



State of Connecticut

DIVISION OF PUBLIC DEFENDER SERVICES

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Testimony of Christine Perra Rapillo, Chief Public Defender Senate Bill 16 - AN ACT CONCERNING THE ADULT USE OF CANNABIS Committee on the Judiciary - March 2, 2020

The Office of Chief Public Defender supports SENATE BILL 16 - AN ACT CONCERNING THE ADULT USE OF CANNABIS. This is a commonsense policy and will, going forward, mitigate the devastating impact that arrest and conviction of cannabis based offenses has had on youth, indigent persons, and people of color. Eliminating the criminal penalties for small amounts of cannabis possession and right sizing the penalties for criminal possession and providing meaningful opportunity for erasure of past criminal records will improve public safety and make our system fairer. This proposal will enact commonsense, revenue-producing measures and take steps to undo the impact of a failed, racially-driven "war on drugs."

This proposal would allow persons over the age of twenty-one to legally possess up to one-and-one-half ounces of cannabis. Persons under twenty-one years of age or possessing higher amounts could be fined or prosecuted for misdemeanor charges but would be eligible for suspended prosecutions and drug treatment. This legislation will alleviate the negative impact that cannabis convictions have had on people's lives. Too many people have been affected by the collateral consequences of a marijuana conviction. They are unable to obtain employment, housing, or access to student loans, leaving them unable to move forward or improve their circumstances in life. Legalizing the adult use of marijuana should reduce or eliminate the criminal activity associated with unregulated street-level dealing and allow for significant tax revenue that should be used to improve substance abuse and mental health services in our communities.

This proposal seeks to correct the past injustice of the drug war by allowing people convicted of cannabis offenses prior to legalization to have their convictions erased. The more recent convictions would be automatically erased and people convicted prior to 2015 would be able to easily petition for erasure. This agency stands ready to assist indigent persons who need help filing and litigating such petitions.

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The Office of Chief Public Defender does have concerns regarding two areas of the legislation. The bill as drafted mandates the admissibility of the testimony pertaining to the drug influence evaluation conducted by a law enforcement officer who is a drug recognition expert. The result is that the court's discretion over the admissibility of such testimony is eliminated, contrary to the standards articulated in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and *State v. Porter*, 241 Conn. 57, 698 A.2d 739 (1997), cert. denied, 523 U.S. 1058 (1998).

The Office of Chief Public Defender is also concerned about the requirement that an individual charged and convicted of driving under the influence of cannabis would be required to install an ignition interlock device (IID) on their vehicle prior to being able to have their license reinstated. An IID does not measure cannabis use and thus provides no public safety benefit for individuals only convicted of a cannabis offense. Consistent with this agency's prior testimony regarding IIDs, for individuals who do not own a car or cannot afford an IID, the IID requirement can result in not only a de facto lifetime suspension of their license but other overwhelming collateral consequences. Connecticut became a "mandatory" IID state in 2015; a person found to be operating under the influence must install an IID for a set period of time — and drive only vehicles so equipped — in order to become eligible to restore his or her operator's license. Because of the significant costs of IID installation, maintenance, removal, and other fees, public defender clients often have no choice but to forego an IID and face a de facto lifetime suspension. In prior legislative sessions, we have proposed language to address this situation by proposing that the length of suspension for persons who cannot afford a vehicle and the IID be doubled. Including the IID for cannabis-based offenses potentially extends this life-time suspension to more people but provides no public safety or deterrence benefit. A suggestion would be to separate the statutes regarding the conduct of operation while under the influence of alcohol from those regarding the operation under the influence of drugs.

As public defenders, we see, on a daily basis, how intentional drug policy and unconscious bias have impacted lower-income defendants. SB 16 will make the system fairer, and give defendants, victims, and the public more confidence that justice is being done. Thank you for the opportunity to weigh in on this important policy initiative.