



The Drug Policy Forum of Massachusetts

Testimony of Whitney A. Taylor, Executive Director
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Respectfully Submitted to the Joint Committee on the Judiciary on
**S.B. 998: AN ACT RELATIVE TO THE ARREST AND PROSECUTION
FOR THE POSSESSION OF MARIHUANA FOR MEDICAL PURPOSES**
June 7, 2005

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Honorable Committee Members, I thank you for the opportunity to testify on behalf of Senate Bill 998 — An Act Relative to the Arrest and Prosecution for the Possession of Marihuana for Medical Purposes.

I want to first thank Senators McGee and Hedlund and Representatives Jehlen and Keenan for sponsoring this medical marijuana bill.

S.B. 998 is a very simple piece of legislation that begins to deal with a very complicated issue — the Medical Necessity for certain seriously ill individuals to use marijuana medicinally.

Since 1996, nine states have passed various types of medical marijuana laws. And while the approaches have been different — public acceptance and scientific support of medical marijuana continues to grow every year. Even the Commonwealth has a medical marijuana statute that was passed by the General Court and signed into law by Governor Weld in 1991. Unfortunately, that legislation is tied to the federal government's approval of medical marijuana — an approval that has not been given for political reasons.

The citizens of Massachusetts are ready to allow persons in need, under the supervision of a doctor, to use marijuana medicinally. Since 2000, seven Public Policy Questions have been placed on Senate and Representative district ballots across the state asking whether or not Massachusetts elected officials should support the medical use of marijuana. Each time the voters resoundingly voted in favor of medical marijuana from a low of capturing 61% of the vote to a landslide of 80%.

Additionally, the scientific and medical communities continue to discover the benefits of marijuana for different types of serious illnesses. Even the federal government's own Institute of Medicine, after an exhaustive and politically charged review of the scientific literature came to the conclusion that marijuana is more effective than other synthetic medications in certain circumstances. And in Massachusetts, in response to a letter written by Representative Frank I. Smizik, over 1300 licensed and certified physicians from across the state signed a statement of principle that doctors should be able to recommend and patients should be able to use medicinal marijuana without the threat of arrest and prosecution.

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The Drug Policy Forum of Massachusetts is asking the honorable members of this committee to support the right of doctors and patients to make medical decisions based on individual need and NOT use state authority to arrest and prosecute seriously ill patients, their care-takers or their physicians if a decision is made that marijuana is part of an appropriate course of medical treatment.

S.B. 998 amends the current controlled substances statute so that police can use their own judgment in arresting persons who have standardized proof that they are possessing marijuana for medicinal purposes. Additionally, this bill creates a new provision in the current Massachusetts medical marijuana statute to allow physicians to recommend marijuana to his or her own clients when appropriate. This new provision does not require the expansion of state administrative services.

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. However, S.B. 998 does not lay all the burden of determination on law enforcement officers. If an officer is unsure about the legitimacy of a medical marijuana patient or caregiver an arrest can be made. If an arrest occurs defendants are able to use a defense of medical necessity for their 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.

Statute definitions are expanded under this bill to specifically list what medical use of marijuana entails, to 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.

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.

S.B. 998 has been written to be a first step toward broader medicinal marijuana policies. Supporters would like to see expanded research and state sponsored programs in the Commonwealth, as outlined in the General Law, Chapter 94D. Additionally, as more and more states pass medical marijuana the federal government will hopefully return to its official position on the 1970's supporting and supplying medical marijuana to those in need.

Regardless of any other policy changes across the country, the Drug Policy Forum of Massachusetts hopes that the Bay State can be a leader — showing compassion for our seriously ill and respect for our own medical community — by passing S.B. 998 into law.

Thank you for your time and consideration on this very important subject.