

*who has  
nor may*

*per  
not*

**Penalties Reduced for Various Drug Offenses – CL Art., §5-601 through 5-609 with presumption in favor of drug assessment and treatment for users.**

(2) Except as provided in subsection (c) of this section, a person who violates paragraph (1) of this subsection is guilty of the felony of child abuse in the first degree and on conviction is subject to:

(i) imprisonment not exceeding 25 years; [or]

(ii) if the violation results in the death of [the] A victim AT LEAST 13 YEARS OLD, imprisonment not exceeding 40 years; OR

(III) IF THE VIOLATION RESULTS IN THE DEATH OF A VICTIM UNDER THE AGE OF 13 YEARS, IMPRISONMENT NOT EXCEEDING LIFE.

(c) A person who violates this section after being convicted of a previous violation of this section is guilty of a felony and on conviction is subject to:

(1) imprisonment not exceeding 25 years; or

(2) if the violation results in the death of the victim, imprisonment not exceeding [40 years] LIFE.

(d) (1) (i) A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause abuse to the minor.

(ii) A household member or family member may not cause abuse to a minor.

(2) Except as provided in subsection (c) of this section, a person who violates paragraph (1) of this subsection is guilty of the felony of child abuse in the second degree and on conviction is subject to imprisonment not exceeding 15 years.

(e) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation of this section.

**5-601.**

(a) Except as otherwise provided in this title, a person may not:

1           (1) possess or administer to another a controlled dangerous substance,  
2 unless obtained directly or by prescription or order from an authorized provider acting in  
3 the course of professional practice; or

4           (2) obtain or attempt to obtain a controlled dangerous substance, or procure  
5 or attempt to procure the administration of a controlled dangerous substance by:

6                   (i) fraud, deceit, misrepresentation, or subterfuge;

7                   (ii) the counterfeiting or alteration of a prescription or a written  
8 order;

9                   (iii) the concealment of a material fact;

10                   (iv) the use of a false name or address;

11                   (v) falsely assuming the title of or representing to be a manufacturer,  
12 distributor, or authorized provider; or

13                   (vi) making, issuing, or presenting a false or counterfeit prescription  
14 or written order.

15           (b) Information that is communicated to a physician in an effort to obtain a  
16 controlled dangerous substance in violation of this section is not a privileged  
17 communication.

18           (c) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a  
19 person who violates this section is guilty of a misdemeanor and on conviction is subject to  
20 [imprisonment not exceeding 4 years or a fine not exceeding \$25,000 or both]:

21                           **(I) FOR A FIRST CONVICTION, IMPRISONMENT NOT EXCEEDING**  
22 **1 YEAR OR A FINE NOT EXCEEDING \$5,000 OR BOTH;**

23                           **(II) FOR A SECOND OR THIRD CONVICTION, IMPRISONMENT NOT**  
24 **EXCEEDING 18 MONTHS OR A FINE NOT EXCEEDING \$5,000 OR BOTH; OR**

25                           **(III) FOR A FOURTH OR SUBSEQUENT CONVICTION,**  
26 **IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING \$5,000 OR**  
27 **BOTH.**

28           (2) (i) Except as provided in subparagraph (ii) of this paragraph, a  
29 person whose violation of this section involves the use or possession of marijuana **IS GUILTY**  
30 **OF A MISDEMEANOR AND** is subject to imprisonment not exceeding [1 year] **6 MONTHS** or  
31 a fine not exceeding \$1,000 or both.

1           **(E) (1) (I) BEFORE IMPOSING A SENTENCE UNDER SUBSECTION (C) OF**  
 2 **THIS SECTION, THE COURT MAY ORDER THE DEPARTMENT OF HEALTH AND MENTAL**  
 3 **HYGIENE OR A CERTIFIED AND LICENSED DESIGNEE TO CONDUCT AN ASSESSMENT**  
 4 **OF THE DEFENDANT FOR SUBSTANCE USE DISORDER AND DETERMINE WHETHER THE**  
 5 **DEFENDANT IS IN NEED OF AND MAY BENEFIT FROM DRUG TREATMENT.**

6                           **(II) IF AN ASSESSMENT FOR SUBSTANCE USE DISORDER IS**  
 7 **REQUESTED BY THE DEFENDANT AND THE COURT DENIES THE REQUEST, THE COURT**  
 8 **SHALL STATE ON THE RECORD THE BASIS FOR THE DENIAL.**

9           **(2) ON RECEIVING AN ORDER UNDER PARAGRAPH (1) OF THIS**  
 10 **SUBSECTION, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OR THE**  
 11 **DESIGNEE, SHALL CONDUCT AN ASSESSMENT OF THE DEFENDANT FOR SUBSTANCE**  
 12 **USE DISORDER AND PROVIDE THE RESULTS TO THE COURT, THE DEFENDANT OR THE**  
 13 **DEFENDANT'S ATTORNEY, AND THE STATE IDENTIFYING THE DEFENDANT'S DRUG**  
 14 **TREATMENT NEEDS.**

