

Municipal Court Drug Offenses

1. What type of drug offenses are charged in Municipal Court?

A Municipal Court only has jurisdiction of disorderly persons offenses. If a drug charge involves distribution or if a person is busted with large quantities of CDS then the case is sent up to the County. Thereafter, the County Prosecutor will review the case and determine if the case should be indicted.

There are eight drug charges that are considered to be disorderly persons offenses. These offenses are as follows:

- a. Possession of Marijuana - N.J.S.A. 2C:35-10(a)(4)
- b. CDS Use or Under Influence - N.J.S.A. 2C:35-10(b)
- c. Failure to deliver CDS to officer - N.J.S.A. 2C:35-10(c)
- d. Toxic Chemicals - N.J.S.A. 2C:35-10-.4
- e. Prescription legend drugs - N.J.S.A. 2C:35-10.5
- f. Possession of certain prescription drugs - N.J.S.A. 2C:35-24
- g. Possession of drug paraphernalia - N.J.S.A. 2C:36-2
- h. Discarding hypodermic needle or syringe - N.J.S.A. - 2C:36-6.1

2. What type of sentences can a person receive if he is convicted of a DP drug offense?

A person who is convicted of a DP drug offense can face up to six months in jail. However, if the drug charge constitutes the defendant's first criminal offense, then he is entitled to a presumption against incarceration. Therefore, the defendant can't be sentenced to jail unless the court finds that due to the nature of the offense, and the history and character of the defendant, that jail is necessary for the protection of the public.

If a drug charge constitutes the defendant's second or third criminal offense, then the defendant is not entitled to a presumption against non-incarceration.

3. What type of fines can a person receive for a DP drug charge?

The defendant may be subject to the normal fines imposed for a disorderly persons offense, or to an enhanced fine. The defendant can be required to pay a fine of up to \$1,000 and a \$50 VCCB assessment, a \$75 Safe Neighborhood Fund assessment, and \$33 in court costs. A defendant who is convicted of a drug offense will

also have to pay additional sanctions. The defendant will also have to pay a \$500 Drug Enforcement and Demand Reduction penalty, and a \$50 laboratory analysis fee.

4. Can I lose my driver's licenses if I am convicted of a DP drug charge?

Yes, a defendant could certainly lose his license for a drug offense. The Municipal Court must suspend the defendant's driver's license for a period six months to two years if convicted of a Chapter 35 or 36 offense.

5. I was just busted for possession of marijuana. I don't want to ruin my record. Is there any way that I can beat these charges?

Yes, you can apply for a conditional discharge. This is a diversionary program for first time offenders with a drug offense(s). If a defendant qualifies for a conditional discharge program, then after a six months to one year period, the charges will be dropped. The decision to grant a defendant a conditional discharge is within the sole discretion of the municipal court judge. However, before the court grants any application for a conditional discharge, the judge must be satisfied that the defendant was never granted a conditional discharge before. Moreover, the judge must also make a finding that the defendant will not pose any danger to the community, and that he will most likely benefit from the program.

In most conditional discharge programs, the defendant may be placed on supervised or unsupervised probation. The defendant may also be required to undergo either inpatient or out patient drug counseling. A defendant who is accepted to a conditional discharge program must also pay some heavy fines. The defendant is required to pay a \$50 VCCB assessment, and a \$75 Safe Neighbor Services Fund assessment. Moreover, the defendant must pay a \$500 Drug Enforcement and Demand reduction penalty. Finally, the defendant will also have to pay a \$50 DARE penalty and a \$50 lab fee.

6. How can a Municipal Court drug offenses be expunged?

If the charges against the defendant are dismissed as a result of a conditional discharge, then the drug charges may be expunged after a waiting period of six months. In the event that a defendant wants to expunge a Municipal Court drug conviction then there is a five year waiting period to be eligible.

7. What are the financial considerations after being convicted of a municipal court drug offense?

The financial consequences for a Municipal Court drug offense are severe. The combinations of drug penalties, fees, and assessments

easily total several thousands of dollars. Moreover, a defendant could also lose his driver's license for a period of six months to two years. Moreover, you will have to pay a lawyer at least a retainer of \$750 to \$1000. Therefore, it is advisable to live a good clean life. I am certain that no type of recreational drug use will be worth the several thousand dollars that it will cost you to deal with a Municipal Court drug charge.