Slide 1

Neuroscience and Cannabis: Implications for Law and Policy

April 20, 2023

Stephanie Tabashneck, PsyD, JD
Senior Fellow in Law and Applied Neuroscience,
Center for Law, Brain and Behavior, Harvard Medical School
The Petrie-Flom Center, Harvard Law School

1

Slide 2

LEGAL LANDSCAPE: FEDERAL

- Under the Controlled Substances Act of 1970, cannabis is classified as a Schedule I drug, "with no currently accepted medical use and a high potential for abuse."
- Other drugs in this category include heroin, cocaine, etc.

Source: www.DEA.gov

2

Slide 3

LEGAL LANDSCAPE: FEDERAL

- Cannabis is federally prohibited
- Continued efforts in the United States Congress to lift federal prohibitions on cannabis use, e.g., *Cannabis Administration and Opportunity Act* would decriminalize cannabis on the federal level and allow states to establish their own cannabis laws.
- In April 2023, the *Veterans Medical Marijuana Safe Harbor Act* was reintroduced in both chambers of the United States Congress which would provide for VA personnel to prescribe medical cannabis in accordance with state laws.
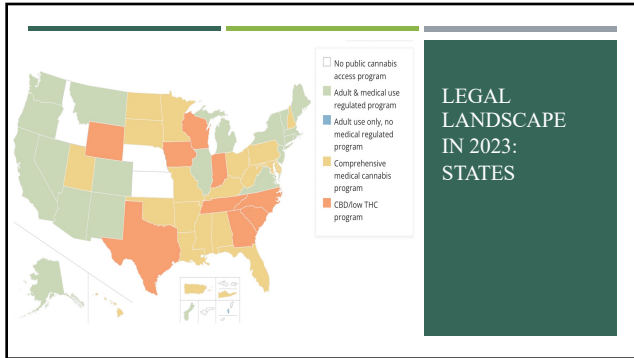
Source: https://www.congress.gov/bill/117th-congress/senate-bill/4591

3

Slide 4

LEGAL LANDSCAPE: FEDERAL

Source: https://www.politico.com/news/2022/07/21/schumer-legal-weed-bill-00047058

4

Slide 5

No public cannabis access program

Adult & medical use regulated program

Adult use only, no medical regulated program

Comprehensive medical cannabis program

CBD/low THC program

LEGAL LANDSCAPE IN 2023: STATES

5

Slide 6

MEDICAL USE IN 2022

- 37 States
- Alaska, Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington and West Virginia.
- +Washington DC, Puerto Rico, Guam, the Northern Mariana Islands, and the US Virgin Islands

Source: National Conference of State Legislatures
https://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx

6

Slide 7

MEDICAL USE IN 2023

- 38 States
- Alaska, Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, **Kentucky**, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington and West Virginia.
- +Washington DC, Puerto Rico, Guam, the Northern Mariana Islands, and the US Virgin Islands

Source: National Conference of State Legislatures
https://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx

7

Slide 8

RECREATIONAL USE IN 2022

- 18 States
- Alaska, Arizona, California, Colorado, Connecticut, Illinois, Maine, Massachusetts, Michigan, Montana, New Jersey, New Mexico, New York, Nevada, Oregon, Vermont, Virginia and Washington
- + Washington DC, Guam, and the Northern Mariana Islands

Source: National Conference of State Legislatures
https://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx

8

RECREATIONAL USE IN 2023

- 23 States
- Alaska, Arizona, California, Colorado, Connecticut, Illinois, Maine, **Maryland**, Massachusetts, Michigan, **Missouri**, Montana, **New York**, New Jersey, New Mexico, New York, Nevada, Oregon, **Rhode Island**, **South Dakota**, Vermont, Virginia and Washington
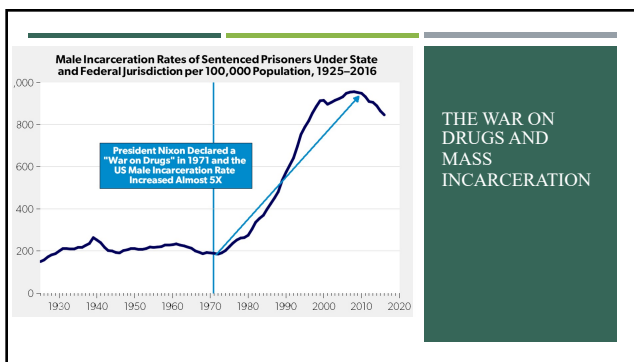- + Washington DC, Guam, and the Northern Mariana Islands

