO DECRIMINALIZE POSSESSION OF MARIJUANA
UPON LEGALIZATION OF RECREATIONAL
MARIJUANA IN THIS STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-64-408(b), concerning subsequent convictions and enhanced penalties under the Uniform Controlled Substances Act, is amended to read as follows:

(b) For purposes of this section, an offense is considered a second or subsequent offense if, before his or her conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to a narcotic drug, ~~marijuana~~, depressant, stimulant, or a hallucinogenic drug.

SECTION 2. Arkansas Code § 5-64-419(b)(5), concerning possession of a Schedule VI controlled substance within the Uniform Controlled Substances Act, is amended to read as follows:

(5)(A) A Except as provided in subdivision (b)(5)(B) of this



section, a Schedule VI controlled substance with an aggregate weight, including an adulterant or diluent, of:

~~(A)(i)~~ Less than four ounces (4 oz.) upon conviction is guilty of a Class A misdemeanor;

~~(B)(ii)~~ One ounce (1 oz.) or more but less than four ounces (4 oz.) and the person has four (4) previous convictions under this section or the former § 5-64-401(c) upon conviction is guilty of a Class D felony;

~~(C)(iii)~~ Four ounces (4 oz.) or more but less than ten pounds (10 lbs.) upon conviction is guilty of a Class D felony;

~~(D)(iv)~~ Ten pounds (10 lbs.) or more but less than twenty-five pounds (25 lbs.) upon conviction is guilty of a Class C felony;

~~(E)(v)~~ Twenty-five pounds (25 lbs.) or more but less than one hundred pounds (100 lbs.) upon conviction is guilty of a Class B felony; or

~~(F)(vi)~~ One hundred pounds (100 lbs.) or more but less than five hundred pounds (500 lbs.) upon conviction is guilty of a Class A felony.

(B) Possession of less than two ounces (2 oz.) of marijuana shall not be a violation or offense.

SECTION 3. Arkansas Code § 5-64-419(c), concerning possession of a controlled substance under the Uniform Controlled Substances Act, is amended to read as follows:

(c)(1) If a person possesses a controlled substance in violation of this section while the person is an inmate in a state criminal detention facility, county criminal detention facility, city criminal detention facility, or juvenile detention facility, the penalty for the offense is increased to the next higher classification as prescribed by law for the offense.

(2) Subdivision (c)(1) of this section shall not apply to possession of less than two ounces (2 oz.) of marijuana.

SECTION 4. Arkansas Code Title 16, Chapter 90, Subchapter 1, is amended to add an additional section to read as follows:

16-90-123. Revocation of sentence resulting from possession of

marijuana.

Upon the effective date of this section, the court shall revoke or rescind any sentence of a person who has been convicted for possession of less than two ounces (2 oz.) of marijuana under § 5-64-419 or a prior law prohibiting the possession of marijuana unless the person has been convicted of other charges.

SECTION 5. Arkansas Code § 16-90-1406(a)(3), concerning felony convictions eligible for sealing under the Comprehensive Criminal Record Sealing Act of 2013, is amended to read as follows:

(3) ~~As~~ Except as provided in subsection (d) of this section, an offense under the Uniform Controlled Substances Act, § 5-64-101 et seq., that is a Class A felony or Class B felony;

SECTION 6. Arkansas Code § 16-90-1406, concerning felony convictions eligible for sealing under the Comprehensive Criminal Record Sealing Act of 2013, is amended to add an additional subsection to read as follows:

(d) Unless convicted of multiple offenses, a person may petition the court to seal a record of a felony conviction involving possession of less than two ounces (2 oz.) of marijuana upon conviction.

SECTION 7. Arkansas Code § 16-90-1407 is amended to read as follows:
16-90-1407. Special procedures for sealing a felony controlled substance possession conviction.

(a) Except as provided in subsection (b) of this section, a A person may petition the court to seal a record of a felony conviction for possession of a controlled substance, § 5-64-419, or counterfeit substance, § 5-64-441, upon the completion of the person’s sentence if, prior to sentencing:

(1) An intake officer appointed by the court, where applicable, determines that the person has a drug addiction and recommends the person as a candidate for residential drug treatment;

(2) The court places the person on probation and includes as part of the terms and conditions of the probation that:

(A) The person successfully complete a drug treatment program approved by the court; and

(B) The person remain drug-free until successful

completion of probation; and

(3) The person successfully completes the terms and conditions of the probation.

(b) A person may petition the court to seal a record of felony conviction for possession of less than two ounces (2 oz.) of marijuana under § 5-64-419 or a prior law prohibiting the possession of marijuana without fulfilling the requirements of subsection (a) of this section.

SECTION 8. Arkansas Code Title 16, Chapter 93, Subchapter 1, is amended to add an additional section to read as follows:

16-93-112. Parole or probation resulting from possession of marijuana.

A person who is under probation or parole for possession of less than two ounces (2 oz.) of marijuana under § 5-64-419 or a prior law prohibiting the possession of marijuana on the effective date of this section shall be released from probation or parole immediately unless the person has been convicted of other charges.

SECTION 9. Contingent effective date.

This act becomes effective on and after the certification of the Attorney General that the possession, personal use, and consumption of cannabis by adults is legal in this state.