



Legislative Testimony
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**Written Testimony Supporting
House Bill 5394, An Act Concerning the Legalization
and Regulation of the Retail Sale of Marijuana**

Senator Osten, Senator Formica, Representative Walker, and distinguished members of the Appropriations Committee:

My name is Kaley Lentini, and I am legislative counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony in support of House Bill 5394, An Act Concerning the Legislation and Regulation of the Retail Sale of Marijuana, a proposal that would require a plan to legalize marijuana in our state.

Connecticut took a step in the right direction when it decriminalized adult possession of small amounts of marijuana and legalized medical marijuana. This bill requiring a plan to fully legalize marijuana presents a chance for our state to further honor individual privacy rights, prevent discrimination, and remedy the disparate burdens that marijuana prohibition has placed on youth, communities of color, and poor communities throughout our state.

As an organization committed to liberty, justice, and equality under our Constitution, the ACLU of Connecticut opposes laws criminalizing the cultivation, sale, possession, use, and delivery of marijuana. These restrictions often impose arbitrary, harsh, and cruel penalties for private conduct for which no criminal penalty is appropriate. Criminalizing the use, possession, manufacturing, or distribution of marijuana violates the principle that the criminal law may not be used to protect individuals from the consequences of their own autonomous choices or to impose upon those individuals a majoritarian conception of morality and responsibility.

In addition, laws criminalizing marijuana impose the hardships of an arrest and arrest record, and often prison terms, on otherwise law-abiding people, who are disproportionately young, poor, and people of color. Criminalization of marijuana has been selectively enforced, and this enforcement has relied on

entrapment, illegal searches, and other methods that violate civil liberties. In addition, these laws have diverted our state's limited resources away from the enforcement of laws against serious crimes.

Replacing arrests for marijuana possession in small amounts with infraction tickets was a positive step toward righting these wrongs, but it is not a panacea for the harms caused by marijuana prohibition. The same racial disparities that existed in our state in arrests for marijuana possession have been replicated in citations for civil offenses. The fines that accompany these civil infractions can place a substantial burden on those fined, particularly the young and/or poor, groups that are disproportionately targeted by police. There is also strong evidence to suggest that people who are unable to pay these fines in a timely fashion, or at all, or who do not appear in court to answer to civil charges, are subject to arrest, which results in individuals being brought to court, and in some cases jailed, for failing to pay the fines or to appear. In addition to placing significant personal and financial burdens on the individual, this imposes substantive costs on the state, possibly exceeding the original fine imposed.

Connecticut's history of disproportionately arresting people for marijuana possession overall, and its disturbing track record of racial disparities in this enforcement, mean that communities continue to suffer from decades of prior marijuana criminalization. We therefore encourage this committee to require the plan to include legislative proposals regarding prohibitions on discrimination against people with marijuana-related convictions and a pathway toward expungement of those records.

As with other offenses, an arrest or conviction for a marijuana-related offense can be a scarlet letter, jeopardizing someone's professional standing, employment, housing, or family connections. Should the plan required by this bill be implemented, it could help to protect more Connecticut residents from these harms. To further remediate the negative effects of past marijuana convictions, we further encourage this committee to amend this bill to require the plan to include legislative proposals regarding prohibiting marijuana-related revocations of professional licensure, prohibiting discrimination in hiring or employment benefits based on previous marijuana-related offenses, prohibiting discrimination against people with past marijuana-related convictions in housing, prohibiting discrimination in financial transactions based on marijuana-related offenses, and prohibiting the use of lawful marijuana-related activities as a relevant factor in proceedings regarding parental rights or child welfare. In addition, we strongly encourage this committee to require the plan to include legislative proposals regarding the establishment of an office to ensure that marijuana industry revenue is invested in communities that have been most harmed by drug prohibition, and to ensure that these communities have access to business licenses, in order to prevent racial disparities from replicating themselves in a legal marijuana industry.

As of 2015, Connecticut's Superior Courts had approved the majority of requests to erase marijuana possession convictions following the state's decriminalization of small amounts. These 32 total granted petitions, however, are dwarfed by the thousands of marijuana arrests that Connecticut made prior to decriminalization. In addition, the resources necessary to request a record erasure are not always available to people with marijuana arrest records, particularly the poor. We therefore encourage this committee to require the plan to include legislative proposals regarding providing a clear pathway toward remediation for marijuana-related convictions by commuting the sentences of people convicted of marijuana-related offenses, permitting the expungement of marijuana-related charges and convictions, and removing fees associated with seeking expungement.

The number of people who could be helped by these provisions is significant. In the previous decade, Connecticut's marijuana arrests ensnared thousands of people in our state's criminal justice system. In 2010, Connecticut had the largest number of arrests for marijuana possession out of all New England states. From 2001—2010, Connecticut also had the largest arrest rate increase in marijuana possession arrests in New England, and the fourteenth largest increase nationwide.

Connecticut's Black communities were disproportionately harmed by marijuana arrests in the past and remain disproportionately harmed by marijuana-related infractions today, despite the fact that Black and white Americans use marijuana at the same rate. In 2010, prior to decriminalization, Connecticut had the largest difference between the Black population and marijuana possession arrests out of all New England states. At this time, Black residents were three times more likely to be arrested for marijuana possession than whites; phrased differently, 30.3% of people arrested in Connecticut for marijuana possession were Black, compared to 11% of the state population overall.

Following decriminalization, Black residents were still three times more likely to be arrested for "drug abuse violations" than whites; Connecticut's 2015 statewide crime statistics indicated that 28.7% of people arrested for "drug abuse violations" in the state were Black, compared to a statewide population percentage of 11.6%. Meanwhile, previous disparities in marijuana arrest rates are being replicated in marijuana infraction rates. In 2016, a *Connecticut Mirror* report found significant racial and age disparities in marijuana possession infraction citations; statewide, teenagers and minorities were cited for marijuana most often. In every town but Suffield, Black people were cited for marijuana possession disproportionate to their population percentages overall. In New Canaan, for instance, police imposed nearly half of all marijuana citations on Black people, despite the town's Black population percentage of 1 percent. In some areas, these disparities were also evident between Latino and white residents. In Darien, police imposed nearly one quarter of all marijuana citations on Hispanic people, despite the

town's Hispanic population percentage of 2 percent. Given Connecticut's history of disparities in marijuana arrests, and its current disparities in marijuana infraction citations, this bill's efforts to legalize marijuana could help to break this cycle of racial injustice.

The War on Marijuana, like the War on Drugs overall, has been a failure. It has torn apart families and communities, ruined individuals' lives, and acted as a vehicle for racial injustice. We urge you to support this bill to take a step toward mitigating these past injustices and preventing them in the future.