

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

1           SECTION 1. The legislature finds that support for the  
2 medical use of marijuana in the State is strong and that the  
3 experience of the State with the medical use of marijuana has  
4 been favorable, but that existing protections for patients are  
5 very weak regarding civil penalties. Patients within the  
6 medical marijuana program should not be less secure in their  
7 housing, school enrollment, employment, or supplemental medical  
8 care than patients who have made different private decisions  
9 with their doctors concerning medication.

10           The legislature is mindful of the difficult position of  
11 medical marijuana patients under federal law and seeks to ensure  
12 that the rights of patients are protected, while at the same  
13 time respecting the needs of institutions and individuals to  
14 protect themselves from federal penalties. For this reason, the  
15 rights afforded here are limited to those situations in which no  
16 monetary or licensing benefit would be revoked for compliance  
17 with state law, and to those situations in which patients and



1 caregivers are in strict compliance with the State's medical  
2 marijuana law.

3 SECTION 2. Chapter 329, Hawaii Revised Statutes, is  
4 amended by adding a new section to part IX to be appropriately  
5 designated and to read as follows:

6 "§329- Medical marijuana patient and caregiver  
7 protections. (a) No school shall refuse to enroll or otherwise  
8 penalize, and no landlord shall refuse to lease property to or  
9 otherwise penalize, a person solely for their status as a  
10 qualifying patient or primary caregiver in the medical marijuana  
11 program under this part, unless failing to do so would cause the  
12 school or landlord to lose a monetary- or licensing-related  
13 benefit under federal law or regulation; provided that the  
14 qualifying patient or primary caregiver strictly complied with  
15 the requirements of this part.

16 (b) No employer shall discriminate against a person in  
17 hiring, termination, or imposing any term or condition of  
18 employment, unless a failure to do so would cause an employer to  
19 lose a monetary- or licensing-related benefit under federal law  
20 or regulation, based solely upon either:



1        (1) The person's status as a qualifying patient or primary  
2        caregiver in the medical marijuana program under this  
3        part; or

4        (2) A registered qualifying patient's positive drug test  
5        for marijuana components or metabolites; provided that  
6        this paragraph shall not apply if the patient used,  
7        possessed, or was impaired by marijuana on the  
8        premises of the place of employment or during the  
9        hours of employment.

10       (c) For the purposes of medical care, including organ  
11       transplants, a registered qualifying patient's use of marijuana  
12       in compliance with this part shall be considered the equivalent  
13       of the use of any other medication under the direction of a  
14       physician and shall not constitute the use of an illicit  
15       substance or otherwise disqualify a registered qualifying  
16       patient from medical care.

17       (d) No person shall be denied:

18       (1) Custody of;

19       (2) Visitation with; or

20       (3) Parenting time with



1 a minor, and there shall be no presumption of neglect or child  
2 endangerment, for conduct allowed under this part; provided that  
3 this subsection shall not apply if the person's conduct created  
4 an unreasonable danger to the safety of the minor as established  
5 by clear and convincing evidence."

6 SECTION 3. Section 329-125, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "~~[§329-125]~~ **Protections afforded to a qualifying**  
9 **patient or primary caregiver.** (a) A qualifying patient or the  
10 primary caregiver may assert the medical use of marijuana as an  
11 affirmative defense to any prosecution involving marijuana under  
12 this ~~[part]~~ or chapter 712; provided that the qualifying  
13 patient or the primary caregiver strictly complied with the  
14 requirements of this part.

15 (b) A qualifying patient or primary caregiver shall not be  
16 subject to any civil penalty or disciplinary action by a court  
17 or occupational or professional licensing board or bureau for  
18 any behavior that is in strict compliance with this part.

19 ~~[(b)]~~ (c) Any qualifying patient or primary caregiver not  
20 complying with the permitted scope of the medical use of  
21 marijuana shall not be afforded the protections against searches



1 and seizures pertaining to the misapplication of the medical use  
2 of marijuana.

3 [~~e~~] (d) No person shall be subject to arrest or  
4 prosecution for simply being in the presence or vicinity of the  
5 medical use of marijuana as permitted under this part."

6 SECTION 4. This Act does not affect rights and duties that  
7 matured, penalties that were incurred, and proceedings that were  
8 begun before its effective date.

9 SECTION 5. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: Will Egan  
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**Report Title:**

Medical Marijuana; Patients and Caregivers; Protections

**Description:**

Prohibits discrimination against medical marijuana patients and caregivers by schools, landlords, employers, courts, and licensing boards, or with regard to medical care or parental rights.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

