

**218A.1415 Possession of controlled substance in first degree -- Penalties.**

- (1) A person is guilty of possession of a controlled substance in the first degree when he or she knowingly and unlawfully possesses:
  - (a) A controlled substance that is classified in Schedules I or II and is a narcotic drug;
  - (b) A controlled substance analogue;
  - (c) Methamphetamine;
  - (d) Lysergic acid diethylamide;
  - (e) Phencyclidine;
  - (f) Gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers, and analogues; or
  - (g) Flunitrazepam, including its salts, isomers, and salts of isomers.
- (2) Possession of a controlled substance in the first degree is a Class D felony subject to the following provisions:
  - (a) The maximum term of incarceration shall be no greater than three (3) years, notwithstanding KRS Chapter 532;
  - (b) For a person's first or second offense under this section, he or she may be subject to a period of:
    1. Deferred prosecution pursuant to KRS 218A.14151; or
    2. Presumptive probation;
  - (c) Deferred prosecution under paragraph (b) of this subsection shall be the preferred alternative for a first offense; and
  - (d) If a person does not enter a deferred prosecution program for his or her first or second offense, he or she shall be subject to a period of presumptive probation, unless a court determines the defendant is not eligible for presumptive probation as defined in KRS 218A.010.

**Effective:** June 8, 2011

**History:** Amended 2011 Ky. Acts ch. 2, sec. 12, effective June 8, 2011. -- Amended 2002 Ky. Acts ch. 259, sec. 2, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 606, sec. 65, effective July 15, 1998. -- Created 1992 Ky. Acts ch. 441, sec. 15, effective July 14, 1992.