15           **(3) THE COURT SHALL CONSIDER THE RESULTS OF AN ASSESSMENT**  
 16 **PERFORMED UNDER PARAGRAPH (2) OF THIS SUBSECTION WHEN IMPOSING THE**  
 17 **DEFENDANT'S SENTENCE AND:**

18                           **(I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
 19 **PARAGRAPH, THE COURT SHALL SUSPEND THE EXECUTION OF THE SENTENCE AND**  
 20 **ORDER PROBATION AND, IF THE ASSESSMENT SHOWS THAT THE DEFENDANT IS IN**  
 21 **NEED OF SUBSTANCE ABUSE TREATMENT, REQUIRE THE DEPARTMENT OF HEALTH**  
 22 **AND MENTAL HYGIENE OR THE DESIGNEE TO PROVIDE THE MEDICALLY**  
 23 **APPROPRIATE LEVEL OF TREATMENT AS IDENTIFIED IN THE ASSESSMENT; OR**

24                           **(II) THE COURT MAY IMPOSE A TERM OF IMPRISONMENT UNDER**  
 25 **SUBSECTION (C) OF THIS SECTION AND ORDER THE DIVISION OF CORRECTION OR**  
 26 **LOCAL CORRECTIONAL FACILITY TO FACILITATE THE MEDICALLY APPROPRIATE**  
 27 **LEVEL OF TREATMENT FOR THE DEFENDANT AS IDENTIFIED IN THE ASSESSMENT.**

28 5-602.

29           *Except as otherwise provided in this title, a person may not:*

30           **(1) distribute or dispense a controlled dangerous substance; or**

31           **(2) possess a controlled dangerous substance in sufficient quantity**  
 32 **reasonably to indicate under all circumstances an intent to distribute or dispense a**  
 33 **controlled dangerous substance.**

34 5-603.

1 Except as otherwise provided in this title, a person may not manufacture a controlled  
2 dangerous substance, or manufacture, distribute, or possess a machine, equipment,  
3 instrument, implement, device, or a combination of them that is adapted to produce a  
4 controlled dangerous substance under circumstances that reasonably indicate an intent to  
5 use it to produce, sell, or dispense a controlled dangerous substance in violation of this title.

6 5-604.

7 (a) In this section, “counterfeit substance” means a controlled dangerous  
8 substance, or its container or labeling, that:

9 (1) without authorization, bears a likeness of the trademark, trade name, or  
10 other identifying mark, imprint, number, or device of a manufacturer, distributor, or  
11 dispenser other than the actual manufacturer, distributor, or dispenser; and

12 (2) thereby falsely purports or is represented to be the product of, or to have  
13 been distributed by, the other manufacturer, distributor, or dispenser.

14 (b) Except as otherwise provided in this title, a person may not:

15 (1) create or distribute a counterfeit substance; or

16 (2) possess a counterfeit substance with intent to distribute it.

17 (c) Except as otherwise provided in this title, a person may not manufacture,  
18 distribute, or possess equipment that is designed to print, imprint, or reproduce an authentic  
19 or imitation trademark, trade name, other identifying mark, imprint, number, or device of  
20 another onto a drug or the container or label of a drug, rendering the drug a counterfeit  
21 substance.

22 5-605.

23 (a) “Common nuisance” means a dwelling, building, vehicle, vessel, aircraft, or  
24 other place:

25 (1) resorted to by individuals for the purpose of administering illegally  
26 controlled dangerous substances; or

27 (2) where controlled dangerous substances or controlled paraphernalia are  
28 manufactured, distributed, dispensed, stored, or concealed illegally.

29 (b) A person may not keep a common nuisance.

30 5-606.

1           (a) Except as otherwise provided in this title, a person may not pass, issue, make,  
2 or possess a false, counterfeit, or altered prescription for a controlled dangerous substance  
3 with intent to distribute the controlled dangerous substance.

4           (b) Information that is communicated to an authorized prescriber in an effort to  
5 obtain a controlled dangerous substance in violation of subsection (a) of this section is not a  
6 privileged communication.

7 5-607.

8           (a) Except as provided in §§ 5-608 and 5-609 of this subtitle, a person who violates  
9 a provision of §§ 5-602 through 5-606 of this subtitle is guilty of a felony and on conviction  
10 is subject to imprisonment not exceeding 5 years or a fine not exceeding \$15,000 or both.

11           (b) [(1) Except as provided in § 5-609.1 of this subtitle, a person who has been  
12 convicted previously under subsection (a) of this section shall be sentenced to imprisonment  
13 for not less than 2 years.

14                   (2) The court may not suspend the mandatory minimum sentence to less  
15 than 2 years.

