

INTERIM STUDY PROPOSAL 2021-108

REQUESTING THAT THE HOUSE COMMITTEE ON JUDICIARY STUDY THE QUESTION OF WHETHER A PROBATIONER MAY LAWFULLY POSSESS A MEDICAL MARIJUANA CARD AND USE MEDICAL MARIJUANA UNDER THE ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016, ARKANSAS CONSTITUTION, AMENDMENT 98, WITHOUT BEING SUBJECT TO SANCTIONS BY THE PROBATIONER'S PROBATION OFFICER OR THE CIRCUIT COURT.

WHEREAS, Amendment 98 to the Arkansas Constitution, known as the "Arkansas Medical Marijuana Amendment of 2016", offers constitutional protections from arrest, prosecution, "penalty in any manner", or denial of "any right or privilege" regarding medical marijuana; and

WHEREAS, a person placed on supervised probation as a result of a felony conviction is generally prohibited from both ingesting any controlled substance and violating any federal law while on supervised probation; and

WHEREAS, Arkansas Code § 5-4-303(b) states that "[t]he court shall provide as an express condition of every suspension or probation that the defendant not commit an offense punishable by imprisonment during the period of suspension or probation"; and

WHEREAS, possession and use of marijuana is still a criminal offense under federal law even if a person is permitted under the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98, to lawfully use medical marijuana; and

WHEREAS, the issue of whether a probationer may be sanctioned for possessing or using medical marijuana, which is a right for qualifying persons secured under the Arkansas Constitution, and violating federal law, has caused confusion,

NOW THEREFORE,

BE IT PROPOSED BY THE HOUSE COMMITTEE ON JUDICIARY OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

THAT the House Committee on Judiciary study the question of whether a probationer may lawfully possess a medical marijuana card and use medical marijuana under the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98, without being subject to sanctions by the probationer's probation officer or the circuit court.

Respectfully submitted,

Representative Cameron Cooper  
District 44  
Prepared by: BPG/BPG