

Fiscal Estimate Narratives

DA 6/4/2015

LRB Number	15-2298/1	Introduction Number	SB-167	Estimate Type	Original
Description Possession of 25 grams or less of marijuana and distribution and delivery of marijuana					

Assumptions Used in Arriving at Fiscal Estimate

This bill, if enacted, eliminates the penalty for possession, manufacturing with the intent to deliver, and distributing marijuana if the amount of marijuana involved is no more than 25 grams or the number of plants involved is no more than two. The bill does retain the current penalty for distributing any amount of marijuana to a person who is no more than 17 year of age by a person who is at least three years older. The bill limits local governments to enacting ordinances prohibiting only the possession of more than 25 grams of marijuana. The bill also prohibits establishing probable cause that a person is violating the prohibition against possessing more than 25 grams of marijuana by an odor of marijuana or by the possession of not more than 25 grams of marijuana. This bill also requires that the weight must be determined by weighing only marijuana, not other substances that may be mixed in.

District Attorneys (DAs) provided different viewpoints regarding the potential fiscal effect of this bill. Some stated that their workload will decrease slightly because they would no longer review, charge, or litigate possession cases of less than 25 grams. Another prosecutor stated that the bill would not likely change their caseload because the crimes in rural counties generally are above the amount the bill would decriminalize. She believes that the same rationale could be applied to urban counties as well, because they generally have policy thresholds as to what they prosecute, and many have a threshold higher than the 25 gram amount. Some DAs expressed concern that marijuana is a gateway drug to harder drugs such as heroin, methamphetamine, cocaine, etc., which they deal with every day. Several DAs stated that the provisions eliminating odor as a basis for probable cause and requiring that weights be based upon only the weight of the marijuana, rather than including other substances that may be mixed in, will increase their workload. They believe that defense attorneys will challenge probable cause in any car search, person search, search warrant and charged case; and, they will have nothing to lose by claiming that at least some portion of probable cause was based upon an odor of marijuana. DAs are not certain how anyone will be able to determine the weight only of marijuana.

Prosecutors cited both potential savings and costs of the bill. Consequently, there was no consensus from which to make a reasonable estimate of the effect of this bill on DA offices. A fiscal estimate is therefore indeterminate.

Long-Range Fiscal Implications

For the reasons described in the discussion above, a long-term fiscal estimate is indeterminate.