

## Highlights – State Provisions Related to Methamphetamine Trafficking

*Please note that the nine (9) provisions highlighted on the following pages represent only a sample of state laws and regulations related to the trafficking of methamphetamine and other controlled substances. This document will be updated as we continue to conduct research on this topic.*

### California

**CAL. HEALTH & SAFETY § 11380.7 (West 2007)**

#### **Offenses Involving Controlled Substances Formerly Classified as Restricted Dangerous Drugs**

- Provides that a person convicted of trafficking in certain controlled substances (including methamphetamine), shall be imprisoned for an additional year if the violation occurs upon or within 1,000 foot of a drug treatment center, detoxification facility or homeless shelter; the one-year imprisonment is in addition to any punishment imposed for the conviction
- The court may take into consideration the following factors in making a decision to strike the additional punishment:
  - the defendant is homeless or is in a homeless shelter or transitional housing
  - the defendant lacks resources for the necessities of life
  - the defendant is addicted to controlled substances
  - the defendant's motive was merely to maintain a steady supply of drugs for personal use
  - the defendant was recruited or exploited by a more culpable person to commit the crime
- The following factors indicate the court should not exercise discretion to strike the additional punishment:
  - in committing the crime, the defendant preyed on homeless persons, drug addicts or substance abusers who were seeking treatment, shelter or transitional services
  - the defendant's primary motive was monetary compensation
  - the defendant induced others, particularly homeless persons, drug addicts and substance abusers, to become involved in trafficking

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### **Colorado**

#### **House Joint Resolution No. 1017**

#### **Adopted March 30, 2006**

- Resolution urges the President of the U.S. and the U.S. Secretary of State to engage the President of Mexico and the Mexican government in relation to methamphetamine trafficking
- Resolution urges that the U.S. and Mexico should form a partnership and engage in an aggressive effort to stop the illegal flow of methamphetamine into the U.S.
- Resolution urges U.S. Congressional committees to hold oversight hearings to determine the adequacy of U.S. law enforcement and U.S. diplomatic efforts to stop the flow of methamphetamine
- Resolution urges U.S. Congressional committees to probe the extent to which Mexico is cooperating with the U.S. in efforts to curb methamphetamine trafficking
- Resolution urges the U.S. Congress and the President of the U.S. to immediately enact laws that would substantially increase security on America's borders and in other ports of entry, with the purpose of obstructing trafficking of methamphetamine and pseudoephedrine from Mexico into the U.S.
- Resolution urges the U.S. Congress and the President of the U.S. to engage foreign nations that produce pseudoephedrine to ensure that no excess pseudoephedrine is sold to Mexico or other countries known to traffic pseudoephedrine

### **Delaware**

#### **DEL. CODE ANN. tit. 11, § 6712 (2007)**

#### **First Offender Boot Camp Diversion Program**

- Establishes that a person convicted of certain controlled substance violations, upon a guilty plea, may petition the court to defer further sentencing proceedings and divert the offender to a boot camp program
- Potentially eligible offenders include those convicted of trafficking in methamphetamines
- Persons may not be diverted the boot camp if they have previously been incarcerated as an adult for certain convictions, if the Attorney General's Office opposes the motion or if the appellant rejects the boot camp diversion offered as part of a plea agreement
- The supervised boot camp program shall include:
  - Placement in a facility that has a substances abuse treatment program for no less than 6 months;

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### **Delaware continued**

- The offender's compliance with the terms of a curfew;
- A requirement that the offender participate in substances abuse treatment, which shall include periodic, random urine testing; and
- Payment of the costs of prosecution and payment of a \$500 civil penalty to the Substance Abuse Rehabilitation, Education and Prevention Fund

