

Marijuana Legalization in Florida? A Very Bad Idea

Summary of National and State Facts about Marijuana and Nationwide Attempts to Legalize its Use.

[In 1996], voters in California and Arizona approved initiatives that legalized the "medicinal use" of marijuana. The "medicinal use" anticipated by those initiatives is so broad that many consider them to have, in effect, legalized the use of marijuana. With the passage of these initiatives, efforts to pass similar legalization in other states are certainly anticipated and, in Florida, this effort has already begun. On August 27, 1997 a petition to amend the Florida Constitution to provide for medicinal use of marijuana was filed with the Office of Secretary of State by a Ft. Lauderdale based organization known as "Floridians for Medical Rights." The Florida petition drive seeks the placement of this issue on the November 1998 Ballot. For that to occur, approximately 430,000 signatures of registered Florida voters must be collected by this petition drive. The full text of the proposed amendment to Article I of the Florida Constitution is as follows:

Summary: Establishes a Right of individuals to choose to obtain and use marijuana for Specific Medical Purposes when certified as Medically Appropriate by a licensed physician; protects physicians and third parties who recommend or provide medicinal marijuana and allows penalties for Fraudulent Certification or Use.

A. Each natural person has the right to obtain and use marijuana for medical purposes when a licensed physician has certified:

1. That use of marijuana is medically appropriate for the person in the professional Judgement of that physician, and

2. That the person's health may benefit from use of marijuana in the treatment of cancer, HIV, AIDS, anorexia, glaucoma, arthritis, chronic pain, spasticity, migraine, or other specified medical condition or illness

B. The legislature is authorized to enact measures implementing certification procedures under this section. Notwithstanding this provision, no legislation is required for this section to take legal effect.

C. No physician may be subjected to criminal prosecution, professional disciplinary regulation, or other legal sanction, based on his or her certification of marijuana use under this section unless such certification is fraudulent and the physician knows or should have known of the fraud.

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D.No natural person may be subjected to criminal prosecution or other legal sanction based on his or her cultivation, provision, transportation or sale of marijuana for, or to, a person who has obtained marijuana for certified medical use under this section.

E.If any portion of this section is held invalid for any reason, the remaining portions of this section, to the fullest extent possible, shall be severed from the void portion and given the fullest possible force and application on the day after approval by the electorate.

This report provides a summary of facts concerning marijuana use and the initiatives to legalize this drug. It is intended to provide relevant information to criminal justice leadership, other officials, and the general public in the hope that efforts to legalize marijuana can be responded to in a fully- informed manner. This report calls for criminal justice and community-wide solidarity in a unified and comprehensive effort to defeat any and all marijuana legalization initiatives in Florida.

Most criminal justice officials are greatly concerned about this initiative and the potential for voters to be "misled" by the seemingly innocent nature of such an effort. This concern is grounded in the fact that drug abuse and its many consequences continue to be a major problem in the United States and Florida.

This initiative comes at a critical time, as recent studies have revealed a significant increase in the use of drugs by Americans, particularly youth. In Florida, the abuse of drugs by juveniles is a particular concern--since 1992, Florida has experienced a 113% increase in the number of juveniles arrested on drug-related charges. Indices at the national and state level predict that illegal drug use will continue to rise.

Impact of & Trends in Marijuana Use:

Between 1992 and 1995, Florida Uniform Crime Reports (UCR) show an almost 23% increase in the rate (per 100,000 population) of drug possession offenses. The rate of drug sales has been virtually constant during the same period.

Marijuana is making a comeback in popularity among our youth. When reported by age, the actual number of juvenile drug arrests in Florida more than doubled (1992-1995) and the juvenile portion of total drug possession arrests grew by 51%. (Florida UCR).

Arrests of juveniles in Florida for possession or use of drugs have shifted from the more dangerous drugs in 1989 to marijuana and paraphernalia/equipment in 1995. (Florida UCR).

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A recent study of national drug use, the 9th Annual Partnership Attitude Tracking Study (PATS) released March 4, 1997 by the Partnership for a Drug-Free America found:

Marijuana use among preteens (ages 9-12) doubled, increasing from 230,000 kids in 1995 to around 460,000 in 1996). [460,000 represents about 4% of the nation's 9-12 year-olds]

Since 1993, children reported a decrease in the amount of anti-drug information they were getting from outside sources such as school, television, movies, televised public service announcements and friends.

