

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 6406
BILL NUMBER: HB 1349

NOTE PREPARED: Dec 13, 2023
BILL AMENDED:

SUBJECT: Decriminalization of Marijuana.

FIRST AUTHOR: Rep. VanNatter
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill decriminalizes possession of two ounces or less of marijuana.

Effective Date: July 1, 2024.

Explanation of State Expenditures: *Felony Possession:* This bill would have little or no effect on the Department of Correction (DOC) offender population since some of the people who were convicted and sentenced for felony possession of marijuana could either be sentenced for a misdemeanor or not be sentenced at all. The following shows the number of commitments to DOC between FY 2019 and 2023

Commitments to DOC by Fiscal Year Possession of Marijuana as a Level 6 Felony				
2019	2020	2021	2022	2023
2	2	1	0	4

Under current law, persons who possess:

- less than 30 grams (1.1 oz) of marijuana commit a Class B misdemeanor,
- less than 30 grams (1.1 oz) of marijuana with a prior conviction for a drug offense commit a Class A misdemeanor, and
- more than 30 grams (1.1 oz) of marijuana and have a prior conviction for a drug offense commit a Level 6 felony.

As proposed, persons who possess:

- between two (56.7 g) and four ounces (113.4 g) of marijuana commit a Class B misdemeanor,

2. between two (56.7 g) and four ounces (113.4 g) of marijuana with a prior conviction for a drug offense commit a Class A misdemeanor, and
3. more than four ounces and have a prior conviction commit a Level 6 felony.

Explanation of State Revenues: Revenue loss is estimated to be a minimum \$275,560 to the state General Fund, \$47,700 to the State User Fee Fund, and an indeterminable revenue loss to the Common School Fund.

Additional Information - The estimate is based on the number of people convicted of Class B misdemeanor marijuana possession since the critical weight is 30 grams (about 1.05 ounces). In FY 2023, 2,384 unique individuals were convicted of Class B misdemeanor marijuana possession. Of these, 2,067 were decided in circuit or superior courts and 317 were decided in city and town courts.

The total fee revenue per case would range between \$113 and \$135. The amount of court fees deposited will vary depending on whether the case is filed in a court of record or a municipal court. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

Estimated Revenue Loss to State General Fund			
	Trial Courts	City and Town Courts	Totals
Court Fees	\$173,600	\$20,900	\$194,500
Additional Fees	<u>\$70,280</u>	<u>\$10,780</u>	<u>\$81,060</u>
	<u>\$243,880</u>	<u>\$31,680</u>	<u>\$275,560</u>

Common School Fund: Persons who are found guilty of felonies and misdemeanors are liable for a maximum criminal fine of \$1,000 for Class B misdemeanors, \$5,000 for Class A misdemeanors, and \$10,000 for any felony level. The revenue loss to the Common School Fund is indeterminable because OFMA does not know the average fine level.

Explanation of Local Expenditures: *Effect on County Jails, Probation Departments, and Community Corrections Agencies:* This provision would reduce the costs to counties for public defense expenses and the pre and post trial jail confinement for persons who are charged with possession of marijuana as either a misdemeanor or felony. The bill would also reduce the supervisory burden on community corrections agencies and probation departments.

Additional Information – Of the 2,384 persons who were sentenced for marijuana possession as a Class B misdemeanor, 37% were appointed a public defender.

A Class A misdemeanor is punishable by a maximum one year term in a county jail, and the maximum term for a Class B misdemeanor is punishable by up to 180 days in jail. [The average cost per day is approximately \$64.53 based on the per diem payments reported by U.S. Marshals to house federal prisoners in 11 county jails across Indiana during CY 2021.]

Explanation of Local Revenues: The total revenue loss for all county funds is estimated to be \$117,750. This is based on 2,067 guilty cases that were decided in circuit or superior courts and 317 that were decided

in city courts for FY 2023.

If the case is filed in a court of record, the county general fund will receive \$47.40 and qualifying municipalities will receive a share of \$3.60. If the case is filed in a municipal court, the county receives \$30, and the municipality will receive \$46. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

Revenue Loss to Local Funds			
	Trial Courts	City and Town Courts	Totals
Court Fees	\$74,412	\$17,118	\$91,530
Other Fees	\$22,737	\$3,487	\$26,224
	<u>\$97,149</u>	<u>\$20,605</u>	<u>\$117,754</u>

Revenue from the marijuana eradication fee would be significantly reduced. The maximum fee of \$300 is assessed if a person is convicted of a drug-related crime which is either a misdemeanor or a felony. None of the 2,384 persons who were convicted and sentenced for marijuana possession as a misdemeanor would pay this fee under this bill. Revenue collected from the marijuana eradication program fee is deposited into the county user fee fund.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; Indiana Supreme Court Abstracts of Judgment; Department of Correction, U.S. Department of Justice Marshals Service.

Fiscal Analyst: Mark Goodpaster, 317-232-9852.