

**A Working Paper to Inform Catholic Organizations
On Possible Impacts of Legalizing Recreational Marijuana in New Jersey
Prepared by the
New Jersey Catholic Conference Public Policy Committee**

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The legalization debate:

Advocates for the legalization of recreational marijuana (the *New Jersey Drug Policy Alliance* and the *Anti-Poverty Network of New Jersey*) justify legalization primarily on social justice issues – specifically that legalization could address and eliminate the current disparity in the state’s criminal justice system. Advocates point to state and national statistics documenting that minorities are three times more likely to be convicted of marijuana possession charges.

In addition, advocates suggest that legalization could produce significant tax and license fee revenue for the state. Advocates emphasize that the increased revenue from legalized recreational marijuana could fund social service programs to help the poor and most vulnerable in the state, or even help to balance the State budget.

Opponents of legalization concede the need for New Jersey to address the racial disparity in the New Jersey’s criminal justice system and the need for increased funding for social service programs.

However, opponents reject the proposal that legalization of recreational marijuana is the correct path to take in addressing the State’s social justice problems. Social justice reforms can be accomplished without the legalization of recreational marijuana. Opponents claim that legalization of recreational marijuana could do more harm than any good. Opponents present the following concerns:

- Increase risk to public safety, including impaired driving that could lead to more traffic fatalities;
- Harm to individuals’ physical, mental, and emotional well-being;
- Harm to children through increased second hand exposure to the drug;
- Increased arrests of juveniles, specifically minorities, for possession of marijuana.

The legalization debate focuses on whether or not the benefits of the legalization of recreational marijuana outweigh the potential health and public safety risks. In brief, do the costs of prohibition, including more arrests and drug-related violence, outweigh the risks of potential harm to society and the potential personal health for individual users, especially youth.

Major Support for the Legalization of Recreational Use of Marijuana:

Although, there is no clear indication of when, or if, New Jersey will legalize recreational marijuana, that has not prevented national corporations and legal firms from preparing to capitalize on a legal recreational marijuana industry.¹

In January 2018, Advanced Media (that produces much of the Star Ledger political news) released a digital magazine entitled “NJ Cannabis Insider.” Advanced Media markets the publication, for a substantial annual fee, to individuals and businesses interested in participating in the New Jersey Marijuana Industry see <https://njcannabisinsider.nj.com>.

On May 16, 2018, the New Jersey Law Journal noted that the potential legalization of recreational marijuana would generate a range of legal needs such as, licensing, regulatory, and criminal expungement.² In preparation, several law firms have established groups to specialize in the cannabis issues.

Some of the most influential lobbying firms in New Jersey are working not only in support of legalizing recreational marijuana, but also to have their clients in a prime position in the process of developing the rules and regulations that will be required to implement the legalization of recreational marijuana.

What is marijuana?

The term “marijuana” refers to the dried leaves, flowers, stems, and seeds of the hemp plant, ***Cannabis sativa***. The plant contains a mind-altering chemical - *delta-9-tetrahydrocannabinol* (THC). THC is the primary psychoactive compound that stimulates the brain to release dopamine, creating euphoria, while often inducing hallucinations and delusions.

Commonly known by the Mexican colloquial name, marijuana, the drug is referred to by many names such as grass, reefer, pot, dope, weed, Mary Jane, and hippie lettuce. For centuries, the cannabis plant has been used for its psychoactive and perceived health benefits across the world in North and South America, Asia, Africa, Europe, and the Middle East.

The United States Drug Enforcement Agency (USDEA) classifies Marijuana as a Schedule I substance. Under the Controlled Substances Act of 1971, a Schedule I substance is one that has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision.

Despite the USDEA classification, as of today, 29 states, including New Jersey, and the District of Columbia allow the use of marijuana for medicinal purpose. In addition, the following 10 states and the District of Columbia allow recreational use of marijuana: Alaska, California, Colorado, Maine, Massachusetts, Michigan, Nevada, Oregon, Washington, and Vermont.

