



Drug Crimes Subject to Departure¹ from Mandatory Minimum Sentencing under Proposed Legislation

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Section of Chapter 94C	Offense ¹
s. 32B(a)	Drug, Distribute Or Possess With Intent, Class C
s. 32(a)	Drug, Distribute Or Possess With Intent, Class A
s. 32A(a)	Drug, Distribute Or Possess With Intent, Class B
s. 32A(c)	Methamphetamine (c.94C s. 31, Class B(c)(2)), Distribute Or Possess With Intent
s. 32A(c)	Cocaine (c.94C s. 31 Class B(a)(4)), Distribute Or Possess With Intent
s. 32A(c)	Phencyclidine, Distribute Or Possess With Intent
s. 32E(a)(1)	Marijuana, Trafficking In - 50 To 100 Lbs
s. 32J	Drug Violation Near School/Park
s. 32J	Drug Violation Near School
s. 32A(b)	Drug, Distribute Or Possess With Intent, Class B, Subsq. Off.
s. 32B(b)	Drug, Distribute Or Possess With Intent, Class C, Subsq. Off.
s. 32E(a)(2)	Marijuana, Trafficking In - 100 To 2,000 Lbs
s. 32E(b)(1)	Cocaine (C.94C S. 31(a)(4)), Trafficking In - 14 To 28 G
s. 32E(b)(1)	Phenmetrazine, Trafficking In - 14 To 28 G
s. 32F(b)	Drug, Distribute Or Possess With Intent To Minor Class B
s. 32F(c)	Drug, Distribute Or Possess With Intent To Minor Class C
s. 32(b)	Drug, Distribute Or Possess With Intent, Class A, Subsq. Off.
s. 32A(d)	Methamphetamine (c.94C s. 31, Class B(c)(2)), Distribute Or Possess With Intent, Subsq. Off.
s. 32A(d)	Cocaine (c.94C s. 31 Class B(a)(4)), Distribute Or Possess With Intent, Subsq. Off.
s. 32A(d)	Phencyclidine, Distribute Or Possess With Intent, Subsq. Off.
s. 32E(a)(3)	Marijuana, Traffick In - 2,000 To 10,000 Lbs
s. 32E(b)(2)	Cocaine (C.94C S. 31(a)(4)), Traffick In - 28 To 100 G
s. 32E(b)(2)	Phenmetrazine, Traffick In - 28 To 100 G
s. 32E(c)(1)	Heroin/Morphine/Opium, Traffick In - 14 To 28 G
s. 32F(a)	Drug, Distribute Or Possess With Intent To Minor Class A
s. 32F(d)	Cocaine (c.94C s. 31(a)(4)), Distribute Or Possess With Intent, To Minor
s. 32K ³	Drug Funds, Induce Minor To Possess
s. 32K ³	Drug, Induce Minor To Distribute
s. 32E(a)(4)	Marijuana, Traffick In - 10,000 Or More Lbs
s. 32E(b)(3)	Cocaine (C.94C S. 31(a)(4)), Traffick In - 100 To 200 G
s. 32E(b)(3)	Phenmetrazine, Traffick In - 100 To 200 G
s. 32E(c)(2)	Heroin/Morphine/Opium, Traffick In - 28 To 100 G
s. 32E(c)(3)	Heroin/Morphine/Opium, Traffick In - 100 To 200 G
s. 32E(b)(4)	Cocaine (C.94C S. 31(a)(4)), Traffick In - 200 Or More G
s. 32E(b)(4)	Phenmetrazine, Traffick In - 200 G Or More
s. 32E(c)(4)	Heroin/Morphine/Opium, Traffick In - 200 Or More G

Notes:

¹ N.B. This chart does not reflect the substantive differences in criteria for departure among the many bills introduced this session.

² These descriptions are taken from the Master Drug List. (M.G.L. Ch. 94C, s. 31, <http://www.mass.gov/legis/laws/mgl/94c-31.htm>) The classes of drugs are generally as follows: Class A includes opiates and opium derivatives including morphine and heroin; Class B includes opium, cocaine, methamphetamine, phenmetrazine, phencyclidine and assorted opiates including methadone; Class C includes depressants and drugs with limited quantities of narcotics; Class D include marijuana and barbiturates; and Class E includes drugs with limited quantities of narcotics. Note that opium is often included with Class A drugs in the context of trafficking.

³ The listing for s. 32K in the Master Drug List does not include a mandatory minimum sentence, but the General Law indicates that there is one.

