Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 308 (Delegate Murphy, *et al.*)
Judiciary

Marijuana - Exceptions for Compassionate Use

This bill provides medical use exceptions to prohibitions against the use of marijuana.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provision. The extent to which this bill 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: Potential minimal increase in revenues and expenditures due to the bill's penalty provisions. The extent to which this bill 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

Bill Summary: This bill allows a person with a "debilitating medical condition" and with written medical documentation to possess and use marijuana and related drug paraphernalia. The bill also provides the circumstances under which a caregiver for such a person is extended the same legal protections. The bill allows physicians to recommend marijuana, and provides a certain immunity to physicians with eligible patients. The bill establishes a related legal defense and presumption.

The bill prohibits accommodation for marijuana use from being required in places of

employment. Health insurers are not liable for reimbursement for medical marijuana use. Persons are prohibited from making fraudulent representations to law enforcement officers, to avoid arrest or prosecution, regarding medical marijuana use.

Violators of these provisions are guilty of a misdemeanor and subject to maximum penalties of a fine of $1,000 and/or imprisonment for one year. The bill's provisions are severable.

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.

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 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.

Seven 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, twenty-three 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. State law in Nevada requires voters to re-approve medical marijuana again in the year 2000 before the measure can officially become law.

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.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2001 are estimated to range from $11 to $54 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at $1,700 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. The average variable cost of housing a new DOC inmate (food, medical care, etc.), excluding overhead, is $260 per month.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from $22 to $83 per inmate in fiscal 2001.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene (Alcohol and Drug Abuse Administration, Community Public Health Administration), Department of Public Safety and Correctional Services (Division of Correction), Office of State's Attorneys' Coordinator, Department of Legislative Services

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