16                   (3) Except as provided in § 4-305 of the Correctional Services Article, the  
17 person is not eligible for parole during the mandatory minimum sentence.

18           (c) A person convicted under [subsection (a) of] this section is not prohibited from  
19 participating in a drug treatment program under § 8-507 of the Health – General Article  
20 because of the length of the sentence.

21 5-608.

22           (a) Except as otherwise provided in this section, a person who violates a provision  
23 of §§ 5-602 through 5-606 of this subtitle with respect to a Schedule I or Schedule II narcotic  
24 drug is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years  
25 or a fine not exceeding ~~[\$25,000]~~ **\$15,000** or both.

26           (b) [(1) Except as provided in § 5-609.1 of this subtitle, a] A person who is  
27 convicted under subsection (a) of this section or of conspiracy to commit a crime included in  
28 subsection (a) of this section [shall be sentenced] **IS SUBJECT** to imprisonment [for not less  
29 than 10] **NOT EXCEEDING 20** years [and is subject to] **OR** a fine not exceeding ~~[\$100,000]~~  
30 **\$15,000 OR BOTH** if the person previously has been convicted once:

31                               [(i)] (1) under subsection (a) of this section or § 5-609 of this  
32 subtitle;

33                               [(ii)] (2) of conspiracy to commit a crime included in subsection (a)  
34 of this section or § 5-609 of this subtitle; or

1 [(iii)] (3) of a crime under the laws of another state or the United  
2 States that would be a crime included in subsection (a) of this section or § 5-609 of this  
3 subtitle if committed in this State.

4 [(2) The court may not suspend the mandatory minimum sentence to less  
5 than 10 years.

6 (3) Except as provided in § 4-305 of the Correctional Services Article, the  
7 person is not eligible for parole during the mandatory minimum sentence.]

8 (c) (1) [Except as provided in § 5-609.1 of this subtitle, a] A person who is  
9 convicted under subsection (a) of this section or of conspiracy to commit a crime included in  
10 subsection (a) of this section [shall be sentenced] IS SUBJECT to imprisonment [for not less  
11 than] NOT EXCEEDING 25 years [and is subject to] OR a fine not exceeding [\$100,000]  
12 \$25,000 OR BOTH if the person previously:

13 (i) has served at least one term of confinement of at least 180 days in  
14 a correctional institution as a result of a conviction:

15 1. under subsection (a) of this section or § 5-609 or § 5-614 of  
16 this subtitle;

17 2. of conspiracy to commit a crime included in subsection (a)  
18 of this section or § 5-609 of this subtitle; or

19 3. of a crime under the laws of another state or the United  
20 States that would be a crime included in subsection (a) of this section or § 5-609 of this  
21 subtitle if committed in this State; and

22 (ii) has been convicted twice, if the convictions arise from separate  
23 occasions:

24 1. under subsection (a) of this section or § 5-609 of this  
25 subtitle;

26 2. of conspiracy to commit a crime included in subsection (a)  
27 of this section or § 5-609 of this subtitle;

28 3. of a crime under the laws of another state or the United  
29 States that would be a crime included in subsection (a) of this section or § 5-609 of this  
30 subtitle if committed in this State; or

31 4. of any combination of these crimes.

1           (2) *[The court may not suspend any part of the mandatory minimum*  
2 *sentence of 25 years.*

3           (3) *Except as provided in § 4-305 of the Correctional Services Article, the*  
4 *person is not eligible for parole during the mandatory minimum sentence.*

5           (4) *A separate occasion is one in which the second or succeeding crime is*  
6 *committed after there has been a charging document filed for the preceding crime.*

7           (d) *[(1) Except as provided in § 5-609.1 of this subtitle, a] A person who*  
8 *is convicted under subsection (a) of this section or of conspiracy to commit a crime included*  
9 *in subsection (a) of this section [shall be sentenced] IS SUBJECT to imprisonment [for not*  
10 *less than] NOT EXCEEDING 40 years [and is subject to] OR a fine not exceeding [\$100,000]*  
11 *\$25,000 OR BOTH if the person previously has served three or more separate terms of*  
12 *confinement as a result of three or more separate convictions:*

13                   *[(i)] (1) under subsection (a) of this section or § 5-609 of this*  
14 *subtitle;*

15                           *[(ii)] (2) of conspiracy to commit a crime included in subsection (a)*  
16 *of this section or § 5-609 of this subtitle;*

17                                   *[(iii)] (3) of a crime under the laws of another state or the United*  
18 *States that would be a crime included in subsection (a) of this section or § 5-609 of this*  
19 *subtitle if committed in this State; or*

20   *[(iv)] (4) of any combination of these crimes.*

21           (2) *The court may not suspend any part of the mandatory minimum*  
22 *sentence of 40 years.*

