



State of New Jersey

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Governor

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ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2021-1

TO: Director, Division of Criminal Justice
All County Prosecutors
All County Municipal Prosecutor Liaisons
All Municipal Prosecutors

FROM: Gurbir S. Grewal, Attorney General

DATE: February 22, 2021

SUBJECT: Directive Governing Dismissals of Certain Pending Marijuana Charges

On February 22, 2021, the Governor signed the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act and the marijuana decriminalization laws. In light of these new laws, I am issuing this Directive, which supersedes my November 25, 2020 and January 22, 2021 guidance memoranda that instructed prosecutors to seek an adjournment of certain juvenile and adult marijuana cases.

Pursuant to the authority granted to me under the New Jersey Constitution and the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, which provides for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the State in order to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the State, I hereby direct all prosecutors operating under the authority of the laws of the State of New Jersey to dismiss pending marijuana-related charges in accordance with the guidance below.

I. Dismissals

- A. **Cases for dismissal.** Effective immediately, prosecutors shall seek dismissals of any pending charges listed in the following chart in any cases where a juvenile or adult's conduct occurred on or before February 22, 2021. Dismissals can be requested on an ad hoc basis as the cases are scheduled for a municipal or superior court proceeding. In cases



involving multiple charges, only the charges listed in the chart are to be dismissed pursuant to this Directive; all other charges and pending matters should remain.

Provision	Description of Statute
2C:35-5(b)(12)	Distribution of marijuana or hashish
2C:35-10(a)(3)	Possession of marijuana or hashish
2C:35-10(a)(4)	Possession of marijuana or hashish
2C:35-10(b)	Under the influence – only when the individual was under the influence of marijuana or hashish
2C:35-10(c)	Failure to properly dispose CDS – only when the individual fails to dispose of marijuana or hashish
2C:36-2	Possession of drug paraphernalia when the paraphernalia was used, or was possessed with intent to be used, to ingest, inhale or otherwise introduce marijuana or hashish into the body
2C:36A-1	Any disorderly persons offense or petty disorderly persons offense subject to conditional discharge pursuant to this section
39:4-49.1	Possession of CDS in a vehicle – but only when the individual is in possession of marijuana or hashish in the vehicle

- B. ***Cases already resolved.*** For those cases already resolved, pursuant to the new decriminalization laws, the Administrative Office of the Courts will vacate by operation of law any guilty verdict, plea, placement in a diversionary program, or other entry of guilt on a matter where the conduct occurred prior to February 22, 2021. Also vacated will be any conviction, remaining sentence, ongoing supervision, or unpaid court-ordered financial assessment of any person who is or will be serving a sentence of incarceration, probation, parole or other form of community supervision as of February 22, 2021 as a result of the person's conviction or adjudication of delinquency solely for the above listed charges.

II. **Other Provisions**

- A. ***Non-enforceability by third parties.*** This Directive is issued pursuant to the Attorney General's authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice throughout the State. This Directive imposes limitations on law enforcement agencies and officials that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal

and state statutes and regulations. Nothing in this Directive shall be construed in any way to create any substantive right that may be enforced by any third party.

- B. **Severability.** The provisions of this Directive shall be severable. If any phrase, clause, sentence or provision of this Directive is declared by a court of competent jurisdiction to be invalid, the validity of the remainder of the document shall not be affected.
- C. **Questions.** Any questions concerning the interpretation or implementation of this Directive shall be addressed to the Director of the Division of Criminal Justice, or their designee.
- D. **Effective date.** This Directive shall take effect immediately. The provisions of this Directive shall remain in force and effect unless and until it is repealed, amended, or superseded by Order of the Attorney General.



Gurbir S. Grewal
Attorney General

ATTEST:



Veronica Allende
Director, Division of Criminal Justice

Dated: February 22, 2021