¹ Sue Livio and Justin Zaremba “Big Marijuana company entering N.J. market hires Norcross lobbying firm” May 18, 2017, http://www.nj.com/marijuana/2018/05/acreage_holdings_on_a_buying_spree_-_with_opportu.html

² Gianlanella, David “No Legalization Yet, But ‘Shift’ Sees NJ Firms Firing Up Cannabis Practices” May 16, 2018, New Jersey Law Journal, <https://www.law.com/njlawjournal/2018/05/16/no-legalization-yet-but-shift-sees-nj-firms-firing-up-cannabis-practices/>

To date, the Food and Drug Administration (FDA) has not approved a marketing application for marijuana for any indication. However, the FDA has approved three drugs that contain marijuana related substances.

On June 25, 2018, the FDA announced approval of Epidiolex, which contains a purified drug substance cannabidiol, one of more than 80 active chemicals in marijuana, for the treatment of seizures associated with Lennox-Gastaut syndrome or Dravet syndrome in patients 2 years of age and older. That means the FDA has concluded that this particular drug product is safe and effective for its intended indication.

The FDA also has approved Marinol (approved in 1985) and Syndros (approved in 2017) for therapeutic uses in the United States, including for the treatment of anorexia associated with weight loss in AIDS patients. Marinol and Syndros include the active ingredient dronabinol, a synthetic delta-9- tetrahydrocannabinol (THC) which is considered the psychoactive component of marijuana. Another FDA-approved drug, Cesamet, contains the active ingredient nabilone, which has a chemical structure similar to THC and is synthetically derived.

Is synthetic marijuana the same as marijuana?

In recent years, synthetic marijuana use has increased in the United States. Synthetic cannabinoids are human-made mind-altering chemicals that are either sprayed on dried, shredded plant material so that the ingredients can be smoked or sold as liquids to be vaporized and inhaled in e-cigarettes and other devices. These products are also known colloquially as herbal or liquid incense.

These chemicals are called cannabinoids because they are similar to chemicals found in the marijuana plant. Because of this similarity, synthetic cannabinoids are sometimes misleadingly called *synthetic marijuana* or *fake weed*.

Often, synthetic marijuana is marketed as a safe and legal alternative to marijuana. In fact, synthetic marijuana is not safe and may affect a user's brain even more powerfully than natural marijuana. The actual effects of synthetic marijuana can be unpredictable and, in some cases, more dangerous or even life-threatening than actual marijuana.

Synthetic cannabinoids have numerous street names, in part because drug manufacturers try to appeal and entice youth and young adults by labeling these products with exotic and extravagant names. Some of the many street names of synthetic marijuana are: Spice, K2, Blaze, RedX Dawn, Paradise, Demon, Black Magic, Spike, Mr. Nice Guy, Ninja, Zohai, Dream, Genie, Sence, Smoke, Skunk, Serenity, Yucatan, Fire, and Crazy Clown.

The chemicals used to manufacture synthetic cannabinoids are equally, if not more, potent than THC causing side effects that are unpredictable, severe, and even life-threatening. The Drug Enforcement Administration, State Public Health, and Poison Centers have reported users

experiencing the following: vomiting, chest pain, increased heart rate, vision blackouts, headaches, kidney damage, agitation, high blood pressure, and psychosis.³

The Federal government has taken both regulatory and legislative steps to outlaw the chemicals used to manufacture synthetic marijuana. Unfortunately, manufacturers, primarily underground chemists, continue to develop new forms of synthetic marijuana, making enforcement next to impossible for law enforcement.

Dangers of marijuana use:

The National Institute on Drug Abuse (NIDA), in the U.S. Department of Health and Human Services' National Institutes of Health, is the largest supporter of research on drug use and addiction in the world. According to the NIDA, the harmful effects of marijuana can hurt both the user and those in close proximity to the user, such as child inhaling second hand smoke.

In addition, the negative health effects of marijuana can remain in a person's body for weeks after the individual uses the drug. These effects include:

Acute (effects present during intoxication typically lasting a couple hours or longer depending on the concentration level of THC)

- Impaired short-term memory
- Impaired attention, judgment, and other cognitive functions
- Impaired coordination and balance
- Increased heart rate
- Anxiety, paranoia
- Psychosis (uncommon)

Persistent (lasting longer than intoxication, but may not be permanent)

- Impaired learning and coordination
- Sleep problems

Long-term (cumulative effects of repeated use)

- Potential for marijuana addiction
- Impairments in learning and memory with potential loss of IQ
- Increased risk of chronic cough, bronchitis
- Increased risk of other drug and alcohol use disorders
- Increased risk of schizophrenia in people with genetic vulnerability.

