

SJR 14: HARMONIZING FEDERAL LAW WITH CALIFORNIA'S MEDICAL MARIJUANA LAWS

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PURPOSE

SJR 14 urges the federal government to end medical marijuana raids in California and to create a comprehensive federal medical marijuana policy that ensures safe and legal access for any patient that would benefit from it. Specifically, the resolution attempts to harmonize federal law with California's medical marijuana laws by calling for: 1) an end to federal raids, intimidation, and interference in the enforcement of state laws, 2) the adoption of policies that encourage advanced clinical research trials into the therapeutic use of marijuana, 3) an affirmative defense to medical marijuana charges in federal court, and 4) a comprehensive federal policy that ensures safe and legal access for all patients in the U.S. that benefit from marijuana's medical properties.

EXISTING LAW

Voters approved Proposition 215, the Compassionate Use Act (CUA), in 1996 "to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes." Proposition 215, codified as California Health and Safety Code Section 11362.5, also encourages "federal and state governments to implement a plan to provide for the safe and affordable distribution of

marijuana to all patients in medical need of marijuana."

In 2004, the state legislature enacted SB 420, the Medical Marijuana Program Act (MMP), to help implement the CUA. That legislation specifically recognized the right of qualified patients and their primary caregivers to collectively and cooperatively cultivate marijuana for medical use. Subsequently, California's Third District Court of Appeal ruled in *People v. Urziceanu* (2005) that the MMP, indeed, protected the collective and cooperative distribution of medical marijuana. Since then, dozens of cities and counties across California have adopted regulatory ordinances protecting such conduct.

In August 2008, State Attorney General Jerry Brown issued medical marijuana guidelines to all law enforcement in California. These guidelines not only recognized the legality of collective and cooperative distribution, but also provided recommendations on how to comply with state law in that regard. Specifically, the guidelines state that "a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law," as long as it is in compliance with state and local law.

PROBLEM

Unfortunately, while legal in California, medical marijuana and the means of distributing it is still illegal under federal law. Because of this, patients and providers remain at risk of arrest, prosecution, and other types of interference by federal law enforcement. To make matters worse, legal medical marijuana patients in California have no right to a medical or state law defense in federal court, which guarantees their conviction.

Because of the discord between federal and state law, local efforts to regulate medical marijuana distribution are often stymied by federal raids and other forms of interference. Federal threats to property owners and financial institutions have also worked to impede the lawful distribution of medical marijuana in California.

In addition, federal policy has obstructed meaningful research into medical marijuana, preventing more thorough studies of its therapeutic properties. This obstruction has also prevented private companies from bringing medical marijuana to market in the U.S.

SOLUTION

The historic election of President Barack Obama and pronouncements made by U.S. Attorney General Eric Holder signal a willingness to create a new federal policy with regard to medical marijuana. With the Obama Administration and Congress looking for solutions to the medical marijuana issue, it is important for the California legislature to assert its position and provide guidance. By adopting SJR 14, the legislature will clearly state its opposition to federal interference, and its support for expanded medical research and federal reform.