

116TH CONGRESS
1ST SESSION

S. 597

To amend the Controlled Substances Act to provide for a new rule regarding the application of the Act to marihuana, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2019

Mr. BOOKER (for himself, Mr. WYDEN, Mr. MERKLEY, Ms. WARREN, Ms. HARRIS, Mrs. GILLIBRAND, Mr. SANDERS, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Controlled Substances Act to provide for a new rule regarding the application of the Act to marihuana, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Marijuana Justice Act
5 of 2019”.

6 **SEC. 2. DE-SCHEDULING MARIHUANA.**

7 (a) MARIHUANA REMOVED FROM SCHEDULE OF
8 CONTROLLED SUBSTANCES.—Subsection (c) of schedule

1 I of section 202(c) of the Controlled Substances Act (21
2 U.S.C. 812) is amended—

3 (1) by striking “marihuana”; and

4 (2) by striking “tetrahydrocannabinols”.

5 (b) REMOVAL OF PROHIBITION ON IMPORT AND EX-
6 PORT.—Section 1010(b) of the Controlled Substances Im-
7 port and Export Act (21 U.S.C. 960) is amended—

8 (1) in paragraph (1)—

9 (A) in subparagraph (F), by inserting “or”
10 after the semicolon;

11 (B) by striking subparagraph (G); and

12 (C) by redesignating subparagraph (H) as
13 subparagraph (G);

14 (2) in paragraph (2)—

15 (A) in subparagraph (F), by inserting “or”
16 after the semicolon;

17 (B) by striking subparagraph (G); and

18 (C) by redesignating subparagraph (H) as
19 subparagraph (G);

20 (3) in paragraph (3), by striking “paragraphs
21 (1), (2), and (4)” and inserting “paragraphs (1) and
22 (2)”;

23 (4) by striking paragraph (4); and

24 (5) by redesignating paragraphs (5), (6), and

25 (7) as paragraphs (4), (5), and (6), respectively.

1 (c) CONFORMING AMENDMENTS TO CONTROLLED
 2 SUBSTANCES ACT.—The Controlled Substances Act (21
 3 U.S.C. 801 et seq.) is amended—

4 (1) in section 102(44) (21 U.S.C. 802(44)), by
 5 striking “marihuana,”;

6 (2) in section 401(b) (21 U.S.C. 841(b))—

7 (A) in paragraph (1)—

8 (i) in subparagraph (A)—

9 (I) in clause (vi), by inserting
 10 “or” after the semicolon;

11 (II) by striking (vii); and

12 (III) by redesignating clause
 13 (viii) as clause (vii);

14 (ii) in subparagraph (B)—

15 (I) by striking clause (vii); and

16 (II) by redesignating clause (viii)
 17 as clause (vii);

18 (iii) in subparagraph (C), in the first
 19 sentence, by striking “subparagraphs (A),
 20 (B), and (D)” and inserting “subpara-
 21 graphs (A) and (B)”;

22 (iv) by striking subparagraph (D);

23 (v) by redesignating subparagraph (E)
 24 as subparagraph (D); and

- 1 (vi) in subparagraph (D)(i), as so re-
- 2 designated, by striking “subparagraphs (C)
- 3 and (D)” and inserting “subparagraph
- 4 (C)”;
- 5 (B) by striking paragraph (4); and
- 6 (C) by redesignating paragraphs (5), (6),
- 7 and (7) as paragraphs (4), (5), and (6), respec-
- 8 tively;
- 9 (3) in section 402(c)(2)(B) (21 U.S.C.
- 10 842(c)(2)(B)), by striking “, marihuana,”;
- 11 (4) in section 403(d)(1) (21 U.S.C. 843(d)(1)),
- 12 by striking “, marihuana,”;
- 13 (5) in section 418(a) (21 U.S.C. 859(a)), by
- 14 striking the last sentence;
- 15 (6) in section 419(a) (21 U.S.C. 860(a)), by
- 16 striking the last sentence;
- 17 (7) in section 422(d) (21 U.S.C. 863(d))—
- 18 (A) in the matter preceding paragraph (1),
- 19 by striking “marijuana,”; and
- 20 (B) in paragraph (5), by striking “, such
- 21 as a marihuana cigarette,”; and
- 22 (8) in section 516(d) (21 U.S.C. 886(d)), by
- 23 striking “section 401(b)(6)” each place the term ap-
- 24 pears and inserting “section 401(b)(5)”.
- 25 (d) OTHER CONFORMING AMENDMENTS.—