Many advocates for the legalization of recreational use of marijuana, such as the *Drug Policy Alliance*, claim that the use of marijuana is no more harmful than the use of alcohol and other tobacco products. In addition, supporters claim that use of marijuana is LESS harmful than the use of alcohol.

A 2014 Pew survey found of the 1,821 adults surveyed, 69% view the use of alcohol as more dangerous than the use of recreational marijuana.⁴ In addition, on June 20, 2014 Dr. Nora

³ United States Department of Justice Drug Enforcement Administration "Drugs of Abuse Report: A DEA Resource Guide 2017 Edition," https://www.dea.gov/pr/multimedia-library/publications/drug_of_abuse.pdf#page=74

Volkow, Director of the National Institute on Drug Abuse, in her testimony before Congress stated the following:

“Alcohol and tobacco are linked to more morbidity and mortality in our society than other drugs in part due to their widespread availability as legal substances. It is likely that, were patterns of marijuana use by people of all ages to become comparable to that of these other legal substances, statistics regarding marijuana’s impact on automobile accidents (i.e., compared to alcohol), lung diseases (i.e., compared to tobacco), or treatment needs for those addicted (compared to both alcohol and tobacco) would look much different than they do currently.”

Determining the persistent and long term effects of recreational marijuana use has been difficult because of the illegal status of marijuana. *However, the limited information that is available should give us pause to consider the potential harmful effects on both the drug user and the entire community.*

On Friday January 4, 2019, NBC 10 news in Philadelphia published a report entitled “*Too High To Drive: States Grapple With Setting Limits On Weed Use Behind Wheel: Experts struggle to measure how marijuana causes impairment*”

The report highlights that many States that have legalized recreational marijuana continue to struggle with answering the question “At what point is someone too high to operate an automobile?” According to the report, the answer to this question is complicated.

Scientists and pharmacologists have yet to develop a test to measure if and to what extent marijuana causes impairment. Existing blood and urine test can detect marijuana use, however because traces of the drug stay in the body for an extended period of time, those tests can not specify whether the use occurred earlier that day or earlier that month. In addition, no test can indicate the level at which the driver is considered “under the influence.”

Several states with legalized recreational marijuana have attempted to pass laws that set limits based on the amount of THC in blood. However, opponents to these efforts argue that since there is no standard test to determine impairment these laws are based on arbitrary opinion.

While there is no proven test to determine the extent of the impact, clearly marijuana does influence users’ cognitive ability. According to research from the Insurance Institute for Highway Safety and the Highway Loss Data Institute, the frequency of collision claims filed to insurers were higher in four states where marijuana is legal: Colorado, Nevada, Oregon and Washington.

A separate study conducted by the Insurance Institute for Highway Safety focused on police-reported crashes before and after retail marijuana was legalized. Colorado, Oregon and Washington saw a 5.2 percent increase in the rate of crashes per million vehicle registrations, compared with neighboring states.

⁴ Pew Research Center, April 2014, “America’s Changing Drug Policy Landscape”; available at <http://www.people-press.org/files/legacy-pdf/04-02-14%20Drug%20Policy%20Release.pdf>

David Harkey, president of the Insurance Institute for Highway Safety and Highway Loss Data Institute, said "States exploring legalizing marijuana should consider this effect on highway safety."

The reports from the Insurance Institute for Highway Safety and Highway Loss Data Institute are available at <https://www.iihs.org/iihs/news/desktopnews/crashes-rise-in-first-states-to-begin-legalized-retail-sales-of-recreational-marijuana>

Changing attitude regarding legalization of recreational marijuana:

According to the October 2017 Pew survey "America's Changing Drug Policy Landscape" the percentage of Americans approving recreational use of marijuana has increased significantly over the past decade. Currently, 61% of Americans think the recreational use of marijuana should be legalized.

In addition, the Pew survey found that:

- The percentage of U.S. adults who support marijuana legalization in 2017 was little changed from 2016 – when 57% favored recreational use. However, approval rates have nearly double from 2000 when the approval rate was 31%.
- The number of young people in the U.S. who believe that the use of marijuana is risky has been steadily decreasing.

