

Bexar County Criminal Defense Attorney Explains Texas Drug Possession Laws

Bexar County criminal defense attorney Mario Del Prado provides an overview of Texas laws against drug possession.

Under the Controlled Substances Act (Health & Safety Code § 481.002), a drug is defined as:

- Any substance recognized as a drug in the *United States Pharmacopoeia*, the *Homeopathic Pharmacopoeia of the United States*, or the *National Formulary*;
- Any substance intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in people or animals;
- Any nonfood substance intended to affect the structure or any function of the body of a person or animal; or
- Any substance intended for use as a component of any of the preceding substances (not including devices or their components, parts, or accessories).

The Dangerous Drug Statute (Health & Safety Code § 483.001) regulates drugs that are not included in the Controlled Substances Act and that are unsafe for self-medication. These include any drug, including anabolic steroids or human growth hormones, or any device that states, “Caution: Federal law prohibits dispensing without prescription” or “Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.” These drugs are considered contraband if they are manufactured, sold, or possessed illegally; thus, they are subject to seizure and confiscation.

It is illegal to possess any listed substance. The Controlled Substances Act (Health & Safety Code § 481.002) defines “possession” as the actual care, custody, control, or management of the contraband.

To establish unlawful possession, the state must show that the defendant knowingly exercised care, custody, control, or management over the substance and knew that it was contraband. If the state establishes possession, the defendant then has the burden to prove that the possession was lawful. An example of a showing lawful possession is establishing that the drugs were possessed pursuant to a valid prescription.

If you or someone you know has been arrested for drug possession, get the help you need from experienced Bexar County criminal defense attorney Mario Del Prado at (210) 698-3533. The initial consultation is free of charge.