

SENATE BILL 502

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2003 Regular Session
3lr0653
CF 3lr1634

By: **Senators Hollinger, Brinkley, Britt, Brochin, Colburn, Conway, Currie,
Exum, Forehand, Garagiola, Gladden, Greenip, Grosfeld, Jones,
Kasemeyer, Kelley, Kittleman, Klausmeier, Pinsky, and Ruben**

Introduced and read first time: January 31, 2003

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Darrell Putman Medical Research Act**

3 FOR the purpose of establishing the Medical Marijuana Research Program in the
4 Board of Physician Quality Assurance; requiring the Board to adopt certain
5 regulations on or before a certain date; requiring the Board to admit certain
6 patients into the Program under certain circumstances; requiring the Board to
7 adopt certain regulations governing petitions to add eligible medical conditions;
8 requiring the Board to develop certain evaluation forms; requiring the Board to
9 issue participating patient cards with certain requirements; requiring the Board
10 to submit certain reports on or before certain dates; prohibiting the arrest,
11 prosecution, or penalties for a certain medical use of marijuana under certain
12 circumstances; extending certain protections to certain primary caregivers
13 under certain circumstances; prohibiting certain physicians who provide certain
14 certifications for the medical use of marijuana from being subject to arrest or
15 criminal prosecution or denied any right or privilege; prohibiting certain
16 property related to the medical use of marijuana from being treated in a certain
17 manner under certain circumstances; prohibiting the arrest or prosecution
18 solely for being in the presence or vicinity of the medical use of marijuana;
19 establishing a certain defense and presumption; providing that authorization for
20 the medical use of marijuana provided under this Act does not apply under
21 certain circumstances; providing that insurance coverage is not required for the
22 medical use of marijuana; providing that accommodation of medical use of
23 marijuana may not be required in any place of employment; prohibiting certain
24 fraudulent representations; establishing certain penalties; defining certain
25 terms; declaring the intent of the General Assembly; making the provisions of
26 this Act severable; and generally relating to the Medical Marijuana Research
27 Program.

28 BY adding to

29 Article - Health - General

30 Section 20-801 through 20-806, inclusive, to be under the new subtitle "Subtitle

31 8. Medical Marijuana Research Program"

32 Annotated Code of Maryland

1 (2000 Replacement Volume and 2002 Supplement)

2 BY repealing and reenacting, without amendments,

3 Article - Criminal Law

4 Section 5-601(a)

5 Annotated Code of Maryland

6 (2002 Volume)

7 BY adding to

8 Article - Criminal Law

9 Section 5-610

10 Annotated Code of Maryland

11 (2002 Volume)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Health - General**

15 **SUBTITLE 8. MEDICAL MARIJUANA RESEARCH PROGRAM.**

16 20-801.

17 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (B) "DEBILITATING MEDICAL CONDITION" HAS THE MEANING STATED IN §
20 5-610(A) OF THE CRIMINAL LAW ARTICLE.

21 (C) "MEDICAL MARIJUANA RESEARCH PROGRAM" HAS THE MEANING STATED
22 IN § 5-610(A) OF THE CRIMINAL LAW ARTICLE.

23 (D) "PARTICIPATING PATIENT" HAS THE MEANING STATED IN § 5-610(A) OF
24 THE CRIMINAL LAW ARTICLE.

25 (E) "PATIENT" HAS THE MEANING STATED IN § 5-610(A) OF THE CRIMINAL LAW
26 ARTICLE.

27 (F) "PHYSICIAN" HAS THE MEANING STATED IN § 5-610(A) OF THE CRIMINAL
28 LAW ARTICLE.

29 (G) "PRIMARY CAREGIVER" HAS THE MEANING STATED IN § 5-610(A) OF THE
30 CRIMINAL LAW ARTICLE.

31 (H) "PROGRAM PARTICIPATION CARDS" HAS THE MEANING STATED IN §
32 5-610(A) OF THE CRIMINAL LAW ARTICLE.

1 (I) "WRITTEN CERTIFICATION" HAS THE MEANING STATED IN § 5-610(A) OF
2 THE CRIMINAL LAW ARTICLE.

3 20-802.

