# Determining the social equity impact of altering residential cannabis agriculture regulations.

HB 1443 - 2021-22
Concerning social equity within the cannabis industry

# WHAT IS SOCIAL EQUITY? DOES HOME GROWING FIT INTO THE TOPIC AND PURPOSES OF SOCIAL EQUITY?

#### **SOCIAL EQUITY GOALS**

- REDUCE THE ACCUMULATED HARM SUFFERED BY INDIVIDUALS, AND FAMILIES
- REDUCE THE ACCUMULATED HARMS LOCAL AREAS
   SUBJECT TO SEVERE IMPACTS FROM THE HISTORICAL
   APPLICATION AND ENFORCEMENT OF ((MARIJUANA))
   CANNABIS PROHIBITION AND LAWS.

# CAN HOME CULTIVATION OF CANNABIS FURTHER SOCIAL EQUITY GOALS?

IF SO, HOW CAN THAT BE MEASURED?

#### TWO ASPECTS

- Homegrowing inline with purposes of 502
- IS THERE CURRENTLY INEQUITY IN THE APPLICATION OF THE PROHIBITION OF HOME CULTIVATION?

#### 1502 AND HOME CULTIVATION OF CANNABIS

"Personal cultivation by adults absolutely is in the spirit of the new approach envisioned by the drafters and sponsors of I-502. The primary motivation for putting I-502 on the ballot was to end the criminalization of cannabis use, growing, and provision, and begin moving us in a new, public health-focused direction. Prohibiting adults from cultivating their own cannabis for personal use is inconsistent with that overarching goal."

-ALISON HOLCOMB, ACLU WASHINGTON, SPONSOR OF NEW APPROACH WASHINGTON, AND RELENTLESS ADVOCATE FOR ENDING MASS INCARCERATION

### Measuring inequity in the application and enforcement of home cultivation prohibition

- WHAT IS DIFFICULT TO MEASURE IS THE CUMULATIVE, GENERATIONAL HARM
- WHAT CAN BE MEASURED IS A LEVEL OF ARRESTS BY AFFECTED COMMUNITIES.

#### \*PER HB 1443

DISPROPORTIONATELY IMPACTED AREA IS A CENSUS TRACT OR COMPARABLE GEOGRAPHIC AREA WITH HIGH RATES OF:

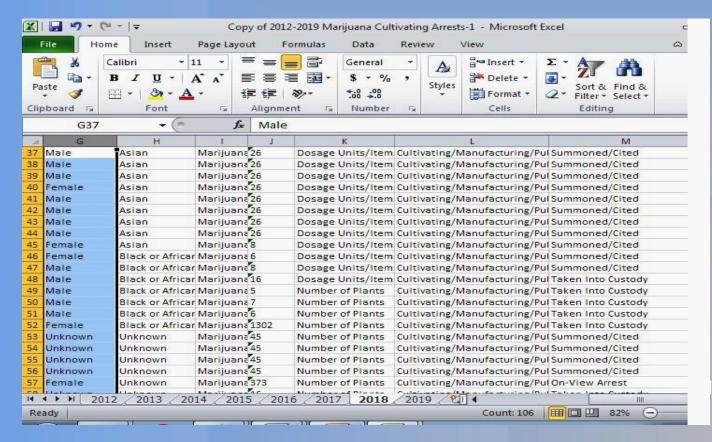
- (1) POVERTY AND UNEMPLOYMENT;
- (2) PARTICIPATION IN INCOME-BASED OR STATE

**PROGRAMS; AND** 

(3) ARREST, CONVICTION, OR INCARCERATION RELATED TO THE SALE, POSSESSION, USE, CULTIVATION, MANUFACTURE, OR TRANSPORT OF CANNABIS.

