



STATE OF CONNECTICUT
SENTENCING COMMISSION

Testimony of Alex Tsarkov on SB 1032, An Act Concerning Technical Reorganization of Statutes Involving The Illegal Sale Of Controlled Substances

Senator Doyle, Senator Kissel, Representative Tong, Senator Winfield, Senator McLachlan, Representative Stafstrom, Representative Rebimbas and members of the Judiciary Committee. For the record, my name is Alex Tsarkov and I am the Executive Director of the Connecticut Sentencing Commission. With me is Attorney Robert Farr, former ranking member of this Committee and current member of the Sentencing Commission. We are here to testify in favor of SB 1032, An Act Concerning Technical Reorganization of Statutes Involving the Illegal Sale of Controlled Substances.

The Sentencing Commission is a permanent commission created six years ago, consisting of all of the stakeholders in the criminal justice system of Connecticut. Our membership includes Judges; the Chief State's Attorney; the Chief Public Defender; the Victim Advocate; the commissioners of Correction, Emergency Services and Public Protection, and Mental Health and Addiction Services; community activists interested in the criminal justice system; the chair of the Board of Pardons and Paroles; municipal police chiefs; the undersecretary of the criminal justice policy and planning division; as well as others vitally engaged in the criminal justice system. We have adopted a policy of striving for consensus in our recommendations to the legislature and the governor.

The proposed reorganization of statutes involving the sale of drugs dates back to 2007 when the Offense Classification Subcommittee of the Sentencing Task Force, which was the Sentencing Commission's predecessor, discussed the possibility of classifying the unclassified offenses found in the drug statutes, namely sections 21a-277, 21a-278 and 21a-279, concerning the illegal sale and possession of controlled substances.

In 2016, Attorney Rick Taff, who worked for the Legislative Commissioners' Office covering the Judiciary Committee for several decades, brought up these issues to the Sentencing Commission. The Commission formed a working group to look into the reorganization of these statutes. On December 8, 2016, the Sentencing Commission unanimously adopted a resolution requesting that the General Assembly amend the General Statutes by enacting this proposal before you today.

This bill recognizes the need to improve the organization and comprehensibility of statutes concerning the illegal sale of controlled substances and recommends that the Connecticut General Assembly amend the General Statutes as proposed.

The proposed changes do not:

- Classify the drug sale offenses, as the subcommittee of the Sentencing Task Force briefly considered in 2007
- Change the existing penalties in any way
- Change the statutory placements or designations for the offenses. The Commission appreciates the importance of retaining statutory section numbers whenever possible for tracking and historical purposes. Hence, for example, what had been an illegal sale of a narcotic substance by a non-drug-dependent person in violation of section 21a-278(b) would still be a violation of section 21a-278(b), although now, more precisely, it would be a violation of section 21a-278(b)(1)(A).

What the proposed changes do:

- Insert subdivision and subparagraph indicators to separate the different types of controlled substances and clarify what is included and excluded from each subsection, and to separate the different penalties prescribed for first, second and subsequent offenses.
- Segregate into separate subsections the prohibitory provisions and the penalty provisions.
- Place “a narcotic substance” and “a hallucinogenic substance other than a cannabis-type substance” in the same order in subsections (a) and (b) of section 21a-277 for clarity
- Replace “marijuana” with “cannabis-type substance” for consistency with usage in the possession statutes, i.e. sections 21a-279 and 21a-279a. The definitions for the two terms are identical but for a few technical differences.
- Delete the indeterminate minimum sentence in Section 21a-278(a) of “not less than five years or more than twenty years” and replace it with “not less than five years.” The Supreme Court in *State v. Delossantos*, 211 Conn. 258 (1989) held that such an indeterminate sentence was implicitly repealed with the enactment of section 53a-35a and definite sentencing in 1981.

What this proposal would do is simply reorganize and restructure the drug sale statutes. Although a small and technical fix, our judges, prosecutors, public defenders and other members of the Commission recognize a tremendous value to improving the structure and comprehensibility of these statutes if the legislation is passed.

We thank the Committee for raising this important legislation and urge the Committee’s JOINT FAVORABLE Report.