
HOUSE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY
ON THE FEASIBILITY AND ADVISABILITY OF DECRIMINALIZING THE
ILLEGAL POSSESSION OF DRUGS FOR PERSONAL USE IN HAWAII.

1 WHEREAS, despite a longstanding policy that enforces
2 illicit drug prohibition and imposes some of the world's
3 harshest penalties for drug possession and sales, illicit drug
4 use in the United States has been increasing, according to the
5 results from the 2013 National Survey on Drug Use and Health;
6 and
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8 WHEREAS, the survey, conducted annually by the Substance
9 Abuse and Mental Health Services Administration of the United
10 States Department of Health and Human Services, found that an
11 estimated 24,600,000 people aged twelve or older nationally--9.4
12 per cent of the population--had used an illicit drug in the past
13 month, up from 8.3 per cent in 2002; and
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15 WHEREAS, there is a growing heroin epidemic in the United
16 States, particularly along the East Coast and in many cases
17 beginning when patients are legally prescribed drugs containing
18 opium; and
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20 WHEREAS, acknowledging the need for a change in solutions
21 to illicit drug use, the federal administration's 2014 National
22 Drug Control Strategy presented a marked departure from previous
23 approaches to national drug policy by focusing on both the
24 public health and public safety aspects of drug use and
25 substance use disorders, recognizing addiction as a disease,
26 emphasizing the importance of preventing drug use, and promoting
27 treatment to those who need it, including those who are involved
28 in the criminal justice system; and
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1 WHEREAS, the 2014 National Drug Control Strategy also
2 recognized that many people charged with drug-related crimes are
3 afflicted with an underlying substance abuse disorder that
4 warrants the diversion of non-violent offenders to drug
5 treatment instead of prison; and
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7 WHEREAS, in Hawaii, drug court and related programs
8 alleviate prison overcrowding and offer more effective
9 rehabilitation options for qualified defendants by providing
10 them with an opportunity to be granted community supervision to
11 obtain substance abuse treatment in lieu of incarceration; and
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13 WHEREAS, while the distribution of marijuana remains a
14 federal offense, in 2013 the United States Department of
15 Justice, in the wake of recent state ballot initiatives that
16 legalized the possession of marijuana for personal use,
17 announced an update to its marijuana enforcement policy that
18 deferred the federal government's right to challenge state
19 marijuana legalization laws under the expectation that each
20 affected state would implement an appropriate regulatory system;
21 and
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23 WHEREAS, Hawaii is among twenty-three states that authorize
24 and regulate medical uses of marijuana; and
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26 WHEREAS, nineteen states and the District of Columbia have
27 decriminalized the possession of small amounts of marijuana for
28 personal use; and
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30 WHEREAS, the foregoing examples at the national and state
31 levels demonstrate a burgeoning trend towards addressing illegal
32 drug use by focusing on treatment on a wider scale; and
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34 WHEREAS, in 2001, Portugal became the first European
35 country to officially abolish all criminal penalties for the
36 possession of drugs for personal use, making these violations
37 exclusively an administrative matter processed in noncriminal
38 proceedings, while continuing to prosecute drug trafficking as a
39 criminal offense; and
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41 WHEREAS, the strategy behind Portugal's drug
42 decriminalization framework was to maintain the prohibition



