

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 1446
Judiciary

Delegate Murphy)

Crimes - Physicians - Medical Marijuana - Penalties

This bill makes it a misdemeanor for a physician to recommend the use of marijuana for medical purposes if the patient is subsequently charged with the unlawful possession of marijuana. Violators are subject to maximum penalties of a fine of \$1,000 and/or imprisonment for one year.

Fiscal Summary

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

Local Effect: Potential minimal increase in expenditures due to the bill's incarceration penalty provision. Revenues would not be affected.

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.

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.

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.

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.

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 2002 are estimated to range from \$9 to \$52 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. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$288 per month.

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 \$17 to \$77 per inmate in fiscal 2002.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

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