
OLR Bill Analysis

SB 444

AN ACT CONCERNING THE MODIFICATION OF SENTENCES FOR CANNABIS-RELATED OFFENSES.

SUMMARY

This bill makes various changes to laws on the modification of criminal sentences for incarcerated people and related issues for criminal defendants.

For cannabis-related offenses, it generally requires that sentenced defendants be (1) discharged from incarceration if they were sentenced only for offenses that are no longer crimes and (2) otherwise entitled to a hearing on whether to discharge their sentence (completely or on probation or conditional discharge). For this latter group, the court must grant the discharge for good cause, including if the offenses were under specified drug laws.

For defendants participating in diversionary programs for cannabis-related offenses, the bill requires the court to hold a hearing and, for good cause and if the defendant would not otherwise be in the program, vacate the decision on program participation and dismiss the charges.

For sentence modifications generally, the bill requires:

1. defendants to get the state attorney's permission if seeking a hearing to modify a sentence for an offense that was decriminalized after the conviction;
2. the clerk for the court where a person was convicted (or the Office of the Chief Court Administrator if that court is now obsolete), to send a copy of a sentence modification order, within 10 days after, to the Connecticut Sentencing Commission, the Office of Policy and Management's Criminal Justice Policy and Planning

- Division, and the facility where the person is incarcerated; and
3. the sentencing court or judge, if denying a sentence modification, to file a written explanation with the case record and give a copy to the defendant, his or her attorney if applicable, and the Sentencing Commission.

EFFECTIVE DATE: Upon passage

CANNABIS-RELATED OFFENSES

Mandatory Discharge of Certain Sentences

The bill requires the sentencing judge or court to order the discharge of any incarcerated person who was sentenced only for a cannabis-related offense or offenses that are no longer crimes since July 1, 2021 (see BACKGROUND). This applies to defendants sentenced before the bill's passage (other than for a mandatory minimum) and includes sentences under a plea agreement, including agreements with an agreed-upon sentence range or probation or conditional discharge period. The judge or court must discharge the defendant as soon as practicable after the bill's passage.

Hearing on Discharge for Other Sentences

The bill requires the sentencing judge or court to order a hearing on whether to discharge certain defendants from their incarceration, probation, or conditional supervision. This applies to defendants who were sentenced, before the bill's passage, for cannabis-related offenses, (other than for a mandatory minimum) including sentences under an agreed-upon sentence range or other plea agreement. (Presumably, this provision does not apply to defendants covered by the mandatory discharge provisions described above.) The hearing must be held within three months after the bill's passage or the defendant's sentencing, whichever is earlier.

The bill requires the court or judge, upon a showing of good cause, to order the defendant to be (1) discharged completely or (2) discharged on probation or conditional supervision for a period up to the end of the possible sentence. For this purpose, good cause includes that the

person's offense was for cannabis sales or possession or related paraphernalia offenses under specified statutes.

Hearing on Dismissal of Charges and Program Participation

The bill requires the court to order a hearing for defendants participating in diversionary programs for cannabis-related offenses. This applies to any defendants granted permission to participate in these programs (either before or after the bill's passage), including under a plea agreement. The hearing must be held within three months after the person was given permission to participate.

The court must vacate the decision on program participation and dismiss the charges if (1) good cause is shown (see above) and (2) the defendant is only in the program due to these alleged cannabis-related offenses.

SENTENCE MODIFICATION FOR DECRIMINALIZED OFFENSES

Existing law generally allows a sentencing court or judge, at any time during a defendant's incarceration period and after a hearing and for good cause shown, to reduce the defendant's sentence, order the defendant's discharge, or order the defendant's discharge on probation or conditional discharge. But defendants sentenced to more than seven years in prison under a plea agreement must get the state attorney's agreement to get the hearing. The bill also requires this agreement for defendants seeking a sentence modification for offenses that were decriminalized since their conviction.

As under existing law, mandatory minimum sentences cannot be modified under these provisions.

BACKGROUND

2021 Cannabis Act

PA 21-1, June Special Session, legalized the recreational possession and use of cannabis for people age 21 or over, subject to possession limits. Among numerous related provisions, it eliminated certain prior related criminal penalties. This included penalties for (1) possessing ½ ounce or more of cannabis, (2) possessing cannabis near certain

buildings (e.g., elementary or secondary schools), and (3) certain paraphernalia-related offenses. It also generally excluded cannabis from existing laws on illegal drug sales and set separate, lower penalties for illegal sales of cannabis.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 23 Nay 12 (04/01/2024)