



North Dakota House of Representatives

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Chair Klemin, Vice Chair Karls, Vice Chair Vetter and members of the Judiciary Committee,

HB 1596 is the result of suggestions from State's Attorney's in Cass County, Stark County, and others regarding the congestion in our State's attorney offices, our judicial services, and also the overwhelming demands on law enforcement professionals when it comes to dealing with small amounts of marijuana.

To give you an idea of the magnitude of marijuana offenses, between January 1, 2021, and December 31, 2024, four years, in North Dakota there were:

- 8,676 marijuana charges
- 7,365 cases opened
- 17,033 hearings
- 2,357 cases with a public defender appointed.
- and all of these cases were handed by our State's Attorneys.

So, that averages out to 2,169 each year
About 1,800 cases opened each year and
4,258 hearings each year.

Of these in 2024, 94% were cases involving the least charges.

Right now, a marijuana infraction involves three court dates: the initial appearance, the pre-trial appearance, and trial.

Our judges and courts are overwhelmed, and HB 1596 makes the least of these marijuana offenses a noncriminal citation— so it is still a deterrent, but it takes some of the burden off of our law enforcement officers, our state's attorneys, our indigent defense attorneys, and the courts and judges.

Here are some of the details:

Section 1: Makes ingestion of marijuana or tetrahydrocannabinol an infraction for people under 18 years of age. This section amends the age down from 21 to 18, decriminalizing ingestion of marijuana or tetrahydrocannabinol for persons 18 years of age and older. This aligns with the age classifications in section 2 of the bill.

Section 2: Marijuana and tetrahydrocannabinol graduated possession offenses. The bill keeps possession of anything over 500 grams of marijuana or 6 grams of tetrahydrocannabinol a class A misdemeanor offense, but moves the infraction amounts down to a noncriminal citation and splits the previously class B misdemeanor offenses into an infraction level, keeping the top end at a class B misdemeanor. This means that the higher level, class A misdemeanor amounts remain the same in quantity and have the same maximum penalty as currently in statute.

(1) Marijuana

- (a) Makes the lowest possession range of less than $\frac{1}{2}$ ounce marijuana a noncriminal citation for persons 18 years of age and older. New adjudication process in section 2 of the bill, but similar in essence to a traffic citation
- (b) Keeps the lowest possession range of less than $\frac{1}{2}$ ounce for individuals under 18 years of age an infraction, allowing juvenile court to retain jurisdiction. Allowing the juvenile courts to maintain jurisdiction helps protect the records of juveniles and can ease in helping the individual access additional juvenile court resources.
- (c) Splits the previously second graduated range, making the possession of less than 100 grams an infraction
- (d) Keeps the cap for a B misdemeanor offense at less than 500 grams of marijuana
- (e) Possession of more than 500 grams of marijuana remains a Class A misdemeanor

(2) Tetrahydrocannabinol

- a. Makes the lowest possession range of less than 2 grams of tetrahydrocannabinol a noncriminal citation for persons 18 years of age and older. New adjudication process in section 2 of the bill, but similar in essence to a traffic citation.
- b. Keeps the lowest possession range of less than 2 grams of tetrahydrocannabinol for persons under 18 years of age an infraction, allowing juvenile court to retain jurisdiction. Allowing the juvenile courts to maintain jurisdiction helps protect the records of juveniles and can ease in helping the individual access additional juvenile court resources.
- c. Splits the previously second graduated range, making the possession of less than 4 grams of tetrahydrocannabinol an infraction
- d. Keeps the cap for a B misdemeanor offense at less than 6 grams 4 grams of tetrahydrocannabinol
- e. More than 6 grams of tetrahydrocannabinol remains a Class A misdemeanor

Section 3: Increases threshold in sealing of a court record to align with the new class B amount, allowing the records of a first possession offense to be sealed in the even that no further convictions are received within two years. This creates an avenue for persons who are convicted of a Class B possession offense or less to have the criminal conviction removed

from their record provided that they occur no further offenses within two years of the first conviction.

Section 4: This section outlines the adjudication process for a noncriminal marijuana or tetrahydrocannabinol citation. The section mirrors the existing process for traffic violations, setting the fine at \$150 dollars. A person has the option to request a hearing or to pay the statutory fee within 14 days of the violation. A hearing allows the person to make a statement or explanation of the violation, operating traditionally like traffic court, which is an expedited and simplified court process requiring less time and resources. In order to request a hearing, bond must be posted in an amount of \$150. If the individual does not appear for the requested hearing, the bond is forfeited, and the violation is deemed admitted.

Section 5: Makes the possession of marijuana or tetrahydrocannabinol paraphernalia a noncriminal citation for persons 18 years of age and older. Possession of marijuana or tetrahydrocannabinol paraphernalia by a person under 18 years of age remains an infraction.

Note that we have added amendments to separate juvenile offenses so that they remain an infraction, so juvenile courts retain jurisdiction.

Please note that one of the sponsors of this bill is our colleague, a former Burleigh County Sheriff.

And we have the support of

—North Dakota Association of Criminal Defense Lawyers

—North Dakota States Attorney's Association

—Indigent Defense Commission

This bill is a product of all of the above and we feel it accomplishes our goals easing the backlog yet continuing to be deterrent.

I stand for any questions.