

Simple Possession Statutes

Below is a short summary of the six general types of "Simple Possession" statutes that offenders may be charged with for possessing illegal controlled substances. The relevant statutes from several states are attached to provide detailed examples.

Traditional (15 States) – These are statutes that apportion penalties based on the type of drug and on the weight/quantity of the drug.

Examples: Arkansas and Mississippi (pgs. 4-9)

Tiered (4 States)– These are statutes that create different degrees of offenses. These "degrees" include a variety of crimes based on the seriousness of the offense. For example, possessing 10-50 grams of heroin might be charged as "Controlled Substance Crime in the 3rd Degree" while possessing 51-200 grams could be a "Controlled Substance Crime in the 2nd Degree." Similarly, *selling* 10-50 grams could also be a "Controlled Substance Crime in the 2nd Degree."

Examples: Minnesota (pgs. 10-14)

Simplified Felony (19 States) – These are statutes that create a low-level blanket felony for all weights and types of controlled substances. Offenders arrested with larger quantities or more serious controlled substances may be charged with intent to distribute or another more serious drug crime depending on the circumstances. Four states split between felony and misdemeanor depending on the schedule.

Examples: Nebraska and Montana (pgs. 15-17)

Simplified Misdemeanor (11 States) – These are statutes that create a high-level blanket misdemeanor for all weights and types of controlled substances. Offenders arrested with larger quantities or more serious controlled substances may be charged with intent to distribute or another more serious drug crime depending on the circumstances. Four states split between felony and misdemeanor depending on the schedule.

Examples: Iowa and Alaska (pgs. 18-20)

Threshold – This is a provision that create a bright line between penalties. For example, all offenders arrested with drug quantities below a certain threshold will be charged with simple possession (and likely a misdemeanor). If the quantity is above a certain threshold, the offender is charged with intent to distribute (and likely a felony). This provision is uncommon.

Example: Wyoming (pgs. 21-22)

Drug Felony and Misdemeanor (Colorado) – These are statutes that create drug felonies and misdemeanors independent of the normal penalty structure. Therefore, a Level 1 Drug Felony will carry a different penalty, usually lower, than a regular Level 1 Felony.

Example: Colorado (pgs. 23-27)

SOUTH DAKOTA – Simplified Felony

SUMMARY

Schedule I or II	Schedule III or IV
0-5 Years	0-2 Years

STATUTE

South Dakota 22-42-5. Unauthorized possession of controlled drug or substance as felony.

No person may knowingly possess a controlled drug or substance unless the substance was obtained directly or pursuant to a valid prescription or order from a practitioner, while acting in the course of the practitioner's professional practice or except as otherwise authorized by chapter 34-20B. A charge for unauthorized possession of controlled substance when absorbed into the human body as set forth in subdivision 22-42-1(1) shall only be charged under the provisions of § 22-42-5.1. A violation of this section for a substance in Schedules I or II is a Class 5 felony. A violation of this section for a substance in Schedule III and IV is a Class 6 felony.

South Dakota 22-6-1. Felony classes and penalties--Restitution--Habitual criminal sentences.

Except as otherwise provided by law, felonies are divided into the following nine classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

- (1) Class A felony: death or life imprisonment in the state penitentiary. A lesser sentence than death or life imprisonment may not be given for a Class A felony. In addition, a fine of fifty thousand dollars may be imposed;
- (2) Class B felony: life imprisonment in the state penitentiary. A lesser sentence may not be given for a Class B felony. In addition, a fine of fifty thousand dollars may be imposed;
- (3) Class C felony: life imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;
- (4) Class 1 felony: fifty years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;
- (5) Class 2 felony: twenty-five years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;
- (6) Class 3 felony: fifteen years imprisonment in the state penitentiary. In addition, a fine of thirty thousand dollars may be imposed;
- (7) Class 4 felony: ten years imprisonment in the state penitentiary. In addition, a fine of twenty thousand dollars may be imposed;
- (8) Class 5 felony: five years imprisonment in the state penitentiary. In addition, a fine of ten thousand dollars may be imposed; and

(9) Class 6 felony: two years imprisonment in the state penitentiary or a fine of four thousand dollars, or both.

If the defendant is under the age of eighteen years at the time of the offense and found guilty of a Class A, B, or C felony, the maximum sentence may be a term of years in the state penitentiary, and a fine of fifty thousand dollars may be imposed.

The court, in imposing sentence on a defendant who has been found guilty of a felony, shall order in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Nothing in this section limits increased sentences for habitual criminals under §§ 22-7-7, 22-7-8, and 22-7-8.1.

ARKANSAS - Traditional

SUMMARY

Weight	Meth or Cocaine	Schedule I or II	Schedule III	Schedule IV or V
<2g	0-6 Years	0-6 Years	0-12 Months*	0-12 Months*
2-28g	3-10 Years (2-10g)	3-10 Years	0-6 Years	0-12 Months*
28-200g	5-20 Years (10-200g)	5-20 Years	3-10 Years	0-6 Years
200-400g	<i>Intent to Distribute</i>	<i>Intent to Distribute</i>	5-20 Years	3-10 Years
400-800g	<i>Intent to Distribute</i>	<i>Intent to Distribute</i>	<i>Intent to Distribute</i>	5-20 Years

STATUTE

Arkansas 5-64-419. Possession of a controlled substance.

