

ALASKA LEGISLATURE

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Sectional for HB 246 — ACCESS TO MARIJUANA CONVICTION RECORDS Version I

"An Act restricting the release of certain records of convictions; relating to misconduct involving marijuana by persons 18, 19, or 20 years of age; amending Rule 17(h), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

Section 1: States that the legislative intent behind this bill is to reduce barriers to unemployment for people convicted of low level marijuana offenses.

Section 2: Amends subsection (a) of AS 11.71.060 by affirmatively stating that minor misconduct involving marijuana by persons between the ages of 18-20 under AS 17.38.055 (added by section 5 of the bill), is not included in the offense of misconduct involving a controlled substance in the sixth degree.

Section 3: Amends subsection (b)(8) of AS 12.62.160 by adding criminal justice information, for marijuana possession that meet the requirements laid out in (f) of this section, to the list of exceptions for the release of criminal justice information.

Section 4: Adds a new subsection (f) to AS 12.62.160, which adds new criteria for criminal justice information that an agency cannot release. This new section prohibits release of criminal justice information for convictions under AS 11.71.060 for less than one ounce of a "schedule VIA" controlled substance, where the defendant was 21 years or older at the time of the offense, was not convicted of any other criminal charges in that same case, and has formally requested that the agency not release these records.

Section 5: Adds a new section to AS 17.38, AS 17.38.055, titled "Misconduct involving marijuana by persons 18, 19, or 20 years of age" which makes the penalty for persons 18-20 years old who knowingly use or display any amount of marijuana, or possess less than one ounce of marijuana, a violation. Violations under this section must be charged and filed with the court as a separate case and may not be combined or joined with any other minor offense or criminal charge in one action at the time of filing; this is required to insure that the court system removes these cases from CourtView only if no other charges are brought in the same case. The new language also establishes a fine of \$125 for a first violation, and \$250 for any subsequent violations under this section.

Section 6: Amends AS 17.38.370 to state that the supreme court shall include the violations described in section 5 on a “bail schedule,” so that the violation will be charged on a citation that lists the fine amount established in Section 5, and will not require the person to appear in court.

Section 7: Adds a new section to AS 22.35, stating that records of criminal charges or convictions that meet the requirements stated in this section, may not be published by the court system on a publicly available website. This applies to criminal justice information for convictions under AS 11.71.060 for less than one ounce of a schedule 6 controlled substance, where the defendant was 21 years or older at the time of the offense, and was not convicted of any other criminal charges in that same case, as well as to the newly added violations under AS 17.38.055 from Section 5.

Section 8: This is a Direct Court Rule Amendment, specifically amending 17(h) of the Alaska Rules of Minor Offense Procedure to include the newly created violations under AS 17.38.055 for minor misconduct involving marijuana by persons ages 18-20 to the list of violations that may not be combined or joined by a prosecutor with any other criminal charges.

Section 9: Adds a new section to uncodified law of the State of Alaska saying that the Alaska Court System shall remove court records that meet the requirements in section 7 of this bill, retroactively going back from the effective date of the bill. This does not apply to the newly created violations under AS 17.38.055. It also uses the language “to the extent practicable” to clarify that the court system will not be legally required to expend excessive resources or funds to ensure every single record that meets the requirements of this bill for removal from court view, is removed.

Section 10: Adds a new section to the uncodified law of the State of Alaska stating that the provisions in sections 2, 5, and 6 of this bill, having to do with the newly created violations for minor misconduct involving marijuana by persons ages 18-20, only apply to offenses committed on or after the bill’s effective date of January 1, 2023.

Section 11: Adds a new section to the uncodified law of the State of Alaska stating that the court rule amendment in Section 8 of the bill must receive the two-thirds majority vote of each house, as required by article 4, Section 15 of the Alaska Constitution, in order for the changes in AS 17.38.055(b) to take effect. This is because the changes in AS 17.38.055(b) depend on the corresponding court rule change, and could only be effective if the rule change vote meets the constitutional two-thirds threshold.

Section 12: Provides an effective date of January 1, 2023.