



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

GOV. MSG. NO. 1393

July 10, 2019

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirtieth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirtieth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Re: HB1383 HD2 SD1 CD1

Pursuant to Section 16 of Article III of the State Constitution, HB1383 HD2 SD1 CD1, entitled "A BILL FOR AN ACT RELATING TO MARIJUANA" became law as ACT 273 on July 10, 2019.

This bill will decriminalize the possession of three grams or less of marijuana and establish that the possession of that amount is a violation punishable by a monetary fine of \$130.00. It also provides that upon motion by a person convicted for the possession of marijuana under section 712-1249, Hawaii Revised Statutes, for an amount of three grams or less, and arising from a set of facts and circumstances that resulted in no other criminal charge, the court shall grant an expungement order pertaining to the conviction for that offense. Finally, it establishes a marijuana evaluation task force to make recommendations on changing marijuana use penalties and outcomes in the State.

There are numerous concerns, including the normalization of marijuana use, clear conflicts with federal law, the inability to refer violators to effective treatment programs, and the ability for the courts to actually collect fines.

The Honorable Ronald D. Kouchi
The Honorable Scott K. Saiki
July 10, 2019
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While this bill presents serious policy concerns, it also establishes a task force that is charged with thoughtfully considering recommendations on marijuana policy and preparing a report before the convening of the 2021 Regular Session. In connection with its mandate, I expect the task force will take a close look at the concerns raised in connection with this bill and carefully scrutinize and evaluate the effect of decriminalizing the possession of three grams or less of marijuana.

For the foregoing reasons, I allowed HB1383 HD2 SD1 CD1 to become law without my signature.

Sincerely,

A handwritten signature in black ink that reads "David Y. Ige". The signature is written in a cursive style with a large, sweeping flourish under the "Ige" part.

DAVID Y. IGE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

1 SECTION 1. The legislature finds that Hawaii and thirty-
2 two other states, the United States territories of Guam, Puerto
3 Rico, and the Northern Mariana Islands, and the District of
4 Columbia have legalized the use of marijuana for medicinal
5 purposes. Twenty-two states and the District of Columbia have
6 decriminalized offenses pertaining to certain amounts of
7 marijuana, and ten states and the District of Columbia have
8 legalized certain amounts of marijuana for non-medical use.

9 Accordingly, the purpose of this Act is to:

- 10 (1) Provide for the expungement of criminal records
11 pertaining solely to the possession of three grams or
12 less of marijuana;
- 13 (2) Decriminalize the possession of three grams or less of
14 marijuana and establish that possession of that amount
15 is a violation punishable by a monetary fine of \$130;
16 and

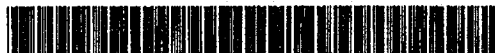


1 (3) Establish a marijuana evaluation task force to make
2 recommendations on changing marijuana use penalties
3 and outcomes in the State.

4 SECTION 2. Section 706-622.5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§706-622.5 Sentencing for drug offenders; expungement.

7 (1) Notwithstanding section 706-620(3), a person convicted for
8 the first or second time for any offense under section 329-43.5,
9 except offenses under subsections (a) and (b) of that section
10 which constitute violations, involving the possession or use of
11 drug paraphernalia or any felony offense under part IV of
12 chapter 712 involving the possession or use of any dangerous
13 drug, detrimental drug, harmful drug, intoxicating compound,
14 marijuana, or marijuana concentrate, as defined in section
15 712-1240, but not including any offense under part IV of chapter
16 712 involving the distribution or manufacture of any such drugs
17 or substances and not including any methamphetamine offenses
18 under sections 712-1240.7, 712-1240.8 as that section was in
19 effect [~~prior to~~] before July 1, 2016, 712-1241, and 712-1242,
20 is eligible to be sentenced to probation under subsection (2) if
21 the person meets the following criteria:



- 1 (a) The court has determined that the person is nonviolent
2 after reviewing the person's criminal history, the
3 factual circumstances of the offense for which the
4 person is being sentenced, and any other relevant
5 information;
- 6 (b) The person has been assessed by a certified substance
7 abuse counselor to be in need of substance abuse
8 treatment due to dependency or abuse under the
9 applicable Diagnostic and Statistical Manual and
10 Addiction Severity Index; and
- 11 (c) Except for those persons directed to substance abuse
12 treatment under the supervision of the drug court, the
13 person presents a proposal to receive substance abuse
14 treatment in accordance with the treatment plan
15 prepared by a certified substance abuse counselor
16 through a substance abuse treatment program that
17 includes an identified source of payment for the
18 treatment program.
- 19 (2) A person eligible under subsection (1) may be
20 sentenced to probation to undergo and complete a substance abuse
21 treatment program if the court determines that the person can



