

Advocates of easing laws on marijuana use take case to Legislature

By Julie Ann Grimm

The Santa Fe New Mexican

Reprinted in *The Taos News*, 11/29/2012

Advocates for reform of marijuana laws are gearing up to make their case to the New Mexico Legislature in its upcoming session, even though it's likely the proposal would face a chilly reception from the governor.

A New Mexico Drug Policy Alliance proposal to erase criminal penalties for small-scale possession of marijuana is on the Thursday (Nov. 29) agenda for the Legislature's interim Courts, Corrections and Justice Committee.

The alliance drafted a bill that would allow adults to possess up to an ounce of marijuana with no repercussions and impose civil fines for up to 8 ounces. Although no legislator has yet agreed to sponsor the proposal in the session that begins Jan. 15, alliance director Emily Kaltenbach called it a pragmatic approach that would save taxpayer dollars and significantly reduce the burden on law enforcement.

"Around the country, similar change is afoot. There is growing momentum to decriminalize small amounts of marijuana, with California reducing penalties in 2010, Connecticut in 2011 and Rhode Island earlier this year," she said, noting the trend continued earlier this month, when voters in Colorado and Washington legalized recreational use and commercial production. "As marijuana reform becomes a mainstream position, political candidates and elected officials will find it is less and less of a political third rail."

The legislative committee, chaired by Sen. Peter Wirth, D-Santa Fe, could vote to endorse the proposal, along with up to 50 other bills it has considered since the last lawmaking session ended, the senator said. However, he said, it is difficult to know today whether such a proposal would gain traction in the Roundhouse.

"I think that the purpose of the interim process is to really have the proposal thrown out there, allow the committee to ask questions and to get a feel for it. It is the evolving process," he said. "This is an evolving issue. There is no question after Colorado and Washington — and, obviously, New Mexico took a step with medical marijuana, which I supported. So I think it is a discussion that is going to happen and continue to happen in the state."

Gov. Susana Martinez is expected to maintain her stance regarding stiff penalties for all drug crimes. "As a prosecutor and district attorney, the Governor has seen first-hand how illegal drug use destroys lives, especially among our youth, and she opposes drug legalization or

decriminalization efforts,” spokesman Scott Darnell said in a statement Tuesday. “Proponents of these efforts often ignore the fact that the vast majority of people convicted for possessing small amounts of marijuana are diverted to treatment programs and those who are sentenced to prison are individuals with long criminal records with convictions for things like assault, burglary, and other crimes.”

Kaltenbach said the state spends about \$37 million annually to arrest, prosecute and incarcerate New Mexicans charged with possession and distribution of marijuana. In 2007, the last year for which detailed statistics were available, more than 4,000 people were arrested and charged with such crimes, she said. She said it’s a myth that otherwise law-abiding residents aren’t jailed for pot.

“The data shows another story,” she said. “There are families that are being destroyed by the sentencing regarding marijuana just for possession, for having tiny amounts.”

In Colorado, voters approved an amendment to that state’s constitution. While New Mexico statutes allow for a citizen-initiated repeal of a law through petitions, New Mexico doesn’t have a referendum statute that allows voters to directly authorize a new law or place it on a ballot. Constitutional amendments can land on the state ballot if the Legislature votes to put them there, and that process isn’t subject to the governor’s veto pen.

Rep. Brian Egolf, D-Santa Fe, sees “serious policy questions” about the wisdom of legislating through constitutional amendments. “You are going to see a lot of that as long as Martinez is governor, the effort to basically go around her by passing amendments,” he said. “They have absolutely the force of law, but she doesn’t have a say in them. Then the question becomes, does decriminalization of marijuana belong in the constitution?”

Egolf said it’s preferable for lawmakers to find broad support for statutory changes. On this issue, rather than only addressing criminal penalties, he prefers an approach that would govern marijuana use by adults in a manner similar to the way liquor is regulated and taxed.

“Depending on how they do it, there could be a lot of support for it. ... If it makes marijuana a controlled substance like alcohol and tobacco, then I think there would be a lot of support for it,” he said. “Everyone agrees that it’s OK to say you have to be 18 to buy cigarettes and you have to wait until you are 21 to buy liquor. I think you should have to be 21 to smoke marijuana. Basically, treat them the same, regulate them and tax them.”

Complicating the argument is that states still face uncertainty over how federal officials will react to increasingly liberal marijuana laws adopted by states. The Legislature here also could end up considering proposals that would move New Mexico marijuana laws the other direction, such as a 2010 proposal that sought to repeal New Mexico’s landmark medical marijuana program.

Martinez vowed during her campaign for governor that she would work to repeal the state’s 2007 medical cannabis rules. Now one of 17 states and the District of Columbia that allow medical use, at least 8,000 people in New Mexico are authorized patients, including 3,040 who have permission to grow their own marijuana, according to state Health Department figures from October. Santa Fe has the second highest number of such patients, behind Bernalillo County.

Attempts to change marijuana rules aren’t only afoot at the state level. Organizers of a newly formed political action committee called WolfPAC in Santa Fe announced Monday (Nov. 26) that they will lobby the City Council to adopt policies that would direct police to consider

marijuana possession offenses as their lowest priority. Whether any councilors will agree to sponsor such a proposal remains unknown.

To read the entire story, visit www.santafenewmexican.com.