- (a) Except as provided by this chapter, it is unlawful for a person to possess a controlled substance.
- (b) A person who violates this section with respect to:
- (1) A Schedule I or Schedule II controlled substance that is methamphetamine or cocaine with an aggregate weight, including an adulterant or diluent, of:
 - (A) Less than two grams (2g) upon conviction is guilty of a Class D felony;
 - (B) Two grams (2g) or more but less than ten grams (10g) upon conviction is guilty of a Class C felony; or
 - (C) Ten grams (10g) or more but less than two hundred grams (200g) upon conviction is guilty of a Class B felony;
 - (2) A Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine with an aggregate weight, including an adulterant or diluent, of:
 - (A) Less than two grams (2g) upon conviction is guilty of a Class D felony;
 - (B) Two grams (2g) or more but less than twenty-eight grams (28g) upon conviction is guilty of a Class C felony; or
 - (C) Twenty-eight grams (28g) or more but less than two hundred grams (200g) upon conviction is guilty of a Class B felony;
 - (3) A Schedule III controlled substance with an aggregate weight, including an adulterant or diluent, of:
 - (A)
 - (i) Less than two grams (2g) upon conviction is guilty of a Class A misdemeanor.
 - (ii) However, if the person has four (4) or more prior convictions under this section or the former § 5-64-401(c), upon conviction the person is guilty of a Class D felony for a violation of subdivision (b)(3)(A)(i) of this section;
 - (B) Two grams (2g) or more but less than twenty-eight grams (28g) upon conviction is guilty of a Class D felony;

(C) Twenty-eight grams (28g) or more but less than two hundred grams (200g) upon conviction is guilty of a Class C felony; or

(D) Two hundred grams (200g) or more but less than four hundred grams (400g) upon conviction is guilty of a Class B felony;

(4) A Schedule IV or Schedule V controlled substance with an aggregate weight, including an adulterant or diluent, of:

(A) (i) Less than twenty-eight grams (28g) upon conviction is guilty of a Class A misdemeanor.

(ii) However, if the person has four (4) or more prior convictions under this section or the former § 5-64-401(c), upon conviction the person is guilty of a Class D felony for a violation of subdivision (b)(4)(A)(i) of this section;

(B) Twenty-eight grams (28g) or more but less than two hundred grams (200g) upon conviction is guilty of a Class D felony;

(C) Two hundred grams (200g) or more but less than four hundred grams (400g) upon conviction is guilty of a Class C felony; or

(D) Four hundred grams (400g) or more but less than eight hundred grams (800g) upon conviction is guilty of a Class B felony; or

(5) A Schedule VI controlled substance with an aggregate weight, including an adulterant or diluent, of:

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

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

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

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

(c) 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.

Arkansas 5-4-401. Sentence.

(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:

- (1) For a Class Y felony, the sentence shall be not less than ten (10) years and not more than forty (40) years, or life;
- (2) For a Class A felony, the sentence shall be not less than six (6) years nor more than thirty (30) years;
- (3) For a Class B felony, the sentence shall be not less than five (5) years nor more than twenty (20) years;
- (4) For a Class C felony, the sentence shall be not less than three (3) years nor more than ten (10) years;
- (5) For a Class D felony, the sentence shall not exceed six (6) years; and
- (6) For an unclassified felony, the sentence shall be in accordance with a limitation of the statute defining the felony.

(b) A defendant convicted of a misdemeanor may be sentenced according to the following limitations:

- (1) For a Class A misdemeanor, the sentence shall not exceed one (1) year;
- (2) For a Class B misdemeanor, the sentence shall not exceed ninety (90) days;
- (3) For a Class C misdemeanor, the sentence shall not exceed thirty (30) days; and
- (4) For an unclassified misdemeanor, the sentence shall be in accordance with a limitation of the statute defining the misdemeanor.

MISSISSIPPI - Traditional

SUMMARY

Weight	Schedule I or II (Felony)	Weight	Schedule III, IV or V (Felony)
<.1g	0-12 Months	<50g	0-12 Months
.1-2g	0-3 Years	50-150g	1-4 Years
2-10g	0-8 Years	150-300g	2-8 Years
10-30g	3-20 Years	300-500g	4-16 Years

STATUTES

Mississippi § 41-29-139. Prohibited acts; penalties.

(c) Simple possession. It is unlawful for any person knowingly or intentionally to possess any controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this article. The penalties for any violation of this subsection (c) with respect to a controlled substance classified in Schedules I, II, III, IV or V, as set out in Section 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including marijuana or synthetic cannabinoids, shall be based on dosage unit as defined herein or the weight of the controlled substance as set forth herein as appropriate:

“Dosage unit (d.u.)” means a tablet or capsule, or in the case of a liquid solution, one (1) milliliter. In the case of lysergic acid diethylamide (LSD) the term, “dosage unit” means a stamp, square, dot, microdot, tablet or capsule of a controlled substance.

For any controlled substance that does not fall within the definition of the term “dosage unit,” the penalties shall be based upon the weight of the controlled substance.

The weight set forth refers to the entire weight of any mixture or substance containing a detectable amount of the controlled substance.

If a mixture or substance contains more than one (1) controlled substance, the weight of the mixture or substance is assigned to the controlled substance that results in the greater punishment.

A person shall be charged and sentenced as follows for a violation of this subsection with respect to:

(1) A controlled substance classified in Schedule I or II, except marijuana and synthetic cannabinoids:

(A) If less than one-tenth (0.1) gram or two (2) dosage units, the violation is a misdemeanor and punishable by imprisonment for not more than one (1) year or a fine of not more than One Thousand Dollars (\$1,000.00), or both.

(B) If one-tenth (0.1) gram or more or two (2) or more dosage units, but less than two (2) grams or ten (10) dosage units, by imprisonment for not more than three (3) years or a fine of not more than Fifty Thousand Dollars (\$50,000.00), or both.

(C) If two (2) or more grams or ten (10) or more dosage units, but less than ten (10) grams or twenty (20) dosage units, by imprisonment for not more than eight (8) years or a fine of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both.

(D) If ten (10) or more grams or twenty (20) or more dosage units, but less than thirty (30) grams or forty (40) dosage units, by imprisonment for not less than three (3) years nor more than twenty (20) years or a fine of not more than Five Hundred Thousand Dollars (\$500,000.00), or both.

