

# Senate Judiciary Committee

*Pete Mulvey 271-4063*

**HB 196-FN**, relative to annulling certain cannabis possession offenses.

**Hearing Date:** March 25, 2025

**Time Opened:** 2:38 p.m.

**Time Closed:** 2:56 p.m.

**Members of the Committee Present:** Senators Gannon, Abbas, Altschiller and Reardon

**Members of the Committee Absent :** Senator Carson.

**Bill Analysis:** This bill requires the annulment of misdemeanor or violation-level offenses for possession of cannabis prior to January 1, 2025 upon petition.

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**Sponsors:**

Rep. Wheeler

Rep. H. Howard

Rep. W. Thomas

Rep. Tom Mannion

Rep. Read

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**Who supports the bill:** 76 individuals signed in support of HB 196-FN. Contact Pete Mulvey (peter.mulvey@gc.nh.gov) for further details.

**Who opposes the bill:** 7 individuals signed in opposition to HB 196-FN Contact Pete Mulvey (peter.mulvey@gc.nh.gov) for further details

**Who is neutral on the bill:** N/A

**Summary of testimony:**

**Representative Jonah Wheeler**

**Hillsborough- District 33**

- Representative Wheeler stated that HB 196 amended the current annulment statute in the State's RSAs.
  - Currently, people must pay a \$300 fee to request an annulment.
  - HB 196 would amend the statute so people may request an annulment without a fee.
- Rep. Wheeler believed HB 196 was important because there were people throughout the state who were prevented from getting loans, jobs, and joining the military because cannabis remained a federally illegal substance.
- Rep. Wheeler explained that there was an amendment to HB 196 that changed annulments for low-level cannabis offenses from automatic to being based upon individual requests.
  - The amendment was created with attorney Erin Creegan of the Judicial Council to pass the legislation in a way that wouldn't be onerous to the Department of Justice and their

staff.

- Rep. Wheeler noted that HB 196 passed in its house committee last biennium by a vote of 14-6 and had just recently passed again, unanimously.
- Rep. Wheeler further explained that not everyone who voted for the bill supported full legalization but merely wanted to provide people with a way to move forward with their lives without the hinderance of past mistakes hanging over them.

## **Major William Bright**

### **New Hampshire State Police, Department of Safety**

- Major Bright explained that the NHSP were opposed to the bill on several technical levels.
- Maj. Bright noted that the bill was very vague concerning what would be required of the Department of Safety.
  - HB 196 requires the department to examine an arrest or a conviction to determine whether it should be annulled. It is unclear what that encompassed.
- Maj. Bright contemplated if cases involving other substances or conduct which were plead down to lesser cannabis charges would be applicable.
- Maj. Bright argued that much of the research required to make appropriate annulment determinations exceeded the Department's available resources.
  - Maj. Bright suspected that other police departments would be leveraged to research cases.
- Thousands of requests for annulment may be submitted to the Department if all marijuana cases prior to January 1, 2025, are considered.
  - The Department only had so many people and could not handle the scope of the requests that would likely come in.
- There would be expenses necessary to meet the demands of paragraph four, which dealt with publishing a record of annulments online.
  - Online reporting would necessitate IT considerations such as programming and the staff necessary to meet those accommodations.
- Sen. Reardon asked if it was correct that there was an annulment process in statute for any kind of conviction.
  - Maj. Bright believed Sen. Reardon was correct.
- Sen. Reardon asked Maj. Bright for any reason why the current statute couldn't be used for marijuana offenses.
  - Maj. Bright suggested that the statute already in place concerned only up to  $\frac{3}{4}$  of an ounce of marijuana.
  - There was a basis for annulments already; the criminal records division and the courts handled those requests as they came in.

## **Lieutenant Derek Cataldo**

### **Manchester Police Department, New Hampshire Association of Chiefs of Police**

- Lt. Cataldo stated that the association opposed HB 196-FN because it undermined current law in that it removed the consequences for a prohibition without any substantial change to the prohibition itself.
  - The concern was that HB 196 could wipe away consequences for people who were habitually violating the law.

- Lt. Cataldo stated further concerns that HB 196 greatly expanded the annulment statute; RSA 651:5-b.
- The current statute said that a petitioner must prove that any conviction was for a  $\frac{3}{4}$  of an ounce of cannabis or less.
  - HB 196-FN would make it so that any misdemeanor or violation, regardless of the amount, could be annulled.
- Lt. Cataldo clarified that often convictions are reduced to lesser charges via plea bargains. Under HB 196, more significant convictions which had been reduced through bargaining would automatically be annulled so long as a petition was filed.
- Sen. Abbas asked if annulments would appear on an individual's record if granted.
- Lt. Cataldo stated his understanding that annulled convictions would be removed entirely from an individual's record.

### **Dr. Joe Hannon**

- Dr. Hannon stated that Hb 196 was about fairness and healing as well as aligning the justice system with our values.
- In many states the offenses that would be eligible for annulment under HB 196 were not illegal.
- Dr. Hannon argued that public opinion had shifted toward legalization in New Hampshire.
- Dr. Hannon stated that criminal records followed people for life and affected many things such as housing and employment.
  - Enforcement has occurred in a racially disproportionate manner and expungement was a necessary step toward justice and reconciliation.
- HB 196 does not grant automatic annulment. HB 196 provides for a petition process using court discretion which struck a reasonable balance between fairness and accountability.
- Sen. Altschiller expressed concern regarding the jurisdiction of the Department of Safety over annulments compared to the court system and contemplated who would be determining qualification.
- Sen. Abbas added to Sen. Altschiller's concern to note that generally, the courts granted annulments, not the Department of Safety.
  - Dr. Hannon found the concerns valid.

### **Captain Victor Muzzey**

#### **New Hampshire State Police**

- Cpt. Muzzey noted that the language of the bill was confusing regarding whether the Department of Safety or the courts made the determination for an annulment.
- If a record had been annulled, law enforcement would not be able to see the past conviction.
- Cpt. Muzzey further argued that HB 196 was unclear as to what exactly was to be annulled; whether it's the arrest, the complaint, the conviction or everything.
- Despite being amended, there was still some extraneous language in HB 196 that should be addressed.

PM

Date Hearing Report completed: April 1, 2025