

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 580

5 By: Senator C. Tucker
6

For An Act To Be Entitled

8 AN ACT TO DECRIMINALIZE POSSESSION OF MARIJUANA UPON
9 LEGALIZATION OF RECREATIONAL MARIJUANA IN THIS STATE;
10 TO AUTHORIZE COURTS TO REVOKE OR RESCIND SENTENCES OF
11 PERSONS CONVICTED OF POSSESSION OF MARIJUANA AND TO
12 SEAL THE RECORDS OF POSSESSION OF MARIJUANA; AND FOR
13 OTHER PURPOSES.
14
15

Subtitle

16 TO DECRIMINALIZE POSSESSION OF MARIJUANA
17 UPON LEGALIZATION OF RECREATIONAL
18 MARIJUANA IN THIS STATE.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 5-64-408(b), concerning subsequent
25 convictions and enhanced penalties under the Uniform Controlled Substances
26 Act, is amended to read as follows:

27 (b) For purposes of this section, an offense is considered a second or
28 subsequent offense if, before his or her conviction of the offense, the
29 offender has at any time been convicted under this chapter or under any
30 statute of the United States or of any state relating to a narcotic drug,
31 ~~marijuana~~, depressant, stimulant, or a hallucinogenic drug.
32

33 SECTION 2. Arkansas Code § 5-64-419(b)(5), concerning possession of a
34 Schedule VI controlled substance within the Uniform Controlled Substances
35 Act, is amended to read as follows:

36 (5)(A) A Except as provided in subdivision (b)(5)(B) of this



1 section, a Schedule VI controlled substance with an aggregate weight,
2 including an adulterant or diluent, of:

3 ~~(A)(i)~~ Less than four ounces (4 oz.) upon conviction is
4 guilty of a Class A misdemeanor;

5 ~~(B)(ii)~~ One ounce (1 oz.) or more but less than four
6 ounces (4 oz.) and the person has four (4) previous convictions under this
7 section or the former § 5-64-401(c) upon conviction is guilty of a Class D
8 felony;

9 ~~(C)(iii)~~ Four ounces (4 oz.) or more but less than ten
10 pounds (10 lbs.) upon conviction is guilty of a Class D felony;

11 ~~(D)(iv)~~ Ten pounds (10 lbs.) or more but less than twenty-
12 five pounds (25 lbs.) upon conviction is guilty of a Class C felony;

13 ~~(E)(v)~~ Twenty-five pounds (25 lbs.) or more but less than
14 one hundred pounds (100 lbs.) upon conviction is guilty of a Class B felony;
15 or

16 ~~(F)(vi)~~ One hundred pounds (100 lbs.) or more but less
17 than five hundred pounds (500 lbs.) upon conviction is guilty of a Class A
18 felony.

19 (B) Possession of less than two ounces (2 oz.) of
20 marijuana shall not be a violation or offense.

21

22 SECTION 3. Arkansas Code § 5-64-419(c), concerning possession of a
23 controlled substance under the Uniform Controlled Substances Act, is amended
24 to read as follows:

25 (c)(1) If a person possesses a controlled substance in violation of
26 this section while the person is an inmate in a state criminal detention
27 facility, county criminal detention facility, city criminal detention
28 facility, or juvenile detention facility, the penalty for the offense is
29 increased to the next higher classification as prescribed by law for the
30 offense.

31 (2) Subdivision (c)(1) of this section shall not apply to
32 possession of less than two ounces (2 oz.) of marijuana.

33

34 SECTION 4. Arkansas Code Title 16, Chapter 90, Subchapter 1, is
35 amended to add an additional section to read as follows:

36 16-90-123. Revocation of sentence resulting from possession of

1 marijuana.

2 Upon the effective date of this section, the court shall revoke or
3 rescind any sentence of a person who has been convicted for possession of
4 less than two ounces (2 oz.) of marijuana under § 5-64-419 or a prior law
5 prohibiting the possession of marijuana unless the person has been convicted
6 of other charges.

7
8 SECTION 5. Arkansas Code § 16-90-1406(a)(3), concerning felony
9 convictions eligible for sealing under the Comprehensive Criminal Record
10 Sealing Act of 2013, is amended to read as follows:

11 (3) ~~As~~ Except as provided in subsection (d) of this section, an
12 offense under the Uniform Controlled Substances Act, § 5-64-101 et seq., that
13 is a Class A felony or Class B felony;

14
15 SECTION 6. Arkansas Code § 16-90-1406, concerning felony convictions
16 eligible for sealing under the Comprehensive Criminal Record Sealing Act of
17 2013, is amended to add an additional subsection to read as follows:

18 (d) Unless convicted of multiple offenses, a person may petition the
19 court to seal a record of a felony conviction involving possession of less
20 than two ounces (2 oz.) of marijuana upon conviction.

21
22 SECTION 7. Arkansas Code § 16-90-1407 is amended to read as follows:
23 16-90-1407. Special procedures for sealing a felony controlled
24 substance possession conviction.

25 (a) Except as provided in subsection (b) of this section, a A person
26 may petition the court to seal a record of a felony conviction for possession
27 of a controlled substance, § 5-64-419, or counterfeit substance, § 5-64-441,
28 upon the completion of the person’s sentence if, prior to sentencing:

29 (1) An intake officer appointed by the court, where applicable,
30 determines that the person has a drug addiction and recommends the person as
31 a candidate for residential drug treatment;

32 (2) The court places the person on probation and includes as
33 part of the terms and conditions of the probation that:

34 (A) The person successfully complete a drug treatment
35 program approved by the court; and

36 (B) The person remain drug-free until successful

1 completion of probation; and

2 (3) The person successfully completes the terms and conditions
3 of the probation.

4 (b) A person may petition the court to seal a record of felony
5 conviction for possession of less than two ounces (2 oz.) of marijuana under
6 § 5-64-419 or a prior law prohibiting the possession of marijuana without
7 fulfilling the requirements of subsection (a) of this section.

8
9 SECTION 8. Arkansas Code Title 16, Chapter 93, Subchapter 1, is
10 amended to add an additional section to read as follows:

11 16-93-112. Parole or probation resulting from possession of marijuana.
12 A person who is under probation or parole for possession of less than
13 two ounces (2 oz.) of marijuana under § 5-64-419 or a prior law prohibiting
14 the possession of marijuana on the effective date of this section shall be
15 released from probation or parole immediately unless the person has been
16 convicted of other charges.

17
18 SECTION 9. Contingent effective date.

19 This act becomes effective on and after the certification of the
20 Attorney General that the possession, personal use, and consumption of
21 cannabis by adults is legal in this state.