

## O.C.G.A. § 36-32-6

### Copy Citation

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**Official Code of Georgia Annotated   TITLE 36 Local Government (§§ 36-1-1 — 36-93-26)   Provisions Applicable to Municipal Corporations Only (Chs. 30 — 46)   CHAPTER 32 Municipal Courts (Arts. 1 — 3)   Article 1 General Provisions (§§ 36-32-1 — 36-32-13)**

### **36-32-6. Jurisdiction in marijuana possession cases; retention of fines and bond forfeitures; transfer of cases.**

- (a)** The municipal court of any municipality is granted jurisdiction to try and dispose of cases where a person is charged with the possession of one ounce or less of marijuana if the offense occurred within the corporate limits of such municipality. The jurisdiction of any such court shall be concurrent with the jurisdiction of any other courts within the county having jurisdiction to try and dispose of such cases.
- (b)** Any fines and bond forfeitures arising from the prosecution of such cases shall be retained by the municipality and shall be paid into the treasury of such municipality.
- (c)** Any defendant charged with possession of an ounce or less of marijuana in a municipal court shall be entitled on request to have the case against him or her transferred to the court having general misdemeanor jurisdiction in the county wherein the alleged offense occurred.
- (d)** Nothing in this Code section shall be construed to give any municipality the right to impose a fine or punish by imprisonment in excess of the limits as set forth in the municipality's charter.

## History

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Code 1981, § **36-32-6**, enacted by Ga. L. 1983, p. 825, § 1; Ga. L. 1987, p. 3, § 36; Ga. L. 1997, p. 1377, § 3; Ga. L. 2015, p. 693, § 3-32/HB 233.

### ▼ Annotations

#### Notes

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##### **Editor's notes.**

Ga. L. 1997, p. 1377, § 4, not codified by the General Assembly, provides that: "it is the intent of the General Assembly to restore the law of this state to that which was generally understood to be the law prior to the decision of the Court of Appeals in *Williams v. State*, 222 Ga. App. 698, Case No. A96A1472, decided August 20, 1996, such that possession of one ounce or less of marijuana is a misdemeanor and the provisions of Code Section **36-32-6** are applicable to such offenses."

Ga. L. 2015, p. 693, § 4-1/HB 233, not codified by the General Assembly, provides that: "This Act shall become effective on July 1, 2015, and shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure."

#### JUDICIAL DECISIONS

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##### **Discretionary nature of judge's decision. —**

Grant of writ of mandamus to the defendant was reversed because mandamus was not an allowable remedy since the opportunity for review via a writ of certiorari existed as to the municipal judge's decision as the municipal court's duty under O.C.G.A. § **36-32-6(c)** as to the defendant's marijuana possession was a discretionary act allowing the opportunity for review via a writ. *Schaeffer v. Kearney*, 355 Ga. App. 449, 844 S.E.2d 515, 2020 Ga. App. LEXIS 332 (2020).

## Research References & Practice Aids

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### **Cross references.**

Purchase, possession, manufacture, distribution, or sale of controlled substances or marijuana, § 16-13-30.

### **Law reviews.**

For article on the 2015 amendment of this Code section, see 32 Ga. St. U.L. Rev. 1 (2015).

### **Hierarchy Notes:**

O.C.G.A. Title 36

O.C.G.A. Title 36, Ch. 32

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