

2021 -- H 6083 SUBSTITUTE A

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LC001709/SUB A/2
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT

Introduced By: Representative Scott Slater

Date Introduced: March 03, 2021

Referred To: House Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 8-2-39.3 of the General Laws in Chapter 8-2 entitled "Superior
2 Court" is hereby amended to read as follows:

3 **8-2-39.3. Superior court diversion.**

4 (a) In accordance with § 8-6-2, the superior court may create, with the approval of the
5 supreme court, rules for a superior court diversion program. The presiding justice may assign a
6 justice or magistrate to administer the diversion program. The program is designed to offer an
7 alternative to traditional conviction, sentencing, and incarceration by providing eligible defendants
8 with a framework of supervision and services in lieu of incarceration and/or probation to help them
9 make informed decisions; engage in positive behavior; and reduce the risk of recidivism.

10 (b) Definitions:

11 (1) "Disqualifying offense" includes murder; manslaughter; first-degree arson; kidnapping
12 with intent to extort; robbery; felony assault -- serious bodily injury; larceny from the person;
13 burglary; entering a dwelling house with intent to commit murder; robbery; sexual assault; any
14 domestic violence offense as defined in chapter 29 of title 12; felony driving while intoxicated;
15 driving while intoxicated -- death resulting; driving while intoxicated -- serious bodily injury
16 resulting; possession of greater than one ounce (1 oz.) or greater than one kilogram (1 kg.) of a
17 controlled substance, excluding marijuana; possession of greater than five kilograms (5 kg.) of
18 marijuana; any offense requiring sex offender registration pursuant to chapter 37.1 of title 11; and
19 child abuse as defined in § 11-9-5.3; and all firearms offenses, as defined in chapter 47 of title 11,

1 with the exception of: § 11-47-6, mental incompetents and drug addicts prohibited from possession
2 of firearms; § 11-47-8, license or permit required for carrying pistol -- possession of machine gun;
3 and § 11-47-52, carrying of weapon while under the influence of liquor or drugs. The definition
4 shall also include any attempt or conspiracy to commit any of the offenses included in this
5 subsection.

6 (2) "Eligible defendant" means any person who stands charged in a district court complaint,
7 superior court indictment, or a superior court information for a felony offense [or for a misdemeanor](#)
8 [offense in violation of § 21-28-4.01\(c\)\(2\)\(i\)](#) and:

9 (i) Has not been previously convicted of or pleaded nolo contendere to a disqualifying
10 offense, as defined in this section;

11 (ii) Has not been previously convicted of or pleaded nolo contendere previously to two (2)
12 or more felony offenses within the last five (5) years (excluding any time during which the offender
13 was incarcerated for any reason between the time of commission of the previous felony and the
14 time of commission of the present felony); and

15 (iii) Has not been charged with a disqualifying offense as defined in this section.

16 (c) The procedure for referral and admission into the program shall be as follows:

17 (1) At any time after the arraignment of an eligible defendant, either in the district court or
18 superior court, but prior to the entry of a plea of guilty or the commencement of trial, a referral may
19 be made to the judicial diversion program's sentencing case manager. The referral may be made by
20 a representative of the department of the attorney general or counsel entered on behalf of a
21 defendant or upon request by a justice of the superior or district court.

22 (2) The judicial diversion sentencing case manager shall ensure that the individual is an
23 eligible defendant, and satisfies any additional criteria established by the court through its rules and
24 regulations.

25 (3) The judicial diversion sentencing case manager shall submit his or her report to the
26 justice or magistrate assigned to the program, indicating acceptance or rejection into the program.
27 Upon receipt of the report, the court shall confer with counsel for the defendant and counsel for the
28 state.

29 (4) Either party may request a hearing on the issue of whether the defendant should be
30 admitted into the program.

31 (5) The superior court magistrate or justice assigned to the program shall make the final
32 determination as to whether a defendant is admitted into the program.

33 (d) Notwithstanding the above provisions, if counsel for the department of attorney general
34 and the counsel for the defendant agree that the defendant should be admitted to the program, he

1 or she shall be deemed "eligible" and may be granted admission.

2 (e) Once the defendant has been accepted into the program, the defendant shall sign a
3 contract. The contract will detail the requirements of the program, which requirements shall be
4 consistent with the rules and regulations promulgated by the court. The defendant will be bound by
5 the terms of the contract, which will set forth the court's expectations; the conditions imposed upon
6 and the responsibilities of the defendant; and the treatment plan goals and strategies. In addition,
7 by signing the contract, the defendant agrees to waive any applicable statute of limitations and/or
8 right to a speedy trial.

