



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 2487, S.D. 1, RELATING TO MARIJUANA.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE: Thursday, March 28, 2024 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Kory W. Young, Deputy Attorney General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) respectfully opposes this bill.

The purposes of the bill are to (1) increase the minimum amount of marijuana necessary for a person to commit the offense of promoting a detrimental drug in the second degree from one ounce to thirty grams, by amending section 712-1248(1)(c), Hawaii Revised Statutes (HRS), and (2) increase the amount of marijuana a person may have for the offense of promoting a detrimental drug in the third degree to be a violation from three grams or less of marijuana to fifteen grams or less, by amending section 712-1249(2), HRS.

Expanded decriminalization of marijuana may increase recreational use in a way similar to legalization; however, decriminalized marijuana is unregulated, untested, and untaxed. This lack of regulation and testing creates a significant public health concern, particularly as marijuana use increases. Black market marijuana often contains pesticides, trace amounts of metals like lead and nickel, and other toxic chemicals. Regulated marijuana can be tested for these poisons, to increase the chances that the marijuana consumed by recreational users is relatively safe. Because there are no restrictions on the levels of pesticides and other toxins in black market marijuana, consumers risk inhaling or ingesting harmful substances.

Expanding the decriminalization of marijuana may also result in costs to the community associated with greater recreational marijuana use, such as increased traffic accidents, hospitalizations, and fatalities associated with marijuana use. Without regulation and taxation, the community may have to absorb the costs of the negative impacts of increased marijuana use.

Allowing individuals to possess fifteen grams of marijuana also poses greater problems for law enforcement. At present, the distribution of marijuana is still illegal, although the possession of three grams or less of marijuana has been decriminalized. By allowing individuals to possess larger amounts of marijuana, law enforcement officers may not be able to distinguish between the possession of marijuana by recreational users who tend to carry only enough marijuana to fulfill their immediate needs, and individuals who are distributing marijuana or holding quantities sufficient for distribution. Decriminalizing up to fifteen grams of marijuana essentially decriminalizes the possession of sufficient quantities of marijuana to accommodate distribution. An unintended consequence of this bill would be that it makes it easier and more profitable to distribute black market marijuana.

If the eventual goal is the legalization of cannabis, an approach that comprehensively addresses a regulatory scheme to protect the public, support law enforcement, and provide revenue to the State to cover the costs of the negative effects of increased marijuana use would be a preferable way to reach that goal.

Thank you for allowing us to offer testimony on the bill. For the above reasons, we respectfully ask the Committee to hold this bill.

DEFENDER COUNCIL
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAI'I 96817

HONOLULU OFFICE
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAI'I 96817

APPELLATE DIVISION
TEL. No. (808) 586-2080

DISTRICT COURT DIVISION
TEL. No. (808) 586-2100

FAMILY COURT DIVISION
TEL. No. (808) 586-2300

FELONY DIVISION
TEL. No. (808) 586-2200

FACSIMILE
(808) 586-2222



STATE OF HAWAI'I
OFFICE OF THE PUBLIC DEFENDER

March 11, 2024

HILO OFFICE
275 PONAHAHAI STREET
SUITE 201
HILO, HAWAI'I 96720
TEL. No. (808) 974-4571
FAX No. (808) 974-4574

KONA OFFICE
75-1000 HENRY STREET
SUITE #209
KAILUA-KONA HI 96740
TEL. No. (808) 327-4650
FAX No. (808) 327-4651

KAUAI OFFICE
3060 EIWA STREET
SUITE 206
LIHUE, HAWAI'I 96766
TEL. No. (808) 241-7128
FAX No. (808) 274-3422

MAU'I OFFICE
81 N. MARKET STREET
WAILUKU, HAWAI'I 96793
TEL. No. (808) 984-5018
FAX No. (808) 984-5022

**TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER STATE OF HAWAI'I
TO THE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS**

S.B. 2487, S.D.1: RELATING TO MARIJUANA
Hearing: March 28, 2024 at 2:00 p.m.

Chair David A. Tarnas
Vice Chair Gregg Takayama
Honorable Committee Members

The Office of the Public Defender (OPD) supports this bill.

This bill has two purposes:

1. It slightly increases the threshold amount of marijuana for the offense of Promoting a Detrimental Drug in the Second Degree, HRS § 712-1248, from one ounce to thirty grams (1.05822 ounces); and
2. It makes possession of fifteen grams (0.529109 ounces) or less of marijuana a violation of Promoting a Detrimental Drug in the Third Degree, HRS § 712-1249,

The majority of Hawai'i residents support the legalization of cannabis.¹ In fact a Pew Research Center study found that 88% of U.S. adults say either that marijuana should be legal for medical and recreational use (59%) or that it should be legal for medical use only(30%).² Only

¹ Mizuo, A., "Hawaii voters support legalization recreational cannabis, but split on legalizing gambling," *Honolulu Star Advertiser*, July 25, 2022.

<https://www.staradvertiser.com/2022/07/25/hawaii-news/hawaii-voters-support-legalizing-recreational-cannabis-but-split-on-legalizing-gambling/>

² Schaeffer, K., "7 facts about Americans and marijuana," *Pew Research Center*, April 13, 2023.

<https://www.pewresearch.org/short-reads/2023/04/13/facts-about-marijuana/>

one in ten adults say marijuana should not be legal at all.³ In recognition of the nationwide trend⁴ to legalize marijuana, the Legislature has legalized the use and possession of marijuana for medical purposes⁵ and has legislation pending which would legalize the recreational use of marijuana.⁶ Increasing the threshold amount of marijuana which would constitute the commission of PDD 2 and the amount of marijuana which constitutes a violation rather than a criminal offense for commission of PDD 3 is consistent with the national trend of legalizing/decriminalizing the possession of marijuana.

Government resources should not be wasted arresting and prosecuting marijuana consumers. Unlike dangerous, illicit drugs like cocaine or crystal methamphetamine, marijuana has proven medical and health benefits and can be used safely. The FDA has recommended rescheduling marijuana from a Schedule I drug to a Schedule III drug because it meets three criteria: a lower potential for abuse, a currently accepted medical use treatment in the U.S. and a risk of low or moderate physical dependence in people who abuse it.⁷ There has never been a confirmed cannabis overdose death.⁸ Spending taxpayer dollars for criminal prosecution of marijuana is simply a waste of resources that can be better spent focusing on more serious offenses.

The OPD supports this bill. Thank you for the opportunity to comment on S.B. 2487, S.D. 1.

³ Id.

⁴ Twenty-four states and the District of Columbia have passed laws allowing for the personal possession and consumption of marijuana by adults. See *NORML*, Legalization. <https://norml.org/laws/legalization/>

⁵ Currently the amount of marijuana jointly possessed between the qualifying patient and the primary caregiver for medical purposes is four ounces. HRS § 329-121.

⁶ The states that have legalized the recreational use of marijuana allow possession of at least one ounce to up to six ounces so making possession of a half ounce or less is certainly reasonable. See <https://disa.com/marijuana-legality-by-state>

⁷ Dillinger, K., “Marijuana meets criteria for reclassification as lower-risk drug, FDA scientific review finds,” *CNN Health*, January 12, 2024. <https://www.cnn.com/2024/01/12/health/marijuana-rescheduling-fda-review/index.html#:~:text=The%20members%20of%20the%20FDA%27s,risk%20of%20low%20or%20moderate> Dillinger’s article refers to a letter from the Assistant Secretary for Health to the Administrator of the DEA, dated August 29, 2023, which recommends reclassification of marijuana from Schedule I to Schedule III. <https://www.dropbox.com/scl/fi/pw3rfs9gm6lg80ij9tja6/2023-01171-Supplemental-Release-1.pdf?rlkey=v5atj0tcnhxhnszyzcvvt&dl=0>

⁸ Department of Justice/Drug Enforcement Administration, Drug Fact Sheet – Marijuana/Cannabis. https://www.dea.gov/sites/default/files/2020-06/Marijuana-Cannabis-2020_0.pdf

HONOLULU POLICE DEPARTMENT
KA 'OIHANA MĀKA'I O HONOLULU
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 • WEBSITE: www.honoluluupd.org



RICK BLANGIARDI
MAYOR
MEIA

ARTHUR J. LOGAN
CHIEF
KAHU MĀKA'I

KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE **ML-HR**

March 28, 2024

The Honorable David A. Tarnas, Chair
and Members
Committee on Judiciary
and Hawaiian Affairs
State Senate
415 South Beretania Street, Room 325
Honolulu, Hawai'i 96813

Dear Chair Tarnas and Members:

SUBJECT: Senate Bill No. 2487, S.D.1, Relating to Marijuana

I am Mike Lambert, Major of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.

