



January 31, 2024

Re: In support of HB 1539, relative to annulling, resentencing, or discontinuing prosecution of certain cannabis offenses.

Dear Chairman Roy and distinguished members of the House Criminal Justice and Public Safety Committee:

My name is Karen O'Keefe. I am the director of state policies for the 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. MPP has played a leading role in most major cannabis policy reforms over the past two decades, including 13 legalization laws. I have had the pleasure of working with a broad coalition of advocates from all sides of the political spectrum on cannabis policy in New Hampshire for years.

I am writing to urge you to vote OTP on HB 1539. The New Hampshire House of Representatives has repeatedly approved legalization by lopsided majorities, and the governor and Senate may finally follow suit this year. HB 1539 is an essential companion bill. It would annul most cannabis convictions, removing an economic life sentence that is inappropriate for conduct Granite Staters overwhelmingly believe should be legal.¹

Criminal records trigger thousands of collateral consequences that make it difficult to get housing, employment, and jobs.² Fifty-five percent of people with records report difficulties attaining a job, maintaining employment, or making a living.³ These barriers to legally making ends meet increase the likelihood that people will turn to the underground economy. A lifetime scarlet letter is unduly harsh and inappropriate for cannabis.

For violation- and misdemeanor-level possession offenses, HB 1539 would also create a state-initiated annulment process. That is essential because few eligible individuals complete petition-based expungement,⁴ which is costly and cumbersome.

States are increasingly including state-initiated expungement as part of legalization or companion legislation. States with state-initiated cannabis expungement include Illinois, Michigan, Minnesota, Missouri, New Mexico, Rhode Island, Vermont, and Virginia.

¹ https://scholars.unh.edu/survey_center_polls/730/ (finding 70% support for legalization)

² See: Jamiles Lartey, "How Criminal Records Hold Back Millions of People," *The Marshall Project*, April 1, 2023.

³ Alliance for Justice national survey of people with records: <https://asj.allianceforsafetyandjustice.org/wp-content/uploads/2023/05/2023-05-15-2023-TimeDoneSurvey-Full.pdf>

⁴ J.J. Prescott and Sonja B. Starr, "Expungement of Criminal Convictions: An Empirical Study," University of Michigan Law School, 2020. (Finding, "[A]mong those legally eligible for expungement, just 6.5% obtain it within five years of eligibility.")

HB 1539 would also direct courts to reconsider whether existing cannabis sentences are in the interests of justice in the light of legalization or decriminalization. Some assault charges and sex offenses are misdemeanors⁵ under New Hampshire law, while all cannabis sales offenses are felonies. Years of incarceration or supervision are inappropriately harsh for a substance that is safer than alcohol, and which most voters want legalized.

Revisiting sentences would reduce the amount of resources wasted supervising and incarcerating individuals for cannabis. With so many demands on the taxpayers, HB 1539 allows the courts to re-assess the wisdom and fairness of existing cannabis sentences.

HB 1539 would:

- Expand New Hampshire’s existing petition-based annulment process to apply to two ounces of cannabis and/or five grams of hashish *or* the amount that is legalized, whichever is greater.
- Provide for state-initiated annulment for all violation- or misdemeanor-level cannabis possession offenses for which the sentence has been completed. This would be completed within six months of the effective date.
- Allow petition-based annulments for all cannabis-related offenses after the sentence has been served. Prosecutors can object and the petition will not be granted if they prove an annulment is not in the interests of justice.
- Allow petition-based resentencing for cannabis-related offenses. Prosecutors can object, in which case the court would hold a hearing to decide whether resentencing is in the interests of justice, and — if so — if the sentence should be reduced to time-served or some other reduced sentence.
- Dismissing pending cases for adults 21 and older for possessing up to two ounces of cannabis and/or five grams of hashish *or* the amount that is legalized, whichever is greater, if the case was for conduct prior to July 1, 2024.

I urge you to report HB 1539 OTP. Please don’t hesitate to reach out if you have any questions or would like any additional information.

Sincerely,



Karen O’Keefe
Director of State Policies
323-568-1078
kokeefe@mpp.org

⁵ See: <https://www.georgetcampbell.com/criminal-defense/assault-battery/#:~:text=Penalties%20for%20Assault%20%26%20Battery%20in%20New%20Hampshire&text=Cl ass%20B%20felony%3A%20This%20charge,prison%20and%20a%20%244000%20fine https://apps.rainn.org/policy/policy-crime-definitions-export.cfm?state=New%20Hampshire&group=3>