

HOUSE BILL 702

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2003 Regular Session
3lr1634
CF 3lr0653

By: **Delegates Morhaim, Redmer, Anderson, Barve, Bates, Bobo, Boteler, Boutin, Bromwell, Bronrott, Cardin, Carter, G. Clagett, V. Clagett, C. Davis, Dumais, Dwyer, Feldman, Frank, Fulton, Goldwater, Gordon, Griffith, Gutierrez, Hammen, Heller, Hixson, Hogan, Hurson, Hutchins, Kach, Kirk, Krysiak, Lee, Madaleno, Mandel, Marriott, McComas, McHale, McIntosh, Menes, Minnick, Murray, Nathan-Pulliam, Niemann, Oaks, Paige, Pendergrass, Rosenberg, Ross, Rzepkowski, Simmons, Smigiel, F. Turner, Weldon, and Zirkin**

Introduced and read first time: February 7, 2003
Assigned to: Judiciary

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

1 Article - Health - General
2 Section 20-801 through 20-806, inclusive, to be under the new subtitle "Subtitle
3 8. Medical Marijuana Research Program"
4 Annotated Code of Maryland
5 (2000 Replacement Volume and 2002 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article - Criminal Law
8 Section 5-601(a)
9 Annotated Code of Maryland
10 (2002 Volume)

11 BY adding to
12 Article - Criminal Law
13 Section 5-610
14 Annotated Code of Maryland
15 (2002 Volume)

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

18 **Article - Health - General**

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

20 20-801.

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (B) "DEBILITATING MEDICAL CONDITION" HAS THE MEANING STATED IN §
24 5-610(A) OF THE CRIMINAL LAW ARTICLE.

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

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

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

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

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

1 (H) "PROGRAM PARTICIPATION CARDS" HAS THE MEANING STATED IN §
2 5-610(A) OF THE CRIMINAL LAW ARTICLE.

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

5 20-802.

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

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

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

14 20-803.

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

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

19 (1) THE PATIENT'S PHYSICIAN HAS SUBMITTED WRITTEN
20 CERTIFICATION ON THE PATIENT'S BEHALF;

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

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

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

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

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

1 20-804.

2 (A) (1) ON OR BEFORE JANUARY 1, 2004, THE BOARD SHALL ADOPT
3 REGULATIONS GOVERNING THE MANNER IN WHICH IT WILL CONSIDER PETITIONS
4 SUBMITTED BY PHYSICIANS OR PATIENTS TO ADD DEBILITATING MEDICAL
5 CONDITIONS TO THOSE INCLUDED IN THE DEFINITION OF "DEBILITATING MEDICAL
6 CONDITION" STATED IN § 5-610(A) OF THE CRIMINAL LAW ARTICLE.

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

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

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

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

19 (II) THE FORMS SHALL BE DISTRIBUTED TO PARTICIPATING
20 PATIENTS, COMPLETED JOINTLY BY PARTICIPATING PATIENTS AND THEIR
21 PHYSICIANS, AND RETURNED TO THE BOARD.

22 (2) THE BOARD SHALL COMPILE AND ANALYZE DATA ON THE
23 COMPLETED FORMS AND REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE
24 GOVERNOR AND THE GENERAL ASSEMBLY REGARDING THE EFFECTIVENESS OF THE
25 PROGRAM.

26 20-805.

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

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

32 (C) A PROGRAM PARTICIPATION CARD SHALL:

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

34 (2) CONTAIN:

1 (I) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE
2 PARTICIPATING PATIENT, AND OF THE PARTICIPATING PATIENT'S PRIMARY
3 CAREGIVER, IF ANY;

4 (II) THE DATE OF ISSUANCE AND EXPIRATION DATE OF THE
5 PROGRAM PARTICIPATION CARD; AND

6 (III) ANY OTHER INFORMATION THAT THE BOARD MAY SPECIFY IN
7 ITS REGULATIONS.