4 (A) (1) THERE IS ESTABLISHED IN THE BOARD OF PHYSICIAN QUALITY
5 ASSURANCE THE MEDICAL MARIJUANA RESEARCH PROGRAM.

6 (2) THE PROGRAM SHALL BE ADMINISTERED BY THE BOARD.

7 (B) ON OR BEFORE JANUARY 1, 2004, THE BOARD SHALL ADOPT REGULATIONS
8 NECESSARY FOR THE PROPER ADMINISTRATION OF THE PROGRAM, INCLUDING THE
9 MANNER IN WHICH THE BOARD WILL CONSIDER APPLICATIONS FOR PROGRAM
10 PARTICIPATION CARDS AND FOR RENEWING PROGRAM PARTICIPATION CARDS FOR
11 PARTICIPATING PATIENTS AND PRIMARY CAREGIVERS.

12 20-803.

13 (A) SUBJECT TO REGULATIONS ADOPTED UNDER § 20-804(A) OF THIS
14 SUBTITLE, PARTICIPATION IN THE PROGRAM SHALL BE LIMITED TO PATIENTS WITH
15 A DEBILITATING MEDICAL CONDITION.

16 (B) THE BOARD SHALL ADMIT A PATIENT TO THE PROGRAM IF:

17 (1) THE PATIENT'S PHYSICIAN HAS SUBMITTED WRITTEN
18 CERTIFICATION ON THE PATIENT'S BEHALF;

19 (2) THE PATIENT AND THE PATIENT'S PHYSICIAN HAVE AGREED IN
20 WRITING TO JOINTLY COMPLETE PATIENT EVALUATION FORMS; AND

21 (3) THE PATIENT HAS PAID A REGISTRATION FEE, NOT TO EXCEED \$150
22 PER PATIENT.

23 (C) (1) THE BOARD SHALL VERIFY THE INFORMATION CONTAINED IN AN
24 APPLICATION SUBMITTED UNDER THIS SECTION, AND SHALL APPROVE OR DENY AN
25 APPLICATION WITHIN 30 DAYS AFTER RECEIPT OF THE APPLICATION.

26 (2) THE BOARD MAY DENY AN APPLICATION ONLY IF THE APPLICANT
27 DID NOT PROVIDE THE INFORMATION REQUIRED UNDER THIS SECTION, OR IF THE
28 BOARD DETERMINES THAT THE INFORMATION PROVIDED WAS FALSIFIED.

29 (3) AN INDIVIDUAL WHOSE APPLICATION HAS BEEN DENIED MAY NOT
30 REAPPLY FOR AT LEAST 6 MONTHS AFTER THE DATE OF THE DENIAL, UNLESS
31 AUTHORIZED TO DO SO BY THE BOARD OR A COURT OF COMPETENT JURISDICTION.

32 20-804.

33 (A) (1) ON OR BEFORE JANUARY 1, 2004, THE BOARD SHALL ADOPT
34 REGULATIONS GOVERNING THE MANNER IN WHICH IT WILL CONSIDER PETITIONS
35 SUBMITTED BY PHYSICIANS OR PATIENTS TO ADD DEBILITATING MEDICAL

1 CONDITIONS TO THOSE INCLUDED IN THE DEFINITION OF "DEBILITATING MEDICAL
2 CONDITION" STATED IN § 5-610(A) OF THE CRIMINAL LAW ARTICLE.

3 (2) (I) THE REGULATIONS SHALL REQUIRE THAT, IN CONSIDERING A
4 PETITION SUBMITTED BY A PHYSICIAN OR PATIENT, THE BOARD SHALL PROVIDE
5 PUBLIC NOTICE OF THE PETITION AND AN OPPORTUNITY TO COMMENT IN A PUBLIC
6 HEARING ON IT.

7 (II) AFTER THE PUBLIC HEARING, THE BOARD SHALL APPROVE OR
8 DENY A PETITION WITHIN 180 DAYS AFTER ITS SUBMISSION.

9 (III) THE APPROVAL OR DENIAL SHALL BE CONSIDERED A FINAL
10 ACTION BY THE BOARD, SUBJECT TO JUDICIAL REVIEW.