1 benefit from substance abuse treatment and, notwithstanding that
2 the person would be subject to sentencing as a repeat offender
3 under section 706-606.5, the person should not be incarcerated
4 to protect the public. If the person fails to complete the
5 substance abuse treatment program and the court determines that
6 the person cannot benefit from any other suitable substance
7 abuse treatment program, the person shall be subject to
8 sentencing under the applicable section under this part. As a
9 condition of probation under this subsection, the court may
10 direct the person to undergo and complete substance abuse
11 treatment under the supervision of the drug court if the person
12 has a history of relapse in treatment programs. The court may
13 require other terms and conditions of probation, including
14 requiring that the person contribute to the cost of the
15 substance abuse treatment program, comply with deadlines for
16 entering into the substance abuse treatment program, and reside
17 in a secure drug treatment facility.

18 (3) For the purposes of this section, "substance abuse
19 treatment program" means drug or substance abuse treatment
20 services provided outside a correctional facility by a public,
21 private, or nonprofit entity that specializes in treating



1 persons who are diagnosed with having substance abuse or
2 dependency and preferably employs licensed professionals or
3 certified substance abuse counselors.

4 (4) Upon written application from a person sentenced under
5 this part or a probation officer, the court shall issue a court
6 order to expunge the record of conviction for that particular
7 offense; provided that a person has successfully completed the
8 substance abuse treatment program and complied with other terms
9 and conditions of probation. A person sentenced to probation
10 under this section who has not previously been sentenced under
11 this section shall be eligible for one time only for expungement
12 under this subsection.

13 (5) Upon motion from a person convicted for the possession
14 of marijuana under section 712-1249 arising from a set of facts
15 and circumstances that resulted in no other criminal charge, the
16 court shall grant an expungement order pertaining to the
17 conviction for the offense; provided that the amount of
18 marijuana for which the person was convicted of possessing was
19 three grams or less.



1 [~~5~~] (6) Nothing in this section shall be construed to
2 give rise to a cause of action against the State, a state
3 employee, or a treatment provider."

4 SECTION 3. Section 712-1249, Hawaii Revised Statutes, is
5 amended by amending subsection (2) to read as follows:

6 "(2) Promoting a detrimental drug in the third degree is a
7 petty misdemeanor[-]; provided that possession of three grams or
8 less of marijuana is a violation, punishable by a fine of \$130."

9 SECTION 4. (a) There shall be established a marijuana
10 evaluation task force to be administratively attached to the
11 department of the attorney general. The marijuana evaluation
12 task force shall examine other states' laws, penalties, and
13 outcomes pertaining to marijuana use, other than marijuana use
14 for medical purposes, and make recommendations on amending
15 marijuana use penalties and outcomes in the State.

16 (b) The marijuana evaluation task force shall comprise the
17 following members or their designees:

18 (1) The chair of the senate standing committee on
19 judiciary, who shall serve as a co-chair of the task
20 force;



1 (2) The chair of the house standing committee on
2 judiciary, who shall serve as a co-chair of the task
3 force;

4 (3) The attorney general;

5 (4) The state public defender; and

6 (5) A prosecuting attorney to be selected by the co-chairs
7 of the task force.

8 (c) The co-chairs of the task force may invite other
9 interested parties to participate in the task force.

10 (d) The marijuana evaluation task force shall submit a
11 report of its findings and recommendations, including any
12 proposed legislation, no later than twenty days before the
13 convening of the 2021 regular session.

14 (e) The marijuana evaluation task force shall be dissolved
15 on June 30, 2021.

16 SECTION 5. If any provision of this Act, or the
17 application thereof to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.



HB No. 1383, HD 2, SD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 30, 2019
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019.



Scott K. Saiki
Speaker
House of Representatives

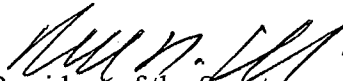



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI'I

Date: April 30, 2019
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2019.


President of the Senate


Clerk of the Senate