8% of sixth graders (nationally) have experimented with marijuana -- 23 % of 7th graders and 33% of eighth graders have tried the drug (1996 PATS).

According to the Office of National Drug Control Policy's (ONDCP) report on legalization trends, marijuana has a significant number of negative effects, including:

Decreased motor coordination, reasoning, and memory.

Higher level of carcinogens than tobacco.

Inhibits the reproductive system.

Impairs the ability of the immune system.

Birth complications.

The ONDCP report also indicates that marijuana is implicated in auto accidents, youth fatalities and progression to use of more dangerous drugs. American children aged 12-17 who use marijuana are 85 times more likely to use cocaine than those who don't, a correlation 8 times stronger than the link between smoking and lung cancer, 20 times stronger than between high cholesterol and heart disease and 17 time stronger than the link between lung cancer and exposure to asbestos.

Most professional medical bodies do not consider marijuana a safe or effective medicine.

Furthermore, there are safe, legal alternatives for those with chronic pain. Purified, synthetic THC, the active ingredient in marijuana is marketed under the trade name Marinol (Schedule II drug in Florida) and is approved for uses such as treatment of cancer and anorexia associated with AIDS.

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Examples of negative impacts associated with decriminalization are found in a report from The Netherlands. In that country, where drugs have long been decriminalized and children over 15 can purchase marijuana in Holland coffeehouses, Dutch citizens, particularly those in Border States, say their drug law is too lax. They report upwards of 1000 visitors per day looking for drugs, and report that 80% of police time is consumed by drug-related crime. Since 1984, Dutch adolescent marijuana use has more than doubled, while use among American adolescents went down almost 70% before picking back up again in the last few years. During the same time, crime in Holland increased by 60%, most of it property crime believed to be related to drugs.

Dutch prison capacity has more than doubled since the decriminalization of drugs. The number of organized crime groups in Holland increased 3100% from 1988 to 1993, and the total number of registered cannabis addicts rose 22%.

Current Florida Marijuana Laws:

Present Florida law does not allow the possession of marijuana for any purpose. Cannabis is a Schedule I controlled substance, indicating there is no approved medical use for the drug. The synthetic form of THC (delta-9-tetrahydrocannabinol), the active ingredient in marijuana, is "Dronabinol," which is marketed by Roxanne under the trade name "Marinol." Dronabinol is a Schedule II drug, meaning it may be prescribed by physicians, although it is rarely prescribed.

In 1978, Florida authorized "controlled substances therapeutic research" via Chapter 78-413, Laws of Florida, which became Section 402.36, Florida Statutes. Subsection (8) of that law exempted the use of cannabis, THC or a chemical derivative of THC "by certified patients pursuant to the provisions of this section" from the general Florida prohibition against the possession or use of marijuana. Only cancer chemotherapy and glaucoma patients who were certified to a review board by a practitioner as being involved in a life-threatening or sense-threatening situation and who were not responding to conventional drug therapy or who were encountering severe side effects were able to be considered under the exemption. This law was repealed in 1984 via Chapter 84-115. This short-term experiment has been Florida's only move toward legalizing the use of marijuana for medicinal purposes.

Overview of "Legalization" Efforts:

According to a recent report on legalization trends from the Office of National Drug Control Policy, medicalization initiatives are part of a 20-year strategy (to legalize marijuana) by groups like the National Organization for the Reform of Marijuana Laws.

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Proposition 215, passed in California, allows the use of marijuana for "medicinal" purposes without written prescription--an oral recommendation of a physician is sufficient. Additionally there is no language restricting its use to "life threatening" illness so it's use can be recommended for any reason.

Proposition 200 passed in Arizona as part of legislation that decriminalizes all Schedule I drugs. This legislation, with a written prescription from two doctors, allows the use of any schedule I drug including marijuana, heroin, methamphetamines, or LSD. It also mandates parole for all incarcerated drug-possession offenders.

According to a report by the Partnership for a Drug-Free America, the California and Arizona efforts were backed by well organized and well financed groups. In California, Pro-Legalization forces outspent the opposition \$1.8 million to \$30,000.

The new legislation adds California and Arizona to the list of states that have laws dealing with the medical use of marijuana. Massachusetts recently passed statute created a marijuana therapeutic research program. A panel of three physicians who will review applications for admittance will monitor the program.

