



GUEST & GRAY
CRIMINAL DEFENSE LAWYERS

Possession of a Controlled Substance

What does “Possession” Mean in Texas?

The Texas Penal Code, Section 1.07(a)(39) defines “Possession” as “actual care, custody, control, or management.”

What are the Controlled Substances? What are Penalty Groups?

Penalty Group 1 is most of the popular recreational drugs you think of when you think “drugs”. For example, PG1 includes opiates like heroin and hydrocodone, cocaine, methamphetamine, ketamine.

Penalty Group 2 includes PCP, MDMA (ecstasy), mescaline, THC other than plant marijuana (edibles/vapes), GHB, and amphetamines.

Penalty Group 1A is LSD. It has its own group since it's prosecuted by the “dose” instead of the weight as is the case with other drugs.

What is the Penalty for Possession of Penalty Group 1?

- *Less than one gram* is a State Jail Felony. This is by far the most common felony drug offense in Texas. Many of these cases end up on probation, and if you don't have any prior state jail possession charges, it's likely the State will offer you probation.
- *At least one gram but less than four grams* is a Second-Degree Felony (2-2 years in TDC).
- *At least four grams but less than 200 grams* is a First-Degree Felony (5-99 years in TDC).
- *At least 200 grams but less than 400 grams* is a First-Degree Felony but the sentence is 10-99 years.
- *400 grams or more*, still a First-Degree Felony, but 15-99 years.

What is the Penalty for Possession of Penalty Group 2?

- *Less than one gram* is a State Jail Felony, 180 days to 2 years in State Jail.
- *At least one gram but less than four grams* is a Third-Degree Felony, 2-10 years in TDC.
- *At least four grams but less than 400 grams* is a Second-Degree Felony, 2-20 years in TDC.
- *400 or more grams* is a First Degree Felony, 5-99 years in TDC.

What's the Penalty for Possession of Penalty Group 1A/LSD?

- *Fewer than 20 doses* is a State Jail Felony. The sentence for a state jail is 180 days to 2 years in State Jail (no parole/day for day).
- *20 but fewer than 80 doses* is a Second-Degree Felony, 2-20 years in TDC
- *80 but fewer than 4,000 doses* is a First-Degree Felony, 5-99 years in TDC.
- *4,000 or more doses* is a First-Degree Felony, 15-99 years in TDC.

If you are facing a drug possession case in Texas, call Guest and Gray. We have a team of criminal defense lawyers, and former felony drug prosecutors to assist you.

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