9 (f) If a defendant fails to abide by the program's conditions and orders, he or she may be
10 terminated from the program by the magistrate or justice assigned to the program. If a defendant is
11 terminated from the program then he or she shall have his or her case placed on the superior court
12 criminal calendar in the county that the case originated.

13 (g) The superior court may make such rules and regulations for the administration and
14 enforcement of this chapter as it may deem necessary. Provided, further, notwithstanding any
15 provision of the general or public laws to the contrary, the superior court shall have the power to
16 adopt by rule or regulation, in whole or in part, any standards, rules, regulations, or other standards
17 and procedures governing the judicial diversion program.

18 SECTION 2. Sections 21-28-4.01, 21-28-4.01.1, 21-28-4.01.2, 21-28-4.11 and 21-28-4.14
19 of the General Laws in Chapter 21-28 entitled "Uniform Controlled Substances Act" is hereby
20 amended to read as follows:

21 **21-28-4.01. Prohibited acts A -- Penalties.**

22 (a)(1) Except as authorized by this chapter, it shall be unlawful for any person to
23 manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance.

24 (2) Any person who is not a drug-addicted person, as defined in § 21-28-1.02(20), who
25 violates this subsection with respect to a controlled substance classified in schedule I or II, except
26 the substance classified as marijuana, is guilty of a crime and, upon conviction, may be imprisoned
27 to a term up to life or fined not more than five hundred thousand dollars (\$500,000) nor less than
28 ten thousand dollars (\$10,000), or both.

29 (3) Where the deliverance as prohibited in this subsection shall be the proximate cause of
30 death to the person to whom the controlled substance is delivered, it shall not be a defense that the
31 person delivering the substance was, at the time of delivery, a drug-addicted person as defined in §
32 21-28-1.02(20).

33 (4) Any person, except as provided for in subdivision (2) of this subsection, who violates
34 this subsection with respect to:

1 (i) A controlled substance, classified in schedule I or II, is guilty of a crime and, upon
2 conviction, may be imprisoned for not more than thirty (30) years, or fined not more than one
3 hundred thousand dollars (\$100,000) nor less than three thousand dollars (\$3,000), or both;

4 (ii) A controlled substance, classified in schedule III or IV, is guilty of a crime and, upon
5 conviction, may be imprisoned for not more than twenty (20) years, or fined not more than forty
6 thousand dollars (\$40,000), or both; provided, with respect to a controlled substance classified in
7 schedule III(d), upon conviction may be imprisoned for not more than five (5) years, or fined not
8 more than twenty thousand dollars (\$20,000), or both.

9 (iii) A controlled substance, classified in schedule V, is guilty of a crime and, upon
10 conviction, may be imprisoned for not more than one year, or fined not more than ten thousand
11 dollars (\$10,000), or both.

12 (b)(1) Except as authorized by this chapter, it is unlawful for any person to create, deliver,
13 or possess with intent to deliver, a counterfeit substance.

14 (2) Any person who violates this subsection with respect to:

15 (i) A counterfeit substance, classified in schedule I or II, is guilty of a crime and, upon
16 conviction, may be imprisoned for not more than thirty (30) years, or fined not more than one
17 hundred thousand dollars (\$100,000), or both;

18 (ii) A counterfeit substance, classified in schedule III or IV, is guilty of a crime and, upon
19 conviction, may be imprisoned for not more than twenty (20) years, or fined not more than forty
20 thousand dollars (\$40,000), or both; provided, with respect to a controlled substance classified in
21 schedule III(d), upon conviction may be imprisoned for not more than five (5) years, or fined not
22 more than twenty thousand dollars (\$20,000), or both.

23 (iii) A counterfeit substance, classified in schedule V, is guilty of a crime and, upon
24 conviction, may be imprisoned for not more than one year, or fined not more than ten thousand
25 dollars (\$10,000), or both.

26 (c)(1) It shall be unlawful for any person knowingly or intentionally to possess a controlled
27 substance, unless the substance was obtained directly from, or pursuant to, a valid prescription or
28 order of a practitioner while acting in the course of his or her professional practice, or except as
29 otherwise authorized by this chapter.

30 (2) Any person who violates this subsection with respect to:

31 (i) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, ten grams (10 g) or
32 less of a mixture or substance containing a detectable amount of a controlled substance classified
33 in schedules I, II, III, IV, and V, except the substance classified as marijuana, is guilty of a
34 misdemeanor and, upon conviction, may be imprisoned for not more than two (2) years, or fined

1 not more than five hundred dollars (\$500) or both.

