Thursday, March 9, 2022

Dear Members of the General Assembly,

The undersigned members of the Delaware Bar and justice-related organizations respectfully urge the Representatives and Senators of the 151st General Assembly to prioritize cannabis legalization and vote “Yes” on House Bill 305.

For decades, cannabis has been the gateway to the criminal justice system and a key driver of mass criminalization that impacts mostly poor and marginalized individuals – leaving a disproportionate number of Black and Latinx people to bear the brunt of punitive punishment under policies of prohibition. Despite decriminalization, racial disparities in arrests for petty cannabis offenses persist. In fact, racial disparities in cannabis arrests have increased in Delaware since decriminalization, and people of color, along with other disenfranchised individuals, continue to be shackled to the heavy-handed side of a bifurcated criminal justice system.

Despite decriminalization and legalized medical marijuana, each year, Delaware law enforcement officers stop, search, and cite or arrest thousands of citizens for cannabis possession offenses. These police interactions, which are often unnecessarily confrontational and traumatic for otherwise law-abiding citizens, involve being placed in handcuffs, put into the back of police cars, or sat on a curb for display to passing motorists; even people who are genuinely sick and otherwise qualify for a medical marijuana card, but can’t afford the cost of this statutory carve-out, are subject to intrusive searches and confinement, unnecessary drug treatment, heavy fines, a permanent arrest record, and/or probation for possessing small amounts of cannabis.

For each legislative session that passes without legalization, thousands of people are subjected to unnecessary police contact, exposure to the criminal justice system, and potential lifelong impacts as a result of cannabis prohibition.

Cannabis legalization is, by far, the most impactful criminal justice and policing reform measure introduced in the First State in the past decade, ending the most pernicious justification for the continued criminalization of cannabis consumers. In addition, creating safe and legal access to cannabis, while dismantling and eliminating the illicit market for cannabis, will reduce the collateral consequences of crime and punishment under prohibition.

Cannabis legalization will allow our law enforcement officers to focus on crime with actual victims; re-allocate time and resources within the courts, the Department of Justice, Office of Defense Services, and private counsel; and reconcile the administration of justice with our society’s desire to live under a system of laws that maximizes liberty and allows adults to engage in broadly accepted social conduct that causes no identifiable harm to a victim, property, or public order and safety.

Ending the human costs associated with cannabis prohibition must be the priority of cannabis legalization efforts. We cannot begin to rebuild from the damaging impact of prohibition until we stop the flow of people into the criminal justice system and end unnecessary police interactions, searches, and criminal and civil penalties. Please vote “Yes” on House Bill 305.

In solidarity,

Delaware Office of Defense Services

National Association of Criminal Defense Lawyers

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