(2) (A) Marijuana and synthetic cannabinoids:

1. If thirty (30) grams or less of marijuana or ten (10) grams or less of synthetic cannabinoids, by a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00). The provisions of this paragraph (2)(A) may be enforceable by summons if the offender provides proof of identity satisfactory to the arresting officer and gives written promise to appear in court satisfactory to the arresting officer, as directed by the summons. A second conviction under this section within two (2) years is a misdemeanor punishable by a fine of Two Hundred Fifty Dollars (\$250.00), not more than sixty (60) days in the county jail, and mandatory participation in a drug education program approved by the Division of Alcohol and Drug Abuse of the State Department of Mental Health, unless the court enters a written finding that a drug education program is inappropriate. A third or subsequent conviction under this paragraph (2)(A) within two (2) years is a misdemeanor punishable by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00) and confinement for not more than six (6) months in the county jail.

Upon a first or second conviction under this paragraph (2)(A), the courts shall forward a report of the conviction to the Mississippi Bureau of Narcotics which shall make and maintain a private, nonpublic record for a period not to exceed two (2) years from the date of conviction. The private, nonpublic record shall be solely for the use of the courts in determining the penalties which attach upon conviction under this paragraph (2)(A) and shall not constitute a criminal record for the purpose of private or administrative inquiry and the record of each conviction shall be expunged at the end of the period of two (2) years following the date of such conviction;

2. Additionally, a person who is the operator of a motor vehicle, who possesses on his person or knowingly keeps or allows to be kept in a motor vehicle within the area of the vehicle normally occupied by the driver or passengers, more than one (1) gram, but not more than thirty (30) grams of marijuana or not more than ten (10) grams of synthetic cannabinoids is guilty of a misdemeanor and, upon conviction, may be fined not more than One Thousand Dollars (\$1,000.00) or confined for not more than ninety (90) days in the county jail, or both. For the purposes of this subsection, such area of the vehicle shall not include the trunk of the motor vehicle or the areas not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers;

(B) Marijuana:

1. If more than thirty (30) grams but less than two hundred fifty (250) grams, by a fine of not more than One Thousand Dollars (\$1,000.00), or confinement in the county jail for not more than one (1) year, or both; or by a fine of not more than Three Thousand Dollars (\$3,000.00), or imprisonment in the custody of the Department of Corrections for not more than three (3) years, or both;

2. If two hundred fifty (250) or more grams but less than five hundred (500) grams, by imprisonment for not less than two (2) years nor more than eight (8) years or by a fine of not more than Fifty Thousand Dollars (\$50,000.00), or both;

3. If five hundred (500) or more grams but less than one (1) kilogram, by imprisonment for not less than four (4) years nor more than sixteen (16) years or a fine of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;
4. If one (1) kilogram or more but less than five (5) kilograms, by imprisonment for not less than six (6) years nor more than twenty-four (24) years or a fine of not more than Five Hundred Thousand Dollars (\$500,000.00), or both;
5. If five (5) kilograms or more, by imprisonment for not less than ten (10) years nor more than thirty (30) years or a fine of not more than One Million Dollars (\$1,000,000.00), or both.

(C) Synthetic cannabinoids:

1. If more than ten (10) grams but less than twenty (20) grams, by a fine of not more than One Thousand Dollars (\$1,000.00), or confinement in the county jail for not more than one (1) year, or both; or by a fine of not more than Three Thousand Dollars (\$3,000.00), or imprisonment in the custody of the Department of Corrections for not more than three (3) years, or both;
2. If twenty (20) or more grams but less than forty (40) grams, by imprisonment for not less than two (2) years nor more than eight (8) years or by a fine of not more than Fifty Thousand Dollars (\$50,000.00), or both;
3. If forty (40) or more grams but less than two hundred (200) grams, by imprisonment for not less than four (4) years nor more than sixteen (16) years or a fine of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;
4. If two hundred (200) or more grams, by imprisonment for not less than six (6) years nor more than twenty-four (24) years or a fine of not more than Five Hundred Thousand Dollars (\$500,000.00), or both.

(3) A controlled substance classified in Schedule III, IV or V as set out in Sections 41-29-117 through 41-29-121, upon conviction, may be punished as follows:

- (A) If less than fifty (50) grams or less than one hundred (100) dosage units, the offense is a misdemeanor and punishable by not more than one (1) year or a fine of not more than One Thousand Dollars (\$1,000.00), or both.
- (B) If fifty (50) or more grams or one hundred (100) or more dosage units, but less than one hundred fifty (150) grams or five hundred (500) dosage units, by imprisonment for not less than one (1) year nor more than four (4) years or a fine of not more than Ten Thousand Dollars (\$10,000.00), or both.
- (C) If one hundred fifty (150) or more grams or five hundred (500) or more dosage units, but less than three hundred (300) grams or one thousand (1,000) dosage units, by imprisonment for not less than two (2) years nor more than eight (8) years or a fine of not more than Fifty Thousand Dollars (\$50,000.00), or both.
- (D) If three hundred (300) or more grams or one thousand (1,000) or more dosage units, but less than five hundred (500) grams or two thousand five hundred (2,500) dosage units, by imprisonment for not less than four (4) years nor more than sixteen (16) years or a fine of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both.

Minnesota - Tiered

SUMMARY

Tier	Possession Crime	Sentence
1 st Degree	Possession of Cocaine or Meth >50g Possession of Heroin >25g Possession of Other Narcotics >500g	0-30 Years
2 nd Degree	Possession of Cocaine or Meth >25g Possession of Heroin >6g Possession of Other Narcotics >50g	0-25 Years
3 rd Degree	Possession of Narcotics 2x >10g within 90 Days of Each Other Possession of Heroin 2x >3g within 90 Days of Each Other	0-20 Years
4 th Degree	Possession of Hallucinogens	0-15 Years
5 th Degree*	Possession of Schedule I-V Controlled Substance	0-5 Years

*Potentially a Misdemeanor

STATUTES

Minnesota 152.021 CONTROLLED SUBSTANCE CRIME IN THE FIRST DEGREE.