23           (3) *Except as provided in § 4-305 of the Correctional Services Article, the*  
24 *person is not eligible for parole during the mandatory minimum sentence.]*

25           (e) *A person convicted under subsection (a) of this section or of conspiracy to*  
26 *commit a crime included in subsection (a) of this section is not prohibited from participating*  
27 *in a drug treatment program under § 8-507 of the Health - General Article because of the*  
28 *length of the sentence.*

29 *5-609.*

30           (a) *Except as otherwise provided in this section, a person who violates a provision*  
31 *of §§ 5-602 through 5-606 of this subtitle with respect to any of the following controlled*  
32 *dangerous substances is guilty of a felony and on conviction is subject to imprisonment not*  
33 *exceeding 20 years or a fine not exceeding [\$20,000] \$15,000 or both:*

- 1           (1) phencyclidine;
- 2           (2) 1-(1-phenylcyclohexyl) piperidine;
- 3           (3) 1-phenylcyclohexylamine;
- 4           (4) 1-piperidinocyclohexanecarbonitrile;
- 5           (5) N-ethyl-1-phenylcyclohexylamine;
- 6           (6) 1-(1-phenylcyclohexyl)-pyrrolidine;
- 7           (7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- 8           (8) lysergic acid diethylamide; or
- 9           (9) 750 grams or more of 3, 4-methylenedioxyamphetamine (MDMA).

10           (b) [(1) Except as provided in § 5-609.1 of this subtitle, a] A person who is  
 11 convicted under subsection (a) of this section or of conspiracy to commit a crime included in  
 12 subsection (a) of this section [shall be sentenced] IS SUBJECT to imprisonment [for not less  
 13 than 10] NOT EXCEEDING 20 years [and is subject to] OR a fine not exceeding [\$100,000]  
 14 \$15,000 OR BOTH if the person previously has been convicted once:

15                       [(i)] (1) under subsection (a) of this section or § 5-608 of this  
 16 subtitle;

17                       [(ii)] (2) of conspiracy to commit a crime included in subsection (a)  
 18 of this section or § 5-608 of this subtitle;

19                       [(iii)] (3) of a crime under the laws of another state or the United  
 20 States that would be a crime included in subsection (a) of this section or § 5-608 of this  
 21 subtitle if committed in this State; or

22                       [(iv)] (4) of any combination of these crimes.

23                       [(2) The court may not suspend the mandatory minimum sentence to less  
 24 than 10 years.

25                       (3) Except as provided in § 4-305 of the Correctional Services Article, the  
 26 person is not eligible for parole during the mandatory minimum sentence.]

27           (c) (1) [Except as provided in § 5-609.1 of this subtitle, a] A person who is  
 28 convicted under subsection (a) of this section or of conspiracy to commit a crime included in  
 29 subsection (a) of this section [shall be sentenced] IS SUBJECT to imprisonment [for not less

1 than] NOT EXCEEDING 25 years [and is subject to] OR a fine not exceeding [\$100,000]  
 2 \$25,000 OR BOTH if the person previously:

3 (i) has served at least one term of confinement of at least 180 days in  
 4 a correctional institution as a result of a conviction under subsection (a) of this section, §  
 5 5-608 of this subtitle, or § 5-614 of this subtitle; and

6 (ii) if the convictions do not arise from a single incident, has been  
 7 convicted twice:

8 1. under subsection (a) of this section or § 5-608 of this  
 9 subtitle;

10 2. of conspiracy to commit a crime included in subsection (a)  
 11 of this section or § 5-608 of this subtitle;

12 3. of a crime under the laws of another state or the United  
 13 States that would be a crime included in subsection (a) of this section or § 5-608 of this  
 14 subtitle if committed in this State; or

15 4. of any combination of these crimes.

16 (2) [The court may not suspend any part of the mandatory minimum  
 17 sentence of 25 years.

18 (3) Except as provided in § 4-305 of the Correctional Services Article, the  
 19 person is not eligible for parole during the mandatory minimum sentence.

20 (4) A separate occasion is one in which the second or succeeding crime is  
 21 committed after there has been a charging document filed for the preceding crime.

22 (d) [(1) Except as provided in § 5-609.1 of this subtitle, a] A person who is  
 23 convicted under subsection (a) of this section or of conspiracy to commit a crime included in  
 24 subsection (a) of this section [shall be sentenced] IS SUBJECT to imprisonment [for not less  
 25 than] NOT EXCEEDING 40 years [and is subject to] OR a fine not exceeding [\$100,000]  
 26 \$25,000 OR BOTH if the person previously has served three separate terms of confinement  
 27 as a result of three separate convictions:

28 [(i)] (1) under subsection (a) of this section or § 5-608 of this  
 29 subtitle;

30 [(ii)] (2) of conspiracy to commit a crime included in subsection (a)  
 31 of this section or § 5-608 of this subtitle;