Source: National Conference of State Legislatures
https://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx

9

STATE UPDATES

- Kentucky – medical cannabis bill passed, signed by governor in March 2023
- Maryland and Missouri – voters approved recreational cannabis use through ballot initiative in November 2022
- Several other states have cannabis-related bills that have been filed

10

THE WAR ON DRUGS AND MASS INCARCERATION

Male Incarceration Rates of Sentenced Prisoners Under State and Federal Jurisdiction per 100,000 Population, 1925–2016

President Nixon Declared a "War on Drugs" in 1971 and the US Male Incarceration Rate Increased Almost 5X

11

CANNABIS ARRESTS

- 11% of arrests nationwide are for cannabis
- Nearly 90% of cannabis arrests are for possession only

Source: https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/persons-arrested

12

Slide 13

EXTREME RACISM IN ENFORCEMENT OF DRUG LAWS

Studies indicates that Black and Latinx individuals experience discrimination at every stage of the criminal justice system, including increased likelihood of:
1. Stopped or detained
2. Searched
3. Arrested
4. Charged
5. Charged with mandatory minimums
6. Convicted
7. Harsher sentences

13

Slide 14

- In every state, Black people are more likely to be arrested for cannabis possession than White people, including in states that have legalized cannabis.

BLACK ARREST RATE

WHITE ARREST RATE

2010 2012 2014 2016 2018

Source: Bureau of Justice Statistics; Edwards, E., & Madubuonwu, B. (2020). A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform. *American Civil Liberties Union Research Report.*

14

Slide 15

EXTREME RACISM IN ENFORCEMENT OF DRUG LAWS

- Black individuals are jailed at rates 13.4 times higher than Whites

- In some states, 90% of drug prisoners are Black and as much as 57 times more likely than Whites to serve prison time for drug crimes

- Nearly 80% of people held in federal prison are Black or Latino

Source: Bureau of Justice Statistics; Edwards, E., & Madubuonwu, B. (2020). A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform. *American Civil Liberties Union Research Report.*

15

Slide 16

EXTREME RACISM IN ENFORCEMENT OF DRUG LAWS

Usage of Marijuana For Ages 12+ (2018)

	Lifetime use	Past year use	Past month use
Black	42.4%	17.8%	12.2%
White	50.7%	16.5%	10.3%

	Arrest Rates per 100k			
Year	Marijuana Possession Arrest Rate	Black Arrest Rate	White Arrest Rate	Black/White Rate Ratio
2010	250.52	659.06	199.19	3.31
2011	229.69	624.43	178.43	3.50
2012	217.79	601.68	168.75	3.57
2013	253.51	625.68	212.55	2.94
2014	199.40	552.13	155.80	3.54
2015	174.06	459.89	138.90	3.31
2016	179.99	477.64	143.42	3.33

Source: U.S. Department of Health and Human Services; Bureau of Justice Statistics; Edwards, E., & Madubuonwu, B. (2020). A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform. *American Civil Liberties Union Research Report.*

16

EXTREME RACISM IN CHILD WELFARE

- Child welfare disproportionately targets Black and Brown parents.

- Women of color are far more likely to be screened for drug use at birth. In some states, women who test positive for cannabis at birth face risk of arrest and their children are removed and placed in foster care.

Harp, K. L., & Bunting, A. M. (2020). The racialized nature of child welfare policies and the social control of Black bodies. *Social Politics: International Studies in Gender, State & Society*, *27*(2), 258-281.

17

CONTACT INFORMATION

- Stephanie Tabashneck, Psy.D., J.D.
  - STabashneck@law.harvard.edu
  - www.StephanieTabashneck.com

18