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3 Title: Resentencing for Individuals Convicted of Marijuana-Based Offenses
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5 Introduced by: Mara Darian, for the Medical Student Section
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7 Original Authors: Mara Darian, Vikas Kanneganti, Tabitha Moses, Jaya Parulekar, Siri Sarvepalli,
8 and Brianna Sohl
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10 Referred To: Reference Committee B
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12 House Action: **APPROVED AS AMENDED**
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14
15 Whereas, from 2016 to 2017, more than 20,000 arrests involving marijuana charges were
16 made in Michigan, which accounted for about eight percent of all arrests in the state and about 10
17 percent of all drug-related arrests; of these marijuana-related arrests, 87 percent were for
18 possession and 13 percent were for sales/distribution with 90 percent of possession arrests
19 accounting for one ounce or less of marijuana, and
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21 Whereas, the Michigan Department of Corrections spent approximately \$214,900,160 in
22 2017 to jail individuals for marijuana-related offenses; however, a 2014 report by the National
23 Research Council found that mandatory minimum sentences for drug offenders "have few, if any,
24 deterrent effects," and
25

26 Whereas, incarceration is a key issue under the domain of Social and Community Context in
27 the Social Determinants of Health topic area of Healthy People 2020 due to numerous disparities in
28 inmate mental and physical health compared to the population, as well as the increased rate of
29 mental health disorders in the children of incarcerated parents, and
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31 Whereas, there is a clear link between incarceration and health, with incarcerated individuals
32 showing higher risk of chronic conditions such as cardiovascular disease, hypertension, and cancer
33 compared to the general population; a study in March 2013 found that each additional year an
34 individual spends in prison corresponds with a decline in life expectancy by two years, and
35

36 Whereas, incarcerated populations are particularly vulnerable to the coronavirus disease
37 2019 (COVID-19) given the demographics of those experiencing incarceration in addition to the
38 inability to properly "social distance", high population turnover, unsanitary living conditions, poor
39 ventilation systems, inability or inadequacy to properly test and track COVID-19 cases and exposure
40 which have led to an estimated 113,664 COVID-19 cases and 887 related deaths among
41 incarcerated people as of August 2020, and
42

43 Whereas, arrests for marijuana possession, regardless of whether the person was later
44 convicted on these charges, have been shown to negatively impact opportunities such as finding
45 employment, housing, and obtaining student loans, which can lead to widespread and
46 multifactorial individual health consequences; furthermore, criminalization of drug use is associated
47 with increased stigma and discrimination of drug users and that stigma and discrimination is also a
48 causal factor for decreased mental and physical health, and
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50 Whereas, nationally, African Americans are three times more likely to be arrested for
51 marijuana possession than Whites, a difference mirrored in Michigan where African Americans are
52 2.6 times more likely to be arrested, a finding that cannot be explained by differences in use, and
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54 Whereas, fifteen states have legalized the use of recreational and medicinal marijuana, and
55 in the past four years, 23 states have passed laws addressing expungement of certain marijuana
56 convictions, pairing these laws with other policies to its decriminalization or legalization, and
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58 Whereas, in 2018, California became the first state to enact legislation ordering its
59 Department of Justice to conduct a review of criminal records and identify past convictions eligible
60 for sentence dismissal or re-designation in accordance with the Adult Use of Marijuana Act; the
61 outcomes of this legislation showed that reductions in criminal penalties for drug possession
62 reduce racial and ethnic disparities in the criminal justice system, allowing for improvements in
63 health inequalities linked to social determinants of health, and
64

65 Whereas, Illinois passed a bill in May 2019, to expunge convictions for non-violent crimes of
66 possession, manufacturing, and distribution of up to 30 grams and possession up to 500 grams,
67 and Colorado and Massachusetts have approved legislation allowing individuals convicted for
68 possession to petition to seal criminal records of misdemeanor offenses that are no longer
69 considered crimes, and
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71 Whereas, a recent study examining the impact of this type of expungement found that
72 those who do obtain expungement have extremely low subsequent crime rates and experience a
73 significant increase in their wage and employment trajectories and an overall positive impact on
74 the lives of those affected; however, of those legally eligible for expungement, only 6.5 percent
75 obtain it within five years of eligibility, findings that support the development of "automatic"
76 expungement procedures, and
77

78 Whereas, those who have received resentencing for past offenses, including decriminalized
79 marijuana-based charges, have experienced an increase of 22 percent in wages on average within
80 one year of resentencing as well as lower subsequent crime rates that compare favorably to the
81 general population, and
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83 Whereas, our American Medical Association supports public health-based strategies, rather
84 than incarceration, in the handling of individuals possessing cannabis for personal use; encourages
85 research on the impact of legalization and decriminalization of cannabis in an effort to promote
86 public health and public safety (H-95.924), and
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88 Whereas, during the 2018 elections, Michigan voters passed Proposal 1 to legalize the
89 recreational use and possession of marijuana for individuals 21 years of age or older, since then
90 Macomb and Oakland County Prosecutors have already begun dismissing low-level marijuana
91 criminal charges, the city of Detroit has hired attorneys to help individuals with expungement cases,
92 and a bill was introduced by state Representative Sheldon Neeley of Flint to require judges to
93 review requests of people convicted of low-level marijuana crimes, and
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95 Whereas, efforts to set up expungement laws for marijuana-based offenses have come
96 through Bills 4890-85 and 5120 in the Michigan House of Representatives which passed with
97 bipartisan support in November 2019, these bills are currently under review by the Senate

