

HOUSE BILL No. 2686

By Committee on Corrections and Juvenile Justice

2-13

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to possession of marijuana; removing felony violation; releasing people
3 from custody for such violations; amending K.S.A. 2019 Supp. 21-
4 5706 and repealing the existing section.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) All persons serving a term of imprisonment in the
8 custody of the secretary of corrections for a violation of K.S.A. 2019
9 Supp. 21-5706(b), and amendments thereto, when the substance involved
10 is marijuana, as designated in K.S.A. 65-4105(d), and amendments thereto,
11 or tetrahydrocannabinols, as designated in K.S.A. 65-4105(h), and
12 amendments thereto, shall be released from such person's term of
13 imprisonment by the secretary as provided in this section.

14 (b) All persons on probation or assignment to a community
15 correctional services program for a violation of K.S.A. 2019 Supp. 21-
16 5706(b), and amendments thereto, when the substance involved is
17 marijuana, as designated in K.S.A. 65-4105(d), and amendments thereto,
18 or tetrahydrocannabinols, as designated in K.S.A. 65-4105(h), and
19 amendments thereto, shall be discharged from probation or assignment to a
20 community correctional services program as provided in this section.

21 (c) (1) The secretary shall make appropriate calculation and
22 adjustments of sentence for inmates in the secretary's custody or on a
23 community correctional services program by July 1, 2020.

24 (2) The judicial branch shall make appropriate calculation and
25 adjustments of sentence for offenders on probation being supervised by
26 court services officers by July 1, 2020.

27 Sec. 2. K.S.A. 2019 Supp. 21-5706 is hereby amended to read as
28 follows: 21-5706. (a) It shall be unlawful for any person to possess any
29 opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-
30 4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled
31 substance analog thereof.

32 (b) It shall be unlawful for any person to possess any of the following
33 controlled substances or controlled substance analogs thereof:

34 (1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-
35 4109(b) or (c) or 65-4111(b), and amendments thereto;

36 (2) any stimulant designated in K.S.A. 65-4105(f), 65-4107(d)(2), (d)

1 (4), (d)(5) or (f)(2) or 65-4109(e), and amendments thereto;
 2 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-
 3 4107(g) or 65-4109(g), and amendments thereto;
 4 (4) any substance designated in K.S.A. 65-4105(g) and 65-4111(c),
 5 (d), (e), (f) or (g), and amendments thereto;
 6 (5) any anabolic steroids as defined in K.S.A. 65-4109(f), and
 7 amendments thereto;
 8 (6) any substance designated in K.S.A. 65-4113, and amendments
 9 thereto; or
 10 (7) any substance designated in K.S.A. 65-4105(h), and amendments
 11 thereto.
 12 (c) (1) Violation of subsection (a) is a drug severity level 5 felony.
 13 (2) Except as provided in subsection (c)(3):
 14 (A) Violation of subsection (b) is a class A nonperson misdemeanor,
 15 except as provided in subparagraph (B); and
 16 (B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug
 17 severity level 5 felony if that person has a prior conviction under such
 18 subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially
 19 similar offense from another jurisdiction, or under any city ordinance or
 20 county resolution for a substantially similar offense if the substance
 21 involved was 3, 4-methylenedioxymethamphetamine (MDMA), marijuana
 22 as designated in K.S.A. 65-4105(d), and amendments thereto, or any
 23 substance designated in K.S.A. 65-4105(h), and amendments thereto, or an
 24 analog thereof.
 25 (3) If the substance involved is marijuana, as designated in K.S.A.
 26 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as
 27 designated in K.S.A. 65-4105(h), and amendments thereto, violation of
 28 subsection (b) is a:
 29 (A) Class B nonperson misdemeanor, except as provided in
 30 ~~subparagraphs subparagraph (B) and (C); and~~
 31 (B) class A nonperson misdemeanor if that person has ~~a~~ *one or more*
 32 ~~prior conviction~~ *convictions* under such subsection, under K.S.A. 65-4162,
 33 prior to its repeal, under a substantially similar offense from another
 34 jurisdiction; or under any city ordinance or county resolution for a
 35 substantially similar offense; and
 36 ~~(C) drug severity level 5 felony if that person has two or more prior~~
 37 ~~convictions under such subsection, under K.S.A. 65-4162, prior to its~~
 38 ~~repeal, under a substantially similar offense from another jurisdiction, or~~
 39 ~~under any city ordinance or county resolution for a substantially similar~~
 40 ~~offense.~~
 41 (d) It shall be an affirmative defense to prosecution under this section
 42 arising out of a person's possession of any cannabidiol treatment
 43 preparation if the person:

except for tetrahydrocannabinols,