Subd. 2. Possession crimes. (a) A person is guilty of a controlled substance crime in the first degree if:

(1) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing cocaine or methamphetamine;

(2) the person unlawfully possesses one or more mixtures of a total weight of 25 grams or more containing cocaine or methamphetamine and:

(i) the person or an accomplice possesses on their person or within immediate reach, or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm; or

(ii) the offense involves two aggravating factors;

(3) the person unlawfully possesses one or more mixtures of a total weight of 25 grams or more containing heroin;

(4) the person unlawfully possesses one or more mixtures of a total weight of 500 grams or more containing a narcotic drug other than cocaine, heroin, or methamphetamine;

(5) the person unlawfully possesses one or more mixtures of a total weight of 500 grams or more containing amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 500 or more dosage units; or

(6) the person unlawfully possesses one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols, or possesses 500 or more marijuana plants.

(b) For the purposes of this subdivision, the weight of fluid used in a water pipe may not be considered in measuring the weight of a mixture except in cases where the mixture contains four or more fluid ounces of fluid.

Subd. 2a. Methamphetamine manufacture crime. Notwithstanding subdivision 1, sections 152.022, subdivision 1, 152.023, subdivision 1, and 152.024, subdivision 1, a person is guilty of controlled substance crime in the first degree if the person manufactures any amount of methamphetamine.

Subd. 2b. Aggravated controlled substance crime in the first degree. A person is guilty of aggravated controlled substance crime in the first degree if the person violates subdivision 1, clause (1), (2), (3), (4), or (5), or subdivision 2, paragraph (a), clause (1), (2), or (3), and the person or an accomplice sells or possesses 100 or more grams or 500 or more dosage units of a mixture containing the controlled substance at issue and:

- (1) the person or an accomplice possesses on their person or within immediate reach, or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm; or
- (2) the offense involves two aggravating factors.

Subd. 3. Penalty. (a) A person convicted under subdivisions 1 to 2a, paragraph (a), may be sentenced to imprisonment for not more than 30 years or to payment of a fine of not more than \$1,000,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivisions 1 to 2a, paragraph (a), shall be committed to the commissioner of corrections for not less than four years nor more than 40 years and, in addition, may be sentenced to payment of a fine of not more than \$1,000,000.

(c) If the defendant is convicted under subdivision 1, clause (1), (2), (3), (4), or (5), or subdivision 2, paragraph (a), clause (1), (2), or (3), and the defendant or an accomplice sold or possessed 100 or more grams or 500 or more dosage units of a mixture containing the controlled substance at issue, that person shall be committed to the commissioner of corrections for not less than 65 months or the presumptive fixed sentence under the Minnesota Sentencing Guidelines, whichever is greater, nor more than 40 years and may be sentenced to payment of a fine of not more than \$1,000,000, or both. If a person to be sentenced under this paragraph for a conviction under subdivision 2, paragraph (a), clause (1), (2), or (3), has not previously been convicted of an offense under section 152.021, 152.022, or 152.023, or of a similar offense by the United States or another state, the prosecutor may, prior to the time of sentencing, file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this paragraph. The motion shall be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to this mandatory minimum sentence if the court finds substantial and compelling reasons to do so; such a sentence is a departure from the Sentencing Guidelines.

(d) A person convicted under subdivision 2b shall be committed to the commissioner of corrections for not less than 86 months or the presumptive fixed sentence under the Minnesota

Sentencing Guidelines, whichever is greater, nor more than 40 years and may be sentenced to payment of a fine of not more than \$1,000,000, or both.

(e) In a prosecution under subdivisions 1 to 2b involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

Minnesota 152.022 CONTROLLED SUBSTANCE CRIME IN THE SECOND DEGREE.

Subd. 2. Possession crimes. (a) A person is guilty of controlled substance crime in the second degree if:

(1) the person unlawfully possesses one or more mixtures of a total weight of 25 grams or more containing cocaine or methamphetamine;

(2) the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing cocaine or methamphetamine and:

(i) the person or an accomplice possesses on their person or within immediate reach, or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm; or

(ii) the offense involves three aggravating factors;

(3) the person unlawfully possesses one or more mixtures of a total weight of six grams or more containing heroin;

(4) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing a narcotic drug other than cocaine, heroin, or methamphetamine;

(5) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 100 or more dosage units; or

(6) the person unlawfully possesses one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols, or possesses 100 or more marijuana plants.

(b) For the purposes of this subdivision, the weight of fluid used in a water pipe may not be considered in measuring the weight of a mixture except in cases where the mixture contains four or more fluid ounces of fluid.

Subd. 3. Penalty. (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than \$500,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be committed to the commissioner of corrections for not less than three years nor more than 40 years and, in addition, may be sentenced to payment of a fine of not more than \$500,000.

(c) In a prosecution under subdivision 1 involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

Minnesota 152.023 CONTROLLED SUBSTANCE CRIME IN THE THIRD DEGREE.

Subd. 2. Possession crimes. (a) A person is guilty of controlled substance crime in the third degree if:

- (1) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug other than heroin;
 - (2) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures of a total weight of three grams or more containing heroin;
 - (3) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures containing a narcotic drug, it is packaged in dosage units, and equals 50 or more dosage units;
 - (4) on one or more occasions within a 90-day period the person unlawfully possesses any amount of a schedule I or II narcotic drug or five or more dosage units of lysergic acid diethylamide (LSD), 3,4-methylenedioxy amphetamine, or 3,4-methylenedioxymethamphetamine in a school zone, a park zone, a public housing zone, or a drug treatment facility;
 - (5) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures of a total weight of ten kilograms or more containing marijuana or Tetrahydrocannabinols; or
 - (6) the person unlawfully possesses one or more mixtures containing methamphetamine or amphetamine in a school zone, a park zone, a public housing zone, or a drug treatment facility.
- (b) For the purposes of this subdivision, the weight of fluid used in a water pipe may not be considered in measuring the weight of a mixture except in cases where the mixture contains four or more fluid ounces of fluid.