11 (B) (1) (I) THE BOARD SHALL DEVELOP PATIENT EVALUATION FORMS
12 FOR THE PURPOSE OF OBTAINING INFORMATION ON THE BASIC SAFETY, EFFICACY,
13 FREQUENCY, AND NATURE OF THE MEDICAL USE OF MARIJUANA BY PARTICIPATING
14 PATIENTS.

15 (II) THE FORMS SHALL BE DISTRIBUTED TO PARTICIPATING
16 PATIENTS, COMPLETED JOINTLY BY PARTICIPATING PATIENTS AND THEIR
17 PHYSICIANS, AND RETURNED TO THE BOARD.

18 (2) THE BOARD SHALL COMPILE AND ANALYZE DATA ON THE
19 COMPLETED FORMS AND REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE
20 GOVERNOR AND THE GENERAL ASSEMBLY REGARDING THE EFFECTIVENESS OF THE
21 PROGRAM.

22 20-805.

23 (A) THE BOARD SHALL ISSUE PROGRAM PARTICIPATION CARDS TO
24 PARTICIPATING PATIENTS, AND TO PRIMARY CAREGIVERS, IF ANY, WHO ENROLL IN
25 THE MEDICAL MARIJUANA RESEARCH PROGRAM.

26 (B) THE BOARD SHALL ISSUE A PROGRAM PARTICIPATION CARD WITHIN 5
27 DAYS AFTER APPROVING AN APPLICATION FOR PARTICIPATION IN THE PROGRAM.

28 (C) A PROGRAM PARTICIPATION CARD SHALL:

29 (1) EXPIRE 1 YEAR AFTER THE DATE OF ISSUANCE; AND

30 (2) CONTAIN:

31 (I) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE
32 PARTICIPATING PATIENT, AND OF THE PARTICIPATING PATIENT'S PRIMARY
33 CAREGIVER, IF ANY;

34 (II) THE DATE OF ISSUANCE AND EXPIRATION DATE OF THE
35 PROGRAM PARTICIPATION CARD; AND

1 (III) ANY OTHER INFORMATION THAT THE BOARD MAY SPECIFY IN
2 ITS REGULATIONS.

3 (D) (1) AN INDIVIDUAL WHO POSSESSES A PROGRAM PARTICIPATION CARD
4 SHALL NOTIFY THE BOARD OF ANY CHANGE IN:

5 (I) THE INDIVIDUAL'S NAME OR ADDRESS;

6 (II) THE PARTICIPATING PATIENT'S PHYSICIAN OR PRIMARY
7 CAREGIVER; OR

8 (III) THE STATUS OF THE PARTICIPATING PATIENT'S DEBILITATING
9 MEDICAL CONDITION.

10 (2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION
11 SHALL BE GIVEN WITHIN 10 DAYS AFTER THE OCCURRENCE OF A CHANGE
12 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

13 (3) IF NOTICE IS NOT GIVEN AS REQUIRED UNDER THIS SUBSECTION,
14 THE INDIVIDUAL'S PROGRAM PARTICIPATION CARD SHALL BE DEEMED NULL AND
15 VOID.

16 (E) IF THE PATIENT FAILS TO ADHERE TO THE REQUIREMENTS OF THE
17 PROGRAM, THE PATIENT'S PROGRAM PARTICIPATION CARD SHALL BE DEEMED NULL
18 AND VOID.

19 (F) THE POSSESSION OF OR APPLICATION FOR A PROGRAM PARTICIPATION
20 CARD DOES NOT, IN ITSELF, CONSTITUTE PROBABLE CAUSE TO SEARCH THE PERSON
21 OR PROPERTY OF AN INDIVIDUAL POSSESSING OR APPLYING FOR THE PROGRAM
22 PARTICIPATION CARD, OR OTHERWISE SUBJECT THE PERSON OR PROPERTY OF AN
23 INDIVIDUAL POSSESSING THE PROGRAM PARTICIPATION CARD TO INSPECTION BY
24 ANY GOVERNMENTAL AGENCY.

25 (G) (1) THE BOARD SHALL MAINTAIN A LIST OF THE INDIVIDUALS TO WHOM
26 THE BOARD HAS ISSUED PROGRAM PARTICIPATION CARDS.

