

LEGISLATIVE FISCAL OFFICE

Fiscal Note



Fiscal Note On: **HB 149** HLS 15RS 488
 Bill Text Version: **ENROLLED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: June 10, 2015	11:33 AM	Author: BADON
Dept./Agy.: Corrections		Analyst: Monique Appeaning
Subject: Criminal Penalties For Marijuana Possession		

CRIMINAL/SENTENCING EN -\$1,727,056 GF EX See Note Page 1 of 2
 Amends certain criminal penalties for possession of marijuana

Amends certain criminal penalties and imprisonment terms for possession of marijuana, tetrahydrocannabinol or chemical derivatives.

Effective upon governor's signature.

EXPENDITURES	2015-16	2016-17	2017-18	2018-19	2019-20	5 -YEAR TOTAL
State Gen. Fd.	(\$1,727,056)	(\$3,463,014)	(\$3,934,839)	(\$3,934,839)	(\$3,934,839)	(\$16,994,587)
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total						
REVENUES	2015-16	2016-17	2017-18	2018-19	2019-20	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Annual Total						

EXPENDITURE EXPLANATION

The legislation will result in a significant decrease in state general fund expenditures as a result of changes to the sentencing guidelines. While this legislation changes the sentencing guidelines for a first conviction, it remains a misdemeanor. A second conviction is reduced from 5 years to 6 months imprisonment. This changes a second conviction from a felony to a misdemeanor. A third conviction is reduced from a maximum of 20 years to a maximum of 2 years imprisonment. A fourth conviction was added that has a maximum of 8 years imprisonment. While the Department of Public Safety and Corrections (DPS&C) houses offenders in state and local facilities, the decrease in expenditures presented will only focus on savings based on local housing of state offenders. DPS&C reports that any cost savings will impact the local level as a result of maintaining full capacity in state facilities. There is an indeterminable impact to the local governing authorities as the sentencing guideline changes will decrease costs to house some offenders, but will increase costs as a result of offenders being admitted for new misdemeanor offenses.

First Conviction (excludes Synthetic Cannabinoids)

Current law imposes a maximum imprisonment term of 6 months for the first conviction when the offender possesses a quantity of zero to 60 pounds of marijuana, tetrahydrocannabinol or chemical derivatives. While this legislation changes the sentencing guidelines, this offense remains a misdemeanor. This will result in a decrease at the local level. The proposed law does the following:

First Conviction – 14 grams or less - The first conviction shall result in imprisonment in a parish jail for a maximum of 15 days.

First Conviction – more than 14 grams - The first conviction shall result in imprisonment in a parish jail for a maximum of 6 months.

Second Conviction (excludes Synthetic Cannabinoids)

Under current law, the maximum imprisonment term is 5 years. However, the DPS&C reports that the average time imposed is 4 years and the average time served is 1 year and 6 months. If the proposed legislation becomes law, the maximum imprisonment term will change to 6 months. It will be a misdemeanor and will result in an increase in local expenditures and a decrease of state expenditures. **Continued on Page 2**

REVENUE EXPLANATION

The legislation will likely result in a decrease in the revenue generated through the imposition of fines that accrue to local governing authorities for penalties associated with certain marijuana, tetrahydrocannabinol, or chemical derivatives convictions.

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|---|----------------------------|--------------|--|
| <u>Senate</u> | <u>Dual Referral Rules</u> | <u>House</u> | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | | | <input type="checkbox"/> 6.8(F)(2) >= \$500,000 Rev. Red. to State {H & S} |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | | | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

Evan Brasseaux
Evan Brasseaux
 Staff Director

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CONTINUED EXPLANATION from page one:

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Expenditure Explanation Continued from Page 1

Savings projections are based on offender statistics provided by DPS&C for the average 306 offenders who are admitted annually for a 2nd offense. Offenders are admitted to and released from facilities over the course of a year and do not all serve a full 365 days in the first year, or a full 365 days in the subsequent year of their average 18 month sentence. In order to calculate an annual savings, the fiscal note provides a comparison based on an average annual population.

Year 1 (\$1,442,181)

The current average annual population of offenders is 162. This would result in an annual cost savings of \$1,442,181 (162 offenders x \$24.39 cost to house state offenders in local facilities x 365 days).

Year 2 (\$2,581,682)

The current average annual population of offenders is 290. This would result in an annual cost savings of \$2,581,682 (290 offenders x \$24.39 cost to house state offenders in local facilities x 365 days).

Year 3 (\$3,053,506)

The current average annual population of offenders is 343. This would result in an annual cost savings of \$3,053,506 (343 offenders x \$24.39 cost to house state offenders in local facilities x 365 days).

Third Offense (excludes Synthetic Cannabinoids)

Under current law, the maximum imprisonment term is 20 years. However, the DPS&C reports that the average time imposed is 4 years and the average time served is 1 year and 6 months. If the proposed legislation becomes law, the maximum imprisonment term will change to 2 years. The DPS&C assumes that the average imposed term will be 1.6 years and the average time served will be 7 months.

Savings projections are based on offender statistics provided by DPS&C and assumes 162 offenders are admitted annually for a 3rd offense. Offenders are admitted to and released from facilities over the course of a year and do not all serve a full 365 days in the first year, or a full 365 days in the subsequent year of their average 17-month sentence. In order to calculate an annual savings, the fiscal note provides a comparison based on an average annual population.

Year 1 (\$284,875)

The current average annual population of offenders is 84. If the proposed legislation becomes law, the average annual population would be reduced to 52. This would result in an annual cost savings of \$284,875 (32 x \$24.39 cost to house state offenders in local facilities x 365 days).

Year 2 (\$881,333)

The current average annual population of offenders is 151. If the proposed legislation becomes law, the average annual population would be reduced to 52. This would result in an annual cost savings of \$881,333 (99 x \$24.39 cost to house state offenders in local facilities x 365 days).

Year 3 (\$881,333)

The current average annual population of offenders is 151. If the proposed legislation becomes law, the average annual population would be reduced to 52. This would result in an annual cost savings of \$881,333 (99 x \$24.39 cost to house state offenders in local facilities x 365 days).

Fourth or Subsequent Offense (excludes Synthetic Cannabinoids)

The DPS&C reports that savings would be negligible with the addition of a fourth offense. The Legislative Fiscal Office cannot determine the impact because the DPS&C did not provide the average number of admissions and the annual population with a fourth or subsequent offense. However, the current sentencing guidelines provided for a maximum imprisonment of 20 years; under the proposed legislation the maximum imprisonment is 8 years.

Possession of 2.5 pounds up to a maximum of 60 pounds (excludes Synthetic Cannabinoids)

The proposed legislation adds a new imprisonment term that ranges from a minimum 2 years and a maximum 10 years for offenders who knowingly or intentionally possess marijuana, tetrahydrocannabinol, or chemical derivatives with quantities ranging from a minimum of 2.5 pounds up to a maximum of 60 pounds. The DPS&C does not track the quantity of the possession that is zero to 60 pounds; therefore, there is no way to determine the actual fiscal impact. However, any decrease in DPS&C expenditures is based on the following. The annual cost to house a state offender in a state facility is \$18,841 (\$51.26 per day x 365 days) and the annual cost to house a state offender in a local facility is \$8,902 (\$24.39 per day x 365 days). Approximately 50% of state offenders are housed in state facilities and approximately 50% of state offenders are housed in local facilities.

Synthetic Cannabinoids

This legislation does not change current law for fines and sentencing guidelines for possession of synthetic cannabinoids, it only separates it from marijuana, tetrahydrocannabinol, or chemical derivatives by placing it in a separate section of the law.

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