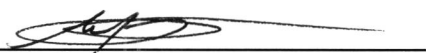
The HPD opposes Senate Bill No. 2487, S.D.1, Relating to Marijuana.

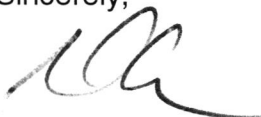
The HPD opposes legislation that seeks to legalize the possession of one ounce or less of marijuana for medical purposes, the Federal Schedule of Controlled Substances continues to list marijuana as a Schedule I controlled substance. The HPD is concerned that increasing the availability of marijuana in the state will have a negative impact on public safety. Some areas of concern include the likelihood of an increased number of impaired drivers and the product's diversion. The passage of this bill would lead to an increased availability of marijuana, which will make it easier for everyone to access, including juveniles.

The HPD urges you to oppose Senate Bill No. 2487, S.D.1, Relating to Marijuana. Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Arthur J. Logan
Chief of Police


Mike Lambert, Major
Narcotics/Vice Division

**DEPARTMENT OF THE PROSECUTING ATTORNEY
KA 'OIHANA O KA LOIO HO'OPI'I
CITY AND COUNTY OF HONOLULU**

STEVEN S. ALM
PROSECUTING ATTORNEY
LOIO HO'OPI'I

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515 • WEB: <https://honoluluprosecutor.org/>

THOMAS J. BRADY
FIRST DEPUTY PROSECUTING ATTORNEY
HOPE MUA LOIO HO'OPI'I



**THE HONORABLE DAVID A. TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS**

**Thirty-Second State Legislature
Regular Session of 2024
State of Hawai'i**

March 28, 2024

RE: S.B. 2487 S.D. 1; RELATING TO MARIJUANA.

Chair Tarnas, Vice Chair Takayama, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in **strong opposition** to S.B. 2487 S.D. 1.

My name is Steve Alm, and I am the Prosecutor of the City and County of Honolulu.

This bill seeks to change the minimum amount of marijuana necessary for a person to commit the offense of promoting a detrimental drug in the second degree from one ounce to thirty grams [an increase of 2 grams]; increases the amount of marijuana a person may have for the offense of promoting a detrimental drug in the third degree to be a violation from three grams or less of marijuana to fifteen grams or less [an increase of twelve grams].

Any amendments to the current limits of marijuana possession is unacceptable. We now know that the marijuana of today is not the marijuana of the past, when marijuana had a tetrahydrocannabinol (THC) content of about 3%. Today, marijuana stores sell marijuana with 20%-40% THC with extract concentrates over 90%. It is a different drug entirely. This bill would allow the possession of a much higher potency drug in greater amounts for **non-medical** use.

If one gram of marijuana represents two to three marijuana cigarettes, or joints, then the bill would require a minimum of 60 joints for Promoting a Detrimental Drug in the Second Degree, a misdemeanor, and up to 30 joints for Promoting a Detrimental Drug in the Third Degree, a violation. Current statutory limits of three grams is personal use; fifteen grams, or 30+ joints, is dealer quantity.

This bill would increase the black market. It would send the wrong message to our keiki that marijuana is harmless, and would be doing so without any of the so-called "guardrails" contained in the larger marijuana legalization bill, SB 3335.

Do not ignore the science and the impact of marijuana use on brain development and on mental health. Increased use results in a wide variety of negative consequences.

- A threat to our number one industry, tourism, particularly the Asian visitor market.
- Children will have greater access to larger quantities of marijuana.
- Traffic collisions and fatalities involving marijuana increase.
- Mental health problems, including schizophrenia, increase.
- Environmental impacts.
- More Emergency Department and Hospital admissions resulting from marijuana use.
- The black market grows.

The proposed amendments are harmful to Hawai'i, and come at a time when the perception of the dangers of marijuana are decreasing when the potency of marijuana is increasing. Possession of personal use of three grams or less has already been decriminalized since 2019, and medical marijuana is available for those with a legitimate need.

Many states wrestling with marijuana legalization are acknowledging the harmful impacts. According to Smart Approaches to Marijuana (SAM), of the 20 states considering legalizing commercial marijuana last year, only three approved legislation. The majority, 17, did not. That is 85% of the states that considered legalizing commercial marijuana saying, "No!"

Let's not encourage more marijuana use. Let's Keep Hawai'i, Hawai'i.

Thank you for this opportunity to testify on S.B. 2487 S.D. 1.



Dedicated to safe, responsible, humane and effective drug policies since 1993

TESTIMONY IN SUPPORT OF SB 2487, SD 1

TO: Chair Tarnas, Vice Chair Takayama, & JHA Committee Members

FROM: Nikos Leverenz
DPFH Board President

DATE: March 28, 2024 (2:00 PM)

Drug Policy Forum of Hawai'i (DPFH) **strongly supports** SB 2487, SD 1, which repeals criminal penalties for the possession of 15 grams or less of cannabis and increases the amount of “promoting” a detrimental drug in the second degree from one ounce to 30 grams under HRS Section 712-1248.

We offer the following amendments for consideration:

- Establish a clear statutory line of 30 grams, where those possessing less than that amount not be subject to criminal penalties and instead pay a civil penalty not to exceed \$25. Those in possession of more than 30 grams may be subject to a possible charge of “promoting” a detrimental drug in the second degree.
- Exempt cannabis-related paraphernalia under HRS Section 329-43.5, similar to the approach taken by HB 1596, HD 1.

Ideally, possession of 30 grams or less of cannabis shouldn't result in any civil penalty or further action by those in the state's criminal legal system. With 24 states and the District of Columbia having legalized adult-use cannabis and a federal government poised to re-schedule or de-schedule cannabis, decriminalization of amounts for personal use should not even be a citable offense.

One hopes that those members of the criminal legal lobby, including elected county prosecutors and mayors who are eagerly brandishing their opposition to “commercial

marijuana” for earned media and public attention, will recognize the importance of focusing on other salient matters related to the misuse of alcohol and other drugs.

Efforts to recalibrate the deep-rooted reflexive structural antipathy to reform measures that center public health and human rights are also long overdue.

So many charged with the public trust and public resources—including prosecutors, police, mayors, county councils, administrative departments, medical organizations, and service providers—have been less than equanimous in their public posturing this session on cannabis and psilocybin.

Recalibration also includes substantive and funded efforts to meet the urgent ongoing need for increased access to community-based, non-carceral behavioral health treatment and permanent supportive housing units that can facilitate the continual delivery of medical care and social services.

DPFH strongly supports treatment upon request for those with diagnosed substance use disorders. As noted by the American Public Health Association:

Public health approaches offer effective, evidence-based responses, but some of the most effective interventions are not currently allowed in the United States owing to outdated drug laws, attitudes, and stigma. Substance misuse treatment is too often unavailable or unaffordable for the people who want it. A criminal justice response, including requiring arrest to access health services, is ineffective and leads to other public health problems. (Policy Statement, “[Defining and Implementing a Public Health Response to Drug Use and Misuse.](#)”)

[The current regime of cannabis prohibition, like the larger drug war, compounds the harm of extensive involvement in the criminal legal system by Native Hawaiians](#) and other residents from under resourced communities that are significantly impacted by social determinants of health.

According to data from [the latest Uniform Crime Report](#), 7,457 adults were arrested on cannabis possession charges from 2011-2020.

Cannabis prohibition also reaches children. Here is the line from [the latest Uniform Crime Report](#) showing the number of juveniles arrested statewide for cannabis possession in Hawaii from 2011-2020 (inclusive):

Drug Possession	Opium or Cocaine	3	5	32	24	7	9	4	9	2	3
	Marijuana	550	504	479	405	343	402	384	380	285	85
	Synthetic Narcotic	6	3	3	3	12	6	0	3	4	3
	Nonnarcotic	8	13	20	22	13	25	23	32	47	7

3,817 total arrests.

The racial breakdown of 2020 arrests: 40.1% Pasifika (27.1% Native Hawaiian, 1.2% Samoan, 11.8% Other Pacific Islander), 25.9% White, 16.5% Filipino, 4.7% Other Asian, 3.5% Black, 9.4% Unknown. In short, almost three-quarters non-White, which is an even more pronounced disparity than adult enforcement (63.5% non-White).

[Per the 2021 High School YRBS](#), Native Hawaiians and other Pacific Islanders have used cannabis in the past 30 days at the same rate as Whites, 16.5% cf. 16.4%. Asians (including Filipinos) use substantially less, 4.4%, so the disparity is even greater there.

