

# Maryland State Commission on Criminal Sentencing Policy



## Guidelines Offenses with Non-Suspendable Mandatory Minimum Penalties

Last Updated February 2016

OFFENSE	SOURCE	TYPE	LEVEL	CAT	MAX	MIN
Assault Pistols <i>Use of assault pistol; magazine with a capacity of more than 20 rounds in the commission of a felony or crime of violence, 1<sup>st</sup> offense</i>	CR, §4-306(b)(2)	Person	Misd.	III	20Y	<b>5Y</b>
CDS and Paraphernalia <i>Unlawful distribution, manufacture, etc.; counterfeiting, etc.; manufacture, possession, etc., of certain equipment for illegal use; keeping common nuisance, Schedules I through V non-narcotics (e.g., amphetamines, marijuana, diazepam, MDMA under 750 grams, and Valium), and buprenorphine, subsequent</i>	CR, §5-607(b)	Drug	Felony	IV	5Y	<b>2Y<sup>1</sup></b>
CDS and Paraphernalia <i>Unlawful distribution, manufacture, etc.; counterfeiting, etc., manufacture, possession, etc., of certain equipment for illegal use; keeping common nuisance, narcotics and hallucinogenics (e.g., PCP, heroin, cocaine, LSD, oxycodone, and methadone), subsequent</i>	CR, §5-608(b) CR, §5-609(b) CR, §5-608(c) CR, §5-609(c) CR, §5-608(d) CR, §5-609(d)	Drug	Felony	IIIB	1 <sup>st</sup> = 20Y 2 <sup>nd</sup> = 25Y 3 <sup>rd</sup> = 40Y	<b>1<sup>st</sup> = 10Y<sup>1</sup></b> <b>2<sup>nd</sup> = 25Y<sup>1</sup></b> <b>3<sup>rd</sup> = 40Y<sup>1</sup></b>
CDS and Paraphernalia <i>Unlawful distribution, manufacture, etc.; counterfeiting, etc., manufacture, possession, etc., of certain equipment for illegal use; keeping common nuisance, MDMA (methylenedioxymethamphetamine), 750 grams or more, subsequent</i>	CR, §5-609(b) CR, §5-609(c) CR, §5-609(d)	Drug	Felony	IIIA	1 <sup>st</sup> = 20Y 2 <sup>nd</sup> = 25Y 3 <sup>rd</sup> = 40Y	<b>1<sup>st</sup> = 10Y<sup>1</sup></b> <b>2<sup>nd</sup> = 25Y<sup>1</sup></b> <b>3<sup>rd</sup> = 40Y<sup>1</sup></b>
CDS and Paraphernalia <i>Manufacture, distribute, dispense, or possess certain Schedule I through V non-narcotics, large amounts as specified in CR, §5-612</i>	CR, §5-612	Drug	Felony	IV	5Y	<b>5Y</b>
CDS and Paraphernalia <i>Manufacture, distribute, dispense, or possess certain Schedule I or II controlled dangerous substances, large amounts as specified in CR, §5-612</i>	CR, §5-612	Drug	Felony	IIIB	20Y	<b>5Y</b>
CDS and Paraphernalia <i>Drug distribution—drug kingpin</i>	CR, §5-613	Drug	Felony	II	40Y	<b>20Y</b>

<sup>1</sup>A court may depart from this proscribed mandatory minimum sentence if the court finds and states on the record that, giving due regard to the nature of the crime, the history and character of the defendant, and the defendant's chances of successful rehabilitation: (1) imposition of the mandatory minimum sentence would result in substantial injustice to the defendant; and (2) the mandatory minimum sentence is not necessary for the protection of the public.