27 (2) THE NAMES OF INDIVIDUALS ON THE LIST ARE CONFIDENTIAL AND
28 NOT SUBJECT TO DISCLOSURE EXCEPT TO:

29 (I) AUTHORIZED EMPLOYEES OF THE BOARD AS NECESSARY TO
30 PERFORM OFFICIAL DUTIES OF THE BOARD; OR

31 (II) AUTHORIZED EMPLOYEES OF STATE OR LOCAL LAW
32 ENFORCEMENT AGENCIES FOR THE PURPOSE OF VERIFYING THAT AN INDIVIDUAL
33 WHO IS ENGAGED IN THE SUSPECTED OR ALLEGED MEDICAL USE OF MARIJUANA IS
34 LAWFULLY IN POSSESSION OF A PROGRAM PARTICIPATION CARD.

1 20-806.

2 ON OR BEFORE DECEMBER 1, 2004, AND EVERY 2 YEARS THEREAFTER, THE
3 BOARD SHALL SUBMIT A REPORT OF ITS FINDINGS TO THE GOVERNOR AND, SUBJECT
4 TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

5 **Article - Criminal Law**

6 5-601.

7 (a) Except as otherwise provided in this title, a person may not:

8 (1) possess or administer to another a controlled dangerous substance,
9 unless obtained directly or by prescription or order from an authorized provider
10 acting in the course of professional practice; or

11 (2) obtain or attempt to obtain a controlled dangerous substance, or
12 procure or attempt to procure the administration of a controlled dangerous substance
13 by:

14 (i) fraud, deceit, misrepresentation, or subterfuge;

15 (ii) the counterfeiting or alteration of a prescription or a written
16 order;

17 (iii) the concealment of a material fact;

18 (iv) the use of a false name or address;

19 (v) falsely assuming the title of or representing to be a
20 manufacturer, distributor, or authorized provider; or

21 (vi) making, issuing, or presenting a false or counterfeit
22 prescription or written order.

23 5-610.

24 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

26 (2) "ADEQUATE SUPPLY" MEANS AN AMOUNT OF MARIJUANA
27 COLLECTIVELY POSSESSED BY A PARTICIPATING PATIENT AND THE PARTICIPATING
28 PATIENT'S PRIMARY CAREGIVER THAT:

29 (I) IS NOT MORE THAN IS REASONABLY NECESSARY TO ENSURE
30 THE UNINTERRUPTED AVAILABILITY OF MARIJUANA FOR THE PURPOSE OF
31 ALLEVIATING THE SYMPTOMS OR EFFECTS OF A PARTICIPATING PATIENT'S
32 DEBILITATING MEDICAL CONDITION; AND

1 (II) DOES NOT EXCEED THREE MATURE MARIJUANA PLANTS, FOUR
2 IMMATURE MARIJUANA PLANTS, AND 1 OUNCE OF USABLE MARIJUANA PER EACH
3 MATURE PLANT.

4 (3) "DEBILITATING MEDICAL CONDITION" MEANS:

5 (I) CANCER, GLAUCOMA, POSITIVE STATUS FOR HUMAN
6 IMMUNODEFICIENCY VIRUS, ACQUIRED IMMUNE DEFICIENCY SYNDROME, OR THE
7 TREATMENT OF THESE CONDITIONS;

8 (II) A CHRONIC OR DEBILITATING DISEASE OR MEDICAL
9 CONDITION, OR ITS TREATMENT, THAT PRODUCES ONE OR MORE OF THE
10 FOLLOWING:

11 1. CACHEXIA OR WASTING SYNDROME, SEVERE PAIN, OR
12 SEVERE NAUSEA; OR

13 2. SEVERE AND PERSISTENT MUSCLE SPASMS, INCLUDING
14 THOSE THAT ARE CHARACTERISTIC OF MULTIPLE SCLEROSIS OR CROHN'S DISEASE;
15 OR

16 (III) ANY OTHER MEDICAL CONDITION OR ITS TREATMENT
17 APPROVED BY THE BOARD OF PHYSICIAN QUALITY ASSURANCE UNDER ITS
18 AUTHORITY TO ADOPT REGULATIONS FOR CONSIDERING REQUESTS SUBMITTED BY
19 PHYSICIANS OR PATIENTS TO ADD DEBILITATING MEDICAL CONDITIONS TO THOSE
20 INCLUDED UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH.