Prevailing prosecutorial practices, along with the continued absence of substantive bail reform, sentencing reform, and probation reform, set the stage for perennially overcrowded carceral facilities. The annual per capita cost of incarceration in Hawai'i is approaching \$90,000. To the extent that the current regime of cannabis prohibition contributes to a [probation system that features the longest average term in the nation](#) (59 months), further reforms to sentencing laws and probation practices are urgently needed.

Prosecutors have the potential to play a key role in moving toward a public health response to drug use. As noted by a 2021 report from the [Institute for Innovation in Prosecution](#) at John Jay College: “The health and well-being of people who use drugs should guide prosecutorial policies and practice. All policies and strategies implemented along the criminal legal continuum should be assessed by outcomes related to health equity, social stability, and racial justice, rather than solely punishment and recidivism.” (“[A New Approach: A Prosecutor’s Guide to Advancing a Public Health Response to Drug Use.](#)”)

Listening to the community and health experts is a key initial step for reform-minded prosecutors:

Elected prosecutors should invite directly impacted people to speak to their staff about their experiences with drug use, diversion programs, and incarceration resulting from drug-related offenses. These presentations can humanize accused people for prosecutors and teach prosecutors about the realities of substance use disorder.... Elected prosecutors should also bring in medical professionals and harm reduction experts to explain to staff members the basics of substance use disorder and the importance of

responding to recurrence of use with compassion. Local harm reduction leaders can explain the foundations of harm reduction, the consequences of punitive drug law enforcement, and the different types of interventions and support services shown to deliver the best outcomes. (*Id.*, at 5.)

Prosecutors also have the discretion to actively reduce the role of law enforcement in addressing drug use, including “changing the narrative around drugs in the community by emphasizing treatment and support rather than traditional, punitive responses to drug offenses;” advocacy for social services for those with problematic use of alcohol and other drugs and substance use disorder (Including leveraging of their platform “to support other community leaders seeking to expand the capacity of drug treatment, supportive housing and other services [that] minimize the role of the criminal system);” and advocacy for legislation that takes a health-centered approach to drug policy. (*Id.*, at 6.)

In short, this bill serves as a modest yet significant step toward more sensible policy approaches related to cannabis in this state.

Mahalo for the opportunity to provide testimony.



Testimony from Frank Stiefel
Senior Policy Associate
Last Prisoner Project

RE: Last Prisoner Project Supports SB 2487, SD 1

March 28, 2024

Dear Members of the Committee on Judiciary & Hawaiian Affairs,

Throughout the nation, there has been a clear shift in the public sentiment towards cannabis. Given that adult use is now legal in 24 states, and being considered for legalization in Hawai'i, it is evident that the country is moving away from an era of strict cannabis criminalization.

The War on Drugs and the criminalization of cannabis have created a racially inequitable criminal legal system that has disproportionately impacted people of color, including Native Hawaiians. We at the Last Prisoner Project (LPP) believe that no one should suffer the collateral consequences of cannabis criminalization. Of the states that have decriminalized but not legalized cannabis, Hawai'i has the lowest weight threshold at which point an individual may face a criminal penalty. Louisiana, the most heavily incarcerated state in the nation, allows for individuals to possess a greater amount of cannabis than in Hawai'i.

The Last Prisoner Project supports SB 2487, SD 1 as it will further reduce the criminal penalties for cannabis possession. We look forward to continuing to support Hawai'i in its pursuit to end the War on Drugs by beginning to dismantle the racial injustices that the criminal legal system has perpetuated during prohibition.

About Last Prisoner Project

The Last Prisoner Project, 501(c)(3), is a national nonpartisan, nonprofit organization focused on the intersection of cannabis and criminal justice reform. Through policy campaigns, direct intervention, and advocacy, LPP's team of policy experts works to redress the past and continuing harms of unjust cannabis laws. We are committed to offering our technical expertise to ensure a successful and justice-informed pathway to cannabis legalization in Hawai'i.



Committee: Judiciary & Hawaiian Affairs
Hearing Date/Time: Thursday, March 28 at 2:00pm
Place: Conference Room 325 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of SB2487 SD1
Relating to Marijuana with Amendments**

Dear Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

The ACLU of Hawai'i **supports SB2487 SD1**, changes the minimum amount of marijuana necessary for a person to commit the offense of promoting a detrimental drug in the second degree from one ounce to 30 grams and increases the amount of marijuana a person may have for the offense of promoting a detrimental drug in the third degree to be a violation from three grams or less of marijuana to 15 grams or less.

SB2487 SD1 will further reduce the number of unreasonable arrests for cannabis possession in our already bloated criminal justice system.

Arrest for possession of small amounts of cannabis, is one of the most common points of entry into the criminal justice system. In 2019, the legislature passed, and the Governor signed, ACT 273, which decriminalized the possession of 3 grams or less and imposed a fine of \$130.

The current tiny threshold, while an improvement to past cannabis prohibition policies, continues to result in hundreds of individuals being arrested in Hawai'i each year and facing possible jail time for simple possession of cannabis.¹

This bill simply expands on that laudable effort by increasing the amount of cannabis possession decriminalized, while potentially reducing the fine to an amount that is far less likely to create hardship for those most affected by cannabis prohibition.

Removing criminal penalties for certain cannabis offenses will reduce law enforcement costs. keep people out of jail and save taxpayer dollars. We currently spend over \$250 a day and over \$90,000 to incarcerate an adult. This proposed measure will eliminate the many collateral consequences that flow from cannabis arrests, thereby reducing the gross number of people entering or otherwise harmed by the criminal justice system. Money currently spent on enforcement could be used for efforts that would *increase* public safety.

¹ <https://ag.hawaii.gov/cpja/files/2023/04/Crime-in-Hawaii-2020.pdf>

SB2487 SD1 provides a safe and smart alternative to current cannabis laws.

Our state’s ineffective prohibition on recreational cannabis has damaged civil liberties in many ways – eroding protections against searches and seizures, putting large numbers of non-violent individuals behind bars and targeting people of color. Eliminating criminal penalties for possession of less than two ounces of cannabis, will prevent people from becoming needlessly entangled in the criminal justice system, eliminate many collateral consequences that flow from cannabis arrests, and allow Hawai‘i to reinvest the money it saves for important community needs.

Decriminalizing less than two ounces of cannabis will reduce targeted enforcement of cannabis laws against specific communities.

Data from the Department of the Attorney General’s Crime in Hawaii reports confirms that not all racial and ethnic communities have been impacted equally by current enforcement of Hawaii’s cannabis laws. In 2020, Native Hawaiian and Filipino youth were arrested in numbers disproportionate to their share of the population. In 2020, Native Hawaiian adults were disproportionately arrested compared to their share of the population.²

Proposed Amendments

We respectfully request the following amendments:

1. Increase the amount of possession of marijuana for a violation to once ounce

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

2. Reduce the fine for a violation from \$130 to \$25

3. Amend SB 2487 SD1 to remove penalties for paraphernalia for the use, storage, or possession of cannabis.

For the above reasons, we urge the Committee to support this measure with the proposed amendments. Thank you for the opportunity to testify.

Sincerely,

² <https://ag.hawaii.gov/cpja/files/2023/04/Crime-in-Hawaii-2020.pdf>

Carrie Ann Shiota

Carrie Ann Shiota
Policy Director
ACLU of Hawai‘i
cshiota@acluhawaii.org

American Civil Liberties Union of Hawai‘i
P.O. Box 3410
Honolulu, Hawai‘i 96801
T: 808.522.5900
F: 808.522.5909
E: office@acluhawaii.org
www.acluhawaii.org

The mission of the ACLU of Hawai‘i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai‘i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai‘i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai‘i has been serving Hawai‘i for over 50 years.

HAWAII ATTORNEY GENERAL – CRIME PREVENTION & JUSTICE ASSISTANCE DIVISION
RESEARCH & STATISTICS BRANCH

Crime in Hawaii 2020: A Review of Uniform Crime Reports³

Page 110

Adult Part II Arrests by Offense, State of Hawaii, 2011-2020

Marijuana Manufacturing / Sale

2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
139	129	137	97	93	35	88	71	42	31

Marijuana Possession

2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
801	849	794	792	751	629	627	900	791	523

³ <https://ag.hawaii.gov/cpia/files/2023/04/Crime-in-Hawaii-2020.pdf>



March 27, 2024

Re: In support of SB 2487 and urging amendments

Aloha Chair Tarnas, Vice Chair Takayama, and distinguished members of House Judiciary and Hawaiian Affairs Committee:

My name is Karen O'Keefe. I am the director of state policies for the non-profit Marijuana Policy Project (MPP), the largest cannabis policy reform organization in the nation. I am an attorney who has worked on cannabis policy at MPP since 2003. For the past year, I have had the pleasure of working with a coalition of Hawai'i advocates as part of the Hawai'i Alliance for Cannabis Reform.

