

MAR 10 2017

SENATE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY ON THE POTENTIAL IMPACT ON THE ADMINISTRATIVE AND JUDICIAL SYSTEMS OF STATE GOVERNMENT AND ON LOCAL LAW ENFORCEMENT IF THE ILLEGAL POSSESSION OF MARIJUANA FOR PERSONAL USE IS DECRIMINALIZED IN HAWAII.

1 WHEREAS, according to the results from the 2013 National
2 Survey on Drug Use and Health, despite the United States'
3 longstanding policy of enforcing illicit drug prohibition and
4 imposing some of the world's harshest penalties for drug
5 possession and sales, illicit drug use in the United States has
6 increased; and
7

8 WHEREAS, a 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,
12 which is 9.4 percent of the population, used an illicit drug
13 within the past month, up from 8.3 percent in 2002; and
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15 WHEREAS, acknowledging the need for a change in solutions
16 to illicit drug use, the federal administration's 2014 National
17 Drug Control Strategy presented a marked departure from previous
18 approaches to national drug policy by focusing on the public
19 health and public safety aspects of drug use and substance use
20 disorders, recognizing addiction as a disease, emphasizing the
21 importance of preventing drug use, and promoting treatment to
22 those who need it, including those who are involved in the
23 criminal justice system; and
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25 WHEREAS, in Hawaii, drug court and related programs
26 alleviate prison overcrowding and offer more effective
27 rehabilitation options for qualified defendants by providing
28 them with an opportunity to be granted community supervision to
29 obtain substance abuse treatment in lieu of incarceration; and
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1 WHEREAS, in 2014, the Department of the Attorney General's
2 Report "Crime in Hawaii 2014" found that seven hundred ninety-
3 two adults and four hundred five juveniles were arrested for the
4 possession of marijuana, resulting in enforcement costs as well
5 as pre-trial detention costs; and
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7 WHEREAS, the "Crime in Hawaii 2014" report corroborates the
8 findings of the report "The Disparate Treatment of Native
9 Hawaiians in the Criminal Justice System" by the Office of
10 Hawaiian Affairs that despite similar rates of drug use to other
11 groups, Native Hawaiians are disproportionately arrested for
12 offenses such as possession of marijuana; and
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14 WHEREAS, documented and undocumented immigrants are
15 potentially subject to deportation for the possession of
16 marijuana, and given the increasingly anti-immigrant rhetoric
17 and action emanating from the Trump Administration, this double
18 jeopardy treatment of immigrants convicted of non-violent
19 marijuana possession offenses is severely disproportionate; and
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21 WHEREAS, Human Rights Watch and the American Civil
22 Liberties Union found in a 2016 report "Every 25 Seconds: The
23 Human Toll of Criminalizing Drug Use in the United States" that
24 nearly half of over one million drug possession arrests
25 nationwide were for marijuana and those arrest rates varied
26 starkly from county to county despite similar rates of use; and
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28 WHEREAS, while the distribution of marijuana remains a
29 federal offense, the United States Department of Justice in 2013
30 and in the wake of recent state ballot initiatives that
31 legalized the possession of marijuana for personal use,
32 announced an update to its marijuana enforcement policy that
33 deferred the federal government's right to challenge state
34 marijuana legalization laws under the expectation that each
35 affected state would implement an appropriate regulatory system;
36 and
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38 WHEREAS, United States Senator Brian Schatz and ten other
39 United States senators sent a letter on March 2, 2017, to United
40 States Attorney General Jeff Sessions, stating that all states
41 with legal medical or recreational marijuana as well as those
42 states that have decriminalized possession, are in full



1 compliance with the United States Department of Justice's 2013
2 Cole Memorandum regarding federal marijuana enforcement
3 priorities; and
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5 WHEREAS, Hawaii is among twenty-eight states that authorize
6 and regulate medical uses of marijuana; and
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8 WHEREAS, eight states and the District of Columbia have
9 legalized the growing and possession of recreational marijuana
10 for adult use; and
11