### **Hawaii**

**HAW. REV. STAT. §§ 712-1240.7, 1240.8 and 1240.9 (2006)**

### **Methamphetamine Trafficking in the First Degree**

- Under Section 712-1240.7, a person commits the offense of methamphetamine trafficking in the first degree if the person knowingly
  - Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing methamphetamine or any of its salts, isomers, or salts of isomers;
  - Distributes one or more preparations, compounds, mixtures, or substances of an aggregate weight of one-eighth ounce or more containing methamphetamine or any of its salts, isomers, or salts of isomers;
  - Distributes methamphetamine in any amount to a minor; or
  - Manufactures methamphetamine in any amount
- Methamphetamine trafficking in the first degree is a class A felony for which a defendant shall be sentenced to an indeterminate term of imprisonment of twenty years, with a mandatory minimum term of imprisonments of no less than 2 years and no greater than 8 years and a fine not to exceed \$20,000
- Under 712-1240.8, a person commits the offense of methamphetamine trafficking in the second degree if the person knowingly distributes methamphetamine in any amount
- Methamphetamine trafficking in the second degree is a class B felony for which the defendant shall be sentenced to an indeterminate term of imprisonment of ten years with a mandatory minimum term of imprisonment of not less than 1 year and not greater than 4 years and a fine not to exceed \$10,000
- When a defendant is sentenced for methamphetamine trafficking, the court may order restitution or reimbursement to the State or another appropriate entity for costs incurred in any cleanup associated with the manufacture or distribution of methamphetamine AND to any other person injured as a result of the manufacture or distribution of methamphetamine

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### **Illinois**

**720 ILL. COMP. STAT. ANN. § 646/56 (West 2006)**

#### **Methamphetamine Trafficking**

- Any person who knowingly brings or causes to be brought into the State methamphetamine, anhydrous ammonia, or a methamphetamine precursor, for the purpose of manufacture or delivery of methamphetamine or with the intent to themselves manufacture or deliver methamphetamine, is guilty of methamphetamine trafficking
- A person convicted of methamphetamine trafficking shall be sentenced to a term of imprisonment based upon the amount of methamphetamine brought or caused to be brought into the State
- A person convicted of methamphetamine trafficking based upon a methamphetamine precursor shall be sentenced to a term of imprisonment based upon the amount of methamphetamine precursor brought or caused to be brought into the State

### **Kentucky**

**KY. REV. STAT. ANN. § 218A.1412 (West 2006)**

#### **Trafficking in Controlled Substances in First Degree; Penalties**

- A person is guilty of trafficking in a controlled substance in the first degree when he/she knowingly and unlawfully, traffics a controlled substance that contains any quantity of methamphetamine, including its salts, isomers and salts of isomers
- The first offense is a Class C felony and a second or subsequent offense is a Class B felony

### **Maryland**

**MD. CODE ANN., CRIM. LAW § 5-614 (West 2007)**

#### **Importer of Certain Controlled Dangerous Substances**

- Provides that is unlawful for a person to bring into the state any mixture containing 28 grams or more of methamphetamine (unless the person is authorized by law to possess the substance)

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### **New Jersey**

**N.J. STAT. ANN. § 2C:35-3 (West 2006)**

#### **Leader of Narcotics Trafficking Network**

- A person is designated as a leader of a narcotics trafficking network if he/she conspires with two or more other persons in a scheme or course of conduct to unlawfully manufacture, distribute, dispense, bring into or transport in this State methamphetamine (or another substance on the list enumerated in this statute)
- Leading a narcotics trafficking network is a crime in the first degree and upon conviction thereof, a person shall be sentenced to an ordinary term of life imprisonment, with the possibility of parole after serving 25 years
- Upon conviction, the court may also impose a fine of \$750,000 or five times the street value of the controlled dangerous substance involved (whichever is greater)
- It is not necessary, in prosecution of this crime, that the State prove that any intended profit was actually realized

### **Vermont**

**VT. STAT. ANN. tit. 18, § 4234a (2006)**

#### **Methamphetamine**

- A person knowingly and unlawfully possessing methamphetamine in an amount consisting of 300 grams or more of one or more preparations, compounds, mixtures or substances containing methamphetamine (with the intent to sell or dispense the methamphetamine) is guilty of trafficking and shall be imprisoned for not more than 30 years or fined no more than \$1,000,000
- There is a permissive inference that a person in possession of more than 300 grams of one or more preparations, compounds, mixtures or substances containing methamphetamine intends to sell or dispense the methamphetamine