

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 1340 (Delegate Valderrama)

Judiciary

Public Local Laws - Marijuana - Exceptions

This bill authorizes a county or municipal corporation to allow persons to possess and use marijuana for a medical condition by submitting such an enactment to a referendum of the voters of the county or municipal corporation. The bill requires the governing body and the appropriate election board or municipal election officials to do those things necessary to carry out the referendum held at a general or special election.

The bill's provisions are severable and contingent on the failure of House Bill 308.

Fiscal Summary

State Effect: The extent to which a public local law exception for medical marijuana use could obviate State law enforcement arrests, District Court trials, and imprisonment in Division of Correction facilities for crimes related to the possession and use of marijuana and its paraphernalia that would otherwise occur cannot be reliably predicted.

Local Effect: It is assumed that any county or municipal government could place the referendum on the ballot with existing resources in the next general election following the bill's October 1, 2000, effective date. The extent to which a public local law exception for medical marijuana use could obviate local law enforcement arrests, circuit court trials, and imprisonment in local facilities for crimes related to the possession and use of marijuana and its paraphernalia that would otherwise occur cannot be reliably predicted.

Small Business Effect: None.

Analysis

Current Law: Marijuana has been a Schedule I controlled dangerous substance under both State and federal drug prohibitions since 1970. Schedule I drugs are considered to have the highest potential for abuse and offenses involving these drugs are generally treated as more serious than those involving substances on the other four schedules. However, violators of prohibitions against simple possession or use of marijuana are subject to maximum misdemeanor penalties of a fine of \$1,000 and/or imprisonment for one year. Violations of provisions relating to the manufacture, sale, or distribution of Schedule I drugs are subject to more severe penalties.

Background: An oral form of marijuana's principal active ingredient, delta-9-tetrahydrocannabinol (THC), called dronabinol, is approved as a treatment for nausea and vomiting related to cancer chemotherapy. Dronabinol also is used to stimulate the appetite of AIDS patients.

The District of Columbia had a medical marijuana use initiative on the ballot in November, 1998, but a Congressional amendment on the appropriations bill for the District has kept the results of the vote from being counted or announced by the Board of Elections until recently. A federal judge ordered the results to be counted, certified, and released. The initiative was approved by 69% of the voters.

In addition, six states have passed medical marijuana laws. They are Alaska, Arizona, California, Nevada, Oregon, and Washington. Arizona and California voters approved medical marijuana laws in 1996. Voters in Alaska, Nevada, Oregon, and Washington approved laws in 1998. Arizona voters reaffirmed their medical marijuana law in 1998. Nevada voters must re-approve their proposal in the year 2000 before it can officially become law. In all, 23 states have some current statute relating to the medical use of marijuana. Virginia, Connecticut, Vermont, and New Hampshire are among the states that have authorized doctors to prescribe marijuana.

All of these laws are now dormant because they conflict with federal law, or are reliant on the federal government to supply the state with marijuana, and federal officials are no longer supplying marijuana to states. However, in the U.S. Congress, HR 912 ("Medical Use of Marijuana Act") has been introduced which would move marijuana from Schedule I to Schedule II under federal law, thereby making it legal for physicians to prescribe.

The statutes passed in Alaska, Oregon, Nevada, and Washington exempt patients from criminal penalties when they use marijuana under the supervision of a physician. In 1999, voters in Arizona reaffirmed a medical marijuana initiative passed two years ago, and rejected a legislative requirement banning physicians from prescribing marijuana until the

drug receives approval from the Food and Drug Administration.

The laws passed in Alaska and Oregon legalize the possession of specified amounts of medical marijuana to patients enrolled in a state identification program. Patients not enrolled in the program, but who possess marijuana under their doctor's supervision, may raise an affirmative defense of medical necessity against state criminal marijuana charges.

Washington state's new medical marijuana law allows patients to possess up to a 60-day supply of marijuana if they have authorization from their physician. The medical marijuana law for the District of Columbia is similar to that of Washington State.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction), State Board of Elections, Carroll County, Harford County, Prince George's County, Queen Anne's County, Department of Legislative Services

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