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Georgia Controlled Substance Law

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Research Guides

Georgia Controlled Substance Law

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Introduction

Scope

The purpose of this online research guide is to assist attorneys who are not experienced in the criminal law field find resources to help them in controlled substance cases. This guide is not designed to be a comprehensive guide but instead should be considered a general overview of some of the major information needed.

About the Author

Paul Ghanouni is a third year student at Georgia State University's College of Law. He is creating this web research guide for an Advanced Legal Research course taught by Professor Nancy Johnson. This guide was last updated on November 15, 2005.

Disclaimer

Bibliographies on this Web site were prepared for educational purposes by law students as part of Nancy P. Johnson's Advanced Legal Research course. The Law Library does not guarantee the accuracy, completeness, or usefulness of any information provided. Thorough legal research requires a researcher to update materials from date of publication; please note the semester and year the bibliography was prepared.

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Primary Sources

Statutes

The statutes listed below is where the controlled substances statutes in Georgia can be found as well as a few noteworthy statutes(i.e. the ones people are typically charged with). The annotated versions are very helpful and can be found online on Lexis Nexis or Westlaw it can also be found in a law library which carries the Official Code of Georgia Annotated.

O.C.G.A. 16-13-1 thru 16-13-114 contains all of the Georgia Controlled Substance Statutes

The most common statutes for individuals to be charged under are:

O.C.G.A. 16-13-30	Purchase, possession, manufacture, distribution or sale of controlled substances
O.C.G.A. 16-13-31	Trafficking in illegal drugs
O.C.G.A. 16-13-32.2	Drug Related Objects
O.C.G.A. 16-13-75	Drugs to be kept in original container
O.C.G.A. 16-13-91	Intentional inhalation of model glue

Controlled substances fall into various classifications; these classifications are referred to as Schedules. The lower the Schedule number the more dangerous the drug is considered and the more restricted an individual's access to those substances is. The following statutes define what schedule each drug falls within:

O.C.G.A. 16-13-25	Schedule I
O.C.G.A. 16-13-26	Schedule II
O.C.G.A. 16-13-27	Schedule III
O.C.G.A. 16-13-28	Schedule IV
O.C.G.A. 16-13-29	Schedule V

Cases

This list of cases is not meant to be a comprehensive list of cases dealing with controlled substance law but is intended to be a guide to some of the major issues.

The following cases deal with search and seizure issues:

McCray v. State, 268 Ga. App. 84 (2004).	DRUG DOG - This case upholds the validity of evidence gained via a drug dog being walked around a vehicle at a traffic check point when the check point was set up for a legitimate purpose.
Hill v. State, 261 Ga. 377 (1991).	ENTRAPMENT - Defendant was about to show a prima facie case of entrapment which the state failed to rebut.
Peters v. State, 242 Ga. App. 816 (2000).	NERVOUSNESS NOT REASONABLE ARTICULABLE SUSPICION - Court held walking toward car in a hurried fashion and acting nervous when seeing police officers does not amount to reasonable articulable suspicion for a Terry stop.
State v. Cunningham, 246 Ga. App. 663 (2000).	AFTER CONCLUSION OF TRAFFIC STOP - Traffic stop is concluded when ticket is issued without more information to establish reasonable suspicion.

The following cases deal with issues of possession:

Green v. State, 260 Ga. 625 (1990).	SUBSTANCE IN BODILY FLUID - Presence of a substance in bodily fluid is not direct evidence of possession without more but it can be considered circumstantial evidence.
Scott v. State, 170 Ga. App. 409 (1984).	NO DEMINIMOUS AMOUNT - There is no minimum amount of a controlled substance in Georgia to constitute possession.
Ramsay v. State, 175 Ga. App. 97 (1985).	NO HEAD OF HOUSEHOLD PRESUMPTION - There is no longer a presumption that substances found in household belongs to the head of household.
Tabb v. State, 250 Ga. 317 (1982).	MULTIPLE OFFENSES - A person may be charged and convicted of possession of each controlled substance they possess.
Houston v. State, 180 Ga. App. 267 (1986).	INTENT TO DISTRIBUTE - Finding bills on the defendant's person which are consistent with the monetary amounts that the bags of drugs found on the defendant's person are usually sold for has evidentiary value to show intent to distribute.
Moore v. State, 155 Ga. App. 149 (1980).	FOUND IN AUTOMOBILE - Without any other evidence, drugs found in a car are presumed to belong to the owner and driver.
Castillo v. State, 166 Ga. App. 817 (1983).	EQUAL ACCESS IN AUTOMOBILE - The fact that others in the car had equal access to the item can override the presumption that it belonged solely to the owner and driver.

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Secondary Sources

Law Review Articles and Other Periodical Sources

Law Review Articles

This set of law review articles has general coverage of Georgia criminal law; included in them is various information regarding controlled substances.

John O. Cole & Bonnie K. Cole, *Article: Criminal Law and Criminal Procedure*, 55 Mercer L. Rev. 117, Fall 2003.

Franklin J. Hogue, Laura D. Hogue, & Marcus S. Henson, *Article: Criminal Law*, 53 Mercer L. Rev. 209, Fall 2001.
Franklin J. Hogue & Laura D. Hogue, *Survey Article: Criminal Law*, 51 Mercer L. Rev. 209, Fall 1999.
James P. Fleissner, *Survey Article: Criminal Law and Procedure: A Two-Year Survey*, 48 Mercer L. Rev. 219, Fall 1996.
Frank C. Mills, III, *Article: Criminal Law*, 46 Mercer L. Rev. 153 (1994).
Frank C. Mills, III, *Survey Article: Criminal Law*, 45 Mercer L. Rev. 134 (1993).

Books

The following books are useful general books on criminal law which also have specific information dealing with controlled substance law. The call numbers for these books at the Georgia State University Law Library are also included for easier locating.

Jack Goger, Daniel's Georgia Criminal Trial Practice (Thompson West) (2003).	KFG575.D36
Donald F. Samuel, Georgia Criminal Law Case Finder (Lexis Nexis Matthew Bender) (2004).	KFG561.A57
Jack Goger, Daniel's Georgia Handbook on Criminal Evidence (Thompson West) (2005).	KFG580.D35

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Computerized Research

Legal Research

Lexis Nexis and Westlaw are the most comprehensive computerized databases but can be more costly.

Georgia Statutes can also be looked up on the legislature's web site.

Other legal research resources include Loislaw and Findlaw.

Non-Legal Research

For other searches Google is a good resource to use.

For specifics on controlled substances and their effects see StreetDrugs.org.

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Interest Groups and Associations

Interest Groups

The following groups have information about substance abuse as well as information helpful regarding controlled substance cases:

The Georgia Association of Criminal Defense Lawyers includes links and forms which may be useful in preparing for a controlled substance case.
The National Association of Criminal Defense Lawyers has a section specifically geared towards state drug law reform. invention.

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