

## Home Grow/Non-Violent Conviction Policy Change Workgroup

Co-Lead: Tamara Berkly SECTF Member

Co-Lead: Michelle Merriweather SECTF Member

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### **Scope of Workgroup:**

*(9) The task force shall submit one or more reports...The recommendations must include:*

*(c) The social equity impact of altering residential cannabis agriculture regulations;*

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*(e) The social equity impact of removing nonviolent cannabis related felonies and misdemeanors from the existing point system used to determine if a person qualifies for obtaining or renewing a cannabis license;*

*From RCW 69.60.336 Section (9)(c) & (e)*

### **Home Grow Recommendation Proposals:**

- Legalization of residential cannabis cultivation for personal use will promote social equity (6 per adult and 15 per household of plants).
- The cultivation of 7 to 99 plants should be reclassified as a misdemeanor, instead of Class C Felony.
- Expunge cultivation convictions for 20 plants or less.
- Registering in the DOH Database should be a requirement for the 15 plants with Doctors Recommendation or Prescription.

### **Rationale:**

Less arrests would reduce the accumulated harm suffered by individuals, families, and local areas subject to severe impacts from the historical application and enforcement of cannabis prohibition laws. In the case of cannabis cultivation prohibition, these severe impacts for small residential cannabis cultivation are not historical, they are ongoing.

According to the analysis of the FBI Incident-Based Reporting System database, by workgroup member John Kingsbury, Black people were 5 times more likely, on average, to be arrested for home grow-sized activity than non-Hispanic whites, while Hispanics were about 2.4 times more likely to be arrested for the same activity than for whites. Therefore, legalizing residential cultivation of cannabis for personal use would eliminate this clear disparate impact.

Within these parameters, rolling back this prohibition, which is already the norm in 16 states and Washington D.C., would carry with it a definable social equity benefit. The degree of the benefit is measurable.

Collateral consequences of arrest can push people into poverty. The Governor has a 10-year plan to dismantle poverty. A brief summary of that effort can be viewed [here](#). The first, of 8

strategies, is to undo structural racism. Because we know Black people are 5 times more likely to be arrested for residential cannabis cultivation, this recommendation would work to reduce structural racism and poverty.

Severe consequences for people with a non-violent offense conviction:

- Potentially ineligible for section 8 housing
- Landlord can reject application for housing
- Could affect future employment opportunities
- An arrest can cause loss of employment due to missed work

Legalizing residential cannabis cultivation will reduce arrests and felony convictions. This has the potential to increase licensing eligibility.

### **Considerations:**

16 other states plus D.C have already legalized residential cannabis cultivation.

- Most states do 6 plants
- Michigan does 12, Oregon does 4

### **Non-violent Cannabis Policy Change Recommendation Proposals:**

- Remove all non-violent cannabis convictions from consideration in the LCB's new threshold protocol.
- LCB training protocol for threshold reviewer should be similar to and in alignment with Pro-Equity Anti-Racism (PEAR) training, the new mandate for state agencies.
- LCB to use language that would encourage people with previous felony convictions to apply. LCB should inform potential applicants that based on prior applications, it is very rare to be denied based on criminal history.

### **Rationale:**

There is a pervasive sense of unfairness within the community that permeates many of the social equity discussions. To be sensitive to that community input, it is critically important that the task force be attentive to this dynamic.

Although LCB's threshold scheme makes good sense as a tool to address inequity, the subjectivity inherent in it may exacerbate the perception of applicants that they are being treated unfairly by LCB examiners, especially if competition among applicants for a small number of licenses is strong.

While the threshold system, by itself, offers more opportunity for social equity candidates to participate in the system, and will likely reduce the number of potential applicants from being discouraged from applying in the first place, the workgroup feels more can be done. Therefore, the workgroup is suggesting a hybrid approach to applicant evaluation that will reduce subjectivity, increase the transparency of why an applicant may have ultimately been approved

or rejected, and importantly, to reduce LCB staff exposure to accusations of unfairness. Having a hybrid approach means combining LCB's threshold evaluation approach and completely removing all cannabis convictions from threshold consideration. This approach would further social equity objectives by decreasing severe impacts from the historical application and enforcement of cannabis prohibition laws, while decreasing subjectivity associated with the examiner and the threshold evaluation.

**Considerations:**

The legislature should consider removing convictions for personal use of any drug. The war on drugs has overcriminalized certain behaviors for marginalized communities. As a result, arrest and conviction rates are higher in these communities, but are equal to drug usage in white communities. In addition, convictions for possession of a controlled substance are not always classified in the record by what substance the defendant was in possession of. This may exclude people with cannabis convictions from the benefits these recommendations would give them.

Inherent in the application and enforcement of cannabis prohibition laws is arrest. One conviction that is fraught with a history of inequitable application and is worth considering removing from the threshold review process is misdemeanor resisting arrest.

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