Subd. 3. Penalty. (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$250,000, or both.

(b) In a prosecution under subdivision 1 or 2 involving sales or acts of possession by the same person in two or more counties within a 90-day period, the person may be prosecuted in any county in which one of the sales or acts of possession occurred.

Minnesota 152.024 CONTROLLED SUBSTANCE CRIME IN THE FOURTH DEGREE.

Subd. 2. Possession crimes. A person is guilty of controlled substance crime in the fourth degree if:

- (1) the person unlawfully possesses one or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage units, and equals ten or more dosage units; or
- (2) the person unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except marijuana or Tetrahydrocannabinols, with the intent to sell it.

Subd. 3. Penalty. A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$100,000, or both.

Minnesota 152.025 CONTROLLED SUBSTANCE CRIME IN THE FIFTH DEGREE.

Subd. 2. Possession and other crimes. A person is guilty of controlled substance crime in the fifth degree and upon conviction may be sentenced as provided in subdivision 4 if:

- (1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule I, II, III, or IV, except a small amount of marijuana; or
- (2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:
 - (i) fraud, deceit, misrepresentation, or subterfuge;
 - (ii) using a false name or giving false credit; or
 - (iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathic medicine licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

§Subd. 4. Penalty. (a) A person convicted under the provisions of subdivision 2, clause (1), who has not been previously convicted of a violation of this chapter or a similar offense in another jurisdiction, is guilty of a gross misdemeanor if: (1) the amount of the controlled substance possessed, other than heroin, is less than 0.25 grams or one dosage unit or less if the controlled substance was possessed in dosage units; or (2) the controlled substance possessed is heroin and the amount possessed is less than 0.05 grams.

(b) A person convicted under the provisions of subdivision 1; subdivision 2, clause (1), unless the conduct is described in paragraph (a); or subdivision 2, clause (2), may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

NEBRASKA – Simplified Felony

SUMMARY

Simple Possession	Intent to Distribute
0-2 Years (Felony)	3 Years to Life (depending on quantity)

STATUTES

Nebraska 28-416. Prohibited acts; violations; penalties.

(1) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person knowingly or intentionally: (a) To manufacture, distribute, deliver, dispense, or possess with intent to manufacture, distribute, deliver, or dispense a controlled substance; or (b) to create, distribute, or possess with intent to distribute a counterfeit controlled substance.

(2) Except as provided in subsections (4), (5), (7), (8), (9), and (10) of this section, any person who violates subsection (1) of this section with respect to: (a) A controlled substance classified in Schedule I, II, or III of section 28-405 which is an exceptionally hazardous drug shall be guilty of a Class II felony; (b) any other controlled substance classified in Schedule I, II, or III of section 28-405 shall be guilty of a Class IIA felony; or (c) a controlled substance classified in Schedule IV or V of section 28-405 shall be guilty of a Class IIIA felony.

(3) A person knowingly or intentionally possessing a controlled substance, except marijuana or any substance containing a quantifiable amount of the substances, chemicals, or compounds described, defined, or delineated in subdivision (c)(25) of Schedule I of section 28-405, unless such substance was obtained directly or pursuant to a medical order issued by a practitioner authorized to prescribe while acting in the course of his or her professional practice, or except as otherwise authorized by the act, shall be guilty of a Class IV felony. A person shall not be in violation of this subsection if section 28-472 applies.

(7) Any person who violates subsection (1) of this section with respect to cocaine or any mixture or substance containing a detectable amount of cocaine in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(8) Any person who violates subsection (1) of this section with respect to base cocaine (crack) or any mixture or substance containing a detectable amount of base cocaine in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(9) Any person who violates subsection (1) of this section with respect to heroin or any mixture or substance containing a detectable amount of heroin in a quantity of:

- (a) One hundred forty grams or more shall be guilty of a Class IB felony;
- (b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or
- (c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(10) Any person who violates subsection (1) of this section with respect to amphetamine, its salts, optical isomers, and salts of its isomers, or with respect to methamphetamine, its salts, optical isomers, and salts of its isomers, in a quantity of:

- (a) One hundred forty grams or more shall be guilty of a Class IB felony;
- (b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or
- (c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

Nebraska 28-105.Felonies; classification of penalties; sentences; where served; eligibility for probation.

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, felonies are divided into ten classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class	Minimum	Maximum
I	Death	Death
IA	Life Imprisonment	Life Imprisonment
IB	20 Years	Life Imprisonment
IC	5 Years	50 Years
ID	3 Years	50 Years
II	1 Year	50 Years
IIA	None	20 Years
III	9 Months Supervision	4 Years, 2 Years Supervision
IIIA	9 Months Supervision	3 Years, 1 ½ Years Supervision
IV	Nothing	2 Years, 1 Year Supervision

MONTANA – Simplified Felony

SUMMARY

Schedule I-V (Felony)
0-5 Years

STATUTES

Montana 45-9-102. Criminal possession of dangerous drugs.

(1) Except as provided in 50-32-609 or Title 50, chapter 46, a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.

(a) A person convicted of a second offense under this subsection (2) shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) A person convicted of a third or subsequent offense under this subsection (2) shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

(c) This subsection does not apply to the possession of synthetic cannabinoids listed as dangerous drugs in 50-32-222.

(3) A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsection (1) or (2) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$5,000, or both.

(4) A person convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.

(5) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section.

