
HOUSE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY
ON THE POTENTIAL IMPACT ON ADMINISTRATIVE AND JUDICIAL
SYSTEMS OF STATE GOVERNMENT 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
7

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
14

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
19

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
29



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

6
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

12
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

22
23 WHEREAS, Hawaii is among twenty-three states that authorize
24 and regulate medical uses of marijuana; and

25
26 WHEREAS, nineteen states and the District of Columbia have
27 decriminalized the possession of small amounts of marijuana for
28 personal use; and

29
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

33
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

40
41 WHEREAS, the strategy behind Portugal's drug
42 decriminalization framework was to maintain the prohibition
43 against using or possessing an illicit drug for personal use
44 without authorization but to replace penalties of imprisonment



1 with the offer of therapy, under the belief that the fear of
2 jail time drives drug addicts underground and that incarceration
3 is more expensive than treatment; and
4

5 WHEREAS, under Portugal's revamped drug control regime, a
6 person found in illegal possession of small amounts of drugs is
7 ordered to appear before a panel consisting of members with a
8 legal, medical, or social services background who determine
9 whether and to what extent the person is addicted to drugs; and
10

11 WHEREAS, depending upon the panel's final determination,
12 the person found in illegal possession of small amounts of drugs
13 may be referred to a voluntary treatment program, ordered to pay
14 a fine, or subjected to administrative sanctions, such as
15 community service, suspension of a professional license, or
16 restrictions on where the person may visit or who the person may
17 associate with; and
18

19 WHEREAS, the Cato Institute, which is a public policy
20 research organization that conducts independent, nonpartisan
21 research on a wide range of policy issues, commissioned a 2009
22 report that found the following results of drug decriminalization
23 in Portugal:
24

- 25 (1) No adverse effect on drug usage rates, which are among
26 the lowest in the European Union, and particularly when
27 compared with states with stringent criminalization
28 regimes;
29
- 30 (2) A decrease in lifetime prevalence rates for drug use
31 among various age groups, particularly for youths in
32 the critical age groups of thirteen to fifteen year
33 olds and sixteen to eighteen year olds;
34
- 35 (3) A dramatic decrease in drug-related deaths, including
36 from sexually transmitted diseases; and
37
- 38 (4) Steady declines in drug trafficking convictions; and
39

40 WHEREAS, the Cato Institute report also found that money
41 saved on drug enforcement allowed for increased resources for
42 drug treatment programs; and
43



1 WHEREAS, the positive results from Portugal's drug
2 decriminalization system provide a potential model for more
3 effectively managing drug-related problems in the United States;
4 now, therefore,
5

6 BE IT RESOLVED by the House of Representatives of the
7 Twenty-eighth Legislature of the State of Hawaii, Regular
8 Session of 2016, the Senate concurring, that the Legislative
9 Reference Bureau is requested to conduct a study on the
10 potential impact on state government of decriminalizing the
11 illegal possession of drugs for personal use in Hawaii; and
12

13 BE IT FURTHER RESOLVED that the study include:
14

- 15 (1) A survey of all existing criminal drug offenses in
16 Hawaii that are class C felonies or lower offenses and
17 pertain to the illegal possession of a harmful drug,
18 detrimental drug, marijuana, or marijuana concentrate,
19 as defined in section 712-1240, Hawaii Revised
20 Statutes;
21
- 22 (2) A review of the current national drug policy of
23 Portugal pertaining to the illegal possession of drugs
24 for personal use, with a focus on the use of the
25 policy as a potential model for the decriminalization
26 of certain or all of the offenses identified under
27 paragraph (1); and
28
- 29 (3) The potential impact on administrative and judicial
30 systems of state government of decriminalizing certain
31 or all of the offenses identified under paragraph (1),
32 such that the conduct constituting an offense would
33 constitute an administrative or civil violation rather
34 than a criminal offense; and
35

36 BE IT FURTHER RESOLVED that the Legislative Reference
37 Bureau is requested to submit a written report of its findings
38 and recommendations, including any proposed legislation, to the
39 Legislature no later than twenty days prior to the convening of
40 the Regular Session of 2017; and
41

42 BE IT FURTHER RESOLVED that the Judiciary and the
43 Department of Public Safety are each requested to provide



1 statistics and other information as may be requested by the
2 Bureau to assist in the timely completion of the study; and

3
4 BE IT FURTHER RESOLVED that certified copies of this
5 Concurrent Resolution be transmitted to the Director of the
6 Legislative Reference Bureau, Chief Justice, Administrative
7 Director of the Courts, and Director of Public Safety.

8