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## Guidelines Offenses with Non-Suspendable Mandatory Minimum Penalties (continued)

OFFENSE	SOURCE	TYPE	LEVEL	CAT	MAX	MIN
CDS and Paraphernalia <i>Manufacture, distribute, or dispense controlled dangerous substances near schools or on school vehicles, subsequent</i>	CR, §5-627	Drug	Felony	IIIB	40Y	<b>5Y</b>
Crime of Violence (COV), 4 <sup>th</sup> conviction (after serving 3 separate terms of confinement as a result of separate convictions of any COV)	CR, §14-101(c)	Person	Felony	varies	LIFE	<b>LIFE</b>
Crime of Violence (COV), 3 <sup>rd</sup> conviction (after conviction of COV on 2 prior separate occasions and having served at least 1 term of confinement as a result of a COV conviction)	CR, §14-101(d)	Person	Felony	varies	varies	<b>25Y</b>
Crime of Violence (COV), 2 <sup>nd</sup> conviction (after conviction for prior occasion of COV and having served a term of confinement for prior COV conviction)	CR, §14-101(e)	Person	Felony	varies	varies	<b>10Y</b>
Sexual Crimes <i>Rape, 1<sup>st</sup> degree, adult offender with victim younger than 13 years old</i>	CR, §3-303(d)(4)	Person	Felony	I	LIFE without parole	<b>25Y</b>
Sexual Crimes <i>Sex offense, 1<sup>st</sup> degree, adult offender with victim younger than 13 years old</i>	CR, §3-305(d)(4)	Person	Felony	I	LIFE without parole	<b>25Y</b>
Sexual Crimes <i>Rape, 2<sup>nd</sup> degree, adult offender with victim younger than 13 years old</i>	CR, §3-304(c)(2)	Person	Felony	II	LIFE	<b>15Y</b>
Sexual Crimes <i>Sex offense, 2<sup>nd</sup> degree, adult offender with victim younger than 13 years old</i>	CR, §3-306(c)(2)	Person	Felony	II	LIFE	<b>15Y</b>
Weapons Crimes, In General <i>Possess, use, wear, carry, or transport a firearm in a drug offense, 1<sup>st</sup> offense</i>	CR, §5-621(c)	Person	Felony	III	20Y	<b>5Y</b>
Weapons Crimes, In General <i>Possess, use, wear, carry, or transport a firearm in a drug offense, subsequent</i>	CR, §5-621(c)	Person	Felony	III	20Y	<b>10Y</b>
Weapons Crimes, In General <i>Possess, use, wear, carry, or transport a firearm in a drug offense, 1<sup>st</sup> offense (if firearm is listed in CR, §4-301 or PS, §5-101, is a machine gun, or is equipped with a silencer)</i>	CR, §5-621(d)	Person	Felony	III	20Y	<b>5Y</b>



**Guidelines Offenses with Non-Suspendable Mandatory Minimum Penalties  
(continued)**

OFFENSE	SOURCE	TYPE	LEVEL	CAT	MAX	MIN
Weapons Crimes, In General <i>Possess, use, wear, carry, or transport a firearm in a drug offense, subsequent (if firearm is listed in CR, §4-301 or PS, §5-101, is a machine gun, or is equipped with a silencer)</i>	CR, §5-621(d)	Person	Felony	III	20Y	<b>20Y</b>
Weapons Crimes, In General <i>Possession of regulated firearm after having been convicted of a crime of violence or select drug crimes</i>	PS, §5-133(c) PS, §5-143 (penalty)	Person	Felony	V	15Y	<b>5Y<sup>2</sup></b>
Weapons Crimes, In General <i>Unlawful use of firearm in commission of felony or crime of violence, 1st offense</i>	CR, §4-204(c)(1)	Person	Misd.	III	20Y	<b>5Y</b>
Weapons Crimes, In General <i>Unlawful use of firearm in commission of felony or crime of violence, subsequent</i>	CR, §4-204(c)(2)	Person	Misd.	II	20Y	<b>5Y</b>

<sup>2</sup>At the time of the offense, if more than 5 years has elapsed since the person completed serving the sentence for the most recent conviction of a crime of violence or select drug crimes (including all imprisonment, mandatory supervision, probation, and parole), the imposition of the mandatory minimum sentence is within the discretion of the court.