I am writing to urge you to amend and pass SB 2487.

Polling shows most Hawai'i residents believe cannabis should be legal.¹ Yet, Hawai'i has not only not legalized cannabis for adults, but the Aloha State's "decriminalization" law applies to the lowest amount of all the decriminalization and legalization laws in the U.S. Twenty-four of the 31 other laws apply to at least an ounce.²

Hawaii's three-grams limit (about six medium joints) is the lowest amount in the nation.³ It is not even $\frac{1}{8}$ of an ounce, a common amount for those purchasing only a small quantity. The tiny threshold results in hundreds of individuals being arrested in Hawai'i each year and facing possible jail time for possessing cannabis for their own personal use.⁴

SB 2487 would bring Hawaii's decriminalization law closer in line with other states, preventing traumatic arrests and life-altering criminal records for possession of a personal-use amount of cannabis. However, it still falls short in some areas. Even if it passed as-is, Hawai'i would still impose life-altering penalties for the personal use of cannabis.

I urge you to also make additional changes to improve its criminal justice impact:

- increase the decriminalized amount to one ounce and make over one ounce but no more than two ounces a petty offense
- include and define equivalent amount of concentrates and infused products
- remove penalties for paraphernalia to use or store cannabis
- reduce the fine from \$130 to \$25

¹ A 2024 Pacific Resource Partnership found 58% support for legalization.

² mpp.org/issues/decriminalization/state-laws-with-alternatives-to-incarceration-for-marijuana-possession/

³ The second lowest, Louisiana, decriminalized amount is 14 grams; New Hampshire (3/4 oz or the equivalent); North Carolina (1/2 ounce), and North Dakota (1/2 ounce).

⁴ For year-by-year arrests reported to the FBI's NIBRS, see:

<https://norml.org/marijuana/library/state-marijuana-arrests/hawaii-marijuana-arrests/> These numbers are likely incomplete due to .

- include a community service alternative for fines
- decriminalize sharing with no remuneration.

Several, but not all, of these provisions were included in the JHA-passed bill, HB 1596. Most or all of these provisions are also common in other decriminalization (and/or legalization) laws, as they are best practices for decriminalization.

I have included possible language as an appendix.

Increasing the Amount Decriminalized & Including Equivalent Amounts

SB 2487 SD 1 increases Hawaii’s decriminalized quantity to 15 grams. That would still be one of the lowest limits of any decriminalization or legalization state. Of the 31 legal or decrim states, only three — Louisiana, North Carolina, and North Dakota — have similarly low threshold amount. Hawai’i already has recognized that a far greater amount — four ounces — is an appropriate personal use quantity for medical patients.

I urge the committee to replace the 15 gram-limit with the one-ounce limit that was in the House’s decriminalization improvement bill, HB 1596. Please also create a “decrim buffer” of between one and two ounces that is a petty misdemeanor. A petty misdemeanor is still a jailable offense, but is less harsh than the misdemeanor penalty currently in place.

Next, it is also important that there be clearly delineated equivalent amounts that are decriminalized for concentrated cannabis and infused products. This will make it easy for both adults and police to know what quantities trigger harsher penalties, and will avoid jailing those returning from one of the 24 legal cannabis states with a personal use quantity of edibles. Many legalization laws and some decriminalization laws — including New Hampshire — take this approach.

I suggest a “personal use quantity” be defined as one ounce or less, up to 5 grams of concentrated cannabis, or cannabis-infused products with or up to 500 milligrams of THC. This is in line with other states, and lower than some, including Delaware.

Reducing the Fine and Providing a Community Service Alternative

The next issue is the high fine. Hawaii’s current \$130 fine poses a significant hardship to many. The Fed’s 2022 Economic Well-Being of U.S. Households survey found that 18% of Americans could not cover an expense over \$100 using only their savings.⁵ Hefty fines can have a devastating effect on low-income individuals, making it difficult to pay for food, rent, medications, and other essentials. \$25 — or about two hours of work at minimum wage — is much more reasonable for conduct Hawaii residents believe should be legal. That was the fine Virginia imposed prior to legalization. It also mirrors HB 1596.

5

<https://www.federalreserve.gov/publications/files/2022-report-economic-well-being-us-households-202305.pdf>

An up to \$130 fine could be imposed, however, for public smoking, which is a significant concern of many.

It is also important to include a community service alternative to any fines, to include a non-monetary punishment for those who cannot afford a fine.

Including Paraphernalia

Please also amend SB 2487 SD 1 to remove penalties for paraphernalia for the use, storage, or possession of cannabis. Those found with cannabis will also have a container it is in, making the paraphernalia charge duplicative. The paraphernalia fine is also excessive at up to \$500. A staggering 37% of Americans cannot afford an emergency \$400 offense.⁶

HB 1596 added to §329-43.5 “(f) This section shall not apply to the possession of drug paraphernalia to: (1) Store, contain, or conceal; or (2) Inject, ingest, inhale, or otherwise introduce into the human body marijuana.” This language should be included in SB 2487, too.

Including Sharing

Several other decriminalization and legalization states include decriminalization of sharing with no remuneration. Like wine, cannabis is frequently shared among friends and romantic partners. Passing a joint should not be a jailable offense.

Under existing law, distributing under an ounce carries up to a year in prison and/or an up to \$2,000 fine.

Language can and should be added to SB 2487 to ensure this only applies to actual sharing with no remuneration, and not tied transactions where one item is sold for an inflated price with cannabis gifted for free.

Concluding Thoughts

We hope the legislature will legalize cannabis for adults this year, with focus on equity. But, it is far from certain that will happen. And, even if it does, SB 3335 does not legalize possession until 2026. SB 2487 is a vital interim step. It is all the more important if SB 3335 does not make it past the finish line, so that Hawai'i stop ruining lives over personal use quantities of cannabis.

I urge you to report SB 2487 out of committee, but to first amend it to more comprehensively ensure lives are not ruined for personal possession and sharing of cannabis. Please don't hesitate to reach out if you have any questions or would like any additional information.

⁶ <https://www.federalreserve.gov/publications/2023-economic-well-being-of-us-households-in-2022-expenses.htm>

Mahalo for your time and consideration,

A handwritten signature in black ink that reads "Karen O'Keefe". The signature is written in a cursive, flowing style.

Karen O'Keefe
Director of State Policies
202-905-2012
kokeefe@mpp.org

Appendix: Possible Revision to SB 2487

SECTION 1. Section 329-43.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (f) to read as follows:

"§329-43.5 Prohibited acts related to drug paraphernalia.

(a) Except as provided in [~~subsection~~] subsections (e) [~~7~~] and (f), it [~~is~~] shall be unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter. A violation of this subsection shall constitute a violation subject to a fine of no more than \$500.

(f) This section shall not apply to the possession of drug paraphernalia to:

(1) Store, contain, or conceal; or

(2) Inject, ingest, inhale, or otherwise introduce into the human body,

marijuana."

SECTION 2. Section 712-1249, Hawaii Revised Statutes, is amended to read as follows:

"(1) (a) A person commits the offense of promoting a detrimental drug in the third degree if the person knowingly possesses any marijuana or any Schedule V substance in any amount.

(b) A person commits the offense of promoting a detrimental drug in the third degree if the person knowingly transfers a personal use quantity of marijuana to a person who is 21 years of age or older without remuneration. For purposes of this section, a transfer is for remuneration if cannabis is given away contemporaneously with another transaction between the same parties, if a gift of cannabis is offered or advertised in conjunction with an offer for sale of goods, services, or admission to an event, or if the gift of cannabis is contingent upon a separate transaction for goods, services, or the price of admission to an event.

(2) Promoting a detrimental drug in the third degree [~~is~~] shall be a petty misdemeanor; provided that:

(A) possession or transfer without remuneration of a personal use quantity [~~less~~] of marijuana [~~is~~] shall be a violation, punishable by a fine of [~~\$130.~~] \$25. A person found responsible for a violation under this section may request, and

shall be granted, a penalty of two hours of community service in lieu of a fine;

(B) smoking marijuana in a public place shall be a violation, punishable by a fine of up to \$130. A person found responsible for a violation under this section may request, and shall be granted, a penalty of up to ten hours of community service in lieu of a fine;:

(3) As used in this section, "personal use quantity" means no more than:

- (a) One ounce of cannabis other than concentrated cannabis and cannabis-infused products;
- (b) five grams of concentrated cannabis; or
- (c) cannabis-infused products containing no more than 500 milligrams of tetrahydrocannabinol."

