

HOUSE BILL No. 2686

By Committee on Corrections and Juvenile Justice

2-13

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to possession of marijuana; removing felony violation; releasing people
3 from custody for such violations; amending K.S.A. 2019 Supp. 21-
4 5706 and repealing the existing section.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) All persons serving a term of imprisonment in the
8 custody of the secretary of corrections for a violation of K.S.A. 2019
9 Supp. 21-5706(b), and amendments thereto, when the substance involved
10 is marijuana, as designated in K.S.A. 65-4105(d), and amendments thereto,
11 or tetrahydrocannabinols, as designated in K.S.A. 65-4105(h), and
12 amendments thereto, shall be released from such person's term of
13 imprisonment by the secretary as provided in this section.

14 (b) All persons on probation or assignment to a community
15 correctional services program for a violation of K.S.A. 2019 Supp. 21-
16 5706(b), and amendments thereto, when the substance involved is
17 marijuana, as designated in K.S.A. 65-4105(d), and amendments thereto,
18 or tetrahydrocannabinols, as designated in K.S.A. 65-4105(h), and
19 amendments thereto, shall be discharged from probation or assignment to a
20 community correctional services program as provided in this section.

21 (c) (1) The secretary shall make appropriate calculation and
22 adjustments of sentence for inmates in the secretary's custody or on a
23 community correctional services program by July 1, 2020.

24 (2) The judicial branch shall make appropriate calculation and
25 adjustments of sentence for offenders on probation being supervised by
26 court services officers by July 1, 2020.

27 Sec. 2. K.S.A. 2019 Supp. 21-5706 is hereby amended to read as
28 follows: 21-5706. (a) It shall be unlawful for any person to possess any
29 opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-
30 4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled
31 substance analog thereof.

32 (b) It shall be unlawful for any person to possess any of the following
33 controlled substances or controlled substance analogs thereof:

34 (1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-
35 4109(b) or (c) or 65-4111(b), and amendments thereto;

36 (2) any stimulant designated in K.S.A. 65-4105(f), 65-4107(d)(2), (d)

- 1 (4), (d)(5) or (f)(2) or 65-4109(e), and amendments thereto;
- 2 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-
- 3 4107(g) or 65-4109(g), and amendments thereto;
- 4 (4) any substance designated in K.S.A. 65-4105(g) and 65-4111(c),
- 5 (d), (e), (f) or (g), and amendments thereto;
- 6 (5) any anabolic steroids as defined in K.S.A. 65-4109(f), and
- 7 amendments thereto;
- 8 (6) any substance designated in K.S.A. 65-4113, and amendments
- 9 thereto; or
- 10 (7) any substance designated in K.S.A. 65-4105(h), and amendments
- 11 thereto.
- 12 (c) (1) Violation of subsection (a) is a drug severity level 5 felony.
- 13 (2) Except as provided in subsection (c)(3):
- 14 (A) Violation of subsection (b) is a class A nonperson misdemeanor,
- 15 except as provided in subparagraph (B); and
- 16 (B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug
- 17 severity level 5 felony if that person has a prior conviction under such
- 18 subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially
- 19 similar offense from another jurisdiction, or under any city ordinance or
- 20 county resolution for a substantially similar offense if the substance
- 21 involved was 3, 4-methylenedioxymethamphetamine (MDMA), ~~marijuana~~
- 22 ~~as designated in K.S.A. 65-4105(d), and amendments thereto,~~ or any
- 23 substance designated in K.S.A. 65-4105(h), and amendments thereto, or an
- 24 analog thereof.
- 25 (3) If the substance involved is marijuana, as designated in K.S.A.
- 26 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as
- 27 designated in K.S.A. 65-4105(h), and amendments thereto, violation of
- 28 subsection (b) is a:
- 29 (A) Class B nonperson misdemeanor, except as provided in
- 30 ~~subparagraphs subparagraph (B) and (C); and~~
- 31 (B) class A nonperson misdemeanor if that person has ~~a one or more~~
- 32 ~~prior conviction~~ *convictions* under such subsection, under K.S.A. 65-4162,
- 33 prior to its repeal, under a substantially similar offense from another
- 34 jurisdiction; or under any city ordinance or county resolution for a
- 35 substantially similar offense; ~~and~~
- 36 (C) ~~drug severity level 5 felony if that person has two or more prior~~
- 37 ~~convictions under such subsection, under K.S.A. 65-4162, prior to its~~
- 38 ~~repeal, under a substantially similar offense from another jurisdiction, or~~
- 39 ~~under any city ordinance or county resolution for a substantially similar~~
- 40 ~~offense.~~
- 41 (d) It shall be an affirmative defense to prosecution under this section
- 42 arising out of a person's possession of any cannabidiol treatment
- 43 preparation if the person:

1 (1) Has a debilitating medical condition, as defined in K.S.A. 2019
2 Supp. 65-6235, and amendments thereto, or is the parent or guardian of a
3 minor child who has such debilitating medical condition;

4 (2) is possessing a cannabidiol treatment preparation, as defined in
5 K.S.A. 2019 Supp. 65-6235, and amendments thereto, that is being used to
6 treat such debilitating medical condition; and

7 (3) has possession of a letter, at all times while the person has
8 possession of the cannabidiol treatment preparation, that:

9 (A) Shall be shown to a law enforcement officer on such officer's
10 request;

11 (B) is dated within the preceding 15 months and signed by the
12 physician licensed to practice medicine and surgery in Kansas who
13 diagnosed the debilitating medical condition;

14 (C) is on such physician's letterhead; and

15 (D) identifies the person or the person's minor child as such
16 physician's patient and identifies the patient's debilitating medical
17 condition.

18 (e) It shall not be a defense to charges arising under this section that
19 the defendant was acting in an agency relationship on behalf of any other
20 party in a transaction involving a controlled substance or controlled
21 substance analog.

22 Sec. 3. K.S.A. 2019 Supp. 21-5706 is hereby repealed.

23 Sec. 4. This act shall take effect and be in force from and after its
24 publication in the Kansas register.