

ASSEMBLY THIRD READING

AB 1578 (Jones-Sawyer)

As Amended April 17, 2017

Majority vote

Committee	Votes	Ayes	Noes
Public Safety	5-2	Jones-Sawyer, Gonzalez Fletcher, Quirk, Rubio, Santiago	Lackey, Flora

**SUMMARY:** Prohibits a state or local agency, as defined, from using agency resources to assist a federal agency to investigate, detain, detect, report, or arrest a person for marijuana activity that is authorized by law in the State of California and transferring an individual to federal law enforcement authorities for purposes of marijuana enforcement, unless directed to do so by a court order. Specifically, **this bill:**

- 1) States that a state or local agency shall not do any of the following without a court order signed by a judge:
  - a) Use agency money, facilities, property, equipment, or personnel to assist a federal agency to investigate, detain, detect, report, or arrest a person for commercial or noncommercial marijuana or medical cannabis activity that is authorized by law in the State of California;
  - b) Respond to a request made by a federal agency for personal information about an individual who is authorized under state law to possess, cultivate, transport, manufacture, sell, or possess for sale marijuana or marijuana products or medical cannabis or medical cannabis products, if that request is made for the purpose of investigating or enforcing federal marijuana law;
  - c) Provide information about a person who has applied for or received a license to engage in commercial marijuana or commercial medical cannabis activity pursuant to the Medical Cannabis Regulation and Safety Act or the Control, Regulate and Tax Adult Use Marijuana Act, if that request is made for the purpose of investigating or enforcing federal marijuana law; and
  - d) Transfer an individual to federal law enforcement authorities for purposes of marijuana enforcement or detain an individual at the request of federal law enforcement for conduct that is legal under state law.
- 2) Defines "AUMA," for purposes of this bill, as the Control, Regulate and Tax Adult Use Marijuana Act, enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election.
- 3) Defines "MCRSA," for purposes of this bill, as the Medical Cannabis Regulation and Safety Act, regarding licensing of cultivators, manufacturers, testing laboratories, distributors, and dispensaries of medical cannabis and medical cannabis products.
- 4) Defines "State or local agency," for purposes of this bill as, including all of the following:

- a) A law enforcement agency, including, but not limited to, police, sheriffs, university police, and other campus police agencies;
- b) A licensing authority under AUMA or MCRSA;
- c) Any other state or local agency with information that identifies licensees under AUMA or MCRSA; and
- d) A city, county, city and county, or state agency with information regarding individuals who have obtained medical marijuana program cards, as specified.

**EXISTING LAW:**

- 1) States that it shall not be a violation of state or local law, for persons 21 years of age or older to:
  - a) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;
  - b) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of marijuana in the form of concentrated cannabis, including as contained in marijuana products;
  - c) Possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants;
  - d) Smoke or ingest marijuana or marijuana products; and
  - e) Possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older without any compensation whatsoever.
- 2) Specifies that no physician shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.
- 3) States that laws prohibiting possession or cultivation of marijuana shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.
- 4) Established a joint state-local agency licensing and regulatory framework for medical cannabis under the Medical Cannabis Regulation and Control Act, and establishes the Office of Medical Cannabis Regulation within the Office of the Governor, the Division of Medical Cannabis Regulation within the State Board of Equalization, the Division of Medical Cannabis Manufacturing and Testing within the Department of Public Health, and the Division of Medical Cannabis Cultivation within the Department of Food and Agriculture, and sets forth the duties of the respective regulatory authorities.
- 5) Prohibits a peace officer from detaining a person who is a witness or victim to a hate crime exclusively for any actual or suspected immigration violation when that person is not charged with committing any crime under state law.

- 6) Prohibits a law enforcement official from detaining an individual on the basis of a United States Immigration and Customs Enforcement (ICE) hold after that individual becomes eligible for release, unless any of the following apply:
- a) The individual has been convicted of a serious or violent felony, as specified;
  - b) The individual has been convicted of any felony which is punishable by imprisonment in state prison;
  - c) The individual has been convicted within the last five years of a misdemeanor for a crime that is punishable as a felony or misdemeanor;
  - d) The individual has been convicted at any time for any one of a list of specified felonies;
  - e) The individual is a current registrant on the California Sex and Arson Registry;
  - f) The individual has been arrested for any specified felony, and a magistrate has made a finding that there is probable cause to hold the person to answer for that charge; or,
  - g) The individual has been convicted of a federal crime that meets the definition of an aggravated felony as specified in the federal Immigration and Nationality Act or is identified by ICE as the subject of an outstanding federal felony arrest warrant.

**FISCAL EFFECT:** Unknown. This bill is keyed non-fiscal by the Legislative Counsel

**COMMENTS:** According to the author, "The prior presidential administration provided assurances that if California developed a robust regulatory and enforcement system for medical or personal marijuana use by adults, California residents who complied with state laws and regulations would have a reasonable expectation that they would *not* be subject to harassment, arrest or incarceration by the federal government.

"However, given the current President and new Federal Attorney General's suggested crackdown on the recreational use of marijuana, using state and local resources for the administration's agenda is an overreach that would completely undermine both the will of California voters and the laws approved by our State Legislature. As such, AB 1578 will prevent the misuse of resources, which are funded by our state and local taxes."

**Analysis Prepared by:** David Billingsley / PUB. S. / (916) 319-3744

FN: 0000135