SECTION 3. Section 712-1244, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

(1) **Except as provided in 712-1249 a,** [A] person commits the offense of promoting a detrimental drug in the first degree if the person knowingly:

- (a) Possesses four hundred or more capsules or tablets containing one or more of the Schedule V substances;
- (b) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more, containing one or more of the Schedule V substances;
- (c) Distributes fifty or more capsules or tablets containing one or more of the Schedule V substances;
- (d) Distributes one or more preparations, compounds, mixtures, or substances of an aggregate weight of one-eighth ounce or more, containing one or more of the Schedule V substances;
- (e) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of one pound or more, containing any marijuana;
- (f) Distributes one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more, containing any marijuana;

(g) Possesses, cultivates, or has under the person's control twenty-five or more marijuana plants; or

(h) Sells or barter any marijuana or any Schedule V substance in any amount.

SECTION 4. Section 712-1248, Hawaii Revised Statutes, is amended to read as follows:

Promoting a detrimental drug in the second degree

(1) Except as provided in 712-1249 a, [A] person commits the offense of promoting a detrimental drug in the second degree if the person knowingly:

(a) Possesses fifty or more capsules or tablets containing one or more of the Schedule V substances;

(b) Possesses one or more preparations, compounds, mixtures, or substances, of an aggregate weight of one-eighth ounce or more, containing one or more of the Schedule V substances;

(c) Possesses [~~one or more preparations, compounds, mixtures, or substances, of an aggregate weight of one ounce or more, containing any marijuana~~] a quantity of marijuana equal to or greater than of two ounces of marijuana other than concentrated

cannabis, 10 grams of concentrated cannabis; and
cannabis-infused products containing 1 gram of
tetrahydrocannabinol or greater [~~one or more preparations,~~
~~compounds, mixtures, or substances, of an aggregate weight of~~
~~one ounce or more, containing any marijuana~~]; or

(d) Distributes any marijuana or any Schedule V substance in any amount.

(2) Promoting a detrimental drug in the second degree is a misdemeanor.

To: Senator David Tarnas, Chair,
Senator Gregg Takayama, Vice Chair,
Members of the Judiciary & Hawaiian Affairs Committee

Fr: TY Cheng, President of Aloha Green Holdings Inc.

RE: Testimony in SUPPORT of Senate Bill (SB) 2487 SD1

RELATING TO MARIJUANA.

Changes the minimum amount of marijuana necessary for a person to commit the offense of promoting a detrimental drug in the second degree from one ounce to thirty grams. Increases the amount of marijuana a person may have for the offense of promoting a detrimental drug in the third degree to be a violation from three grams or less of marijuana to fifteen grams or less. (SD1)

Dear Chair, Vice-Chairs and Members of the Committee:

Aloha Green Apothecary SUPPORTS this bill which will affect positive outcomes for cannabis patients who may have had their 329 card registration lapse and do not have the cannabis possession protections under the 329 medical cannabis program.

Thank you for your leadership in Hawaii's cannabis industry.

TY Cheng
President



SB2487 SD1 Decriminalize Marijuana

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. David A. Tarnas, Chair

Rep. Gregg Takayama, Vice Chair

Wednesday March 28, 2024 2:00 Room 325

Hawaii Substance Abuse Coalition Comments SB2487 SD1:

ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment, prevention agencies and recovery-oriented services.

HSAC agrees with the Association for Addiction Specialists' (NAADAC), press release in 2022¹:

We support the decriminalization of cannabis, which would remove criminal consequences for use or possession and allow cannabis to remain illegal, but the penalties for possession would be much less harsh than under current laws.

Such decriminalization would include one of the following:

1. Imposing fines,
2. Drug education,
3. Substance use disorder treatment, or
4. No penalty at all.

While we recognize that Hawaii is considering legalizing cannabis, at this time, we find it difficult to support measures that would widely promote the use of an addictive substance that would harm our youth and therefore stand against legalization.

We appreciate the opportunity to provide testimony and are available for questions.

¹ NAADAC Releases Position Statement on the Decriminalization and Legalization of Cannabis Tuesday, February 1, 2022
<https://www.naadac.org/press-releases/posts/naadac-releases-position-statement-on-the-decriminalization-and-legalization-of-cannabis>



TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII

COMMITTEE REFERRAL: JHA

MARCH 28, 2024

SB 2487, SD1, RELATING TO MARIJUANA

POSITION: SUPPORT

The Democratic Party of Hawai'i **supports** SB 2487, SD1, relating to marijuana. In 2016, delegates to the Democratic Party of Hawai'i's state convention passed a resolution (EDU 2016-05) supporting the legalization of adult-use recreational cannabis to generate revenue for public services.

It is high time that Hawai'i stopped criminalizing people for ingesting a plant. While cannabis remains illegal under federal law, where it is classified as a Schedule I substance, the facts about cannabis consumption are clear. To begin, cannabis has a lower organic toxicity and addictive risk than alcohol, along with fewer correlating incidents of influence-related accidents and violence. More than half of all traffic fatalities in Hawai'i involve alcohol, yet no one seriously discusses the possibility of prohibition because of path dependence. In other words, alcohol is ingrained in our culture in a way that cannabis consumption is not, despite the former being more dangerous, statistically speaking, than the latter.

Similarly, cannabis abuse and dependence afflicts approximately 1.7 percent of the U.S. population, while alcohol abuse afflicts roughly 7.5 percent—over four times as many individuals. Cannabis is also not conclusively linked to an increase in violent behavior. Rather, reports supposedly linking cannabis to violent crimes typically rely on information gathered by the Office of National Drug Control Policy, which, in turn, relies on source material that a) does not account for drug-

trafficking and dispositional or psychological disorders; and b) fails to account for levels of deviancy (increased usage beyond average consumption rates). A starker statistical correlation exists between increased alcohol consumption and violent crime, including child and intimate partner abuse, yet, again, no one is introducing, much less considering the merits of, limiting the personal consumption of alcohol.

Additionally, only 30 percent of frequent (every other day or more) cannabis users report symptoms suggesting dependence, in contrast to nearly 70 percent for nicotine and 88 percent for harder drugs, like cocaine, calling into question legal opinions asserting that cannabis and hard drugs can be readily correlated to one another. If we do not criminalize overconsumption of the more dangerous drug of alcohol, in and of itself, why, once more, do we unduly criminalize cannabis consumption, particularly in small amounts?

Decriminalizing recreational cannabis is an issue of restorative justice. As the visitor industry reaps record profits and supports expanding the local prison-industrial complex, people of Native Hawaiian ancestry, who comprise approximately 25 percent of the state's population, suffer the pangs of a biased criminal in-justice system. Approximately 39 percent of incarcerated detainees are Hawaiian, according to a comprehensive study by the Office of Hawaiian Affairs, with the proportionality gap being even greater for Hawaiian women, who comprise 19.8 percent of the state's female population, but 44 percent of the state's female inmate population. Researchers also found that, on average, Hawaiians receive longer sentences, more parole revocations, and, importantly for this measure, harsher drug-related punishments than other ethnic groups, including for cannabis possession.

As we struggle to fix our state's overcrowded prisons, we must enact systemic solutions that promote social justice and help to alleviate Hawai'i's mass incarceration problem. We must pass cannabis policies that are responsible, just, and equitable for our island home.

Mahalo nui loa,

Kris Coffield

Co-Chair, Legislative Committee
(808) 679-7454
kriscoffield@gmail.com

Abby Simmons

Co-Chair, Legislative Committee
(808) 352-6818
abbyalana808@gmail.com

SB-2487-SD-1

Submitted on: 3/27/2024 11:43:22 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Randy Gonce	Hawaii Cannabis Industry Solutions	Support	Written Testimony Only

Comments:

In STRONG support.



HAWAII ALLIANCE FOR CANNABIS REFORM

Thursday, March 29, 2024

Senate Bill SB2487 SD1 Relating to Marijuana Position: Support, asking for amendments

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

The Hawai'i Alliance for Cannabis Reform **supports SB2487 SD1**, which changes the minimum amount of marijuana necessary for a person to commit the offense of promoting a detrimental drug in the second degree from one ounce to 30 grams and increases the amount of marijuana a person may have for the offense of promoting a detrimental drug in the third degree to be a violation from three grams or less of marijuana to 15 grams or less.

Polling shows most Hawai'i residents believe cannabis should be legal.¹ Yet, Hawai'i has not only not legalized cannabis for adults, but the Aloha State's "decriminalization" law applies to the lowest amount of all the decriminalization and legalization laws in the U.S. Twenty-four of the 31 other laws apply to at least an ounce.²

Hawai'i's three-grams limit (about six medium joints) is the lowest amount in the nation.³ It is not even $\frac{1}{8}$ of an ounce, a common amount for those purchasing only a small quantity. The tiny threshold results in hundreds of individuals being arrested in Hawai'i each year and facing possible jail time for possessing cannabis for their own personal use.⁴

SB2487 SD1 would bring Hawai'i's decriminalization law closer in line with other states, preventing traumatic arrests and life-altering criminal records for possession of a personal-use

¹ A 2024 Pacific Resource Partnership found 58% support for legalization.