The views on the legalization of recreational marijuana differ widely by generational and partisan divides.

- 70% of Millennials (people born between 1981 and 1996) approve the use of recreational marijuana.
- 66% of Gen Xers (people born between 1965 and 1980) approve.
- 56% of Baby Boomers (people born between 1946 and 1964) approve the recreational use of marijuana.
- In contrast, 58% of people born between 1928 and 1945 oppose the use of recreational marijuana and 35% of that age group opposes legislative attempts to legalize the use of recreational marijuana. (See "About Six in Ten Americans Support Marijuana Legalization" by Abigail Geiger <http://www.pewresearch.org/fact-tank/2018/01/05/americans-support-marijuana-legalization/>)

Attitude of high school students regarding marijuana:

The *Monitoring the Future Survey*, an annual survey conducted by the University of Michigan's Institute for Social Research, has tracked teen attitudes and drug use since 1975.

According to the 2017 *Monitoring the Future Survey*, marijuana remains the most used illegal substance among youth. According to the survey, by the time students graduate from high school, about 45 percent will have used marijuana at least once. In addition, the survey finds:

- One in Seventeen 12th graders smoke marijuana daily;
- 10% of eighth graders surveyed reported using marijuana in the past 12 months;
- 29% of tenth graders surveyed reported using marijuana in the past 12 months;
- 37% of twelfth graders surveyed reported using marijuana in the past 12 months.

The Michigan study indicates that while the number of high school students using marijuana has increased, the number high school students that think the drug is dangerous has declined.

What has happened in other states?

At present Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, Washington, and the District of Columbia have legalized the recreational use of marijuana. These jurisdictions legalized recreational marijuana by a voter ballot initiative. In January 2018, Vermont became the first state in the nation to legalize the recreational use of marijuana through legislative action rather than by a ballot measure.

On November 6, 2018, Michigan became the 10th State to legalize recreational marijuana by ballot initiative. The bill went into effect on December 6, 2018.

On December 17, 2018, New York Governor Andrew Cuomo publicly stated legalizing recreational marijuana in New York is a top priority in 2019.

Update

On June 23, 2020, Illinois became the second state in the country to legalize use of recreational marijuana through the legislative process.

Additionally, 10 states, including New Jersey are expected to have legalization of recreational marijuana questions on their 2020 General Election ballot.

What is happening in New Jersey?

In January 2014, State Senator Nicholas Scutari (NJ-22) announced his intention to introduce legislation to legalize recreational marijuana use in New Jersey. Senator Steve Sweeney, President of the Senate, strongly supported Senator Scutari's bill (S1896). At that time, then-Governor Chris Christie announced that he would veto the Scutari legislation.

As time passed, the legalization effort gained momentum - especially during candidate Phil Murphy's 2017 campaign for Governor and his subsequent election. Governor Phil Murphy consistently has supported legalizing marijuana for people ages 21 and older. The Governor has emphasized that his support is based primarily on the need to reform the State's social criminal justice system, which he claims currently discriminates against people of color. In addition, as a

secondary benefit, Governor Murphy has indicated that legalization of recreational marijuana in New Jersey could raise an estimated \$300 million in sales tax revenues annually.

In March 2018, Governor Murphy included \$60 million tax and fees revenue from recreational marijuana sales in his proposed FY 2019 Budget.

With wide support from almost all sectors, in March 2018, Governor Murphy also expanded New Jersey Medical Marijuana program that had been legalized in 2012.

In 2018, opponents of legalization accurately claimed that there were not enough votes in either the Assembly or the Senate to pass recreational marijuana legislation bills in 2018. However, the situation is volatile and many legislators have not publicly committed to support or oppose the measure to legalize. The question of whether or not a bill legalizing recreational use of marijuana will be passed by the Legislature cannot be answered definitively.

Notably, 26 New Jersey municipalities have passed ordinances banning the use and sale of marijuana in their municipality if the State legislature should legalize recreational use of the drug.