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

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

11 (II) THE PARTICIPATING PATIENT'S PHYSICIAN OR PRIMARY
12 CAREGIVER; OR

13 (III) THE STATUS OF THE PARTICIPATING PATIENT'S DEBILITATING
14 MEDICAL CONDITION.

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

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

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

24 (F) THE POSSESSION OF OR APPLICATION FOR A PROGRAM PARTICIPATION
25 CARD DOES NOT, IN ITSELF, CONSTITUTE PROBABLE CAUSE TO SEARCH THE PERSON
26 OR PROPERTY OF AN INDIVIDUAL POSSESSING OR APPLYING FOR THE PROGRAM
27 PARTICIPATION CARD, OR OTHERWISE SUBJECT THE PERSON OR PROPERTY OF AN
28 INDIVIDUAL POSSESSING THE PROGRAM PARTICIPATION CARD TO INSPECTION BY
29 ANY GOVERNMENTAL AGENCY.

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

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

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

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

5 20-806.

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

9 **Article - Criminal Law**

10 5-601.

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

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

15 (2) obtain or attempt to obtain a controlled dangerous substance, or
16 procure or attempt to procure the administration of a controlled dangerous substance
17 by:

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

19 (ii) the counterfeiting or alteration of a prescription or a written
20 order;

21 (iii) the concealment of a material fact;

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

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

25 (vi) making, issuing, or presenting a false or counterfeit
26 prescription or written order.

27 5-610.

28 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.

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

33 (I) IS NOT MORE THAN IS REASONABLY NECESSARY TO ENSURE
34 THE UNINTERRUPTED AVAILABILITY OF MARIJUANA FOR THE PURPOSE OF

1 ALLEVIATING THE SYMPTOMS OR EFFECTS OF A PARTICIPATING PATIENT'S
2 DEBILITATING MEDICAL CONDITION; AND

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

6 (3) "DEBILITATING MEDICAL CONDITION" MEANS:

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

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

13 1. CACHEXIA OR WASTING SYNDROME, SEVERE PAIN, OR
14 SEVERE NAUSEA; OR

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

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

23 (4) "MARIJUANA" INCLUDES MARIJUANA CONCENTRATE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (1) A PATIENT WHO HAS IN THE PATIENT'S POSSESSION WRITTEN
2 CERTIFICATION OR A PROGRAM PARTICIPATION CARD ISSUED BY THE BOARD OF
3 PHYSICIAN QUALITY ASSURANCE MAY NOT BE SUBJECT TO ARREST OR
4 PROSECUTION, OR BE PENALIZED IN ANY MANNER, FOR THE MEDICAL USE OF
5 MARIJUANA, PROVIDED THE QUANTITY OF MARIJUANA DOES NOT EXCEED AN
6 ADEQUATE SUPPLY;

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

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

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

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

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

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

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

40 (2) THE DEFENSE SHALL BE PRESUMED VALID IF THE EVIDENCE SHOWS
41 THAT:

1 (I) THE PATIENT'S MEDICAL RECORDS INDICATE THAT, IN THE
2 PHYSICIAN'S PROFESSIONAL OPINION, AFTER HAVING COMPLETED A FULL MEDICAL
3 EXAMINATION MADE IN THE COURSE OF A BONA FIDE PHYSICIAN-PATIENT
4 RELATIONSHIP, THE POTENTIAL BENEFITS OF THE MEDICAL USE OF MARIJUANA
5 WOULD LIKELY OUTWEIGH THE HEALTH RISKS FOR THE PATIENT; AND

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

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

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

15 (2) THE SMOKING OF MARIJUANA IN PUBLIC, INCLUDING ON PUBLIC
16 TRANSPORTATION; AND

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

20 (H) INSURANCE COVERAGE IS NOT REQUIRED FOR THE MEDICAL USE OF
21 MARIJUANA.

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

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

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

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

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