12 WHEREAS, twenty-one states and the District of Columbia
13 have decriminalized the possession of small amounts of marijuana
14 for personal use; and
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16 WHEREAS, unlike state laws that legalize medical and
17 recreational marijuana, a state law regarding the
18 decriminalization of marijuana possession for personal use may
19 not be in conflict with federal law; and
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21 WHEREAS, according to nearly unanimous scientific research,
22 marijuana is less addictive and less harmful than legal drugs,
23 alcohol, and tobacco; and
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25 WHEREAS, tens of thousands of Hawaii residents who have
26 registered for the Department of Health's medical marijuana
27 program since its inception in 2000 serve as proof that
28 marijuana's listing as a dangerous Schedule I drug in the
29 federal and state schedules is a relic of another era; and
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31 WHEREAS, the American Academy of Pediatrics finds that
32 decriminalization of marijuana has not resulted in higher use
33 among minors in any state, but that arrests for this offense
34 disproportionately occur among youth from minority groups and
35 that these youths incur lifelong collateral sanctions that limit
36 their ability to secure student loans, housing, financial aid,
37 and certain jobs; and
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39 WHEREAS, the Legislative Reference Bureau in its recent
40 report "Panacea or Pipe Dream: Does Portugal's Policy Translate
41 for Hawaii?" on decriminalization of certain drugs, conducted
42 pursuant to H.C.R. No. 127, H.D. 1, S.D. 1 (Regular Session of



1 2016), referenced numerous uncertainties regarding the intent of
2 the Legislature, which negatively affected the Legislative
3 Reference Bureau's ability to more fully estimate the potential
4 impacts; and
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6 WHEREAS, the Department of the Prosecuting Attorney of the
7 City and County of Honolulu did not acknowledge initial or
8 follow-up requests by the Legislative Reference Bureau, while
9 the other county prosecutors did not provide informative
10 responses due to a lack of data, a lack of personnel resources,
11 or other reasons; and
12

13 WHEREAS, the positive results from other states' long-
14 standing marijuana decriminalization policies highlight that
15 Hawaii needs to seriously consider this approach; an approach
16 that is supported by seventy percent of the State's population
17 according to a December 2016 poll conducted for the Drug Policy
18 Action Group by the Anthology Marketing Group; now, therefore,
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20 BE IT RESOLVED by the Senate of the Twenty-ninth
21 Legislature of the State of Hawaii, Regular Session of 2017, the
22 House of Representatives concurring, that the Legislative
23 Reference Bureau is requested to conduct a study on the
24 potential impact on the administrative and judicial systems of
25 state government and on local law enforcement if the illegal
26 possession of marijuana for personal use is decriminalized in
27 Hawaii; and
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29 BE IT FURTHER RESOLVED that the study is requested to
30 include the following:
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32 (1) The potential impact on the administrative and
33 judicial systems of state government and on local law
34 enforcement if committing a marijuana possession
35 offense is an administrative or civil violation rather
36 than a crime;
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38 (2) An overview of the strengths and weaknesses of
39 creating a new administrative process to adjudicate
40 decriminalized marijuana possession cases as well as
41 retaining the adjudication process for these cases
42 within the judicial system;



- 1
- 2 (3) The feasibility of eliminating the arrest and
- 3 detention of individuals who are suspected of
- 4 marijuana possession;
- 5
- 6 (4) An assessment of the impact of decriminalizing the
- 7 possession of one ounce or less of marijuana and the
- 8 separate impact of decriminalizing possession of more
- 9 than one ounce of marijuana;
- 10
- 11 (5) An analysis determining the impact of existing
- 12 marijuana possession criminal laws on Hawaii's
- 13 population, specifically on the youth, disparate
- 14 arrest rates among racial and ethnic groups, and
- 15 counties, and the types of consequences, also known as
- 16 collateral sanctions, a criminal conviction for
- 17 marijuana can have on individuals; and
- 18
- 19 (6) Findings that are based on the assumption that the
- 20 penalty imposed for a violation would be \$100 for the
- 21 first offense and \$200 for each subsequent offense, if
- 22 marijuana possession for personal use were
- 23 decriminalized; and
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25 BE IT FURTHER RESOLVED that the Judiciary, Department of
26 Public Safety, each county police department, each county
27 prosecutor, and Office of the Public Defender are requested to
28 provide statistics and other pertinent data and information, as
29 may be requested by the Legislative Reference Bureau, to assist
30 the Legislative Reference Bureau in the timely completion of the
31 study; and

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33 BE IT FURTHER RESOLVED that the Legislative Reference
34 Bureau is requested to submit a written report of its findings
35 and recommendations, including any proposed legislation, to the
36 Legislature no later than twenty days prior to the convening of
37 the Regular Session of 2018; and

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39 BE IT FURTHER RESOLVED that certified copies of this
40 Concurrent Resolution be transmitted to the Director of the
41 Legislative Reference Bureau, Chief Justice of the Supreme Court
42 of the State of Hawaii, Administrative Director of the Courts,



S.C.R. NO. 147

1 Director of Public Safety, State Public Defender, Chief of
 2 Police of each county police department, and Prosecutor of each
 3 county.
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