On June 7, 2018, Senate President Sweeney and Senator Nicholas Scutari introduced Senate Bill 2703, *New Jersey Cannabis Regulatory and Expungement Aid Modernization Act*. S2703 would legalize personal use cannabis for adults; creates Cannabis Regulatory Commission to regulate personal use and medical cannabis; and provides expungement relief for certain past marijuana offenses.

S2703 sets the tax rate for recreational marijuana at 12%. If passed this would be the lowest tax rate of any state that legalized recreational marijuana.

Other aspects in S2703:

- No provisions for automatic or retroactive expungement for past marijuana related criminal convictions. S2703 would include expungement only for possession and not distribution. The bill does stipulate that some of the tax revenue can go to the courts to help process expungement applications, but it is unclear if this funding would be enough to clear records. Also, no money is included to advertise or promote expungement availability.
- Gives priority for retail licenses to areas with higher poverty rate and marijuana arrests through creation of social impact zones.
- Permits dispensaries to apply for a separate license which would allow consumption spaces on the same premises as the dispensary.
- Dedicates tax revenue to State's General Fund, unlike other states that have dedicated revenue for specific line items. For example, Colorado allocates tax revenue from marijuana sales to the State's education fund.

- Removes any tax on medical marijuana.

On Monday, November 26, 2018, The Assembly Appropriations Committee and Senate Budget Committee held a joint committee hearing to vote on S2703 and other bills that would expand the state's medical cannabis program and allow former offenders to have certain pot-related charges expunged from their records.

During the joint hearing, S2703 was approved 7-4 with two abstentions by members of the Senate budget committee and 7-2 with one abstention by those on the Assembly appropriations committee. This clears a major hurdle. The next step would be legislative leadership scheduling the bill for a full vote. However, the chances of the S2703 passing both houses is unclear.

Governor Murphy and legislative leadership have announced that they will meet to discuss S2703. Secular media reports, top lobbyists, political scientists, and business leaders project that legalized recreational marijuana will happen in 2019.

Legislative Update

After failing to pass legislation that would legalize recreational marijuana use in New Jersey, Governor Murphy and Legislative leadership decided to attempt legalization of marijuana through a ballot initiative. (9 of the 11 states have legalized recreational marijuana use through a ballot initiative.)

On December 16, 2019, the Legislature passed ACR840/SCR183 a resolution that will place the following question on the November 2020 general election ballot:

CONSTITUTIONAL AMENDMENT TO LEGALIZE MARIJUANA

Do you approve amending the Constitution to legalize a controlled form of marijuana called "cannabis"? Only adults at least 21 years of age could use cannabis. The State commission created to oversee the State's medical cannabis program would also oversee the new, personal use cannabis market. Cannabis products would be subject to the State sales tax. If authorized by the Legislature, a municipality may pass a local ordinance to charge a local tax on cannabis products.

Legalization versus decriminalization

Supporters of the legalization of marijuana claim the issue represents more than just an opportunity to generate additional tax revenue for the state, but a matter of social justice.

Advocates of legalization of recreational marijuana often site the following facts when claiming legalization is a social justice issue:

- In 2012, a person was arrested for marijuana possession every 22 minutes;

- African American New Jersey residents are nearly three times more likely to be arrested for marijuana possession than white New Jersey residents, despite similar usage rates;
- In 2012, marijuana possession arrests constituted three out of every five drug arrests in New Jersey;
- New Jersey spends approximately \$127 million per year on marijuana possession enforcement costs;
- A marijuana arrest can have a debilitating impact on an individual's future, including negative consequences for one's job prospects, housing access, financial health, familial integrity, immigration status, and educational opportunities.

However, opponents to the legalization of recreational marijuana think decriminalization of marijuana possession would accomplish the social justice goal without increasing potential problems caused by increased access to recreational marijuana.

Senator Ronald Rice (D-28) has introduced S1926 which would decriminalize possession of 10 grams or less of marijuana. Under S1926, people caught with 10 grams or less of marijuana would be issued a summons and a small fine - similar to a summons for a motor vehicle violation. S1926 would not legalize recreational marijuana. Senator Rice is very concerned about the negative impact legalization of marijuana would have on minority communities.