IOWA – Simplified Misdemeanor

SUMMARY

Schedule I-V (Misdemeanor)
0-12 Months

STATUTES

Iowa 124.401 Prohibited acts — manufacture, delivery, possession — counterfeit substances, simulated controlled substances, imitation controlled substances — penalties.

5. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner’s professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a serious misdemeanor for a first offense. A person who commits a violation of this subsection and who has previously been convicted of violating this chapter or chapter 124B or 453B, or chapter 124A as it existed prior to July 1, 2017, is guilty of an aggravated misdemeanor. A person who commits a violation of this subsection and has previously been convicted two or more times of violating this chapter or chapter 124B or 453B, or chapter 124A as it existed prior to July 1, 2017, is guilty of a class “D” felony.

If the controlled substance is marijuana, the punishment shall be by imprisonment in the county jail for not more than six months or by a fine of not more than one thousand dollars, or by both such fine and imprisonment for a first offense. If the controlled substance is marijuana and the person has been previously convicted of a violation of this subsection in which the controlled substance was marijuana, the punishment shall be as provided in section 903.1, subsection 1, paragraph “b”. If the controlled substance is marijuana and the person has been previously convicted two or more times of a violation of this subsection in which the controlled substance was marijuana, the person is guilty of an aggravated misdemeanor.

All or any part of a sentence imposed pursuant to this subsection may be suspended and the person placed upon probation upon such terms and conditions as the court may impose including the active participation by such person in a drug treatment, rehabilitation or education program approved by the court.

If a person commits a violation of this subsection, the court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions as the court may impose. If the person is not sentenced to confinement under the custody of the director of the department of corrections, the terms and conditions of probation shall require submission to random drug testing. If the person fails a drug test, the court may transfer the person’s placement to any appropriate placement permissible under the court order.

If the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions as the court may impose. The court may place the person on intensive probation. However, the terms and conditions of probation shall require submission to random drug testing. If the person fails a drug test, the court may transfer the person's placement to any appropriate placement permissible under the court order.

ALASKA – Simplified Misdemeanor

SUMMARY

Schedule I-V (Misdemeanor)
0-12 Months

STATUTE

Alaska Sec. 11.71.050. Misconduct involving a controlled substance in the fourth degree.

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the fourth degree if the person

(4) under circumstances not proscribed under AS 11.71.030(a)(3), 11.71.040(a)(3), 11.71.040(a)(4), or 11.71.060(a)(2), possesses any amount of a schedule IA, IIA, IIIA, IVA, VA, or VIA controlled substance.

(b) Misconduct involving a controlled substance in the fourth degree is a class A misdemeanor.

Alaska Sec. 12.55.135. Sentences of imprisonment for misdemeanors.

(a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than

(1) one year, if the

(A) conviction is for a crime with a mandatory minimum term of 30 days or more of active imprisonment;

(B) trier of fact finds the aggravating factor that the conduct constituting the offense was among the most serious conduct included in the definition of the offense;

(C) defendant has past criminal convictions for conduct violative of criminal laws, punishable as felonies or misdemeanors, similar in nature to the offense for which the defendant is being sentenced;

(D) conviction is for an assault in the fourth degree under AS 11.41.230; or

(E) conviction is for a violation of

(i) AS 11.41.427;

(ii) AS 11.41.440;

(iii) AS 11.41.460, if the indecent exposure is before a person under 16 years of age;

(iv) AS 11.61.116(c)(2); or

(v) AS 11.61.118(a)(2);

(2) 30 days.

WYOMING - Threshold

SUMMARY

Wyoming provides a misdemeanor with a sentence for 0-12 months for a small amount of controlled substances. Those prescribed levels are:

Form of Controlled Substance	Amount Allowed
Plant Form	3 Oz
Liquid Form	3/10g
Power/Crystalline Form	3g
Pill or Capsule Form	3g
"Crack" Cocaine	5/10g
LSD	3/10g

If an individual is arrested with controlled substances above the prescribed levels, they are charged as described below:

Schedule I or II Narcotic (Felony)	Schedule I, II Non-Narcotic and III (Felony)	Schedule IV (Felony)	Schedule V (Misdemeanor)
0-7 Years	0-5 Years	0-2 Years	0-1 Year

STATUTE

Wyoming § 35-7-1031. Unlawful manufacture or delivery; counterfeit substance; unlawful possession.

(c) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this act. With the exception of any drug that has received final approval from the United States food and drug administration, including dronabinol as listed in W.S. 35-7-1018(h), and notwithstanding any other provision of this act, no practitioner shall dispense or prescribe marihuana, tetrahydrocannabinol, or synthetic equivalents of marihuana or tetrahydrocannabinol. No prescription or practitioner's order for marihuana, tetrahydrocannabinol, or synthetic equivalents of marihuana or tetrahydrocannabinol shall be valid, unless the prescription is for a drug that has received final approval from the United States food and drug administration, including dronabinol. Any person who violates this subsection:

(i) And has in his possession a controlled substance in the amount set forth in this paragraph is guilty of a misdemeanor punishable by imprisonment for not more than twelve (12) months, a fine of not more than one thousand dollars (\$1,000.00), or both. Any person convicted for a third or subsequent offense under this paragraph, including convictions for violations of similar laws in other jurisdictions, shall be imprisoned for a term not more than five (5) years, fined not more than five thousand dollars (\$5,000.00), or both. For purposes of this paragraph, the amounts of a controlled substance are as follows:

- (A) For a controlled substance in plant form, no more than three (3) ounces;
- (B) For a controlled substance in liquid form, no more than three-tenths (3/10) of a gram;
- (C) For a controlled substance in powder or crystalline form, no more than three (3) grams;