1 (1) NATIONAL FOREST SYSTEM DRUG CONTROL
 2 ACT OF 1986.—The National Forest System Drug
 3 Control Act of 1986 (16 U.S.C. 559b et seq.) is
 4 amended—

5 (A) in section 15002(a) (16 U.S.C.
 6 559b(a)) by striking “marijuana and other”;

7 (B) in section 15003(2) (16 U.S.C.
 8 559c(2)) by striking “marijuana and other”;
 9 and

10 (C) in section 15004(2) (16 U.S.C.
 11 559d(2)) by striking “marijuana and other”.

12 (2) INTERCEPTION OF COMMUNICATIONS.—Sec-
 13 tion 2516 of title 18, United States Code, is amend-
 14 ed—

15 (A) in subsection (1)(e), by striking “mari-
 16 huana,”; and

17 (B) in subsection (2) by striking “mari-
 18 huana,”.

19 **SEC. 3. INELIGIBILITY FOR CERTAIN FUNDS.**

20 (a) DEFINITIONS.—In this section—

21 (1) the term “covered State” means a State
 22 that has not enacted a statute legalizing marijuana
 23 in the State;

24 (2) the term “disproportionate arrest rate”
 25 means—

1 (A) the percentage of minority individuals
2 arrested for a marijuana related offense in a
3 State is higher than the percentage of the non-
4 minority individual population of the State, as
5 determined by the most recent census data; or

6 (B) the percentage of low-income individ-
7 uals arrested for a marijuana offense in a State
8 is higher than the percentage of the population
9 of the State that are not low-income individ-
10 uals, as determined by the most recent census
11 data;

12 (3) the term “disproportionate incarceration
13 rate” means the percentage of minority individuals
14 incarcerated for a marijuana related offense in a
15 State is higher than the percentage of the non-mi-
16 nority individual population of the State, as deter-
17 mined by the most recent census data;

18 (4) the term “low-income individual” means
19 and individual whose taxable income (as defined in
20 section 63 of the Internal Revenue Code of 1986) is
21 equal to or below the maximum dollar amount for
22 the 15 percent rate bracket applicable to the indi-
23 vidual under section 1 of the Internal Revenue Code
24 of 1986;

1 (5) the term “marijuana” has the meaning
 2 given the term “marihuana” in section 102 of the
 3 Controlled Substances Act (21 U.S.C. 802); and

4 (6) the term “minority individual” means an in-
 5 dividual who is a member of a racial or ethnic mi-
 6 nority group.

7 (b) INELIGIBILITY FOR CERTAIN FUNDS.—

8 (1) IN GENERAL.—For any fiscal year begin-
 9 ning after the date of enactment of this Act in which
 10 the Attorney General, acting through the Director of
 11 the Bureau of Justice Assistance, determines that a
 12 covered State has a disproportionate arrest rate or
 13 a disproportionate incarceration rate for marijuana
 14 offenses, the covered State—

15 (A) shall not be eligible to receive any Fed-
 16 eral funds for the construction or staffing of a
 17 prison or jail; and

18 (B) shall be subject to not more than a 10-
 19 percent reduction of the funds that would oth-
 20 erwise be allocated for that fiscal year to the
 21 covered State under subpart 1 of part E of title
 22 I of the Omnibus Crime Control and Safe
 23 Streets Act of 1968 (34 U.S.C. 10151 et seq.),
 24 whether characterized as the Edward Byrne
 25 Memorial State and Local Law Enforcement

1 Assistance Programs, the Local Government
2 Law Enforcement Block Grants Program, the
3 Edward Byrne Memorial Justice Assistance
4 Grant Program, or otherwise.