In a January 22, 2018 Op-Ed, Senator Rice wrote:

“In states that have legalized recreational marijuana, such as Colorado, black people are still arrested at a rate of nearly three times greater than whites for a violation of marijuana laws. There are more children being exposed with calls to poison control centers increasing, nearly half of the cases a result of a child ingesting an edible product. There are more babies born with THC in their system due to the mother's use of marijuana than there were prior to legalization of recreational marijuana, and much we don't know about the extent of harm this could cause. And there is a lot of money being made by business people and investors, who are largely white, at the expense of people of color. Their profits are also coming at the expense of newborn babies, children and the poor.”

Senator Rice's decriminalization bill is the only legislation that currently has bipartisan support. However, the media has commented that the bill is unlikely to move.

Update

The New Jersey Legislature passed S4154/A5981 legislation that allows individuals to expunge their criminal records of certain nonviolent marijuana related convictions. On December 18, 2019, Governor Murphy signed S4154/A5981 into law. The law goes into effect on June 18, 2020.

However, this legislation does not decriminalize the possession of marijuana. The New Jersey Legislature considered several marijuana decriminalization bills, but did not take action on them before the end of the previous legislative session.

Although the Legislature approved the ballot question to legalize recreational marijuana, advocates are continuing to work for the passage of bills that would decriminalize marijuana possession.

New Jersey residents' view on legalization of recreational marijuana:

In a March 2018 Stockton University polled 728 adult New Jersey residents on their opinion on the legalization of recreational marijuana. The poll found New Jersey residents are split as to whether or not the State should legalize the recreational use of marijuana:

- 49 % support legalizing marijuana for recreational purposes in New Jersey;
- 44 % oppose legalization;
- 5 % indicated that they were unsure about whether or not to legalize recreational marijuana;
- 1% indicated support for decriminalization of recreational use of marijuana.

<https://stockton.edu/hughes-center/polling/documents/2018-0404-stockton-poll-marijuana-and-state-issues.pdf>

Update on New Jersey residents' views of the legalization of recreational marijuana

Since the original publishing of this paper, Stockton University has not conducted additional surveys on New Jersey residents' opinions on the legalization of recreational marijuana.

However, between February 8 and 10, Monmouth University Polling Institute polled 604 New Jersey adults. The poll found a steady increase in New Jersey residents that support the legalization of recreational marijuana from previous surveys:

- *62% of New Jersey adults support legalizing marijuana for personal use*
- *32% oppose legalization*
- *5% indicated they are unsure of about whether or not to legalize recreational marijuana*

By age:

- *81% of 18-34 year olds support legalization*
- *56% of 35-54 years olds support legalization*
- *53% of 55 and older support legalization*

On the question as to whether legalization of recreational marijuana would help New Jersey economy:

- *68% responded yes legalization would help the state's economy*
- *11% thought legalization would hurt the state's economy*
- *16% thought legalization would have no impact*

https://www.monmouth.edu/polling-institute/documents/monmouthpoll_nj_021819.pdf/

Points for Future Discussion:

- Almost all scientific research indicates a potential for beneficial use of medical marijuana in treating numerous ailments. Recently, New Jersey has expanded significantly the state's medical marijuana program. There is little opposition to controlled medical use of marijuana.
- The entire debate on legalization of recreational marijuana is occurring at a time when New Jersey and the nation are battling an opioid abuse crisis. Two questions must be asked:
 - What safeguards would be needed to prevent the legalization of recreational marijuana from increasing addiction problems in New Jersey?
 - What message would legalization of recreational marijuana send to individuals battling addiction of any form?
- Scientific data indicates that frequent use of recreational marijuana, especially among youth, can cause serious cognitive and physical harm.
- Advocates emphasize that legalizing the recreational use of marijuana is needed to reform the state's social justice system. However, all of the proposed improvements to the state and national social justice criminal systems could and should be addressed by society because the current discrimination is unjust. There is no need to tie a truly needed social justice action to the legalization of a drug that science has not sufficiently vetted as to potential physical and psychological harm.
- For over a decade, all major ranking agencies have pointed out a structural deficit in the New Jersey State Budget. The structural deficit is the result of Legislatures and Governors of both political parties failing to pay required funds into the state pension system and other funds.

The failure of the State to fulfill a fiduciary responsibility ought not to be sufficient justification to warrant the state utilizing the sale of a questionable drug to assist in balancing the State of New Jersey's Budget.