21 (4) "MARIJUANA" INCLUDES MARIJUANA CONCENTRATE.

22 (5) "MEDICAL MARIJUANA RESEARCH PROGRAM" MEANS A PROGRAM
23 ADMINISTERED BY THE BOARD OF PHYSICIAN QUALITY ASSURANCE TO GATHER
24 INFORMATION ON THE BASIC SAFETY, EFFICACY, FREQUENCY, AND NATURE OF THE
25 MEDICAL USE OF MARIJUANA BY PARTICIPATING PATIENTS.

26 (6) "PARTICIPATING PATIENT" MEANS AN INDIVIDUAL WHO IS
27 ENROLLED IN THE MEDICAL MARIJUANA RESEARCH PROGRAM.

28 (7) "PATIENT" MEANS AN INDIVIDUAL WHO HAS BEEN DIAGNOSED WITH
29 A MEDICAL CONDITION BY A PHYSICIAN AND FOR WHOM THE POTENTIAL BENEFITS
30 OF THE MEDICAL USE OF MARIJUANA TO TREAT THE MEDICAL CONDITION WOULD
31 LIKELY OUTWEIGH THE HEALTH RISKS FOR THE INDIVIDUAL.

32 (8) "PATIENT EVALUATION FORM" MEANS A STANDARDIZED FORM
33 PROVIDED BY THE BOARD OF PHYSICIAN QUALITY ASSURANCE UPON WHICH A
34 PARTICIPATING PATIENT AND HIS OR HER PHYSICIAN DOCUMENT THE
35 PARTICIPATING PATIENT'S MEDICAL USE OF MARIJUANA.

36 (9) "PHYSICIAN" MEANS AN INDIVIDUAL WHO HAS A LICENSE TO
37 PRACTICE MEDICINE AND IS LICENSED TO PRESCRIBE DRUGS UNDER TITLE 14 OF
38 THE HEALTH OCCUPATIONS ARTICLE.

1 (10) "PRIMARY CAREGIVER" MEANS AN INDIVIDUAL, OTHER THAN THE
2 PARTICIPATING PATIENT AND THE PARTICIPATING PATIENT'S PHYSICIAN, WHO IS AT
3 LEAST 18 YEARS OLD AND HAS AGREED TO UNDERTAKE RESPONSIBILITY FOR
4 MANAGING THE WELL-BEING OF A PATIENT WITH RESPECT TO THE MEDICAL USE OF
5 MARIJUANA.

6 (11) "PROGRAM PARTICIPATION CARD" MEANS A DOCUMENT ISSUED BY
7 THE BOARD OF PHYSICIAN QUALITY ASSURANCE THAT IDENTIFIES AN INDIVIDUAL
8 AS A PARTICIPATING PATIENT OR PRIMARY CAREGIVER IN THE MEDICAL MARIJUANA
9 RESEARCH PROGRAM.

10 (12) (I) "USABLE MARIJUANA" MEANS THE DRIED LEAVES AND
11 FLOWERS OF A MARIJUANA PLANT, AND ANY MIXTURE OR PREPARATION OF THE
12 DRIED LEAVES AND FLOWERS, THAT ARE APPROPRIATE FOR THE MEDICAL USE OF
13 MARIJUANA.

14 (II) "USABLE MARIJUANA" DOES NOT INCLUDE THE SEEDS, STALKS,
15 AND ROOTS OF A MARIJUANA PLANT.

16 (13) "WRITTEN CERTIFICATION" MEANS A PATIENT'S MEDICAL RECORDS
17 OR A STATEMENT SIGNED BY A PATIENT'S PHYSICIAN STATING THAT, IN THE
18 PHYSICIAN'S PROFESSIONAL OPINION, AFTER HAVING COMPLETED A FULL
19 ASSESSMENT OF THE PATIENT'S MEDICAL HISTORY AND CURRENT MEDICAL
20 CONDITION MADE IN THE COURSE OF A BONA FIDE PHYSICIAN-PATIENT
21 RELATIONSHIP, THE PATIENT HAS A DEBILITATING MEDICAL CONDITION AND THE
22 POTENTIAL BENEFITS OF THE MEDICAL USE OF MARIJUANA WOULD LIKELY
23 OUTWEIGH THE HEALTH RISKS FOR THE PATIENT.

