

Summary of Proposed 2005-2006 Legislation
AN ACT RELATIVE TO THE ARREST AND PROSECUTION FOR
THE POSSESSION OF MARIHUANA FOR MEDICAL PURPOSES

S.B. 998

Senators McGee and Hedlund
Representatives Jehlen and Keenan

This bill amends the current controlled substances statute — Chapter 94C of the Massachusetts General Laws — so that police can use their own judgment in arresting persons with proof that they are possessing marijuana for medicinal purposes. Additionally, this bill adds a section to the current Massachusetts medical marijuana statute — Chapter 94D of the Massachusetts General Laws — creating a new provision for the recommendation of medicinal marijuana by a physician to his or her own client. This new provision does not require the expansion of state administrative services, while protecting the public safety. The following summary depicts the intent of the proposed legislation.

I. Arrest and Prosecutorial Amendments

- By allowing police officers to determine whether or not an individual is possessing marijuana in accordance with the proposed law time and money can be saved by avoiding an arrest.
- If an arrest occurs defendants are able to use a defense of medical necessity for the possession of marijuana.
- This bill does not allow persons to drive or operate machinery under the influence of medicinal marijuana. Patients cannot use medicinal marijuana in schools, parks, recreation centers or correctional facilities. Government medical assistance or private insurers are not required to pay for medicinal marijuana. And employers do not have to accommodate the medicinal use of marijuana in the workplace.

II. Expansion of Definitions

- Definitions are expanded to determine what medical use of marijuana entails under this bill, create a system of identification so that police and the courts can determine proper medicinal use of marijuana, and allow for persons too debilitated to obtain their own medical marijuana to designate a caregiver.

III. Recommendation of Marijuana

- Doctors recommending marijuana must be licensed by the state and have a bona fide physician-patient relationship.
- Patients, caregivers and doctors who meet all the necessary requirements may not be arrested or prosecuted. However, if an individual falsely claims medicinal use of marijuana there is a sentence enhancement.
- The medicinal use of marijuana for persons under 18 years of age is highly controlled with parental or guardian supervision and education.

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