² <https://www.mpp.org/issues/decriminalization/state-laws-with-alternatives-to-incarceration-for-marijuana-possession/>

³ The second lowest, Louisiana, decriminalized amount is 14 grams; New Hampshire (3/4 oz or the equivalent); North Carolina (1/2 ounce), and North Dakota (1/2 ounce).

⁴ For year-by-year arrests reported to the FBI's NIBRS, see: <https://norml.org/marijuana/library/state-marijuana-arrests/hawaii-marijuana-arrests/> These numbers are likely incomplete due to .

Member Organizations

Marijuana Policy Project • ACLU of Hawai'i • Drug Policy Forum of Hawai'i • Council for Native Hawaiian Advancement • Last Prisoner Project • Doctors for Drug Policy Reform • Hawai'i Innocence Project • Chamber of Sustainable Commerce • Cannabis Education
Hawai'i

amount of cannabis. However, it still falls short in some areas. Even if it passed as-is, Hawai'i would still impose life-altering penalties for the personal use of cannabis.

We urge you to also make additional changes to improve its criminal justice impact:

- increase the decriminalized amount to one ounce and make over one ounce but no more than two ounces a petty offense.
- include and define equivalent amount of concentrates and infused products.
- remove penalties for paraphernalia to use or store cannabis.
- reduce the fine from \$130 to \$25.
- include a community service alternative for fines.
- decriminalize sharing with no remuneration.

Several, but not all, of these provisions were included in the JHA-passed bill, HB1596 HD1. Most or all of these provisions are also common in other decriminalization (and/or legalization) laws, as they are best practices for decriminalization.

We are including possible language for amendments.

Increasing the Amount Decriminalized & Including Equivalent Amounts

SB2487 SD1 increases Hawai'i's decriminalized quantity to 15 grams. That would still be one of the lowest limits of any decriminalization or legalization state. Of the 31 legal or decriminalized states, only three — Louisiana, North Carolina, and North Dakota — have similarly low threshold amount. Hawai'i already has recognized that a far greater amount — four ounces — is an appropriate personal use quantity for medical patients.

We urge the committee to replace the 15 gram-limit with the one-ounce limit that was in the House's decriminalization improvement bill, HB1596 HD1. Please also create a "decriminalization buffer" of between one and two ounces that is a petty misdemeanor. A petty misdemeanor is still a jailable offense but is less harsh than the misdemeanor penalty currently in place.

Next, it is also important that there be clearly delineated equivalent amounts that are decriminalized for concentrated cannabis and infused products. This will make it easy for both adults and police to know what quantities trigger harsher penalties and will avoid jailing those returning from one of the 24 legal cannabis states with a personal use quantity of edibles. Many legalization laws and some decriminalization laws — including New Hampshire — take this approach.

We suggest a "personal use quantity" be defined as one ounce or less, up to 5 grams of concentrated cannabis, or cannabis-infused products with or up to 500 milligrams of THC. This is in line with other states, and lower than some, including Delaware.

Reducing the Fine and Providing a Community Service Alternative

The next issue is the high fine. Hawai'i's current \$130 fine poses a significant hardship to many. The Fed's 2022 Economic Well-Being of U.S. Households survey found that 18% of Americans

could not cover an expense over \$100 using only their savings.⁵ Hefty fines can have a devastating effect on low-income individuals, making it difficult to pay for food, rent, medications, and other essentials. \$25 — or about two hours of work at minimum wage — is much more reasonable for conduct Hawai'i residents believe should be legal. That was the fine Virginia imposed prior to legalization. It also mirrors HB1596 HD1.

An up to \$130 fine could be imposed, however, for public smoking, which is a significant concern of many.

It is also important to include a community service alternative to any fines, to include a non-monetary punishment for those who cannot afford a fine.

Remove Penalties for Paraphernalia

Please also amend SB2487 SD1 to remove penalties for paraphernalia for the use, storage, or possession of cannabis. Those found with cannabis will also have a container it is in, making the paraphernalia charge duplicative. The paraphernalia fine is also excessive at up to \$500. A staggering 37% of Americans cannot afford an emergency \$400 offense.⁶

HB1596 HD1 added to §329-43.5 “(f) This section shall not apply to the possession of drug paraphernalia to: (1) Store, contain, or conceal; or (2) Inject, ingest, inhale, or otherwise introduce into the human body marijuana.” This language should be included in SB2487, too.

Remove Penalties for Sharing Cannabis With No Remuneration

Several other decriminalization and legalization states include decriminalization of sharing with no remuneration. Like wine, cannabis is frequently shared among friends and romantic partners. Passing a joint should not be a jailable offense.

Under existing law, distributing under an ounce carries up to a year in prison and/or an up to \$2,000 fine.

Language can and should be added to SB2487 SD1 to ensure this only applies to actual sharing with no remuneration, and not tied transactions where one item is sold for an inflated price with cannabis gifted for free.

Conclusion

We hope the legislature will legalize cannabis for adults this year, with focus on equity. But, it is far from certain that will happen. And, even if it does, SB3335 does not legalize possession until 2026. SB2487 is a vital interim step. It is all the more important if SB3335 does not make it past the finish line, so that Hawai'i stop ruining lives over personal use quantities of cannabis.

⁵ <https://www.federalreserve.gov/publications/files/2022-report-economic-well-being-us-households-202305.pdf>

⁶ <https://www.federalreserve.gov/publications/2023-economic-well-being-of-us-households-in-2022-expenses.htm>

We urge you to report SB2487 SD1 out of committee, but to first amend it to more comprehensively ensure lives are not ruined for personal possession and sharing of cannabis.

Please don't hesitate to reach out if you have any questions or would like any additional information.

Mahalo for considering our input to ensure legalization is rooted in justice and equity. Not an overly punitive approach that ramps up law enforcement.

ACLU of Hawai'i
Carrie Ann Shirota
Policy Director

Drug Policy Forum of Hawai'i
Nikos Leverenz
President

Marijuana Policy Project
Karen O'Keefe
Director of State Policies

On behalf of the entire Hawai'i Coalition for Cannabis Reform

RE: SB2487 SD1; Hearing Wednesday March 28, 2024

Aloha Honorable Committee Members,

The Cannabis Society of Hawai'i (CSOH) strongly supports SB2487 SD1. We believe increasing the cannabis possession limit from "less than 1 ounce" to "4 ounces" is a reasonable step, aligning it with the amount current medical patients can possess under the state 329 program.

In states with "adult-use" cannabis programs, medical cannabis patient participation often declines. This can be attributed to:

- Lack of significant benefits or protections for medical patients compared to "adult-use" consumers.
- Costs of medical cannabis evaluations not being subsidized by insurance.
- Absence of meaningful discounts for medical patients.
- Excessive paperwork and the ease of purchasing cannabis recreationally.
- The stigma associated with being on a medical cannabis registry.

Due to these factors, many patients who would otherwise benefit from the medical program opt for "adult-use" options.

Limiting "adult-use" possession to 1 ounce will disproportionately impact medical patients who prefer anonymity or choose not to participate in the medical program.

Regarding consumption limits, the amount can vary depending on the individual's endocannabinoid system, hydration, sleep patterns, and diet. Similar to coffee, individual experiences can differ. Setting a rigid limit would be restrictive, considering each person's unique needs.

CSOH supports safe storage, responsible consumption, and public education initiatives regarding cannabis use.

We urge you to consider increasing the possession limit as proposed above.

Thank you for your time and consideration.

Cannabis Society of Hawai'i



HIPHI Board

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University of Hawai'i at Hilo

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JoAnn Tsark, MPH
John A. Burns School of Medicine,
Native Hawaiian Research Office

HIPHI Initiatives

Coalition for a
Tobacco-Free Hawai'i

Community-Based Research &
Evaluation

Community Health
Worker Initiatives

COVID-19 Response

Environmental Health

Hawai'i Drug & Alcohol-Free
Coalitions

Hawai'i Farm to School Hui

Hawai'i Oral Health Coalition

Hawai'i Public Health Training Hui

Healthy Eating + Active Living

Kūpuna Collective/Healthy Aging
& Community Living

Public Health Workforce
Development

Date: March 28, 2024

To: Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Members of the Committee on Judiciary

Re: Support SB2487 SD1 Relating to Marijuana

Hrg: Thursday, March 28, 2024 at 2:00 PM

Hawai'i Public Health Institute (HIPHI)ⁱ is offering in **Support the Intent of SB2487 SD1**, which repeals criminal penalties for possession of specific amounts of marijuana.