2 ~~(i)~~(ii) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, more than ten
3 grams (10 g), but less than one ounce (1 oz.) of a mixture or substance containing a detectable
4 amount of a ~~A~~ controlled substance classified in schedules I, II and III, IV, and V, except the
5 substance classified as marijuana, is guilty of a ~~crime~~ felony and, upon conviction, may be
6 imprisoned for not more than three (3) years, or fined not ~~less than five hundred dollars (\$500) nor~~
7 more than five thousand dollars (\$5,000), or both; .

8 ~~(ii)~~(iii) More than one ounce (1 oz.) of a controlled substance classified in schedule I as
9 marijuana is guilty of a misdemeanor, except for those persons subject to (a)(1), and, upon
10 conviction, may be imprisoned for not more than one year, or fined not ~~less than two hundred~~
11 ~~dollars (\$200) nor~~ more than five hundred dollars (\$500), or both.

12 ~~(iii)~~(iv) Notwithstanding any public, special, or general law to the contrary, the possession
13 of one ounce (1 oz.) or less of marijuana by a person who is eighteen (18) years of age or older,
14 and who is not exempted from penalties pursuant to chapter 28.6 of this title, shall constitute a civil
15 offense, rendering the offender liable to a civil penalty in the amount of one hundred fifty dollars
16 (\$150) and forfeiture of the marijuana, but not to any other form of criminal or civil punishment or
17 disqualification. Notwithstanding any public, special, or general law to the contrary, this civil
18 penalty of one hundred fifty dollars (\$150) and forfeiture of the marijuana shall apply if the offense
19 is the first (1st) or second (2nd) violation within the previous eighteen (18) months.

20 ~~(iv)~~(v) Notwithstanding any public, special, or general law to the contrary, possession of
21 one ounce (1 oz.) or less of marijuana by a person who is seventeen (17) years of age or older and
22 under the age of eighteen (18) years, and who is not exempted from penalties pursuant to chapter
23 28.6 of this title, shall constitute a civil offense, rendering the offender liable to a civil penalty in
24 the amount of one hundred fifty dollars (\$150) and forfeiture of the marijuana; provided the minor
25 offender completes an approved, drug-awareness program and community service as determined
26 by the court. If the person seventeen (17) years of age or older and under the age of eighteen (18)
27 years fails to complete an approved, drug-awareness program and community service within one
28 year of the disposition, the penalty shall be a three hundred dollar (\$300) civil fine and forfeiture
29 of the marijuana, except that if no drug-awareness program or community service is available, the
30 penalty shall be a fine of one hundred fifty dollars (\$150) and forfeiture of the marijuana. The
31 parents or legal guardian of any offender seventeen (17) years of age or older and under the age of
32 eighteen (18) shall be notified of the offense and the availability of a drug-awareness and
33 community-service program. The drug-awareness program must be approved by the court, but
34 shall, at a minimum, provide four (4) hours of instruction or group discussion and ten (10) hours of

1 community service. Notwithstanding any other public, special, or general law to the contrary, this
2 civil penalty shall apply if the offense is the first or second violation within the previous eighteen
3 (18) months.

4 ~~(v)~~(vi) Notwithstanding any public, special, or general law to the contrary, a person not
5 exempted from penalties pursuant to chapter 28.6 of this title found in possession of one ounce (1
6 oz.) or less of marijuana is guilty of a misdemeanor and, upon conviction, may be imprisoned for
7 not more than thirty (30) days, or fined not less than two hundred dollars (\$200) nor more than five
8 hundred dollars (\$500), or both, if that person has been previously adjudicated on a violation for
9 possession of less than one ounce (1 oz.) of marijuana under ~~(e)(2)(iii)~~ (c)(2)(iv) or ~~(e)(2)(iv)~~
10 (c)(2)(v) two (2) times in the eighteen (18) months prior to the third (3rd) offense.

11 ~~(vi)~~(vii) Any unpaid civil fine issued under ~~(e)(2)(iii)~~ (c)(2)(iv) or ~~(e)(2)(iv)~~ (c)(2)(v) shall
12 double to three hundred dollars (\$300) if not paid within thirty (30) days of the disposition. The
13 civil fine shall double again to six hundred dollars (\$600) if it has not been paid within ninety (90)
14 days.