Thirteen states allow marijuana to be administered to patients as part of state-run cannabis research programs; eight states allow physicians to prescribe marijuana; three states and Washington D.C. have rescheduled marijuana when it is used medicinally. (NCJA Justice Bulletin, January 1997). Four states, including Florida, have had some judicial recognition of a medical defense for marijuana possession. (In Florida, one court ruled the medical need defense could be heard).

Legislation is pending at least nine states dealing with the marijuana legalization issue.

Washington Combines the California and Arizona measures and would permit the use of all Schedule 1 drugs upon the "recommendation" of a physician.

Missouri Allows for a common law defense of "medical necessity" exempting them from any civil or criminal penalty

Oregon Allows seriously ill patients to grow and possess marijuana

Hawaii Allows physicians to "dispense, prescribe, or distribute marijuana for medical purposes

Maine Two bills were introduced to use marijuana for medical use and re-establish a Marijuana Therapeutic Research Program

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Connecticut Allows physicians to possess and supply marijuana for the treatment of specific conditions (Glaucoma, AIDS, neurological disorders, and side effects of chemotherapy)

New York Allows for medical use of marijuana and states that controlled substances can have a legitimate medical use

Wyoming Proposal to reschedule marijuana. It would not allow physicians to prescribe marijuana but does recognize that marijuana has medical utility.

New Hampshire Proposal to decriminalize marijuana possession.

Iowa legislators have passed a resolution to end federal prohibitions against marijuana's medical use by creating a system of prescriptive medical access.

At least eight states are debating measures dealing with industrial hemp: Hawaii, Iowa, Kansas, Minnesota, Montana, North Dakota, Vermont and Virginia.

The following states have introduced legislation which support the current position that marijuana is illegal and has no legitimate medical use: Arizona, Georgia, Maryland, Nebraska, Ohio, Oklahoma, and Virginia.

According to a report from the National Criminal Justice Association, proponents of the California and Arizona propositions are gearing up for a national campaign, hoping to put medical use of marijuana on the ballot in six states by 1998. According to a January 1997 Community Anti-Drug Coalitions of America report and the ONDCP report on legalization trends, Florida is one of the next states targeted for legalization efforts.

Opposition to Legalization Efforts:

The U.S. Department of Justice, *Speaking Out Against Drug Legalization*, provides ten simple, compelling claims to help concerned individuals frame arguments against legalization, as follows:

1. **Crime and Drug Use go Hand-in Hand.** Proponents of legalization claim that legalization would reduce crime, believing that drug trafficking is the reason. Experts in crime and violence say that crime is committed not only because people want to buy drugs, but more often because people use drugs. Drug use changes behavior and exacerbates criminal activity.

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2. We have made significant progress in reducing drug use in this country. Proponents claim that the "drug war" is unwinnable. Legalization is the alternative. Proponents of drug legalization should be asked the following questions: What should be legalized? Just Marijuana? Marijuana and heroin? All drugs? Will prescriptions be necessary? Will children be able to buy them? What will be tolerated as the price for legalization? A permanent underclass of drug users? Will a 10% increase in the number of traffic fatalities be accepted? What about 50%? Would they be relieved to know that their child care provider had been smoking legally purchased marijuana? What about bus drivers? Pilots? truckers? Police officers? Teachers?

3. Legalization of drugs will lead to increased use and increased addiction levels. Proponents claim that legalization of drugs would not increase consumption. Experts believe that legalization of drugs would decrease the perception of risk and point to historical examples of alcohol and tobacco as indicators.

4. Any revenues generated by taxing legalized drugs would quickly evaporate in light of the Increased Social Costs. Dr. William Olson, former Deputy Assistant Secretary of State for International Narcotics Matters, outlined the magnitude of the social costs borne by U.S. taxpayers because of drugs in his 1994 essay, *Drug Legalization: Getting to No*.

5. There are no compelling medical reasons to prescribe marijuana or heroin to sick people. Medical professionals best debate medical pros and cons. So far, the American Medical Association, the American Glaucoma Society, the American Academy of Ophthalmology, the International Federation of Multiple Sclerosis Societies, and the American Cancer Society have rejected marijuana as medicine.

6. Legalization and Decriminalization of drugs have been a failure in other nations (Netherlands example).

7. Alcohol has caused significant health, social and crime problems in this country, and legalized drugs would only make the situation worse.

