

POSSESSION OF CANNABIS

If you are charged with Possession of Cannabis, the severity of your charge will greatly depend on the amount of cannabis that you are alleged to have had. In order to be convicted of Possession of Cannabis the state must prove the following:

1. That the accused possessed the substance;
2. That the substance was in fact cannabis; and
3. That the accused had knowledge of the presence of the substance.

To “possess” means to have personal charge of or exercise the right of ownership, management, or control over the thing possessed. Possession may be actual or constructive.

Actual possession means:

- a. the controlled substance is in the hand of or on the person, or
- b. the controlled substance is in a container in the hand of or on the person, or
- c. the controlled substance is so close as to be within ready reach and is under the control of the person.

Constructive possession means the controlled substance is:

1. In a place over which the accused has control; or in a place in which the accused has concealed it.

Mere proximity to a controlled substance is not sufficient to establish control over that controlled substance when it is not in a place over which the person has control.

In order to establish constructive possession of a controlled substance if the controlled substance is in a place over which the accused does not have control, the State must prove the accused had (1) control over the controlled substance and (2) knowledge that the controlled substance was within the accused person’s presence.

Possession may be joint, that is, two or more persons may jointly possess an article, exercising control over it. In that case, each of those persons is considered to be in possession of that article.

If a person has exclusive possession of a controlled substance, knowledge of its presence may be inferred or assumed.

If a person does not have exclusive possession of a controlled substance, knowledge of its presence may not be inferred or assumed.

If you have been charged with possession of Cannabis, you need to hire an attorney. Please contact our office to schedule your free confidential consultation.