



California Senate Bill 73

Senate Bill 73 would repeal a number of California’s mandatory minimum drug sentences – allowing judges to grant probation or suspend sentences in each case. This bill also creates a “safety valve” exception to drug mandatory minimums for offenses involving minors. If passed, these reforms would be prospective only – they would not be retroactively applicable to people who have already been sentenced. **FAMM supports this bill.**

Primary Sponsor: Sen. Scott Wiener, Assemblymember David Chiu, Assemblymember Buffy Wicks

Status: This bill is not a law yet. To become law, it must be passed by the California Assembly and Senate and signed by the governor. We do not know if or when this bill may become law – many bills are introduced each year, and very few become law.

Section by Section Summary

Section 1: Amends Section 11370 of Health and Safety Code

- Allows courts to sentence people to probation or suspended sentences if they were convicted of the following offenses and have a prior conviction for a California drug felony offense or a similar drug felony offense at the federal level or in another state:
 - Possession of opiates, opium derivatives, depressants, cocaine base, mescaline, peyote, tetrahydrocannabinols, dronabinol, and any schedule 3, 4, or 5 narcotic without proper prescription (Section 11350 of the Health and Safety Code);
 - Mandatory minimum: 16 months, 2 years, or 3 years.
 - Possession or purchase for the purposes of sale of opiates, opium derivatives, depressants, cocaine base, mescaline, peyote, tetrahydrocannabinols, dronabinol and any schedule 3, 4, or 5 narcotic without a proper prescription (Section 11351 and Section 1135.5 of the Health and Safety Code);
 - Mandatory Minimum: 2, 3, or 4 years.
 - Transport, import into California, sell, furnish, administer or give away (and offer to do the previous actions) opiates, opium derivatives, depressants, cocaine base, mescaline, peyote, tetrahydrocannabinols, dronabinol, and any schedule 3, 4, or 5 narcotic without proper prescription (Section 11352 of Health and Safety Code);
 - Mandatory minimum: 3, 4, or 5 years.
 - Agrees, consents, negotiates, or in any manner offers to unlawfully sell, furnish, transport, administer or give opiates, opium derivatives, depressants, cocaine base, mescaline, peyote, tetrahydrocannabinols, dronabinol, and any schedule 3, 4, or 5 narcotic without a proper prescription (Section 11355 of Health and Safety Code);
 - Mandatory minimum: 16 months, 2 years, or 3 years.



- Plants, cultivates, harvests, dries, or processes peyote (Section 11363 of Health and Safety Code);
 - Mandatory incarceration but no minimum prescribed
- Opens or maintains any place for the purpose of unlawfully selling, giving away, or using opiates, opium derivatives, depressants, cocaine base, mescaline, peyote, tetrahydrocannabinols, dronabinol, and any schedule 3, 4, or 5 narcotic without a proper prescription (Section 11366 of Health and Safety Code);
 - Mandatory incarceration but no minimum prescribed
- Forges or alters a prescription or issues or utters an altered prescription or a prescription bearing a forged or fictitious signature for any narcotic drug, **or** obtains any narcotic drug by any forged, fictitious, or altered prescription, **or** possesses any narcotic drug secured by a forged, fictitious, or altered prescription (Section 11368 of Health and Safety Code);
 - Mandatory minimum: six months
- Safety valve: Grants judges the ability to grant probation “in an unusual case where the interests of justice would be best served” for the following offenses:
 - A person 18 or older who voluntarily solicits, introduces, encourages, or intimidates any minor with the intent that minor should commit a drug felony involving opiates, opium derivatives, depressants, cocaine base, mescaline, peyote, tetrahydrocannabinols, dronabinol, and any schedule 3, 4, or 5 narcotic without a proper prescription **or** hires, employs, or uses a minor unlawfully to transport, carry, sell, giveaway, prepare for sale, or peddle any such controlled substance **or** unlawfully sells, furnishes, administers, or gives the previous substances to a minor (Section 11353 of Health and Safety Code)
 - Mandatory minimum: 3, 6, or 9 years.
 - A person 18 years of age or over who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any cannabis, **or** unlawfully sells, or offers to sell, any cannabis to a minor, **or** furnishes, administers, or gives, or offers to furnish, administer, or gives any cannabis to a minor under 14 years of age, **or** induces a minor to use cannabis in violation of law (Section 11361 of Health and Safety Code)
 - Mandatory minimum: 3, 4, or 5 years.
 - A person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any cannabis to a minor 14 years of age or older in violation of law (Section 11361 of Health and Safety Code)
 - Mandatory minimum: 3, 4, or 5 years.