Prison sentences are not deterrents as people continue to be arrested for possession of illegal drugs. Racism has been identified as a public health crisis.ⁱⁱ People of Color are more negatively impacted than white people. Although both groups use drugs at equivalent rates, a Person of Color is 2.5 times more likely to be arrested for drug possession.ⁱⁱⁱ

The consequences of arresting, prosecuting, and incarcerating people for personal drug use are devastating. People who have been convicted of possession of small amounts cycle through the judiciary program. People in jail are not able to successfully contribute to society or have the support of their social network. These factors all detract from one's well-being.

A criminal record can carry lasting, detrimental effects on finding employment, housing, and accessing educational opportunities. Automatically clearing people of their past criminal record, expunging, for possession of small amounts of marijuana, can positively impact the opportunities available to one in the future.

We thank the Committee for considering ways to decrease incarcerations and increase opportunities and for the opportunity to testify supporting the intent of SB2487 SD1.

Mahalo,

A handwritten signature in black ink that reads 'Peggy Mierzwa'.

Peggy Mierzwa
Director of Policy & Advocacy
Hawai'i Public Health Institute

ⁱ Hawai'i Public Health Institute (HIPHI) is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

ⁱⁱ <https://www.apha.org/Topics-and-Issues/Racial-Equity/Racism-Declarations>

ⁱⁱⁱ <https://www.aclu.org/news/smart-justice/its-time-decriminalize-personal-drug-use-and-possession-basic-rights-and-public>

SB-2487-SD-1

Submitted on: 3/25/2024 3:01:38 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Beverly Heiser	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Takayama, and Committe Members,

I Strongly Oppose SB 2487 SD1 for the same reasons expressed by the Attorney General, Law Enforcement, and the Department of the Prosecuting Attorney. This bill does not pertain to Medical Marijuana that is currently tested and regulated. There is no data on car crashes and accidents because there is no way to test for marijuana intoxication, unless the accident is a fatality or the person gives consent.

Please do not pass this SB 2487 SD1.

SB-2487-SD-1

Submitted on: 3/25/2024 4:34:49 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Audrey Lee	Individual	Oppose	Written Testimony Only

Comments:

STRONG OPPOSITION to SB2487! Let's focus on making good bills for the good of the community, not bills leading toward a worsening community. Remember they called this group of people promoting marijuana and other drugs "PUSHERS"? If they push a lesser quantity, is that okay? **NO WAY!**

SB-2487-SD-1

Submitted on: 3/25/2024 9:28:21 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael A. Cobb Jr	Individual	Oppose	Written Testimony Only

Comments:

Hawaii should not make marijuana legal. Marijuana should be treated like a prescription narcotic.

The decision should be between the doctor and patient, we don't need to allow it to be used for recreational use.

SB-2487-SD-1

Submitted on: 3/26/2024 4:59:12 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Me Fuimaono-Poe	Individual	Support	Written Testimony Only

Comments:

Support

Testimony for SB2487 SD1

Aloha Chair Rhoads and Members of the Committee,

My name is Emma Nelson and I am an MSW student with UH Manoa finishing my final year in the program. I am writing to **support** SB2487.

The bill seeks to repeal criminal penalties for the possession of one ounce or less of marijuana, increasing the previous amount of 3 grams. This bill could decrease the load on the already overloaded justice system. It has been shown time and time again that incarceration for drug possession and use (particularly when it comes to addiction) is not an effective way to mitigate or decrease drug usage.

There are many outcries that this bill would increase the number of people using marijuana as well as increase the amount of marijuana in the state, but the data does not necessarily support this. The evidence of the effects of decriminalization are admittedly somewhat mixed. Wouldn't legislation be a far cry easier if we lived in a black and white world without nuance? But it has been shown that the intense negative effects that those who oppose the liberalization of marijuana are afraid of simply have not come to fruition in the states where liberalization has occurred (Dills et al., 2021). There are 36 states that have legalized medical marijuana, and 14 that have legalized recreational marijuana (Anderson & Rees, 2023). There are additional states that have liberalized their laws regarding marijuana, though their specific laws vary widely (Dills et al., 2021). It has been shown that generally marijuana liberalizations had little to no impact on teen marijuana use, a fear that has been voiced multiple times by those opposing liberalization of the existing marijuana laws (Dills et al., 2021). A study specifically comparing the marijuana use in adolescents between Alaska and Hawaii showed that there was no evidence that medical marijuana laws increased adolescent marijuana use, while the data concerning recreational marijuana legalization was mixed and inconsistent (Lee et al., 2022). The data taken from six states post-legalization of marijuana showed no obvious effect of legalization on youth marijuana use (Dills et al., 2021). Additionally, there are results that

support the argument that it is more difficult for teenagers to access marijuana when drug dealers are replaced by licensed dispensaries that require proof of age (Anderson & Rees, 2023). Other studies have even shown that there is a substitutability between marijuana and alcohol with recreational marijuana legalization leading to reports that showed a 6% and a 20% decrease in binge drinking among college students (Anderson & Rees, 2023).

It also has been shown that liberalizing marijuana laws can potentially reduce health inequities, decrease absolute/relative racial disparities for possession-based arrests (Tran et al., 2020). The studies looking into car crash rates after medical marijuana legalization as well as recreational marijuana legalization found no significant long-term effects on the amount of fatal car crashes, only temporary effects (Cook et al., 2020). The claims of decriminalizing the use/possession of marijuana increasing fatal crashes are unfounded. It has been observed that though there are indeed increases in positive cannabis test among drivers in states where marijuana is legalized, *however*, a positive result on a cannabis test is not in itself a sign of driving impairment (Windle et al., 2022). This is due to the fact that cannabis passes from the blood into other organs and can remain for extended periods of time, thus presenting difficulty in correlating specific biochemical levels of tetrahydrocannabinol with specific degrees of impairment across individuals (such as one might see with a blood alcohol test) (Windle et al., 2022).

Now with all this being said, let it be abundantly clear that I do not condone the willy-nilly use of marijuana, particularly in our youth. I understand and acknowledge the possible risks or negative effects of marijuana use on developing brains and want to *avoid* any unnecessary risks posed to our youth. But the data simply doesn't show that this is happening. I also do not even use marijuana myself, being a carrier of a Merchant Mariner Credential and subject to random drug testing. I do not personally enjoy the effects of marijuana. And yet, I think that the criminalization of this substance has not positively affected the usage rates of the drug, nor the safety of the drug itself, but rather increased the number of people unnecessarily fined or incarcerated who are not benefitting in any regard from said incarceration. I fear that the punishment will only double down on possible negative effects. The overarching consensus is that there are no significant proven or observed negative effects of liberalizing laws on marijuana

possession, but there have been historically significant (and most commonly racist) effects of the criminalization of marijuana possession/usage. As our country hopefully moves towards an era of accountability, healing, and tolerance, let the state Hawaii be part of the forefront of the efforts to find better ways to help those in the community be more productive and positive members of our state.

I have included some interesting papers that I cited throughout my testimony, but highly suggest that you read the Anderson & Rees literature review if you have the time. It does a great job of explaining the various findings from studies looking at the legalization of marijuana.

https://www.nber.org/system/files/working_papers/w28647/w28647.pdf

Thank you for your time and attention to this matter.

Respectfully,
Emma Nelson

References

- Anderson, D. M., & Rees, D. I. (2023). The public health effects of legalizing marijuana. *Journal of Economic Literature*, 61(1), 86-143.
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SB-2487-SD-1

Submitted on: 3/26/2024 9:52:23 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Andy Kagemoto	Individual	Support	Written Testimony Only

Comments:

Testifying in support. Thank you Chair Tarnas for bringing this bill before your committee-
aloha!

SB-2487-SD-1

Submitted on: 3/26/2024 10:13:35 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Honda	Individual	Support	Written Testimony Only

Comments:

Support

SB-2487-SD-1

Submitted on: 3/27/2024 11:16:44 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Wendy Gibson-Viviani	Individual	Support	Written Testimony Only

Comments:

To: COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

From: Wendy Gibson-Viviani RN/BSN

RE: SB 2487 SD1—**IN SUPPORT**

HEARING: Thursday, March 28, 2024 at 2:00 PM VIA VIDEOCONFERENCE in Conference Room 325

Dear Rep. David A. Tarnas, Chair, Rep. Gregg Takayama, Vice Chair and Members of the Committee,

My name is Wendy Gibson-Viviani and I'm a Cannabis Nurse Educator, a medical cannabis patient advocate, and a conscientious objector of the racist war on drugs. I was a member of the Dual Use of Cannabis Task Force in 2022.