24 (B) (1) THE GENERAL ASSEMBLY FINDS THAT STATE LAW SHOULD MAKE A
25 DISTINCTION BETWEEN THE MEDICAL AND NONMEDICAL USE OF MARIJUANA.

26 (2) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ENSURE THAT:

27 (I) THERE IS FURTHER RESEARCH AND EXPERIMENTATION
28 REGARDING THE USE OF MARIJUANA UNDER CERTAIN CIRCUMSTANCES;

29 (II) PHYSICIANS ARE NOT PENALIZED FOR DISCUSSING
30 MARIJUANA AS A TREATMENT OPTION WITH THEIR PATIENTS; AND

31 (III) SERIOUSLY ILL INDIVIDUALS WHO ENGAGE IN THE MEDICAL
32 USE OF MARIJUANA ON THEIR PHYSICIANS' ADVICE ARE NOT ARRESTED AND
33 INCARCERATED FOR USING MARIJUANA FOR MEDICAL PURPOSES.

34 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY:

35 (1) A PATIENT WHO HAS IN THE PATIENT'S POSSESSION WRITTEN
36 CERTIFICATION OR A PROGRAM PARTICIPATION CARD ISSUED BY THE BOARD OF
37 PHYSICIAN QUALITY ASSURANCE MAY NOT BE SUBJECT TO ARREST OR
38 PROSECUTION, OR BE PENALIZED IN ANY MANNER, FOR THE MEDICAL USE OF

1 MARIJUANA, PROVIDED THE QUANTITY OF MARIJUANA DOES NOT EXCEED AN
2 ADEQUATE SUPPLY;

3 (2) WHEN THE ACQUISITION, POSSESSION, CULTIVATION,
4 TRANSPORTATION, OR ADMINISTRATION OF MARIJUANA BY A PARTICIPATING
5 PATIENT IS NOT PRACTICABLE, THE LEGAL PROTECTIONS ESTABLISHED BY THIS
6 SECTION FOR A PARTICIPATING PATIENT SHALL EXTEND TO THE PARTICIPATING
7 PATIENT'S PRIMARY CAREGIVER, PROVIDED THAT THE PRIMARY CAREGIVER'S
8 ACTIONS ARE NECESSARY FOR THE PARTICIPATING PATIENT'S MEDICAL USE OF
9 MARIJUANA; AND

10 (3) A PHYSICIAN MAY NOT BE SUBJECTED TO ARREST OR CRIMINAL
11 PROSECUTION, OR BE DENIED ANY RIGHT OR PRIVILEGE, FOR PROVIDING WRITTEN
12 CERTIFICATION FOR THE MEDICAL USE OF MARIJUANA TO PATIENTS.

13 (D) (1) ANY PROPERTY THAT IS POSSESSED, OWNED, OR USED IN
14 CONNECTION WITH THE MEDICAL USE OF MARIJUANA OR ACTS INCIDENTAL TO THE
15 MEDICAL USE OF MARIJUANA MAY NOT BE HARMED, NEGLECTED, INJURED, OR
16 DESTROYED WHILE IN THE POSSESSION OF STATE OR LOCAL LAW ENFORCEMENT
17 OFFICIALS, PROVIDED THAT LAW ENFORCEMENT AGENCIES SEIZING LIVE
18 MARIJUANA PLANTS AS EVIDENCE SHALL NOT BE RESPONSIBLE FOR THE CARE AND
19 MAINTENANCE OF THE PLANTS.

20 (2) ANY PROPERTY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION
21 MAY NOT BE FORFEITED UNDER ANY PROVISION OF STATE OR LOCAL LAW
22 PROVIDING FOR THE FORFEITURE OF PROPERTY OTHER THAN AS A SENTENCE
23 IMPOSED AFTER CONVICTION OF A CRIMINAL OFFENSE OR ENTRY OF A PLEA OF
24 GUILTY TO A CRIMINAL OFFENSE.

