

[2015 Session] Reduce Low-Level Marijuana Possession to a Class C Misdemeanor or Civil Penalty

Policy Background:

Currently in Texas, possession of up to two ounces of marijuana is a Class B misdemeanor, punishable by up to six months in jail and a \$2,000 fine. Possession of between two and four ounces is a Class A misdemeanor, punishable by up to a year in jail and a \$4,000 fine.

Texas' overly punitive marijuana laws have become a distraction for law enforcement and an ongoing source of red ink for county budgets due to jail and indigent defense costs. More than 70,000 people are arrested for low-level marijuana possession each year, accounting for the great majority of all drug arrests in Texas. All of these individuals are booked into jail, and those who cannot make bail may stay there until their case is resolved. And because the sentence for a Class B misdemeanor includes possible jail time, counties must hire lawyers to represent defendants who are indigent.

On the other hand, counties are not required to pay for counsel on Class C offenses, for which the maximum penalty is only a fine. Polls say a majority of Texans endorse eliminating penalties for low-level marijuana possession entirely, especially for medicinal purposes.

Texas policy-makers should reduce penalties for low-level marijuana possession to a Class C misdemeanor. Alternatively, policy-makers could make marijuana possession a civil violation, as some other states have done, eliminating criminal penalties altogether for small amounts while still holding people accountable.

Either approach would relieve counties of unnecessary jail and indigent defense costs. It would also keep more police officers on the beat instead of forcing them to spend time – sometimes hours – arresting and booking pot smokers into jail.

Key Facts:

- Marijuana possession ranks among the most common causes of arrest, costing counties millions of dollars in jail expenses and payments to attorneys for the

indigent. The more than 70,000 adults in Texas who were arrested in 2013 for marijuana possession accounted for nearly 60 percent of drug possession arrests in the state.^[1]

- Many law enforcement officers already write tickets for Class C misdemeanors instead of making arrests for marijuana possession. A state codified penalty reduction would keep more officers on the street to combat serious offenses, substantially boosting police coverage without costing taxpayers a dime. And because counties are not required to hire attorneys for fine-only offenses, this change would save millions in jail and indigent defense costs. In fact, it would boost funding for local governments, which would receive revenue from the fines.

Relevant Bills:

- **Bill Number:** [HB 325](#) (Wu)
Bill Caption: Relating to the prosecution of and penalties for possession of 0.35 ounces or less of marihuana.
Hearing Notice: House Criminal Jurisprudence Committee, [Notice of Public Hearing on April 8, 2015](#)
- **Bill Number:** [HB 414](#) (Dutton, Reynolds, Senfronia Thompson)
Bill Caption: Relating to the penalties for possession of one ounce or less of marihuana or a synthetic cannabinoid.
Hearing Notice: House Criminal Jurisprudence Committee, [Notice of Public Hearing on April 8, 2015](#)
Archived Hearing Video: House Criminal Jurisprudence Committee, [04/08/15 Video](#) [TCJE testimony begins at 06:24:31]
- **Bill Number:** [HB 507](#) (Moody, Lucio III, Dutton, Wu)
Bill Caption: Relating to a civil action to collect a civil penalty for possession of certain small amounts of marihuana and an exception to prosecution for possession of associated drug paraphernalia.
Hearing Notice: House Criminal Jurisprudence Committee, [Notice of Public Hearing on April 8, 2015](#)
Archived Hearing Video: House Criminal Jurisprudence Committee, [04/08/15 Video](#) [TCJE testimony begins at 06:24:31]
- **Bill Number:** [HB 2165](#) (Simpson)
Bill Caption: Relating to repealing marihuana offenses; prohibiting the sale or distribution of marihuana to a minor; creating criminal offenses.

Hearing Notice: House Criminal Jurisprudence Committee, [Notice of Public Hearing on April 8, 2015](#)

Archived Hearing Video: House Criminal Jurisprudence Committee, [04/08/15 Video](#) [TCJE testimony begins at 06:24:31]

- **Bill Number:** [SB 1417](#) (Ellis)

Bill Caption: Relating to a civil penalty for possession of certain small amounts of marihuana and an exception to prosecution for possession of associated drug paraphernalia.

Relevant Media:

- **Texas Monthly:** [“Could Texas Decriminalize Pot in 2015?”](#) [December 18, 2014]
- **Texas Public Radio:** [“With Public Support, Texas Lawmaker Proposes Bill That Decriminalizes Marijuana Possession”](#) [December 16, 2014]
- **Houston NORML:** [“Texas Bill Filed to Decriminalize Small Amounts of Marijuana”](#) [December 16, 2014]

[1] Texas Department of Public Safety, *Texas Arrest Data: 2013*, pp. 75;
<https://www.txdps.state.tx.us/crimereports/13/citCh9.pdf>