I support SB2487 SD1 and efforts to decriminalize cannabis in Hawaii by changing the amounts needed to trigger the charges of **promoting a detrimental drug** in the second or third degree: to thirty grams and fifteen grams or less—respectively.

1. While Prosecutor Steve Alm assures us that **nobody is being locked up** for simple possession, the “Crime in Hawaii” records show that there were 900 people arrested for possession in 2018 and 523 in 2020. Source: <https://ag.hawaii.gov/cpja/files/2023/04/Crime-in-Hawaii-2020.pdf>
2. We know that the **much more serious charges for drug paraphernalia** have led to many plea deals.
3. So while, the numbers of those locked up for simple possession are fewer all of these people are still considered criminals and remain part of the criminal justice system--and usually include disproportionate numbers of Native Hawaiians and other marginalized communities.
4. To truly decriminalize cannabis, we also need to also **remove penalties for drug paraphernalia** for the use, storage, or possession of cannabis.

Despite recent exaggerated claims of harms from marijuana-- I wonder if HPD is making cannabis possession arrests **less of a priority** because it is becoming more difficult to consider it to be a ‘detrimental drug” anymore.

In 2023, the U.S. Department of Health and Human Services advised the DEA to take cannabis **OUT of the Schedule I drug** class, and place it into **Schedule III, a class of less harmful substances**. They said that cannabis:

- Poses a **low-risk threat to public health**;
- Has **less potential for misuse than drugs in schedule I or II**,
- **Has legitimate medical use** (for at least 15 medical conditions)

They also said that *a vast majority of people who use cannabis – do so in a manner that does NOT lead to dangerous outcomes to themselves or others.*

And, I think that we can agree with the DHHS that cannabis is less toxic and harmful to the body, less addictive and less likely to cause violent or reckless behavior – than alcohol.

For all of these reasons, please do promote the decriminalization of cannabis in Hawaii by passing this bill and include the removal of penalties for paraphernalia.

Thank you for the opportunity to share my views,

Wendy Gibson-Viviani RN/BSN

Kailua

SB-2487-SD-1

Submitted on: 3/27/2024 12:48:40 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Greg Puppione	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Greg Puppione and I live in Honolulu I'm testifying in strong support of SB2487, SD1 which repeals the penalties for possession of one ounce or less of cannabis. Cannabis prohibition enforcement wastes taxpayer funds and ensnares hundreds of people within the Hawai'i criminal legal system every year. Please support SB2487 SD1 and cannabis decriminalization. Mahalo for your time and consideration.

SB-2487-SD-1

Submitted on: 3/27/2024 1:40:59 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kencho Gurung	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Kencho and I live in North Kohala. I'm testifying in strong support of SB2487, SD1 which repeals the penalties for possession of one ounce or less of cannabis. Cannabis prohibition enforcement wastes taxpayer funds and ensnares hundreds of people within the Hawai'i criminal legal system every year. Please support SB2487 SD1 and cannabis decriminalization. Mahalo for your time and consideration.

SB-2487-SD-1

Submitted on: 3/27/2024 1:32:39 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Judith A Mick	Individual	Support	Written Testimony Only

Comments:

Aloha- It's time to stop filling our jails with people who are not criminals. I am referring to those who are encarsarated for having more than an ounce of marijuana. This should not be a crime. Let's get the peope who commit real crimes against others in jail.

Mahalo, Judith Mick, Kailua

SB-2487-SD-1

Submitted on: 3/27/2024 2:17:45 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Emily Sarasa	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Emily Sarasa and I live in Kaimukī. I'm testifying in **strong support** of SB2487, SD1 which repeals the penalties for possession of one ounce or less of cannabis. Cannabis prohibition enforcement wastes taxpayer funds and ensnares hundreds of people within Hawai'i's overburdened, overcrowded criminal legal system every year. Please support SB2487 SD1 and cannabis decriminalization.

Mahalo for your time and consideration,

Emily Sarasa

SB-2487-SD-1

Submitted on: 3/27/2024 3:16:16 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Colleen Rost-Banik	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Colleen Rost-Banik and I live in Honolulu. I'm testifying in strong support of SB2487, SD1 which repeals the penalties for possession of one ounce or less of cannabis. Cannabis prohibition enforcement wastes taxpayer funds and ensnares hundreds of people within the Hawai'i criminal legal system every year. Please support SB2487 SD1 and cannabis decriminalization. Mahalo for your time and consideration.

-Colleen Rost-Banik, PhD

SB-2487-SD-1

Submitted on: 3/27/2024 6:49:28 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
ANDREW ISODA	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Andrew Isoda and I live in Lahaina. I'm testifying in strong support of SB2487, SD1 which repeals the penalties for possession of one ounce or less of cannabis. Cannabis prohibition enforcement wastes taxpayer funds and ensnares hundreds of people within the Hawai'i criminal legal system every year. Please support SB2487 SD1 and cannabis decriminalization. Mahalo for your time and consideration

SB-2487-SD-1

Submitted on: 3/27/2024 8:20:13 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Pablo Wegesend	Individual	Support	Written Testimony Only

Comments:

I'm testifying in support of SB2487, SD1 which repeals the penalties for possession of one ounce or less of cannabis. Cannabis prohibition enforcement wastes taxpayer funds and ensnares hundreds of people within the Hawai'i criminal legal system every year. Also, cannabis doesn't cause as many problems as alcohol. Please support SB2487 SD1 and cannabis decriminalization. Mahalo for your time and consideration."

SB-2487-SD-1

Submitted on: 3/28/2024 12:25:36 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeffrey Hong	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Jeff Hong. I'm testifying in strong support of SB2487, SD1 which repeals the penalties for possession of one ounce or less of cannabis. Cannabis prohibition enforcement wastes taxpayer funds and ensnares hundreds of people within the Hawai'i criminal legal system every year. Please support SB2487 SD1 and cannabis decriminalization. Mahalo for your time and consideration

SB-2487-SD-1

Submitted on: 3/28/2024 7:08:59 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Chuck Taylor	Individual	Support	Written Testimony Only

Comments:

Cannabis prohibition enforcement wastes taxpayer funds and ensnares hundreds of people within the Hawai'i criminal legal system every year.

SB-2487-SD-1

Submitted on: 3/28/2024 1:14:39 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Raelyn Reyno Yeomans	Individual	Support	Written Testimony Only

Comments:

Strong Support

SB-2487-SD-1

Submitted on: 3/28/2024 8:24:12 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Allen Cardines, Jr.	Individual	Oppose	Written Testimony Only

Comments:

I STRONGLY OPPOSE THIS BILL

SB-2487-SD-1

Submitted on: 3/28/2024 8:35:01 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lisa Seikai Darcy	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Lisa Darcy and I live in Kula, Maui.

I'm testifying in strong support of SB2487, SD1.

In the scheme of life, cannabis prohibition enforcement wastes taxpayer funds and ensnares hundreds of people within the Hawai'i criminal legal system every year. Please support SB2487 SD1 and cannabis decriminalization.

Mahalo for your time and consideration,

Lisa Darcy

SB-2487-SD-1

Submitted on: 3/28/2024 12:01:09 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kristofer Teves	Individual	Support	Written Testimony Only

Comments:

To: The Senate Committee

From: Kristofer Teves, kmteves@hawaii.edu MSW Student at UH Manoa

Subject: SB 2487

My name is Kristofer Teves and I am currently a MSW student at the University of Hawaii Manoa. I am testifying in support of SB 2487 Relating to Marijuana. With more and more states moving towards legalizing marijuana, Hawaii needs to think of the benefits of legalizing marijuana and transition to legalization here in Hawaii. Other areas that have implemented legalization of marijuana have seen a gradual decrease in violence as well. The repealing of the possession small amounts of marijuana would also lead to less drug-related arrests, resulting in reduction in overpopulated prison populations and repurposing state resources. More resources can be allocated elsewhere such as prisoners re-transitioning into society and are provided rehabilitation services.

Another benefit towards reducing the repealing the criminal penalties is allowing first time offenders from entering the criminal justice system. By allowing people to enter into the system, the likelihood that they will reoffend becomes a problematic problem because it sums up people in possession of marijuana with other criminal offenders. Having a small amount of marijuana on you should not warrant being registered as a criminal and also opens up the potential for job opportunities that they would not have gotten if given a criminal record.

In conclusion, I am in support of SB 2487 because it will allow not only for Hawaii to adapt with the rest of the United States but also opens up resources such as money to be allocated towards other needed areas like the rehabilitation process.

Thank you for the opportunity to provide comments.