8. Drug control spending is a minor portion of the U.S. budget, and compared to the costs of drug abuse, spending is minuscule. In 1995 over \$13 billion was spent by the federal government on drug control; drug abuse alone costs the U.S. between \$60 and \$100 billion in lost productivity each year.

9. Drug prohibition is working. Dr. Mark Moore, in a 1992 article titled *Actually Prohibition Was A Success*, points out that alcohol consumption declined during the prohibition years by as much as 30-50%. Mental hospital admissions from alcohol induced psychosis declined 50%.

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10. Drug legalization would have an adverse effect on low-income communities. The incidence of dysfunctional families, unemployability, family violence, and ruined lives would increase in low-income areas, as well as all other communities, if drugs were legalized. Drug use in the inner city is a manifestation of other problems that would not go away if more drugs were available.

Partnership for a Drug-Free America's position on the effects of legalization (1996 Partnership Attitude Tracking Study [PATs], Partnership For a Drug-Free America) includes the following:

Anticipates a significantly higher usage and addiction rates (example from the tobacco industry - today 3 million adolescents smoke cigarettes and 12 million teens drink alcohol, much higher numbers than we see for adolescent abuse of illicit drugs).

Projects a moral acceptability of drug usage and addiction – erosion of social norms that help keep kids from drugs.

Current AMA, Glaucoma Research Foundation, the National Institutes of Health, the FDA, the National Multiple Sclerosis Society, the American Academy of Ophthalmology and other highly respected medical and health organizations say that smoked marijuana has no safe or scientifically proven medical use.

Availability of existing safe, legal drugs as alternatives.

The position of Drug Watch International (June 1996) states that "It is neither legal no compassionate to provide a harmful addictive drug with no scientifically proven medicinal efficacy." This organization:

Strongly supports scientific research on marijuana or any other drug.

Oppose FDA-approved marijuana cigarettes

Fears that legalization efforts encourage marijuana use among youth as they see it promoted as a safe medicine

Marijuana has many harmful effects (psychotoxic, addictive, cancer-causing, immunosuppressive, harmful to lungs)

No scientific evidence of medical use

Anecdotal evidence does not qualify as science because a sick patient may believe a drug is helping.

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The Drug Enforcement Administration's (DEA) position on the effects of legalization (Speaking Out On Drug Legalization, DOD) voicing strong concern over:

- A reduction in the perception of risks and costs of drug use.
- Increased availability and access to harmful drugs.
- Increase demand, use, abuse and addiction.
- A removal of the "social" sanction which discourages drug abuse.

A Call for Florida Criminal Justice Solidarity & Action:

It is important for concerned government officials, business & community leaders, and all Floridians to be educated about this issue. In particular, criminal justice officials must be prepared for the inevitable legalization effort in Florida. This situation calls for the development of an organized statewide strategy to counter the pro-drug legalization effort, with the following suggested components:

Articulation of a clear anti-drug legalization message by policy-makers and state/local leaders

Strong and unified criminal justice opposition;

Establishment of broad-based coalitions and community support;

Education of government officials and all Floridians regarding the true impact of legalization through the distribution of informational materials, public speaking, and other communication mechanisms; and,

The following specific recommendations are offered to begin the development of Florida's Anti-Drug Legalization Strategy:

The Florida marijuana legalization effort should be fought through a multi-faceted campaign involving a wide range of agencies and organizations. This coordinated effort could be similar to the successful efforts of the "No Casinos" initiative and include the development of a plan to: educate the public and our governing officials; share information indicating how legalization efforts will affect Florida; provide a focused strategy to counter the predictable arguments those in favor of legalization are advancing. A coalition should include, but not be limited to, elected officials, business community representatives, religious leaders, school leaders, community activists, physicians, private support groups, civil associations, and law enforcement groups.

Elected officials and concerned organizations from all levels of government should consider the issuance of resolutions voicing strong opposition for any drug legalization

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efforts within Florida. This includes the State Cabinet; Florida Sheriffs and Police Chiefs Associations; Florida Prosecuting Attorneys Association; local councils and commissions; health care professionals; and juvenile justice organizations. Such resolutions would constitute an offensive strike that could discourage an organized legalization effort in Florida.

Local and State Criminal Justice agencies should utilize reliable data and materials from the ONDCP, the International Association of Chiefs of Police, and other sources to begin immediate "grass roots" education of citizens, elected officials, and concerned businesses. Concerned agencies within Florida (and other states) should continue to share information concerning the potential expansion of drug legalization initiatives into Florida.

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