



STATE OF CONNECTICUT
OFFICE OF POLICY AND MANAGEMENT
Criminal Justice Policy & Planning Division

Testimony Before the Judiciary Committee
Mike Lawlor, Under Secretary
Criminal Justice Policy and Planning
Office of Policy and Management

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Good morning Senator Coleman, Representative Fox and members of the Judiciary Committee:

Governor Malloy urges you to help him refocus Connecticut's criminal justice system and its resources toward repeat violent and serious offenders. Since 2007 the General Assembly has worked with the executive and judicial branches in order to arrest, convict and incarcerate these offenders. Three proposals before you today will advance these efforts by providing front-line criminal justice, substance abuse and mental health professionals with cost-effective options for handling non-violent offenders. These new tools will also help reduce recidivism and free up prison beds for more serious, higher risk offenders.

H.B. No. 6391 AN ACT CONCERNING PENALTIES FOR CERTAIN DRIVING UNDER THE INFLUENCE OFFENSES, OFFENDER RISK REDUCTION EARNED CREDITS AND HOME CONFINEMENT FOR CERTAIN NONVIOLENT DRUG OFFENDERS.

If enacted, this bill would add three sentencing options which do not exist under current law:

- Offenders convicted of a first violation of Operating While Under the Influence *14-227a*, and subject to a mandatory one year license suspension could be sentenced to a 90 day suspension followed by nine months of limited driving with an ignition interlock device. Current law requires a one year license suspension. This decision would be made on a case-by-case basis by the sentencing judge. This option would not exist for second and subsequent convictions.
- Offenders convicted of Operating While Under the Influence *14-227a* and sentenced to a mandatory term of imprisonment could be placed under strict supervision in their residence at the discretion of the Commissioner of Corrections. This decision would be made on a case-by-case basis. The Commissioner would be required to continuously monitor offenders under house arrest using global positioning system technology and subject them to monitoring for alcohol consumption. The Commissioner would be authorized to impose additional supervisory restrictions on an individualized basis. This option would also be available for offenders incarcerated following a conviction for misdemeanor drug offenses, including Possession of Marijuana [Less Than 4 Ounces] *21a-279c* and Possession of Drug Paraphernalia *21a-267*.
- The Commissioner of Corrections would be authorized to award Risk Reduction Credits to individual inmates as an incentive for compliance with that inmate's accountability plan, good conduct, obedience to the rules and participation in programs that will prepare the inmate to return to the community. The Commissioner is drafting his recommendation for specific guidelines and we expect that will be made available in the near future. These specific criteria should be part of the legislature's final enactment. The goal of this initiative is to reduce recidivism using evidence-based practices that have proven effective elsewhere in the United States. A secondary benefit will be a reduction in correctional spending and a re-allocation of some resources to risk reduction supervision and rehabilitation.

S.B. No. 1014 AN ACT CONCERNING THE PENALTY FOR CERTAIN NONVIOLENT DRUG OFFENSES.

If enacted, this bill will provide law enforcement with a cost-effective tool when dealing with low-level drug offenders. Under current law, possession of less than four ounces of marijuana and possession of drug paraphernalia are crimes punishable by a \$1000 fine and up to one year in jail. This bill would establish a new infraction for possession of less than one ounce of marijuana, punishable by a \$100 fine. The same penalty would apply to possession of drug paraphernalia if the paraphernalia were intended to be used with less than one ounce of marijuana.

This change in the law would make our law consistent with that of two neighboring states: New York and Massachusetts. Moreover, it would have a significant impact on law enforcement and court resources. In 2009 the legislature's Office of Fiscal Analysis reported that there were 8,118 arrests statewide for possession of marijuana. In 2,700 of those cases, possession of marijuana was the only charge. 75% of those cases involved less than one ounce of marijuana. In addition, the Office of Adult Probation supervised 1,090 probationers for misdemeanor possession of marijuana. There is no question that these resources could have been more effectively utilized for convicting, incarcerating and supervising violent and more serious offenders.

S.B. No. 1015 AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA.

If enacted, this bill would clarify an aspect of the criminal law that has unnecessarily complicated the job of criminal justice and medical professionals alike.

It does not appear that there have been any cases involving the actual arrest and prosecution of patients who were possessing or using marijuana to cope with the debilitating effects of cancer, glaucoma, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, Parkinson's disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, epilepsy, cachexia or wasting syndrome. However, medical professionals and their patients have been understandably reluctant to recommend or possess marijuana due to its status as contraband and the attendant criminal sanctions.

Sixteen states have addressed this problem, but they have not done so in a uniform fashion. Governor Malloy believes that the General Assembly got it right in 2007 and is confident that this approach will work best for law enforcement, medical professionals and patients alike.

The effect of this bill would be to prohibit arrest and prosecution for duly registered and licensed qualifying patients and that patient's sole primary caregiver. This protection would only apply if that patient and caregiver possessed less than that maximum allowable quantity of marijuana, and only if that possession and any use of such marijuana occurred in specified locations under specified circumstances. Physicians who provide counsel, advice and recommendations to their patients regarding the use of marijuana for palliative purposes would be similarly immune from arrest and prosecution.

This bill is identical to Public Act 07-137 which was approved by substantial bi-partisan majorities in this committee and in both houses of the General Assembly in 2007. The bill was disapproved by the then-Governor pursuant to Article Fourth, Section 15 of the Connecticut Constitution and not re-passed by the requisite two-thirds vote of each house.

It should be noted that existing Connecticut law, enacted by the General Assembly and signed by Governor O'Neill in 1981, endorsed the policy argument behind SB 1015. The effect of this statute was and continues to be frustrated by federal regulations prohibiting the prescription of marijuana by physicians for palliative use by patients and by the inability of pharmacies to stock and dispense marijuana pursuant to any such prescriptions. Nonetheless, the following Connecticut statute continues in effect:

Sec. 21a-253. Possession of marijuana pursuant to a prescription by a physician. Any person may possess or have under his control a quantity of marijuana less than or equal to that quantity supplied to him pursuant to a prescription made in accordance with the provisions of section 21a-249 by a physician licensed under the provisions of chapter 370 and further authorized by subsection (a) of section 21a-246 by the Commissioner of Consumer Protection to possess and supply marijuana for the treatment of glaucoma or the side effects of chemotherapy.