15 ~~(vii)~~(viii) No person may be arrested for a violation of ~~(e)(2)(iii)~~ (c)(2)(iv) or ~~(e)(2)(iv)~~
16 (c)(2)(v) of this subsection except as provided in this subparagraph. Any person in possession of
17 an identification card, license, or other form of identification issued by the state or any state, city,
18 or town, or any college or university, who fails to produce the same upon request of a police officer
19 who informs the person that he or she has been found in possession of what appears to the officer
20 to be one ounce (1 oz.) or less of marijuana, or any person without any such forms of identification
21 who fails or refuses to truthfully provide his or her name, address, and date of birth to a police
22 officer who has informed such person that the officer intends to provide such individual with a
23 citation for possession of one ounce (1 oz.) or less of marijuana, may be arrested.

24 ~~(viii)~~(ix) No violation of ~~(e)(2)(iii)~~ (c)(2)(iv) or ~~(e)(2)(iv)~~ (c)(2)(v) of this subsection shall
25 be considered a violation of parole or probation.

26 ~~(ix)~~(x) Any records collected by any state agency, tribunal, or the family court that include
27 personally identifiable information about violations of ~~(e)(2)(iii)~~ (c)(2)(iv) or ~~(e)(2)(iv)~~ (c)(2)(v)
28 shall not be open to public inspection in accordance with § 8-8.2-21.

29 (3) Jurisdiction.

30 (i) Any and all adjudications of violations of (c)(2)(i) shall be within the original
31 jurisdiction of the Rhode Island superior court. The department of attorney general shall prosecute
32 any and all violations of (c)(2)(i).

33 (ii) Any and all violations of ~~(e)(2)(iii)~~ (c)(2)(iv) and ~~(e)(2)(iv)~~ (c)(2)(v) shall be the
34 exclusive jurisdiction of the Rhode Island traffic tribunal. All money associated with the civil fine

1 issued under ~~(e)(2)(iii) or (e)(2)(iv)~~ (c)(2)(iv) or (c)(2)(v) shall be payable to the Rhode Island
2 traffic tribunal. Fifty percent (50%) of all fines collected by the Rhode Island traffic tribunal from
3 civil penalties issued pursuant to ~~(e)(2)(iii) or (e)(2)(iv)~~ (c)(2)(iv) or (c)(2)(v) shall be expended on
4 drug-awareness and treatment programs for youth.

5 (4) Additionally, every person convicted or who pleads nolo contendere under (c)(2)(i) or
6 (c)(2)(ii) or convicted or who pleads nolo contendere a second or subsequent time under ~~(e)(2)(ii)~~
7 (c)(2)(iii), who is not sentenced to a term of imprisonment to serve for the offense, shall be required
8 to:

9 (i) Perform up to one hundred (100) hours of community service;

10 (ii) Attend and complete a drug-counseling and education program, as prescribed, by the
11 director of the department of behavioral healthcare, developmental disabilities and hospitals and
12 pay the sum of four hundred dollars (\$400) to help defray the costs of this program which shall be
13 deposited as general revenues. Failure to attend may result, after hearing by the court, in jail
14 sentence up to one year;

15 (iii) The court shall not suspend any part or all of the imposition of the fee required by this
16 subsection, unless the court finds an inability to pay;

17 (iv) If the offense involves the use of any automobile to transport the substance or the
18 substance is found within an automobile, then a person convicted or who pleads nolo contendere
19 under (c)(2)(i), ~~and~~ (c)(2)(ii) or (c)(2)(iii) shall be subject to a loss of license for a period of six (6)
20 months for a first offense and one year for each offense after.

21 (5) All fees assessed and collected pursuant to ~~(e)(3)(ii)~~ (c)(2)(iii) shall be deposited as
22 general revenues and shall be collected from the person convicted or who pleads nolo contendere
23 before any other fines authorized by this chapter.

24 (d) It shall be unlawful for any person to manufacture, distribute, or possess with intent to
25 manufacture or distribute, an imitation controlled substance. Any person who violates this
26 subsection is guilty of a crime and, upon conviction, shall be subject to the same term of
27 imprisonment and/or fine as provided by this chapter for the manufacture or distribution of the
28 controlled substance that the particular imitation controlled substance forming the basis of the
29 prosecution was designed to resemble and/or represented to be; but in no case shall the
30 imprisonment be for more than five (5) years nor the fine for more than twenty thousand dollars
31 (\$20,000).

