



# 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	25 grams (a little less than an ounce) or less, not in public view	Fine of up to \$100	Second drug conviction within three years – up to \$200 fine; third drug conviction within three years – up to \$250 fine and/or 15 days jail	Civil violation	N.Y. Pen. Law § 221.05; 221.10	While possession of marijuana is a violation, not a crime, if marijuana is “burning” in public or “open to public view,” the offender may be charged with criminal possession, a Class B misdemeanor and an arrestable offense. Some offenders report being charged with having marijuana open to public view after being asked to “empty their pockets” during an arrest.
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.
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.