#### **NIBRS** - Incident –based reporting system.

- 1. crime code "cultivation" (different from "possession")
- 2. by year 2012 2020 (no data available past 2019)
- 3. by race of arrestee
- 4. by county
- 5. manually by garden size



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#### **CURRENT STATE OF THE LAW**

- Personal cultivation of cannabis of any number of plants for personal use remains a class c felony.
- CULTIVATION OF CANNABIS FOR MEDICAL USE AS AUTHORIZED BY A TREATING PHYSICIAN ALSO REMAINS A CLASS C FELONY, HOWEVER, AN AFFIRMATIVE DEFENSE CAN BE ASSERTED IN COURT
- THE LAW IS SILENT ON LANDLORD-TENANT RIGHTS
  CONCERNING GROWING AND ARE CONTROLLED BY
  LEASE CONTRACT.
  HOWEVER, GROWING IN FEDERAL HOUSING IS
  STRICTLY PROHIBITED

# RESULTS CLEARLY, THE PROHIBITION OF HOME CULTIVATION HAS HAD DISPARATE IMPACTS

#### COMPARATIVE CHANCE OF BEING ARRESTED, BY RACE \*

	2012	2013	2014	2015	2016	2017	2018	2019	average
White	/	1.000	1.000	1.000	1.000	1.000	1.000	1.000	<b>1.000</b>
Black	/	4.232	1.512	.756	7.237	3.540	2.592	15.378	<mark>5.035</mark>
Hispanic	/	1.433	0	1.295	.296	3.517	2.542	7.780	<mark>2.409</mark>

<sup>\*</sup> within the parameters of HB 1019

#### WHAT MIGHT A HOME GROW BILL LOOK LIKE?

#### FACTORS TO CONSIDER

- Changing the details will change the effect on a bills social equity impact
- There will be multiple stakeholders with different interests. Search for common interests
- A BILL THAT DOES NOT PASS CANNOT HELP ANYONE.

  CONSIDER THE INPUT AND CONCERNS OF OTHER

  STAKEHOLDERS, EVEN IF YOU DO NOT ADOPT THEIR

  IDEAS.
- Consider unintended consequences.

### HB 1019 ALLOWING RESIDENTIAL MARIJUANA AGRICULTURE

- 1. SIX PLANTS PER ADULT
- 2. 15 PLANTS MAX IN A HOUSING UNIT.
- 3. PLANTS MUST BE MARKED TO OWNER.
- 4. LANDLORDS AND PROPERTY OWNERS CAN PROHIBIT GROWING.
- 5. NO GROWING IN FOSTER HOMES OR DAY CARES.
- 6. PLANTS MUST REMAIN OUT OF PUBLIC VIEW. ODOR CONTROL.
- 7. CLARIFIES ENFORCEMENT AUTHORITY. PROVIDES THAT THE LIQUOR AND CANNABIS BOARD HAS NO AUTHORITY
- 8. MODIFIES THE SEIZURE AND FORFEITURE STATUTE AS IT APPLIES TO MARIJUANA.
- 9. ADDS A DEFINITION OF "COMMERCIAL ACTIVITY" TO THE UNIFORM CONTROLLED SUBSTANCES ACT.

## LASTLY - HOME CULTIVATION OF CANNABIS IS NOT AN EXPERIMENT

16 STATES, PLUS WASHINGTON D.C. ALREADY ALLOW IT

WE KNOW THE EFFECTS OF ALLOWING HOME CULTIVATION

WE KNOW ENDING PROHIBITION KEEPS PEOPLE OUT OF JAIL

—PARTICULARLY THOSE FROM DISPROPORTIONATELY

AFFECTED COMMUNITIES

WE ALREADY KNOW ALLOWING HOME GROWS DOES NOT INCREASE CRIME OR INCREASE USE BY CHILDREN.

As a social equity tool, ending the prohibition on home cultivation of cannabis is <u>Not</u>

<u>PREFERENTIAL TO ANYONE, BECAUSE IT WOULD BE A</u>

<u>RIGHT AFFORDED TO EVERYONE EQUALLY.</u>

HOWEVER, BECAUSE, AS I HAVE SHOWN, THIS
PROHIBITION HARMS SOME COMMUNITIES SO
DISPROPORTIONATELY,
ENDING THIS PROHIBITION WOULD ALSO CORRECT
THESE HARMS TO THESE COMMUNITIES TO A
DISPROPORTIANATE BENEFIT.

### **QUESTIONS?**

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