

D.C. ACT 13-138

SEPTEMBER 20, 1999

*Codification
District of
Columbia
Code
2000 Supp.*

INITIATIVE MEASURE

No. 59

SHORT TITLE

**"LEGALIZATION OF MARIJUANA FOR MEDICAL TREATMENT
INITIATIVE OF 1998"**

SUMMARY STATEMENT

This initiative changes the laws of the District of Columbia to:

Permit seriously ill individuals to obtain and use marijuana for medical purposes when recommended by a licensed physician to aid in the treatment of HIV/AIDS, glaucoma, muscle spasm, cancer, or other serious or chronic illnesses for which marijuana has demonstrated utility; protect seriously ill persons, their licensed physicians and caregivers from criminal prosecution or sanction where marijuana is prescribed for medical purposes; legalize -- for medical purposes only -- the possession, use, cultivation, and distribution of marijuana, and maintain the prohibition and criminal sanctions against the use of marijuana for any non-medical purpose.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Legalization of Marijuana for Medical Treatment Initiative of 1998".

*New
Subchapter
IX,
Title 33*

Sec. 2. All seriously ill individuals may obtain and use marijuana for medical purposes when a licensed physician has found the use of marijuana to be medically necessary and has recommended the use of marijuana for the treatment (or to mitigate the side effects of other

*New
§ 33-591.1*

ENROLLED ORIGINAL

treatments such as chemotherapy, including the use of AZT, protease inhibitors, etc., radiotherapy, etc.) or diseases and conditions associated with HIV and AIDS, glaucoma, muscle spasm, cancer and other serious or chronic illnesses for which the recommending physician reasonably believes that marijuana has demonstrated utility.

Sec. 3. Medical patients who use, and their primary caregivers who obtain for such patients, marijuana for medical purposes upon the recommendation of a licensed physician do not violate the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Code § 33-501 *et seq.*) ("Controlled Substances Act") and may not be subject to criminal prosecution or sanction for use consistent with this act.

New
§ 33-591.2

Sec. 4. (a) Use of marijuana under the authority of this act shall not be a defense to any crime of violence, the crime of operating a motor vehicle while impaired or intoxicated, or a crime involving danger to another person or to the public, nor shall such use negate the mens rea for any offense.

New
§ 33-591.3

(b) Whoever distributes marijuana cultivated, distributed or intended to be distributed or used pursuant to this act to any person not entitled to possess or distribute marijuana under this act shall be guilty of a crime and subject to the penalty set forth in section 401(a)(2)(D) of the Controlled Substances Act (D.C. Code § 33-541(a)(2)(D)).

Sec. 5. Notwithstanding any other law, no physician shall be punished, or denied any right, privilege or registration for recommending, while acting in the course of his or her professional practice, the use of marijuana for medical purposes. In any proceeding in which rights or defenses created by this act are asserted, a physician called as a witness shall be permitted to testify before a judge, in camera. Such testimony, when introduced in a public proceeding, if the physician witness so requests, shall have redacted the name of the physician and the court shall maintain the name and identifying characteristics of the physician under seal.

New
§ 33-591.4

Sec. 6. (a) Any District law prohibiting the possession of marijuana or cultivation of marijuana shall not apply to a medical patient, or to a medical patient's primary caregivers, when a medical patient or primary caregiver possesses or cultivates marijuana for the medical purposes of the patient upon the written or oral recommendation of a licensed physician. The exemption for cultivation shall apply only to marijuana specifically grown to provide a medical supply for a patient, and not to any marijuana grown for any other purpose. In determining a quantity of marijuana that constitutes a medical supply, this act shall be interpreted to assure that any medical patient protected by the act shall have access to a sufficient quantity of marijuana to assure that they can maintain their medical supply without any interruption in their treatment or depletion of their medical supply of marijuana.

New
§ 33-591.5

ENROLLED ORIGINAL

(b) The prohibition in the Controlled Substances Act against the manufacture, distribution, cultivation, or possession with intent to manufacture, distribute, or cultivate, or against possession, of marijuana shall not apply to a nonprofit corporation organized pursuant to this act.

Sec. 7. (a) A medical patient may designate or appoint a licensed health care practitioner, parent, sibling, spouse, child or other close relative, domestic partner, case manager/worker, or best friend to serve as a primary caregiver for the purposes of the act.

New
§ 33-591.6

(b) A designation under this act need not be in writing; however, any written designation or appointment shall be prima facie evidence that a person has been so designated.

(c) A patient may designate not more than 4 persons at any one time to serve as a primary caregiver for the purposes of this act.

(d) For the purposes of this subsection, the term "best friend" means a close friend who is feeding, nursing, bathing, or otherwise caring for the medical patient while the medical patient is in a weakened condition.

Sec. 8. Residents of the District of Columbia may organize and operate not-for-profit corporations for the purpose of cultivating, purchasing, and distributing marijuana exclusively for the medical use of medical patients who are authorized by this act to obtain and use marijuana for medical purposes. Such corporations shall comply with the District's nonprofit corporation laws. Fees and licenses shall be collected by the Department of Consumer and Regulatory Affairs ("DCRA") in the same manner as other not-for-profit corporations operating in the District of Columbia. The Director of DCRA shall issue such corporations exemptions from the sales tax, use tax, income tax and other taxes of the District of Columbia in the same manner as other nonprofit corporations.

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§ 33-591.7

Sec. 9. (a) The exemption from prosecution for distribution of marijuana under this act shall not apply to the distribution of marijuana to any person under 18 years of age unless that person is an emancipated minor, or a parent or legal guardian of the minor has signed a written statement that such parent or legal guardian understands:

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§ 33-591.8

(1) the medical condition of the minor;

(2) the potential benefits and the potential adverse effects of the use of marijuana generally and in the case of the minor; and

(3) consents to the use of marijuana for the treatment of the minor's medical condition.

(b) Violators of this section shall be subject to the penalties of the Controlled Substances Act.

ENROLLED ORIGINAL

Sec. 10. (a) The Director of the Department of Public Health shall develop a plan, and submit it, within 90 days of the effective date of this act, to the Council of the District of Columbia to provide for the safe and affordable distribution of marijuana to all patients enrolled in Medicaid or a Ryan White CARE Act funded program who are in medical need, who desire to add marijuana to their health care regimen and whose licensed physician reasonably believes that marijuana would be beneficial to their patient.

New
§ 33-591.9

(b) Within 30 days of the certification of the passage of this act by the people of the District of Columbia, the Mayor of the District of Columbia shall deliver a copy of this act to the President and the Congress to express the sense of the people of the District of Columbia that the Federal government must develop a system to distribute marijuana to patients who need it for medical purposes.

Sec. 11. If any provision of this measure or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the measure which can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

New
§ 33-591.10

Sec. 12. This act shall take effect following approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.