

**COMPASSIONATE AND EFFECTIVE JUSTICE
A PLAN TO DEAL WITH MARIJUANA OFFENSES THAT DOES NOT INVOLVE
LEGALIZATION OR DECRIMINALIZATION OF MARIJUANA.**

The marijuana lobby argues that in order to provide justice to persons charged with minor marijuana offenses that we should decriminalize or legalize marijuana. We disagree. The justice system can be a compassionate and effective tool to deter marijuana use, educate offenders and to get help for those who need it.

Guiding principles of Compassionate Justice

1. Compassion for offenders, regardless of race or age, and for those suffering from substance abuse disorders.
2. Provide evaluation and rehabilitation.
3. Do not encourage use of marijuana.
4. Provide appropriate incentives and sanctions.
5. Alleviate the burden on criminal justice system.

Types of Marijuana Legalization

The term “legalization” can have either of the following meanings:

- Legalization/commercialization - The production and distribution of marijuana would be government regulated with limits on amounts that can be purchased and the age of purchasers. There may be no criminal or civil sanction for possessing, manufacturing, or distributing marijuana unless these actions violated the regulatory system. Drug sales can be taxed.
- Decriminalization - Decriminalization eliminates criminal sanctions for drug use and may provide civil sanctions for possession of marijuana. Without any type of sanction decriminalization is effectively legalization.

We Cannot Legalize Marijuana Because its Use Has Destructive Health and Social Consequences.

The arguments put forward by advocates of decriminalization/legalization can appear to be logical and simple when they are not; they do not withstand critical evaluation and they tend to run contrary to general experience. The proposals in favor of legalization have tended to present possible legalization benefits against the costs of maintaining existing legal controls, without adequately addressing themselves to either the benefits of those controls or the social and economic costs of removing them. Legalizing marijuana will have a substantial and irreversible adverse impact on public health, social well-being and public safety

Marijuana is far more powerful today than it was years ago and it serves as an entry point for the use of other illegal drugs. Despite arguments from the drug culture to the contrary, marijuana is addictive. This addiction has been well described in the scientific literature and it consists of both a physical dependence (tolerance and subsequent withdrawal) and a psychological habituation.

Marijuana addiction is recognized by the American Psychiatric Association's DSM 5 diagnostic criteria (Cannabis Use Disorder, Cannabis Withdrawal, page 509 DSM 5).

We Should Keep Penalties for Marijuana Use Because Penalties Provide Deterrence

The proponents of marijuana legalization claim that law enforcement is not effective, however, law enforcement serves many purposes in the anti-drug effort.

1. It exacts a high price from those who would profit from the misery and addiction of others, e.g., loss of freedom and seizure of their ill-gotten gains.
2. It keeps potential users from using marijuana by virtue of the fear of arrest and the embarrassment of being caught.
3. It helps users/addicts into treatment through the use of laws that offer treatment as an alternative to incarceration.
4. Legal sanctions have helped to deter or delay potential abusers, thereby limiting the growth of the illicit market.

The Principles That Should Apply to All Minor Marijuana Charges

Evaluation - Treatment

The courts should require the person to undergo a professional diagnostic assessment by a professional licensed to do such assessments to determine if, and to what extent, the person is marijuana dependent and would benefit from treatment. If the defendant is determined to not be drug dependent, he will receive an education program on marijuana by the evaluating professional according to a curriculum. This will include written materials and passing an exam. The professional will report to the court that no further action is needed. If no further action is required, the records will be subject to an automatic expungement.

If the person is a marijuana dependent person, substance abuse treatment and monitoring will serve to benefit the person by addressing his dependency. The court will order the person to undergo treatment for marijuana dependency at a suitable treatment facility and to comply with the requirements of the course of treatment. The person will be required to submit to periodic testing to determine compliance with treatment program goals. Monitoring drug testing can include specimens of urine, hair or oral fluids.

Upon completion of treatment, the agency designated by the court to monitor or supervise the person's treatment will report to the court as to the person's progress in treatment and compliance with court-imposed terms and conditions. The treatment provider shall promptly report to the court all significant failures by the person to comply with any court-imposed term or condition of treatment or any requirements of the course of treatment, including but not limited to, a positive drug or alcohol test or the unexcused failure to attend any session or activity.

Conditional Discharge and Automatic Expungement of records

Depending on the nature of the charge, the charge can be dismissed upon completion of all requirements. All records will be subject to automatic expungement upon the completion of the

education program or the end of treatment. The expungement will be automatically entered. It will not require a court order or any action by the defendant. The defendant will be notified when the expungement occurs. The State will keep a record of the offense to be used only to determine if the defendant has a repeat offense.

Social Services

Those in need should also be provided an array of social, employment, and housing services designed by their treatment program to help them recover from and successfully overcome the cycle of drug taking and addiction

Fee Waivers

A person may apply for a waiver of court fees and the cost of the evaluation, by reason of poverty

How Do We Define Treatment?

Treatment should be done under the treatment protocols of the American Society for Addiction Medicine. <https://www.asam.org> and use the American Psychiatric Associations DSM 5 diagnostic criteria for cannabis disorder (Cannabis Use Disorder, Cannabis Withdrawal, page 509 DSM 5). It would be helpful to use programs approved by LegiScript.

<https://www.legitscript.com/service/certification/addiction-treatment/>

We should not just refer people to treatment. We must make sure that the treatment programs used proper treatment protocols and make them accountable for doing it.

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