32 (e) It shall be unlawful for a practitioner to prescribe, order, distribute, supply, or sell an
33 anabolic steroid or human growth hormone for: (1) Enhancing performance in an exercise, sport,
34 or game, or (2) Hormonal manipulation intended to increase muscle mass, strength, or weight

1 without a medical necessity. Any person who violates this subsection is guilty of a misdemeanor
2 and, upon conviction, may be imprisoned for not more than six (6) months or a fine of not more
3 than one thousand dollars (\$1,000), or both.

4 (f) It is unlawful for any person to knowingly or intentionally possess, manufacture,
5 distribute, or possess with intent to manufacture or distribute, any extract, compound, salt
6 derivative, or mixture of salvia divinorum or datura stramonium or its extracts unless the person is
7 exempt pursuant to the provisions of § 21-28-3.30. Notwithstanding any laws to the contrary, any
8 person who violates this section is guilty of a misdemeanor and, upon conviction, may be
9 imprisoned for not more than one year, or fined not more than one thousand dollars (\$1,000), or
10 both. The provisions of this section shall not apply to licensed physicians, pharmacists, and
11 accredited hospitals and teaching facilities engaged in the research or study of salvia divinorum or
12 datura stramonium and shall not apply to any person participating in clinical trials involving the
13 use of salvia divinorum or datura stramonium.

14 **21-28-4.01.1. Minimum sentence -- Certain quantities of controlled substances.**

15 (a) Except as authorized by this chapter, it shall be unlawful for any person to manufacture,
16 sell, or possess with intent to manufacture or sell, a controlled substance classified in schedule I or
17 II (excluding marijuana) or to possess or deliver the following enumerated quantities of certain
18 controlled substances:

19 (1) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
20 detectable amount of heroin;

21 (2) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
22 detectable amount of:

23 (i) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine,
24 ecgonine, and derivatives of ecgonine or their salts have been removed;

25 (ii) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

26 (iii) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

27 (iv) Any compound, mixture, or preparation that contains any quantity of any of the
28 substances referred to in paragraphs (i) -- (iii) of this subdivision;

29 (3) One gram (1 g.) to ten grams (10 gs.) of phencyclidine (PCP) or one hundred (100) to
30 one thousand (1,000) tablets of a mixture or substance containing a detectable amount of
31 phencyclidine (PCP);

32 (4) One-tenth of a gram (0.1 g.) to one gram (1 g.) of lysergic acid diethylamide (LSD) or
33 one hundred (100) to one thousand (1,000) tablets of a mixture or substance containing a detectable
34 amount of lysergic acid diethylamide (LSD);

1 (5) One kilogram (1 kg.) to five kilograms (5 kgs.) of a mixture containing a detectable
2 amount of marijuana;

3 (6) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
4 detectable amount of synthetic drugs; or

5 (7) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
6 detectable amount of fentanyl or its analogs, including, but not limited to, N-(1-phenethylpiperidin-
7 4-yl)-N-phenylacetamide, its optical, positional, and geometric isomers, salts and salts of isomers
8 (acetyl fentanyl); N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2carboxamide (furanyl fentanyl);
9 and N-Phenethyl-4-piperidinone (4-AN-PP); or

10 (8) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
11 detectable amount of carfentanil; or

12 (9) One ounce (1 oz.) to one kilogram (1 kg.) of 3,4-methyl-enedioxymethamphetamine
13 (MDMA), its optical, positional, and geometric isomers, salts, and salts of isomers; or

14 (10) One ounce (1 oz.) to one kilogram (1 kg.) of amphetamine, its salts, optical isomers,
15 and salts of its optical isomers; or

16 (11) One ounce (1 oz.) to one kilogram (1 kg.) of methamphetamine, its salts, and salts of
17 its isomers.

18 (b) Any person who violates this section shall be guilty of a crime, and upon conviction,
19 may be imprisoned for a term up to fifty (50) years and fined not more than five hundred thousand
20 dollars (\$500,000).

