

HB0015/116786/1

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 15
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute “Medical Marijuana – Caregiver – Affirmative Defense”.

On pages 1 and 2, strike beginning with “authorizing” in line 3 on page 1 down through “system” in line 26 on page 2 and substitute “establishing that it is an affirmative defense to a prosecution for the possession of marijuana or the possession of certain drug paraphernalia that the marijuana or drug paraphernalia was intended for medical use by an individual with a certain debilitating medical condition for whom the defendant is a certain caregiver; prohibiting a certain defendant from asserting a certain affirmative defense unless, at least a certain number of days before trial, the defendant notifies the State’s Attorney of the defendant’s intention to assert the affirmative defense and provides the State’s Attorney with certain documentation; prohibiting a certain affirmative defense from being used under certain circumstances”.

On page 2, in line 26, after “defining” insert “a”; and in the same line, strike “terms” and substitute “term”.

On pages 2 and 3, strike in their entirety the lines beginning with line 33 on page 2 through line 28 on page 3, inclusive.

AMENDMENT NO. 2

On page 3, in line 33, strike the brackets; and in the same line, strike “**PARAGRAPH (2)**”.

On page 4, in line 6, strike the bracket; after line 10, insert:

(Over)

“3. “CAREGIVER” MEANS AN INDIVIDUAL DESIGNATED BY A PATIENT WITH A DEBILITATING MEDICAL CONDITION TO PROVIDE PHYSICAL OR MEDICAL ASSISTANCE TO THE PATIENT, INCLUDING ASSISTING WITH THE MEDICAL USE OF MARIJUANA, WHO:

A. IS A RESIDENT OF THE STATE;

B. IS AT LEAST 21 YEARS OLD;

C. IS AN IMMEDIATE FAMILY MEMBER, SPOUSE, OR DOMESTIC PARTNER OF THE PATIENT;

D. HAS NOT BEEN CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THIS ARTICLE;

E. HAS NOT BEEN CONVICTED OF A VIOLATION OF A STATE OR FEDERAL CONTROLLED DANGEROUS SUBSTANCES LAW;

F. HAS NOT BEEN CONVICTED OF A CRIME OF MORAL TURPITUDE;

G. HAS BEEN DESIGNATED AS CAREGIVER BY THE PATIENT IN A WRITING THAT HAS BEEN PLACED IN THE PATIENT’S MEDICAL RECORD PRIOR TO ARREST;

H. IS THE ONLY INDIVIDUAL DESIGNATED BY THE PATIENT TO SERVE AS CAREGIVER; AND

I. IS NOT SERVING AS CAREGIVER FOR ANY OTHER PATIENT.”;

and in line 11, strike “3.” and substitute “**4.**”.

On page 5, after line 7, insert:

“2. A. IN A PROSECUTION FOR THE POSSESSION OF MARIJUANA UNDER THIS SECTION, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT POSSESSED MARIJUANA BECAUSE THE MARIJUANA WAS INTENDED FOR MEDICAL USE BY AN INDIVIDUAL WITH A DEBILITATING MEDICAL CONDITION FOR WHOM THE DEFENDANT IS A CAREGIVER.

B. A DEFENDANT MAY NOT ASSERT THE AFFIRMATIVE DEFENSE UNDER THIS SUBSUBPARAGRAPH UNLESS, AT LEAST 30 DAYS BEFORE TRIAL, THE DEFENDANT NOTIFIES THE STATE’S ATTORNEY OF THE DEFENDANT’S INTENTION TO ASSERT THE AFFIRMATIVE DEFENSE AND PROVIDES THE STATE’S ATTORNEY WITH ALL DOCUMENTATION IN SUPPORT OF THE AFFIRMATIVE DEFENSE.”;

in line 8, strike “2.” and substitute “**3.**”; in the same line, strike “The” and substitute “**AN**”; in the same line, after “defense” insert “**UNDER THIS SUBPARAGRAPH**”; in line 10, after “place” insert “**OR ASSISTING THE INDIVIDUAL FOR WHOM THE DEFENDANT IS A CAREGIVER IN USING THE MARIJUANA IN A PUBLIC PLACE**”; in lines 11 and 28, in each instance, strike the bracket; and after line 32, insert:

“3. “CAREGIVER” MEANS AN INDIVIDUAL DESIGNATED BY A PATIENT WITH A DEBILITATING MEDICAL CONDITION TO PROVIDE PHYSICAL OR MEDICAL ASSISTANCE TO THE PATIENT INCLUDING ASSISTING WITH THE MEDICAL USE OF MARIJUANA, WHO:

(Over)

- A. IS A RESIDENT OF THE STATE;**
- B. IS AT LEAST 21 YEARS OLD;**
- C. IS AN IMMEDIATE FAMILY MEMBER, SPOUSE, OR DOMESTIC PARTNER OF THE PATIENT;**
- D. HAS NOT BEEN CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THIS ARTICLE;**
- E. HAS NOT BEEN CONVICTED OF A VIOLATION OF A STATE OR FEDERAL CONTROLLED DANGEROUS SUBSTANCES LAW;**
- F. HAS NOT BEEN CONVICTED OF A CRIME OF MORAL TURPITUDE;**
- G. HAS BEEN DESIGNATED AS CAREGIVER BY THE PATIENT IN A WRITING THAT HAS BEEN PLACED IN THE PATIENT’S MEDICAL RECORD PRIOR TO ARREST;**
- H. IS THE ONLY INDIVIDUAL DESIGNATED BY THE PATIENT TO SERVE AS CAREGIVER; AND**
- I. IS NOT SERVING AS CAREGIVER FOR ANY OTHER PATIENT.”.**

On page 6, in line 1, strike “3.” and substitute “4.”; after line 29, insert:

“2. A. IN A PROSECUTION UNDER THIS SUBSECTION INVOLVING DRUG PARAPHERNALIA RELATED TO MARIJUANA, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT POSSESSED DRUG PARAPHERNALIA RELATED TO MARIJUANA BECAUSE THE DRUG PARAPHERNALIA RELATED TO MARIJUANA WAS INTENDED FOR MEDICAL USE BY AN INDIVIDUAL WITH A DEBILITATING MEDICAL CONDITION FOR WHOM THE DEFENDANT IS A CAREGIVER.”

B. A DEFENDANT MAY NOT ASSERT THE AFFIRMATIVE DEFENSE UNDER THIS SUBSUBPARAGRAPH UNLESS, AT LEAST 30 DAYS BEFORE TRIAL, THE DEFENDANT NOTIFIES THE STATE’S ATTORNEY OF THE DEFENDANT’S INTENTION TO ASSERT THE AFFIRMATIVE DEFENSE AND PROVIDES THE STATE’S ATTORNEY WITH ALL DOCUMENTATION IN SUPPORT OF THE AFFIRMATIVE DEFENSE.”;

in line 30, strike “2.” and substitute “3.”; in the same line, strike “The” and substitute “AN”; in the same line, after “defense” insert “UNDER THIS SUBPARAGRAPH”; and in line 32, after “place” insert “OR ASSISTING THE INDIVIDUAL FOR WHOM THE DEFENDANT IS A CAREGIVER IN USING THE MARIJUANA IN A PUBLIC PLACE”.

On page 7, in line 1, strike the bracket.

AMENDMENT NO. 3

On pages 7 through 37, strike in their entirety the lines beginning with line 2 on page 7 through line 23 on page 37, inclusive.