25 (3) MARIJUANA, PARAPHERNALIA, AND OTHER PROPERTY SEIZED IN
26 CONNECTION WITH THE CLAIMED MEDICAL USE OF MARIJUANA SHALL BE
27 RETURNED IMMEDIATELY ON THE DETERMINATION BY A COURT OR PROSECUTOR
28 THAT THE PATIENT OR PRIMARY CAREGIVER IS ENTITLED TO THE PROTECTIONS
29 CONTAINED IN THIS SECTION, AS MAY BE EVIDENCED BY A DECISION NOT TO
30 PROSECUTE, A DISMISSAL OF CHARGES, OR AN ACQUITTAL.

31 (E) AN INDIVIDUAL MAY NOT BE ARRESTED OR PROSECUTED FOR A CRIMINAL
32 OFFENSE SOLELY FOR BEING IN THE PRESENCE OR VICINITY OF THE MEDICAL USE
33 OF MARIJUANA.

34 (F) (1) A PATIENT OR PRIMARY CAREGIVER MAY ASSERT THE MEDICAL USE
35 OF MARIJUANA AS A DEFENSE TO ANY PROSECUTION INVOLVING MARIJUANA.

36 (2) THE DEFENSE SHALL BE PRESUMED VALID IF THE EVIDENCE SHOWS
37 THAT:

38 (I) THE PATIENT'S MEDICAL RECORDS INDICATE THAT, IN THE
39 PHYSICIAN'S PROFESSIONAL OPINION, AFTER HAVING COMPLETED A FULL MEDICAL
40 EXAMINATION MADE IN THE COURSE OF A BONA FIDE PHYSICIAN-PATIENT

1 RELATIONSHIP, THE POTENTIAL BENEFITS OF THE MEDICAL USE OF MARIJUANA
2 WOULD LIKELY OUTWEIGH THE HEALTH RISKS FOR THE PATIENT; AND

3 (II) THE PATIENT AND THE PATIENT'S PRIMARY CAREGIVER WERE
4 COLLECTIVELY IN POSSESSION OF A QUANTITY OF MARIJUANA THAT WAS
5 MEDICALLY JUSTIFIED TO ADDRESS THE PATIENT'S DEBILITATING MEDICAL
6 CONDITION.

7 (G) THE AUTHORIZATION FOR THE MEDICAL USE OF MARIJUANA UNDER THIS
8 SECTION DOES NOT APPLY TO:

9 (1) THE MEDICAL USE OF MARIJUANA IN A WAY THAT ENDANGERS THE
10 HEALTH OR WELL-BEING OF ANOTHER PERSON, SUCH AS DRIVING OR OPERATING
11 HEAVY MACHINERY WHILE UNDER THE INFLUENCE OF MARIJUANA;

12 (2) THE SMOKING OF MARIJUANA IN PUBLIC, INCLUDING ON PUBLIC
13 TRANSPORTATION; AND

14 (3) THE USE OF MARIJUANA BY A PARTICIPATING PATIENT, PRIMARY
15 CAREGIVER, OR ANY OTHER INDIVIDUAL FOR PURPOSES OTHER THAN MEDICAL USE
16 AUTHORIZED UNDER THIS SECTION.

17 (H) INSURANCE COVERAGE IS NOT REQUIRED FOR THE MEDICAL USE OF
18 MARIJUANA.

19 (I) THE ACCOMMODATION OF THE MEDICAL USE OF MARIJUANA MAY NOT BE
20 REQUIRED IN ANY PLACE OF EMPLOYMENT.

21 (J) (1) A PERSON MAY NOT MAKE A FRAUDULENT REPRESENTATION TO A
22 LAW ENFORCEMENT OFFICIAL OF ANY FACT OR CIRCUMSTANCE RELATING TO THE
23 MEDICAL USE OF MARIJUANA TO AVOID ARREST OR PROSECUTION.

24 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
25 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
26 EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

27 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
28 Act or the application thereof to any person or circumstance is held invalid for any
29 reason in a court of competent jurisdiction, the invalidity does not affect other
30 provisions or any other application of this Act which can be given effect without the
31 invalid provision or application, and for this purpose the provisions of this Act are
32 declared severable.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
34 effect October 1, 2003.