

**LEGISLATIVE FISCAL OFFICE**  
**Fiscal Note**



Fiscal Note On: **HB 103** HLS 13RS 507  
 Bill Text Version: **ENGROSSED**  
 Opp. Chamb. Action:  
 Proposed Amd.:  
 Sub. Bill For.:

**Date:** May 11, 2013 8:36 AM **Author:** BADON  
**Dept./Agy.:** Corrections **Analyst:** Stephanie C. Blanchard  
**Subject:** Possession of marijuana

CRIMINAL/SENTENCING EG DECREASE GF EX See Note Page 1 of 2

Reduces criminal penalties for possession of marijuana and prohibits the applicability of the Habitual Offender Law relative to possession of marijuana

Present law provides for the following penalties with regard to the crime of possession of marijuana or synthetic cannabinoids: (1) On a first conviction, fined not more than \$500, imprisoned in the parish jail for not more than six months, or both. (2) On a second conviction, fined not less than \$250 nor more than \$2,000, imprisoned with or without hard labor for not more than five years, or both. Requires that certain conditions be met if the offender is placed on probation, including substance abuse treatment and community service. (3) On a third or subsequent conviction, imprisonment with or without hard labor for not more than 20 years, and may, in addition, be sentenced to pay a fine of not more than \$5,000. Provides for increased penalties for habitual offenders, including offenders who have been convicted of possession of marijuana or synthetic cannabinoids.

Proposed law amends the penalties possession of marijuana as follows: (1) On a first conviction, retains present law.

**(CONTINUED ON PAGE 2)**

<b>EXPENDITURES</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b><u>\$0</u></b>
<b>Annual Total</b>						

<b>REVENUES</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b><u>\$0</u></b>
<b>Annual Total</b>						

**EXPENDITURE EXPLANATION**

The proposed legislation will result in a decrease in state general fund expenditures of approximately \$2.2 million in FY 14 as a result of decreasing the penalties for possession of marijuana. A savings will be recognized by the state for each day an offender is released under parole supervision and is not incarcerated in a local or state facility.

According to the Department of Corrections, the average number of admissions for 1st and 2nd offense is 400 offenders per year with an average sentence length of 1.5 years. Assuming this legislation is passed and becomes effective August 15, 2013, there would be a savings in the first year of approximately \$1.6 million. This projected savings assumes admits remain constant throughout the year and the total number of days served would decrease by 65,505 (65,505 x \$24.39 per day). Based on the methodology used in FY 14, savings in FY 15 would be approximately \$4.8 million due to a decrease of 196,020 days served, and savings in third and subsequent years would be approximately \$5.2 million due to a decrease of 211,233 days served.

The average number of admissions for 3rd offense is 160 offenders per year with an average sentence length of 9 months. Assuming this legislation is passed and becomes effective August 15, 2013, there would be a savings in the first year of approximately \$630,000. This projected savings assumes admits remain constant throughout the year and a total number of days served would decrease by 25,805 (25,805 x \$24.39), and savings in FY 14 and subsequent years would be approximately \$1.1 million due to a decrease of 45,071 days served.

Any 4th or subsequent offense conviction savings would be negligible under proposed law.

**(CONTINUED ON PAGE 2)**

**REVENUE EXPLANATION**

The proposed legislation may result in an indeterminable increase in self-generated revenue. For each offender that is released to parole at an earlier date, the Department of Corrections could collect up to \$63 per month from each offender under parole supervision. It should be noted that the maximum amount paid per month is \$63 and the offender's ability and amount he is required to pay is determined by the Board of Parole.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>
<input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}	<input type="checkbox"/> 6.8(F) >= \$500,000 Annual Fiscal Cost {S}	
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}	<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}	

*Evan Brasseaux*  
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**Staff Director**

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**CONTINUED EXPLANATION from page one:**

**Continued Explanation of Purpose on Page one:**

(2) On a second conviction, fined not more than \$500, imprisoned for not more than one year, or both. Repeals the provision of special conditions of probation. (3) On a third conviction, fined not more than \$2,000, imprisoned with or without hard labor for not more than two years, or both. (4) On a fourth or subsequent conviction, fined not more than \$2,000, imprisoned with or without hard labor for not more than five years, or both. Removes possession of marijuana as a possible offense for which an offender may be sentenced pursuant to the Habitual Offender Law. If a defendant is incarcerated after all underlying criminal convictions are for possession of marijuana and has been sentenced according to provisions of the Habitual Offender Law, the defendant may file a motion to reconsider the sentence if he has served at least one-half the maximum term of imprisonment.

**Continued Expenditure Explanation from Page one:**

In addition, proposed law prohibits the Habitual Offender Law from applying when all underlying criminal convictions are for possession of marijuana. If an offender's sentence is reduced accordingly, the state could realize a potential savings of \$47.74 per offender per day or \$17,425 annually if the offender is housed at a state facility or \$24.39 per offender per day or \$8,902 annually if the offender is housed at a local facility.

In addition to the reduction of sentencing as mentioned above, proposed law also provides for possible motion to reconsider an offender's sentence if the offender has at least 1/2 of the maximum term of imprisonment provided for under the proposed law. If a motion is granted and an offender's sentence is reduced according to proposed law, the state could show a potential savings greater than what is reported above for FY 14 dependent of those that may qualify pursuant to the conditions set forth.

Note: The savings indicated above are estimates and may be negated by back-filling beds and recidivism.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>
<input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}	<input type="checkbox"/> 6.8(F) >= \$500,000 Annual Fiscal Cost {S}	
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}	<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}	

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