

## **Drug Possession in Michigan – Keeping it off your Record with 7411**

As a Criminal Defense Attorney in Ironwood, Michigan, handling Drug Possession Offenses, including Possession of Marijuana in the Western U.P. is part of my everyday routine. Sometimes, a person with whom I'm speaking has a vague, or general idea that a possession charge can be kept off of their record. Most often, the person will tell me that they've heard of some legal provision that will allow a drug crime to be taken "under advisement" or "come off" their record.

While that's partly true, the whole truth is even better. In many cases, especially in drug possession cases where a person has no prior drug possession convictions, it is usually possible to keep the entire matter from ever going on their record in the first place. This means that there is never anything which will need to "come off" their record later.

Many people are unaware that a conviction for any drug possession charge requires the Court to suspend a person's Driver's License. While there is some availability for a Restricted License in drug possession cases, the bigger point here is that all of that can be avoided, and there will be no license suspension, if the whole case is kept off a person's record in the first place.

The most common method by which a charge is kept off a person's record is known as a "7411". This actually refers to a statute (the technical term for a law) in Michigan's Public Health Code, formally known as MCL 333.7411. MCL stands for Michigan Compiled Laws, the formal title for Michigan's statutes (laws).

7411 is also known as a "deferral", which means, in a figurative manner of speaking, that a person, by arrangement with the Court, offers to plead guilty to a drug possession charge. The Court, by that same arrangement, essentially agrees to keep the whole charge and plea "secret".

The Judge, at sentencing, then tells the person how long they will serve on probation, and further advise them that if they complete that period of probation without any problems, the whole case will be dismissed and there will be no public record of it. The exact terms and length of any particular probation are up to the Judge, and depending on the charge, can range from non-reporting probation to monthly reporting probation with frequent drug and alcohol testing.

At the end of the probationary term, the Court may simply "run" a person's record to make sure they haven't been picked up for any new charges, and dismiss the case, or the Court can require the person to appear, in person, at a review hearing. If the person has not had any trouble, the Court will fulfill its promise and dismiss the whole case. If, on the other hand, the person "violates" that probation, the person will have to appear in Court. The Judge may (and very likely will), in addition to anything else, take the plea out of his or her desk drawer and send it in to the State Police so that it winds up on the person's criminal record.

There are other methods for keeping a conviction off of a person's record. One of those is known as HYTA and applies to crimes that occur between a person's 17<sup>th</sup> and 21<sup>st</sup> birthdays. There are also arrangements which, unlike a "7411", require a conviction to first be placed upon

a person's record, and after a probationary term, to be removed, or, as many people put it, to "come off".

So, in review, we have seen that the most common method to keep a drug possession charge off a person's record is the section "7411". To be eligible, a person must have no prior drug crimes on their record. Under the terms of a "7411", the whole case is more or less "shelved" while the person serves out a probationary period, which may or may not include reporting and/or testing. At the end of the period specified by the Judge, if the person has successfully completed the probationary term without any problems (i.e. new arrests or positive drug tests), then the whole case is dismissed and never shows up on their record.

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