
A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. (a) The attorney general shall coordinate a
3 review of the impact that diversion of minor drug possession
4 offenders into drug treatment would have on the criminal justice
5 system, drug treatment program resources, and public safety.

6 For purposes of this review:

7 (1) "Diversion" means placement of the offender into drug
8 treatment either in lieu of charging the offender or
9 allowing the offender to plead to a misdemeanor and be
10 placed in treatment in lieu of imprisonment; and

11 (2) "Minor drug possession offenders" means those accused
12 of felony marijuana possession offenses of any grade
13 and class B or C felony possession offenses involving
14 other drugs.

15 (b) The review required by subsection (a) shall address
16 the following issues:



1 (1) The number of offenders that could be diverted if
2 diversion occurred before charging and the number that
3 could be diverted post-charging;

4 (2) The effect of diversion on law enforcement,
5 prosecution, judicial, and correctional resources;

6 (3) The type, cost, and availability of treatment services
7 that would be needed under a diversion program; and

8 (4) The impact on public safety of diverting minor drug
9 possession offenders and whether the impact could be
10 reduced by, for example, excluding offenders with a
11 history of violent offenses.

12 (c) The attorney general shall conduct the review required
13 by subsection (a) in consultation with and using the problem-
14 solving abilities of a broad range of public and private
15 stakeholders, including:

16 (1) Police;

17 (2) Prosecutors;

18 (3) Judges and other court officials;

19 (4) Corrections administrators;

20 (5) Public health experts;

21 (6) Drug treatment providers;

22 (7) Legal service providers;



- 1 (8) A representative of the office of the public defender;
- 2 (9) A representative of the American Civil Liberties Union
- 3 of Hawaii;
- 4 (10) A representative of a community advocacy group with at
- 5 least fifteen years of experience, research, and
- 6 statistical data to provide to the attorney general;
- 7 and
- 8 (11) A criminologist or researcher who can analyze the most
- 9 current statistical data.

10 SECTION 2. The attorney general shall submit a report of
11 findings and recommendations regarding the review required by
12 this Act no later than twenty days prior to the convening of the
13 regular session of 2010.

14 PART II

15 SECTION 3. (a) There is established within the department
16 of public safety for administrative purposes a medical marijuana
17 task force. The purpose of the medical marijuana task force
18 shall be to review issues relating to the medical marijuana
19 program. The director of public safety shall be responsible for
20 administering the work of the medical marijuana task force and
21 submitting a report to the legislature. The medical marijuana
22 task force shall:



1 (1) Examine current state statutes, state administrative
2 rules, and all county policies and procedures relating
3 to the medical marijuana program;

4 (2) Examine all issues and obstacles that qualifying
5 patients have encountered with the medical marijuana
6 program;

7 (3) Examine all issue and obstacles that state and county
8 law enforcement agencies have encountered with the
9 medical marijuana program;

10 (4) Compare and contrast Hawaii's medical marijuana
11 program with all other state medical marijuana
12 programs; and

13 (5) Address other issues and perform any other function
14 necessary as the task force deems appropriate,
15 relating to the medical marijuana program.

16 (b) The members of the medical marijuana task force shall
17 consist of eight members as follows:

18 (1) The director of public safety or the director's
19 designee;

20 (2) The director of health or the director's designee;

21 (3) The director of transportation or the director's
22 designee;



- 1 (4) The attorney general or the attorney general's
- 2 designee;
- 3 (5) The president of the Hawaii State Bar Association or
- 4 the president's designee;
- 5 (6) The president of the Drug Policy Forum of Hawaii or
- 6 the president's designee;
- 7 (7) One patient advocate to be appointed by the governor;
- 8 and
- 9 (8) A prescribing physician as designated by the board of
- 10 medical examiners established under chapter 453,
- 11 Hawaii Revised Statutes.

12 (c) The medical marijuana task force shall submit a report

13 of its findings and recommendations, including any proposed

14 legislation and rules, no later than twenty days prior to the

15 convening of the regular session of 2010.

16 (d) The medical marijuana task force shall cease to exist

17 on June 30, 2010.

18 PART III

19 SECTION 4. (a) The legislature finds that salvia

20 divinorum, otherwise known as "diviner's sage" or "magic mint,"

21 is not regulated in Hawaii. The legislature further notes that

22 several countries, such as Australia, Belgium, Denmark, Estonia,



1 Finland, Italy, Japan, Spain, and Sweden have passed regulatory
2 laws on salvia divinorum or its primary psychoactive
3 constituent, salvinorin A. In the United States, California,
4 Delaware, Florida, Illinois, Iowa, Kansas, Louisiana, Maine,
5 Michigan, Mississippi, Missouri, New Jersey, North Dakota, Ohio,
6 Oklahoma, Pennsylvania, South Carolina, Tennessee, and Virginia
7 regulate salvia divinorum, with approaches ranging from
8 classification as a Schedule I controlled substance to placing
9 restrictions on its sale. The legislature finds that possible
10 regulation of salvia divinorum and its primary psychoactive
11 constituent, salvinorin A, is worthy of formal examination by
12 the State.

13 (b) There is established within the department of public
14 safety for administrative purposes a salvia divinorum task
15 force. The purpose of the salvia divinorum task force shall be
16 to review the effects of salvia divinorum and its primary
17 psychoactive constituent, salvinorin A. The director of public
18 safety shall be responsible for administering the work of the
19 salvia divinorum task force and submitting a report to the
20 legislature. The salvia divinorum task force shall:

21 (1) Research the uses and effects of salvia divinorum and
22 salvinorin A on adults and minors;



- 1 (2) Research all other states' legislation relating to
- 2 salvia divinorum and salvinorin A;
- 3 (3) Recommend appropriate legislation resulting from its
- 4 findings to address the sale and use of salvia
- 5 divinorum and salvinorin A in Hawaii; and
- 6 (4) Address other issues and perform any other function
- 7 necessary as the task force deems appropriate,
- 8 relating to salvia divinorum or salvinorin A.
- 9 (c) The members of the salvia divinorum task force shall
- 10 consist of the following members:
- 11 (1) The director of public safety or the director's
- 12 designee;
- 13 (2) The director of health or the director's designee;
- 14 (3) The administrative director of the judiciary or the
- 15 administrative director's designee;
- 16 (4) The attorney general or the attorney general's
- 17 designee;
- 18 (5) The president of the Hawaii State Bar Association or
- 19 the president's designee; and
- 20 (6) The president of the Drug Policy Forum of Hawaii or
- 21 the president's designee.

1 (d) The salvia divinorum task force shall submit a report
2 of its findings and recommendations, including any proposed
3 legislation and rules, no later than twenty days prior to the
4 convening of the regular session of 2010.

5 (e) The salvia divinorum task force shall cease to exist
6 on June 30, 2010.

7 PART IV

8 SECTION 5. This Act shall take effect on January 1, 2046.



Report Title:

Controlled Substances; Diversion; Treatment

Description:

Directs the attorney general to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice system into treatment. Establishes a task force to examine issues relating to medical marijuana patients and current medical marijuana laws. Establishes a task force to examine the effects of salvia divinorum. (SB1058 HD1)

