

Fiscal Estimate - 2021 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 21-5553/1	Introduction Number AB-0846	
Description legalizing recreational marijuana, granting rule-making authority, making an appropriation, and providing a penalty		
Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
Local: <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue 5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected Affected Ch. 20 Appropriations <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
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Fiscal Estimate Narratives

DA 1/25/2022

LRB Number 21-5553/1	Introduction Number AB-0846	Estimate Type Original
Description legalizing recreational marijuana, granting rule-making authority, making an appropriation, and providing a penalty		

Assumptions Used in Arriving at Fiscal Estimate

This fiscal estimate is submitted by the Director of the State Prosecutors Office on behalf of Agency 475 – District Attorneys. This fiscal estimate is responsive only to the fiscal and resource effect of the proposed legislation on the District Attorney program.

The bill modifies state law to allow recreational use of marijuana. The bill does not affect federal law, which generally prohibits persons from manufacturing, delivering, or possessing marijuana and applies to both intrastate and interstate violations.

The bill modifies state law to allow a Wisconsin resident who is at least 21 years old, or a qualifying patient, to possess no more than two ounces of marijuana and to allow a nonresident of Wisconsin who is at least 21 years old to possess no more than one-quarter ounce of marijuana. Under the bill, generally, a qualifying patient is an individual who has been diagnosed by a physician as having or undergoing a debilitating medical condition or treatment and who is at least 18 years old.

Generally, under the bill, a person who possesses more than the maximum amount he or she is allowed to possess, but not more than 28 grams of marijuana, is subject to a civil forfeiture not to exceed \$1,000 or imprisonment not to exceed 90 days or both. A person who possesses more than 28 grams of marijuana is guilty of a Class B misdemeanor, except that, if the person takes action to hide the amount of marijuana he or she has and the person has in place a security system to alert him or her to the presence of law enforcement, a method of intimidation, or a trap that could injure or kill a person approaching the area containing the marijuana, the person is guilty of a Class I felony.

The bill eliminates the prohibition on possessing or using drug paraphernalia that relates to marijuana consumption.

The bill creates a process for persons who have been convicted of an act that has been decriminalized under the bill. If the person is currently serving a sentence or on probation for such a conviction, the person may petition a court to dismiss the conviction and expunge the record. If the person has completed a sentence or period of probation for such a conviction, the person may petition a court to expunge the record or, if applicable, redesignate it to a lower crime. Any conviction that is expunged under the bill is not considered a conviction for any purpose under state or federal law.

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Responsive District Attorneys were concerned with a number of aspects of this bill. First, while this bill would reduce the number of marijuana possession prosecutions across the state, it will increase the amount of impaired driving and impaired driving prosecutions statewide.

Responsive District Attorneys were very concerned with the retroactive nature of this bill. Allowing those previously convicted for marijuana related offenses to petition the court for reconsideration, expungement, new sentencing, etc., will require an inordinate amount of court and District Attorney resources.

Long-Range Fiscal Implications

Responsive District Attorneys expect this proposed change to create substantial workload for their offices. The full scope of that increase is unknown and would require further study.