Penalty Type	Serious. Level	Length of Sentence			# of 2003 Commits ⁴	Model ⁵						
		Mand. Min.	County HOC	State Prison		<u>H. 813⁶</u> <u>S. 1064⁷</u>	<u>H. 683⁸</u>	<u>H. 682⁹</u>	<u>H. 938¹⁰</u>	<u>HD. 3324¹¹</u>	<u>HD. 3325¹²</u>	<u>S. 929¹³</u>
Felony	3	--	<2 1/2	<5	2	--	--	--	--	--	--	yes
Felony	4	--	<2 1/2	<10	129	--	yes	--	--	--	--	yes
Felony	4	--	<2 1/2	<10	130	--	--	--	--	--	--	yes
Felony	4	1	1 – 2 1/2	2 1/2 – 10	56	yes	yes	yes	yes	yes	yes	yes
Felony	4	1	1 – 2 1/2	2 1/2 – 10		yes	yes	yes	yes	yes	yes	yes
Felony	4	1	1 – 2 1/2	2 1/2 – 10		yes	yes	yes	yes	yes	yes	yes
Felony	4	1	1 – 2 1/2	2 1/2 – 15	2	yes	--	--	--	--	--	yes
Felony	4	2	2 – 2 1/2	2 1/2 – 15	68	yes	yes	yes	yes	yes	yes	yes
Felony	4	2	2 – 2 1/2	2 1/2 – 15		yes	yes	yes	yes	yes	yes	yes
Felony	5	3	--	3 – 10	23	yes	--	--	--	--	--	yes
Felony	5	2	2 – 2 1/2	2 1/2 – 10	--	yes	--	--	--	--	--	yes
Felony	5	3	--	3 – 15	1	yes	yes	yes	--	yes	yes	yes
Felony	5	3	--	3 – 15	93	yes	yes	yes	--	yes	yes	yes
Felony	5	3	--	3 – 15		yes	yes	yes	--	yes	yes	yes
Felony	5	3	--	3 – 15	1	yes	--	--	--	--	--	yes
Felony	5	2	2 – 2 1/2	2 1/2 – 15	--	yes	--	--	--	--	--	yes
Felony	6	5	--	5 – 15	11	yes	--	--	--	--	--	yes
Felony	6	5	--	5 – 15	19	yes	--	--	--	--	--	yes
Felony	6	5	--	5 – 15		yes	--	--	--	--	--	yes
Felony	6	5	--	5 – 15		yes	--	--	--	--	--	yes
Felony	6	5	--	5 – 15	--	yes	yes	yes	--	yes	yes	yes
Felony	6	5	--	5 – 20	79	yes	yes	yes	--	yes	yes	yes
Felony	6	5	--	5 – 20		yes	yes	yes	--	yes	yes	yes
Felony	6	5	--	5 – 20	8	yes	yes	yes	--	yes	yes	yes
Felony	6	5	--	5 – 15	--	yes	--	--	--	--	--	yes
Felony	6	5	--	5 – 15	1	yes	--	--	--	--	--	yes
Felony	6	5	--	5 – 15	--	yes	--	--	--	--	--	--
Felony	6	5	--	5 – 15		yes	--	--	--	--	--	--
Felony	7	10	--	10 – 15	11	yes	--	--	--	yes	yes	yes
Felony	7	10	--	10 – 20		yes	--	--	--	yes	yes	yes
Felony	7	10	--	10 – 20		yes	--	--	--	yes	yes	yes
Felony	7	7	--	7 – 20	8	yes	yes	yes	--	yes	yes	yes
Felony	7	10	--	10 – 20	1	yes	--	--	--	yes	yes	yes
Felony	8	15	--	15 – 20	7	yes	--	--	--	yes	yes	yes
Felony	8	15	--	15 – 20		yes	--	--	--	yes	yes	yes
Felony	8	15	--	15 – 20	--	yes	--	--	--	yes	yes	yes

Notes:

⁴ These data are taken from 2003 Court Commitments to the Massachusetts, Mass. Department of Correction, Sep. 2004. (<http://www.mass.gov/doc/pdfs/commit03.pdf>) These commitments are only to the Department of Correction facilities and do not include County House of Correction facilities.

⁵ Sentencing Guidelines Bill recommended by Mass. Sentencing Commission in 1996.

⁶ The primary sponsor of this bill is Rep. David Linsky (Natick).

⁷ This bill represents a refile of S. 219. The primary sponsor of this bill is Sen. Marian Walsh (Suffolk/Norfolk).

⁸ This bill represents a refile of the '03-'04 Sentencing Guidelines bill (H. 2750) proposed by legislators. The primary sponsor of this bill is Rep. A. Stephen Tobin (Quincy).

⁹ The primary sponsor of this bill is Rep. A. Stephen Tobin (Quincy).

¹⁰ '05-'06 legislative task force bill introduced by Rep. Michael Festa (Melrose).

¹¹ The primary sponsor of these bills is Rep. Michael Festa (Melrose). (HD. = House Docket).

¹² The primary sponsor of these bills is Rep. Michael Festa (Melrose). (HD. = House Docket). Differs from HD. 3324 in that it provides retroactive relief to those already serving sentences for drug offenses considered.

¹³ The primary sponsor of this bill is Sen. Cynthia Creem (Newton).