1 against using or possessing an illicit drug for personal use
2 without authorization but to replace penalties of imprisonment
3 with the offer of therapy, under the belief that the fear of
4 jail time drives drug addicts underground and that incarceration
5 is more expensive than treatment; and
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7 WHEREAS, under Portugal's revamped drug control regime, a
8 person found in illegal possession of small amounts of drugs is
9 ordered to appear before a panel consisting of members with a
10 legal, medical, or social services background who determine
11 whether and to what extent the person is addicted to drugs; and
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13 WHEREAS, depending upon the panel's final determination,
14 the person found in illegal possession of small amounts of drugs
15 may be referred to a voluntary treatment program, ordered to pay
16 a fine, or subjected to administrative sanctions, such as
17 community service, suspension of a professional license, or
18 restrictions on where the person may visit or who the person may
19 associate with; and
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21 WHEREAS, the Cato Institute, which is a public policy
22 research organization that conducts independent, nonpartisan
23 research on a wide range of policy issues, commissioned a 2009
24 report that found the following results of drug decriminalization
25 in Portugal:
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- 27 (1) No adverse effect on drug usage rates, which are among
28 the lowest in the European Union, and particularly when
29 compared with states with stringent criminalization
30 regimes;
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32 (2) A decrease in lifetime prevalence rates for drug use
33 among various age groups, particularly for youths in
34 the critical age groups of thirteen to fifteen years
35 and sixteen to eighteen years;
36
37 (3) A dramatic decrease in drug-related deaths, including
38 from sexually transmitted diseases; and
39
40 (4) Steady declines in drug trafficking convictions; and
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1 WHEREAS, the Cato Institute report also found that money
2 saved on drug enforcement allowed for increased resources for
3 drug treatment programs; and
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5 WHEREAS, the positive results from Portugal's drug
6 decriminalization system provides a potential model for more
7 effectively managing drug-related problems in the United States;
8 now, therefore,
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10 BE IT RESOLVED by the House of Representatives of the
11 Twenty-eighth Legislature of the State of Hawaii, Regular
12 Session of 2016, the Senate concurring, that the Legislative
13 Reference Bureau is requested to conduct a study on the
14 feasibility and advisability of decriminalizing the illegal
15 possession of drugs for personal use in Hawaii; and
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17 BE IT FURTHER RESOLVED that the study include:
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- 19 (1) A survey of all existing criminal drug offenses in
20 Hawaii pertaining to the illegal possession of a drug
21 for personal use;
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- 23 (2) A review of the current national drug policy of
24 Portugal pertaining to the illegal possession of drugs
25 for personal use, with a focus on the use of the
26 policy as a potential model for the decriminalization
27 of the offenses identified under paragraph (1); and
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- 29 (3) The feasibility and advisability of decriminalizing
30 the offenses identified under paragraph (1), such that
31 the conduct constituting an offense would constitute
32 an administrative or civil violation rather than a
33 criminal offense; and
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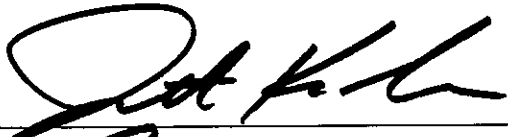

35 BE IT FURTHER RESOLVED that the Legislative Reference
36 Bureau is requested to submit a written report of its findings
37 and recommendations, including any proposed legislation, to the
38 Legislature no later than twenty days prior to the convening of
39 the Regular Session of 2017; and
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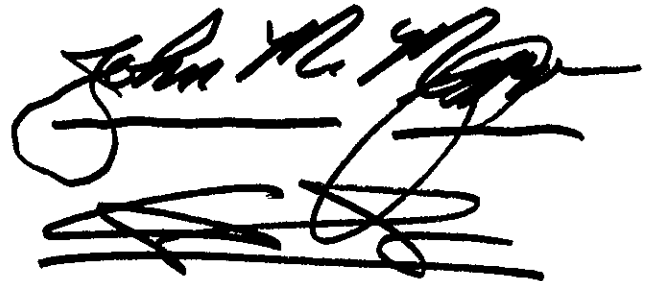
1 BE IT FURTHER RESOLVED that the Judiciary and the
2 Department of Public Safety are each requested to provide
3 statistics and other information as may be requested by the
4 Bureau to assist in the timely completion of the study; and
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6 BE IT FURTHER RESOLVED that certified copies of this
7 Concurrent Resolution be transmitted to the Director of the
8 Legislative Reference Bureau, the Chief Justice, the
9 Administrative Director of the Courts, and the Director of
10 Public Safety.
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OFFERED BY:





MAR 11 2016