Section 2 and Section 3: Repeals and replaces Section 1203.07 of the Penal Code

- Allows courts to sentence people to probation and suspended sentences for the following offenses:
 - Possession with intent to sell, selling, or offering to sell 14.25 grams or more of heroin (11351 and 11352 of Health and Safety Code).
 - Mandatory minimum for possession with intent: 2 years, 3, or 4 years.
 - Mandatory minimum for sale: 3, 4, or 5 years.

- Possession of heroin for sale or for selling or offering heroin for sale, and the person has one or more prior convictions for possession for sale or for selling or offering controlled substances under 11351 and 11352.
 - Mandatory minimum for possession with intent: 2 years, 3, or 4 years.
 - Mandatory minimum for sale: 3, 4, or 5 years.
- Possession for sale of 14.25 grams or more of phencyclidine or any of its analogs; transporting for sale, importing for sale, or administering or offering or attempting to transport, import, or administer phencyclidine or its analogs; selling or offering to sell phencyclidine; manufacturing or offering to perform an act involving the manufacture of phencyclidine (11378.5, 11379.5, 11379.6 of Health and Safety Code).
 - Mandatory minimum for possession with intent: 3, 4, or 5 years
 - Mandatory minimum for trafficking: 3, 6, or 9 years
 - Mandatory minimum for manufacturing: 3, 5, or 7 years.
- Possession of piperidine, pyrrolidine, or morpholine, cyclohexanone with intent to manufacture phencyclidine or any of its analogs (11383 of Health and Safety Code).
 - Mandatory minimum: 16 months.
- Possession with intent to sell or sale of cocaine base, cocaine, or methamphetamine, and the person has one or more prior convictions of violating sections 11351, 11351.5, 11352, 11378, 11378.5, 11379, or 11379.5 of the Health and Safety Code.
 - Mandatory minimum for possession with intent of Cocaine or Cocaine Base: 2 years, 3, or 4 years.
 - Mandatory minimum for sale of Cocaine or Cocaine Base: 3, 4, or 5 years.
 - Mandatory minimum for possession with intent of Methamphetamine: 16 months, 2 years, or 3 years.
 - Mandatory minimum for sale of Methamphetamine: 2, 3, or 4 years.
- Safety valve: Allows judges to grant probation “in an unusual case where the interests of justice would be best served” for the following offenses:
 - Using, soliciting, inducing, encouraging, or intimidating a minor to act as an agent to manufacture, compound or sell most hallucinogens, stimulants (including methamphetamine), depressants, or “immediate precursors.”

Section 4

- Allows courts to sentence people to probation and suspended sentences for the following offenses
 - Possession for sale or selling a substance containing 28.5 grams or more of cocaine or cocaine base or possession for sale **or** selling 57 grams or more of a substance containing at least 5 grams of cocaine or cocaine base (11351 and 1351.5 of Health and Safety Code)
 - Mandatory Minimum: 2, 3, or 4 years.

- Possession for sale or selling 28.5 grams or more of methamphetamine **or** 57 grams or more of a substance containing methamphetamine (11378 and 11379 of Health and Safety Code).
 - Mandatory minimum for possession for sale: 16 months, 2 years, or 3 years.
 - Mandatory minimum for sale: 2, 3, or 4 years.
- Imports into the state, sells, furnishes, administers, or gives away phencyclidine **or** offers to do any of the previous acts or transport phencyclidine from one CA county to another noncontiguous county.
 - Mandatory minimum for sale: 2, 3, or 4 years
 - Mandatory minimum for transport to noncontiguous county: 3, 6, or 9 years.
- Manufactures, compounds, converts, produces, derives, processes or prepares methamphetamine, and the person has a prior conviction for a violation of Section 11378, 11379, 1379.6, 13380, 11382, or 11383 with respect to methamphetamine (11379.6 of Health and Safety Code)
 - Mandatory minimum: 3, 5, or 7 years.
- Agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer or give methamphetamine, and the person has a prior conviction for a violation of Section 11378, 11379, 1379.6, 13380, 11382, or 11383 with respect to methamphetamine (11382 of Health and Safety Code).
 - Mandatory Minimum: 16 months, 2 years, or 3 years
- Possession with intent to manufacture precursors of methamphetamine, and the person has a prior conviction for a violation of Section 11378, 11379, 1379.6, 13380, 11382, or 11383 with respect to methamphetamine.
 - Mandatory minimum: 2, 4, or 6 years.

Section 5

Adds certain drug offenses to the law that prohibits firearm possession until age 30 for an individual convicted of state drug offenses while a ward of the juvenile court.