21 **21-28-4.01.2. Minimum sentence -- Certain quantities of controlled substances.**

22 (a) Except as authorized by the chapter, it shall be unlawful for any person to possess,
23 manufacture, sell, or deliver the following enumerated quantities of certain controlled substances:

24 (1) More than one kilogram (1 kg.) of a mixture or substance containing a detectable
25 amount of heroin;

26 (2) More than one kilogram (1 kg.) of a mixture or substance containing a detectable
27 amount of:

28 (i) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine,
29 ecgonine, and derivatives of ecgonine or their salts have been removed;

30 (ii) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

31 (iii) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

32 (iv) Any compound, mixture, or preparation that contains any quantity of any of the
33 substances referred to in paragraphs (i) -- (iii) of this subdivision;

34 (3) More than ten grams (10 gs.) of phencyclidine (PCP) or more than one thousand (1,000)

1 tablets of a mixture or substance containing a detectable amount of phencyclidine (PCP);

2 (4) More than one gram (1 g.) of lysergic acid diethylamide (LSD); or more than one
3 thousand (1,000) tablets of a mixture or substance containing a detectable amount of lysergic acid
4 diethylamide (LSD);

5 (5) More than five kilograms (5 kgs.) of a mixture containing a detectable amount of
6 marijuana;

7 (6) More than one kilogram (1 kg.) of a mixture or substance containing a detectable
8 amount of synthetic drugs; or

9 (7) More than one kilogram (1 kg.) of a mixture or substance containing a detectable
10 amount of fentanyl or its analogs, including, but not limited to, N-(1-phenethylpiperidin-4-yl)-N-
11 phenylacetamide, its optical, positional, and geometric isomers, salts and salts of isomers (acetyl
12 fentanyl); N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2carboxamide (furanyl fentanyl); and N-
13 Phenethyl-4-piperidinone (4-AN-PP); or

14 (8) More than one kilogram (1 kg.) of a mixture or substance containing a detectable
15 amount of carfentanil; or

16 (9) More than one kilogram (1 kg.) of 3,4-methyl-enedioxymethamphetamine (MDMA),
17 its optical, positional, and geometric isomers, salts, and salts of isomers; or

18 (10) More than one kilogram (1 kg.) of amphetamine, its salts, optical isomers, and salts of
19 its optical isomers; or

20 (11) More than one kilogram (1 kg.) of methamphetamine, its salts, and salts of its isomers.

21 (b) Any person who violates this section shall be guilty of a crime, and upon conviction,
22 may be imprisoned for a term up to life and fined not more than one million dollars (\$1,000,000).

23 **21-28-4.11. Second offenses.**

24 (a) Any person convicted of a second offense under this chapter, except for violations of
25 ~~subparagraphs~~ §§ 21-28-4.01(c)(2)(i), 21-28-4.01(c)(2)(iii), 21-28-4.01(c)(2)(iv), ~~or~~ 21-28-
26 4.01(c)(2)(v), or 21-28-4.01(c)(2)(vi), may be imprisoned for a term up to twice the term
27 authorized, fined an amount up to twice that authorized, or both.

28 (b) For purposes of this section, an offense is considered a second offense if, prior to his or
29 her conviction of the offense, the offender has at any time been convicted under this chapter, except
30 for violations of ~~subparagraphs~~ §§ 21-28-4.01(c)(2)(i), 21-28-4.01(c)(2)(iii), 21-28-4.01(c)(2)(iv)
31 ~~or~~ 21-28-4.01(c)(2)(v), or 21-28-4.01(c)(2)(vi), or under any statute of the United States or of any
32 state relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs.

33 **21-28-4.14. Third or subsequent offenses.**

34 (a) Any person convicted of a third or subsequent offense under this chapter, except for

1 violations of ~~subparagraphs 21-28-4.01(c)(2)(iii), 21-28-4.01(c)(2)(iv) or 21-28-4.01(c)(2)(v)~~ §§
2 21-28-4.01(c)(2)(iv), 21-28-4.01(c)(2)(v), or 21-28-4.01(c)(2)(vi), may be imprisoned for a term
3 up to three (3) times the term authorized, and fined an amount up to three (3) times that authorized
4 by § 21-28-4.11, or both.

5 (b) For purposes of this section, an offense is considered a third or subsequent offense if,
6 prior to his or her conviction of the offense, the offender has at any time been convicted twice under
7 this chapter, except for violations of ~~subparagraphs~~ §§ 21-28-4.01(c)(2)(iii), 21-28-4.01(c)(2)(iv)
8 or 21-28-4.01(c)(2)(v), 21-28-4.01(c)(2)(vi), or twice under any statute of the United States or of
9 any other state, or any combination of them, relating to narcotic drugs, marijuana, depressant,
10 stimulant, or hallucinogenic drug.

11 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT

1 This act would amend the uniform controlled substances act and reclassify simple
2 possession of ten grams (10 g) or less of certain controlled substances as a misdemeanor punishable
3 as a two (2) year misdemeanor rather than a felony.

4 This act would take effect upon passage.

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