- (D) For a controlled substance in pill or capsule form, no more than three (3) grams;
- (E) For a controlled substance in the form of cocaine-based “crack” cocaine, no more than five-tenths (5/10) of a gram;
- (F) For a controlled substance known as LSD (Lysergic acid diethylamide), no more than three-tenths (3/10) of a gram.
- (ii) And has in his possession methamphetamine or a controlled substance classified in Schedule I or II which is a narcotic drug in an amount greater than those set forth in paragraph (c)(i) of this section, is guilty of a felony punishable by imprisonment for not more than seven (7) years, a fine of not more than fifteen thousand dollars (\$15,000.00), or both;
- (iii) And has in his possession any other controlled substance classified in Schedule I, II or III in an amount greater than set forth in paragraph (c)(i) of this section, is guilty of a felony punishable by imprisonment for not more than five (5) years, a fine of not more than ten thousand dollars (\$10,000.00), or both;
- (iv) And has in his possession a controlled substance classified in Schedule IV in an amount greater than set forth in paragraph (c)(i) of this section, is guilty of a felony punishable by imprisonment for not more than two (2) years, a fine of not more than two thousand five hundred dollars (\$2,500.00), or both;
- (v) And has in his possession a controlled substance classified in Schedule V, is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both.

COLORADO – Drug Felonies and Misdemeanors

SUMMARY

Schedule I or II	Schedule III, IV or V
6-12 Months (Felony)	6-18 Months (Misdemeanor)

STATUTE

Colorado 18-18-403.5. Unlawful possession of a controlled substance

(1) Except as authorized by part 1 or 3 of article 42.5 of title 12, C.R.S., part 2 of article 80 of title 27, C.R.S., section 18-1-711, section 18-18-428 (1)(b), or part 2 or 3 of this article, it is unlawful for a person knowingly to possess a controlled substance.

(2) A person who violates subsection (1) of this section by possessing:

(a) Any material, compound, mixture, or preparation that contains any quantity of flunitrazepam, ketamine, cathinones, or a controlled substance listed in schedule I or II of part 2 of this article commits a level 4 drug felony.

(b) (Deleted by amendment, L. 2013.)

(c) Any material, compound, mixture, or preparation that contains any quantity of a controlled substance listed in schedule III, IV, or V of part 2 of this article except flunitrazepam or ketamine commits a level 1 drug misdemeanor.

(3) If the circumstances described in section 18-18-428 (1)(b) occur, the peace officer shall not arrest the person pursuant to this section for any minuscule, residual controlled substance that may be present in the used hypodermic needle or syringe, and the district attorney shall not charge or prosecute the person pursuant to this section for any minuscule, residual controlled substance that may be present in a used hypodermic needle or syringe. The circumstances described in section 18-18-428 (1)(b) may be used as a factor in a probable cause or reasonable suspicion determination of any criminal offense if the original stop or search was lawful.

Colorado 18-1.3-401.5. Drug felonies classified - presumptive and aggravated penalties

(1) The provisions of this section only apply to a conviction for a drug felony offense described in article 18 of this title committed on or after October 1, 2013. For purposes of this section, "felony" means any felony or drug felony defined in the state statutes.

(2) (a) For offenses committed on or after October 1, 2013, drug felonies are divided into four levels that are distinguished from one another by the ranges of penalties, which are authorized upon conviction of a drug felony:

Level	Presumptive Range	Period of Parole
Drug Felony 1	8-32 Years	3 Years
Drug Felony 2	4-8 Years	2 Years
Drug Felony 3	2-4 Years	1 Year
Drug Felony 4	½-1 Year	1 Year

Level (Aggravated Range)	Presumptive Range	Period of Parole
Drug Felony 2	8-16 Years	2 Years
Drug Felony 3	4-6 Years	1 Year
Drug Felony 4	1-2 Years	1 Year

(b) (I) As to any person sentenced for a drug felony committed on or after October 1, 2013, except as otherwise provided in subparagraph (V) of this paragraph (b) and in subsection (7) of this section, in addition to, or in lieu of, any sentence to imprisonment, probation, community corrections, or work release, a fine within the following ranges may be imposed for the specified level of drug felonies:

Level	Minimum Sentence	Maximum Sentence
Drug Felony 1	\$5,000	\$1,000,000
Drug Felony 2	\$3,000	\$750,000
Drug Felony 3	\$2,000	\$500,000
Drug Felony 4	\$1,000	\$100,000

(II) Failure to pay a fine imposed pursuant to this paragraph (b) is grounds for revocation of probation, community corrections, or a suspended sentence, if the defendant has the ability to pay the fine.

(III) If a revocation occurs pursuant to subparagraph (II) of this paragraph (b), the court may impose any sentence legally available, subject to the provisions of section 18-1.3-104.5 (2).

(IV) All fines collected pursuant to this paragraph (b) must be deposited in the fines collection fund created in section 18-1.3-401 (1)(a)(III)(D) and are subject to the provisions of that section.

(V) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), a person who has been twice convicted of a felony under the laws of this state, any other state, or the United States prior to the conviction for which he or she is being sentenced shall not be eligible to receive a fine in lieu of any sentence to imprisonment, community corrections, or work release but shall be sentenced to at least the minimum sentence specified in paragraph (a) of this subsection (2) and may receive a fine in addition to said sentence.

(3) A person who is paroled pursuant to section 17-22.5-403, C.R.S., or any person who is not paroled and is discharged pursuant to law, shall be subject to the mandatory period of parole established pursuant to paragraph (a) of subsection (2) of this section. The mandatory period of parole may not be waived by the offender or waived or suspended by the court and is subject to the provisions of section 17-22.5-403 (6), C.R.S., which permits the state board of parole to discharge the offender at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision.

(4) The mandatory period of parole imposed pursuant to paragraph (a) of subsection (2) of this section commences immediately upon the discharge of an offender from imprisonment in the custody of the department of corrections. If the offender has been granted release to parole supervision by the state board

of parole, the offender is deemed to have discharged the offender's sentence to imprisonment provided for in subsection (2) of this section in the same manner as if such sentence were discharged pursuant to law. When an offender is released by the state board of parole or released because the offender's sentence was discharged pursuant to law, the mandatory period of parole must be served by the offender. An offender sentenced for a drug felony may receive earned time pursuant to section 17-22.5-405, C.R.S., while serving a mandatory parole period in accordance with this section.

