



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

Testimony of the Division of Criminal Justice
Joint Committee on Judiciary – March 24, 2009

In opposition to:

- **S.B. No. 349 An Act Concerning the Penalty for Possession of a Small Amount of Marijuana**

The Division of Criminal Justice respectfully recommends that the Committee reject S.B. No. 349, which would reduce the penalty for possession of less than one ounce of marijuana. While the publicly stated intentions behind this bill might be commendable, the bill itself does not reflect the reality of how current laws governing the possession of marijuana are applied by our criminal justice system. Further, since the bill does not reflect the reality of how the system works, the significant cost savings that some claim will result from its enactment will not be achieved.

The reality is that no one is sent to prison in this state solely for the simple possession of marijuana. If there is someone in prison for this offense it is because of a plea agreement where the simple possession charge was substituted for the more serious count of possession with intent to sell. As such, the passage of S.B. No. 349 would not result in any tremendous reduction in the number of cases being prosecuted for possession of marijuana or in the number of individuals incarcerated for drug violations. The vast majority of people charged with simple possession do not go to jail today, nor would they if this bill becomes law. They would continue to see their cases nolledd or to receive some form of diversionary program, as they do now.

Under current law, which would remain unchanged by this bill, an individual charged with simple possession has no fewer than five diversionary programs available (not including having a case nolledd, either outright or upon completion of community service). By way of further explanation:

- If the person is 16- or 17-years-old, he or she can be granted Youthful Offender Status (General Statutes section 54-76b). This program can be available to offenders in this age group an unlimited number of times. When charged with possession now, these young defendants must come to court, perhaps tell their parents about their arrest, perhaps enter into a treatment or counseling program, and complete such a program satisfactorily – all of which may prevent the defendant from offending again. This bill would require none of those consequences, and may even result in increased expenditures for future arrests, prosecutions, and incarcerations. The young defendant could just mail in a fine and face no other consequences at all.
- If the person is age 18 or older, he or she can complete the following programs and have the charge dismissed:
 - Pretrial Drug Education Program (DEP) – Section 54-56i – can be used once.
 - Community Service Labor Program (CSLP) -- Section 53a-39c – can be used once.

- o CADAC -- Section 17a-691 through 17a-701 -- can be used twice.
- o Accelerated Pretrial Accelerated Rehabilitation -- Section 54-56e -- can be used once.

In short, a person who is arrested for a possessory drug offense is eligible for five different programs. The court can order treatment as a condition of granting Youthful Offender status, the Pretrial Drug Education Program, Accelerated Rehabilitation or CADAC. Both DEP and CSLP have an educational component and the court can impose an educational component for the other programs.

Also, it should be noted again that these scenarios do not take into consideration the number of times a case can be nolle because the prosecutor simply decides not to prosecute or because the person has done some community service. The individual charged solely with simple possession gets several "bites at the apple." S.B. No. 349 might sound good on paper but it doesn't stand up to the real world. Its enactment will produce no significant savings, and in fact may result in long-term additional costs to the state and society as a whole because it eliminates the ability of the courts to intercede and help certain individuals through treatment, education and counseling programs. The marijuana of today is far more potent (and thus a more dangerous intoxicant and potentially dangerous "gateway" drug) than the marijuana of many years ago when the idea of so-called decriminalization originated.

On a final note, the Division would point out another misconception in this bill. The bill essentially defines a "small" quantity of marijuana as less than one ounce. While an ounce may sound like a small quantity, it is actually more sizeable than most people realize. If the Committee is intent on proceeding with this bill, you should at the very least sharply reduce what constitutes a "small" amount of marijuana.

In conclusion, the Division of Criminal Justice thanks the Committee for this opportunity to provide input on this issue. We would be happy to provide any additional information or to answer any questions the Committee might have.