98 Committee on Judiciary and Public Safety and a Senate Bill to this same end (SB-416) is still
99 pending; and

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101 Whereas, in October 2020, Governor Gretchen Whitmer signed a bill to expand
102 expungement of misdemeanor marijuana charges that would not be considered crimes after
103 legalization of recreational marijuana; and,

104
105 Whereas, at the federal level, the Marijuana Opportunity Reinvestment and Expungement
106 (MORE) Act asks that marijuana be removed from the Controlled Substances Act and create an
107 opportunity for individuals with marijuana law convictions to petition for expungement and
108 resentencing; this act was passed in the House in December 2020 (H.R. 3884) and is also under
109 consideration by the Senate (S. 2227); and

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111 Whereas, The Marijuana Opportunity Reinvestment and Expungement Act defines “eligible
112 State of Locality” as a “State or locality that has taken steps to— (i) create an automatic process, at
113 no cost to the individual, for the expungement, destruction, or sealing of criminal records for
114 cannabis offenses; and (ii) eliminate violations or other penalties for persons under parole,
115 probation, pre-trial, or other State or local criminal supervision for a cannabis offense”; therefore be
116 it

117
118 RESOLVED: That MSMS adopt policy in support of the expungement, destruction, or
119 sealing of criminal records for marijuana offenses that would now be considered legal
120 under Michigan’s adult-use marijuana law; and be it further

121
122 RESOLVED: That MSMS adopt policy in support of the elimination of violations or other
123 penalties for persons under parole, probation, pre-trial, or criminal supervision for
124 marijuana offenses that would now be considered legal under Michigan’s adult-use
125 marijuana law; and be it further

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127 RESOLVED: That the Michigan Delegation to the American Medical Association (AMA) ask
128 our AMA to review policy regarding the expungement, destruction, or sealing of criminal records
129 for marijuana offenses that would now be considered legal; and be it further

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131 RESOLVED: That the Michigan Delegation to the American Medical Association (AMA) ask
132 our AMA to review policy to eliminate violations or other penalties for persons under
133 parole, probation, pre-trial, or other State or local criminal supervision for a marijuana
134 offense that would now be considered legal.

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137 WAYS AND MEANS COMMITTEE FISCAL NOTE: \$1,000-\$2,000 for MSMS/AMA policy updates.

Relevant MSMS Policy:

43-19 - Resentencing for People Convicted of Marijuana-Based Offenses - DISAPPROVE

Rationale: The Committee agreed with the underlying intent to decriminalize low-level offenses associated with marijuana possession; however, Committee members determined that the resolution entails a complex legal matter and not within the purview of MSMS.

Relevant AMA Policy:

Cannabis Legalization for Adult Use (commonly referred to as recreational use) H-95.924

Our AMA: (1) believes that cannabis is a dangerous drug and as such is a serious public health concern; (2) believes that the sale of cannabis for adult use should not be legalized (with adult defined for these purposes as age 21 and older); (3) discourages cannabis use, especially by persons vulnerable to the drug's effects and in high-risk populations such as youth, pregnant women, and women who are breastfeeding; (4) believes states that have already legalized cannabis (for medical or adult use or both) should be required to take steps to regulate the product effectively in order to protect public health and safety including but not limited to: regulating retail sales, marketing, and promotion intended to encourage use; limiting the potency of cannabis extracts and concentrates; requiring packaging to convey meaningful and easily understood units of consumption, and requiring that for commercially available edibles, packaging must be child-resistant and come with messaging about the hazards about unintentional ingestion in children and youth; (5) laws and regulations related to legalized cannabis use should consistently be evaluated to determine their effectiveness; (6) encourages local, state, and federal public health agencies to improve surveillance efforts to ensure data is available on the short- and long-term health effects of cannabis, especially emergency department visits and hospitalizations, impaired driving, workplace impairment and worker-related injury and safety, and prevalence of psychiatric and addictive disorders, including cannabis use disorder; (7) supports public health based strategies, rather than incarceration, in the handling of individuals possessing cannabis for personal use; (8) encourages research on the impact of legalization and decriminalization of cannabis in an effort to promote public health and public safety; (9) encourages dissemination of information on the public health impact of legalization and decriminalization of cannabis; (10) will advocate for stronger public health messaging on the health effects of cannabis and cannabinoid inhalation and ingestion, with an emphasis on reducing initiation and frequency of cannabis use among adolescents, especially high potency products; use among women who are pregnant or contemplating pregnancy; and avoiding cannabis-impaired driving; (11) supports social equity programs to address the impacts of cannabis prohibition and enforcement policies that have disproportionately impacted marginalized and minoritized communities; and (12) will coordinate with other health organizations to develop resources on the impact of cannabis on human health and on methods for counseling and educating patients on the use cannabis and cannabinoids.

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