(5) If an offender is sentenced consecutively for the commission of two or more felony offenses pursuant to sentencing provisions in this section or section 18-1.3-401, the mandatory period of parole for the offender must be the longest mandatory period of parole established for a felony for which the offender was convicted.

(6) Any person sentenced for a level 1, 2, 3, or 4 drug felony that is the offender's second or subsequent felony or drug felony offense, regardless of the length of the person's sentence to incarceration and the mandatory period of parole, is not deemed to have fully discharged his or her sentence until the person either completes, or is discharged by the state board of parole from, the mandatory period of parole imposed pursuant to paragraph (a) of subsection (2) of this section.

(7) Notwithstanding any provision of this section to the contrary, if the defendant is convicted of a level 1 drug felony, the court shall sentence the defendant to a term of incarceration in the department of corrections of at least eight years but not more than thirty-two years. The presence of one or more of the aggravating circumstances provided in paragraph (a) of subsection (10) of this section or in section 18-18-407 (1) requires the court to sentence a defendant convicted of a level 1 drug felony to a term of incarceration in the department of corrections of at least twelve years but no more than thirty-two years. The court may impose a fine in addition to imprisonment.

(8) In imposing a sentence to incarceration, the court shall impose a definite sentence that is within the presumptive ranges set forth in subsection (2) of this section; except that, for level 2, level 3, and level 4 drug felonies, the court may sentence the defendant in the aggravated range if it concludes aggravating circumstances exist. The aggravating circumstances must be based on evidence in the record of the sentencing hearing, the presentence report, and any factors agreed to by the parties and must support a different sentence that better serves the purposes of this code with respect to sentencing, as set forth in section 18-1-102.5.

(9) In all cases, except as provided in subsection (10) of this section, in which a sentence that is not within the presumptive range is imposed, the court shall make specific findings on the record, detailing the aggravating circumstances that constitute the reasons for varying from the presumptive sentence.

(10) (a) Except for a level 1 drug felony, the presence of one or more of the following aggravating circumstances at the time of the commission of a drug felony offense requires the court, if it sentences the defendant to incarceration, to sentence the defendant to a term of at least the midpoint in the presumptive range but not more than the maximum term of the aggravated range:

(I) The defendant was on parole for another felony;

(II) The defendant was on probation or was on bond while awaiting sentencing following revocation of probation for another felony;

(III) The defendant was under confinement, in prison, or in any correctional institution as a convicted felon, or an escapee from any correctional institution for another felony; or

(III.5) The defendant was on appeal bond following his or her conviction for a previous felony;

(IV) The defendant was on probation for or on bond while awaiting sentencing following revocation of probation for a delinquent act that would have constituted a felony if committed by an adult.

(b) In any case in which one or more of the aggravating circumstances provided for in paragraph (a) of this subsection (10) exist, the provisions of subsection (9) of this section do not apply.

(c) Nothing in this subsection (10) precludes the court from considering aggravating circumstances other than those stated in paragraph (a) of this subsection (10) as the basis for sentencing the defendant to a term greater than the presumptive range for the drug felony.

(11) Except for a level 1 drug felony, the presence of any one or more of the following sentence-enhancing circumstances allows the court, if it sentences the defendant to incarceration, to sentence the defendant to a term in the presumptive or aggravated range:

(a) At the time of the commission of the drug felony, the defendant was charged with or was on bond for a felony in a previous case and the defendant was convicted of any felony in the previous case;

(b) At the time of the commission of the drug felony, the defendant was charged with or was on bond for a delinquent act that would have constituted a felony if committed by an adult;

(c) At the time of the commission of the drug felony, the defendant was on bond for having pled guilty to a lesser offense when the original offense charged was a felony;

(c.5) At the time of the commission of the drug felony, the defendant was under a deferred judgment and sentence for another felony;

(d) At the time of the commission of the drug felony, the defendant was on bond in a juvenile prosecution under title 19, C.R.S., for having pled guilty to a lesser delinquent act when the original delinquent act charged would have constituted a felony if committed by an adult;

(e) At the time of the commission of the drug felony, the defendant was under a deferred judgment and sentence for a delinquent act that would have constituted a felony if committed by an adult; or

(f) At the time of the commission of the drug felony, the defendant was on parole for having been adjudicated a delinquent child for an offense that would constitute a felony if committed by an adult.

(12) When it appears to the satisfaction of the court that the ends of justice and the best interest of the public, as well as the defendant, will be best served thereby, the court has the power to suspend the imposition or execution of sentence for such period and upon such terms and conditions as it may deem best; except that the court may not suspend a sentence when the defendant is convicted of a level 1 drug felony. In no instance may a sentence be suspended if the defendant is ineligible for probation pursuant to section 18-1.3-201, except upon an express waiver being made by the sentencing court regarding a particular defendant upon recommendation of the district attorney and approval of such recommendation by an order of the sentencing court pursuant to section 18-1.3-201 (4).

(13) Every sentence entered under this section must include consideration of restitution as required by part 6 of this article and by article 18.5 of title 16, C.R.S.

Colorado 18-1.3-501. Misdemeanors classified - drug misdemeanors and drug petty offenses classified - penalties - definitions

(d) For purposes of sentencing a person convicted of a misdemeanor drug offense described in article 18 of this title, committed on or after October 1, 2013, drug misdemeanors are divided into two levels that are distinguished from one another by the following penalties that are authorized upon conviction:

Class	Jail Sentence	Fine
1	6-18 Months	\$500-\$5000
2	3-12 Months	\$150-\$1000