Senate Judiciary Committee

Ryan Meleedy 271-4151

HB 1539-FN, relative to annulling, resentencing, or discontinuing prosecution of certain cannabis offenses.

Hearing Date: April 25, 2024

Members of the Committee Present: Senators Carson, Gannon, Abbas, Whitley and Chandley

Members of the Committee Absent : None

Bill Analysis: This bill allows for additional annulments, resentencings, or discontinuations of prosecutions for certain cannabis offenses.

Sponsors:
Rep. Wheeler Rep. A. Murray Rep. H. Howard
Rep. Monteil

Who supports the bill: 38 People signed in support of this bill. Sign in sheets are available upon request to the committee aide (Matthew.Schelzi@leg.state.nh.us).

Who opposes the bill: 17 People signed in opposition to the bill. Sign in sheets are available upon request to the committee aide (Matthew.Schelzi@leg.state.nh.us).

Who is neutral on the bill: 1 Person signed in neutrality to this bill. Sign in sheets are available upon request to the committee aide (Matthew.Schelzi@leg.state.nh.us).

Summary of testimony presented in support:

Representative Jonah Wheeler

- Representative Jonah Wheeler introduced HB 1539, explaining that the bill aims to update the existing annulment statutes for cannabis-related offenses.

- Representative Wheeler emphasized that the bill seeks to streamline the annulment process and reduce collateral consequences for individuals with certain cannabis convictions, enabling them to reintegrate into society.

- Representative Wheeler argued that the process is intended to cover cases where individuals have only cannabis-related offenses and have rehabilitated themselves.

- Senator Gannon asked Representative Wheeler if the 14-day limit for prosecutors to object to annulments would be a burden on courts with tight dockets.

- Representative Wheeler responded that because the number of eligible cases is relatively low, the 14-day limit shouldn't burden the courts.

- Senator Abbas asked if the bill's coverage of "any offense under RSA 318-B involving cannabis" would include more than just possession offenses.

- Representative Wheeler confirmed that the bill is intended for possession offenses and stated confidence in the courts to distinguish between possession and distribution cases.

- Senator Gannon also asked about the standard of evidence required for the prosecution to object to annulments, raising concerns about the burden on prosecutors.

- Representative Wheeler acknowledged that there might be complexities in applying the standards but reiterated that the intent is to streamline the annulment process.

Devon Chaffee (ACLU) – Support

- Devon Chaffee supported HB 1539, highlighting the importance of streamlining the annulment process due to the significant consequences faced by those with cannabis-related offenses.

- Ms. Chaffee explained that the deviations from the existing annulment process are intentional to reduce the burden on individuals seeking annulment.

- Ms. Chaffee argued that simplifying the annulment process is critical since most New Hampshire residents believe that cannabis should no longer be criminalized.

- Ms. Chaffee emphasized that the intention behind the bill is to streamline the process and alleviate the burden on individuals who face severe collateral consequences.

Heather Marie Brown (Therapeutic Cannabis Patient)

- Heather Marie Brown testified as an individual directly affected by cannabis-related convictions, detailing how the current annulment process is a significant financial and administrative burden.

- Ms. Brown shared personal challenges, such as struggling to support her family due to a cannabis conviction that hampers her ability to find better employment.

- Ms. Brown urged the committee to pass the bill, stating that it would provide much-needed relief to individuals like her and allow them to move forward in their lives.

- Ms. Brown emphasized that she still feels punished for her past conviction, despite using therapeutic cannabis legally for health reasons.

Summary of testimony presented in opposition:

Officer Victor Muzzey (NH State Police)

- Officer Victor Muzzey, representing the New Hampshire State Police, testified on HB 1539 to express concerns regarding the feasibility of automatically annulling misdemeanor and violation-level offenses related to cannabis.

- Officer Muzzey explained that the proposed requirement to annul these offenses would place a significant burden on the State Police's criminal records unit. He noted that it would be especially challenging to process older cases due to the need for manual research and vague records from before marijuana was decriminalized.

- Officer Muzzey pointed out that prior to marijuana's decriminalization, records often used general terms like "acts prohibited" without specifying the offense. This lack of specificity would necessitate extensive manual research to determine if a record was eligible for annulment.

- Officer Muzzey emphasized that the six-month window specified in the bill is likely insufficient given the extensive workload and research required. He underscored that identifying and annulling these cases would be a labor-intensive process, making it virtually impossible to meet the proposed time frame.

- Officer Muzzey encouraged the committee to consider extending the timeframe for automatic annulments, recognizing the significant challenges of processing large volumes of records accurately within such a limited period.

- Officer Muzzey highlighted the complexities of the proposed process and requested that the committee reconsider the automatic annulment requirements to ensure they are achievable.

Chief Pat Sullivan (NH Association of Chiefs of Police)

- Chief Pat Sullivan opposed HB 1539, arguing that the current annulment process is sufficient and that the new processes outlined in the bill are unnecessary.

- Chief Sullivan raised concerns about the bill's language, which could be interpreted to include offenses beyond simple possession, potentially expanding the scope of offenses eligible for annulment.

- Chief Sullivan warned of potential cost implications for both prosecutors and courts due to the increase in annulment requests that could arise from the bill.

Neutral Information Presented:

Myles Matteson (NH Attorney General's Office) – Neutral

- Myles Matteson, representing the New Hampshire Attorney General's Office, provided technical feedback on HB 1539, emphasizing how it deviates from the current annulment framework.

- Mr. Matteson explained that the existing annulment process is governed by RSA 651:5 and Criminal Procedure Rule 31, which already provides guidelines and mechanisms for annulments. These rules allow individuals to petition for annulment if they meet the established criteria.

- Mr. Matteson highlighted that HB 1539 introduces an additional regime for cannabis-related offenses that is inconsistent with the existing annulment process. This inconsistency could create legal and procedural complications.

- Mr. Matteson raised concerns about the lack of judicial discretion in the bill. If a prosecutor does not object to an annulment, a judge is obligated to grant the request, potentially resulting in annulments being improperly granted.

- Mr. Matteson further noted that the bill assumes the Department of Safety will have the authority to direct courts to issue annulments automatically. This provision could raise constitutional concerns, specifically around separation of powers.

- Mr. Matteson also pointed out that HB 1539 does not clearly outline how existing sentences should be handled if there are other concurrent or consecutive charges. He mentioned that the bill does not specify the appropriate way to reduce sentences for cannabis-related offenses while considering other convictions.

- Mr. Matteson emphasized that the proposed automatic annulments outlined in the bill could lead to confusion, as the current annulment process relies on individual petitions and judicial discretion.

RM
Date Hearing Report completed: May 7, 2024