

Sec. X. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate marijuana in excess of the limit provided in subsection 4230h(a) of this title. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating marijuana in excess of the limit provided in section 4230h of this title shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit

to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces or more of marijuana or 10 grams or more of hashish or knowingly and unlawfully cultivating more than ~~three plants of marijuana~~ twice the limit provided in section 4230h of this title shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing one pound or more of marijuana or 2.8 ounces or more of hashish or knowingly and unlawfully cultivating more than ~~10 plants of marijuana~~ three times the limit provided in section 4230h of this title shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing 10 pounds or more of marijuana or one pound or more of hashish or knowingly and unlawfully cultivating more than ~~25 plants of marijuana~~ four times the limit provided in section 4230h of this title shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

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Sec. Y. 18 V.S.A. § 4230h is added to read:

§ 4230h. PERSONAL CULTIVATION; RESTRICTIONS; PENALTIES

(a)(1) Except as otherwise provided in this chapter, a person 21 years of age or older who possesses six or fewer marijuana plants, of which not more than three are mature female plants, shall not be penalized or sanctioned in any

manner by the State or any of its political subdivisions or denied any right or privilege under State law. Each dwelling unit shall be limited to six marijuana plants, of which not more than three may be mature female plants, regardless of how many persons 21 years or older reside in the dwelling unit.

(2) Any marijuana harvested from the plants allowed pursuant to subdivision (1) of this subsection shall not count toward the one ounce possession limit provided in section 4230a of this title provided it is in a secure indoor facility.

(3) As used in this section, “dwelling unit” means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(b) Personal cultivation of marijuana only may occur:

(1) outdoors on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property; and

(2) in an enclosure that is screened from public view.

(c) A violation of subsection (a) of this section shall be punished in accordance with subsection 4230(a) of this title.

(d) A violation of subsection (b) of this section shall be punished in accordance with subdivision 4230(a)(1)(A) of this title.