5 (2) FUNDS FOR CERTAIN PROGRAMMING.—For
6 purposes of paragraph (1)(A), Federal funds for the
7 construction or staffing of a prison or jail shall not
8 include Federal funds used by a prison or jail to
9 carry out recidivism reduction programming or drug
10 addiction treatment.

11 (3) REALLOCATION.—Any amounts not award-
12 ed to a covered State because of a determination
13 under paragraph (1) shall be deposited in the Com-
14 munity Reinvestment Fund established under section
15 4.

16 (c) EXPUNGEMENT OF MARIJUANA OFFENSE CON-
17 VICTIONS.—Each Federal court shall issue an order
18 expunging each conviction for a marijuana use or posses-
19 sion offense entered by the court before the date of enact-
20 ment of this Act.

21 (d) SENTENCING REVIEW.—

22 (1) IN GENERAL.—For any individual who was
23 sentenced to a term of imprisonment for a Federal
24 criminal offense involving marijuana before the date
25 of enactment of this Act and is still serving such

term of imprisonment, the court that imposed the sentence, shall, on motion of the individual, the Director of the Bureau of Prisons, the attorney for the Government, or the court, conduct a sentencing hearing.

(2) POTENTIAL REDUCED RESENTENCING.—

After a sentencing hearing under paragraph (1), a court may impose a sentence on the individual as if this Act, and the amendments made by this Act, were in effect at the time the offense was committed.

(e) RIGHT OF ACTION.—

(1) IN GENERAL.—An individual who is aggrieved by a disproportionate arrest rate or a disproportionate incarceration rate of a State may bring a civil action in an appropriate district court of the United States.

(2) RELIEF.—In a civil action brought under this subsection in which the plaintiff prevails, the court shall—

(A) grant all necessary equitable and legal relief, including declaratory relief; and

(B) issue an order requiring the Attorney General, acting through the Director of the Bureau of Justice Assistance, to—

- 1 (i) declare the State to be ineligible to
 2 receive any Federal funds for the construc-
 3 tion or staffing of a prison or jail in ac-
 4 cordance with subsection (b)(1)(A); and
 5 (ii) reduce grant funding of the State
 6 in accordance with subsection (b)(1)(B).

7 **SEC. 4. COMMUNITY REINVESTMENT FUND.**

8 (a) ESTABLISHMENT.—There is established in the
 9 Treasury of the United States a fund, to be known as the
 10 “Community Reinvestment Fund” (referred to in this sec-
 11 tion as the “Fund”).

12 (b) DEPOSITS.—The Fund shall consist of—

13 (1) any amounts not awarded to a covered
 14 State because of a determination under section
 15 3(b)(1); and

16 (2) any amounts otherwise appropriated to the
 17 Fund.

18 (c) USE OF FUND AMOUNTS.—Amounts in the Fund
 19 shall be available to the Secretary of Housing and Urban
 20 Development to establish a grant program to reinvest in
 21 communities most affected by the war on drugs, which
 22 shall include providing grants to impacted communities for
 23 programs such as—

- 24 (1) job training;
 25 (2) reentry services;

1 (3) expenses related to the expungement of con-
2 victions;

3 (4) public libraries;

4 (5) community centers;

5 (6) programs and opportunities dedicated to
6 youth;

7 (7) the special purpose fund discussed below;

8 and

9 (8) health education programs.

10 (d) AVAILABILITY OF FUND AMOUNTS.—Amounts in
11 the Fund shall be available without fiscal year limitation.

12 (e) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Fund
14 \$500,000,000 for each of fiscal years 2020 through 2042.

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