

# 21 U.S.C. 844

On October 6, 2022, President Biden issued a presidential proclamation that **grants a pardon for federal convictions for simple marijuana possession.**

21 U.S.C. 844 makes it unlawful for any person to knowingly or intentionally possess marijuana. Any person convicted of violating 21 U.S.C. 844 may be sentenced to a term of imprisonment of not more than one year and shall be fined a minimum of \$1,000. The first offense is a misdemeanor. Second and third offenses can carry a felony sentence.

A subsequent offense carries a mandatory sentence of at least 15 days imprisonment, but not more than 2 years, and a fine of \$2,500. Additional subsequent offenses carry mandatory sentences of at least 90 days imprisonment, but not more than 3 years and a fine of \$5,000. Furthermore, upon conviction, an offender is required to pay the costs of the investigation and prosecution of the offense.

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- The proclamation **applies only to federal convictions under 21 U.S.C. 844 and as previously codified elsewhere under U.S. Code**
  - The proclamation **only applies to the offense of simple possession of marijuana**, not other offenses for which the individual may have been charged.
  - This means it does **not apply to conspiracy, distribution, possession with intent to distribute or any other charge involving marijuana.**
  - The proclamation also does **not apply to individuals convicted of possessing multiple different controlled substances in the same offense**, even if one of those substances was marijuana.
  - The proclamation **applies to possession charges before October 6, 2022**; it does not apply to the offense occurring after October 6, 2022.
  - The proclamation **does not apply to non-citizens without legal status at the time of their arrest.**

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The United States Department of Justice is in the process of preparing certificates of pardons to all impacted individuals to restore their political and civil rights.

According to the White House, no individual is currently in jail solely for a conviction of simple possession of marijuana, but thousands of individuals with prior convictions may be denied employment, housing or educational opportunities as a result of the conviction.

# KRS 218A.1422

In Kentucky, KRS 218A.1422 is the only statute on possession of marijuana and is a Class B misdemeanor, with a maximum penalty of 45 days.

- In 1992 KRS 218A.1422 statute was enacted and made possession a Class A Misdemeanor and set the maximum sentence at 90 days.
- In 2011 the statute was amended to its current form to make it a Class B Misdemeanor with a maximum sentence of 45 days. There is no enhancement for subsequent possession of marijuana convictions.



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# Application for Pardons and Commutations

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