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## Legalization of Marijuana in Illinois: The Broader Implications on Social Justice

Colleen Ahern

As January 1, 2020 rolls around, sweeping changes will be seen statewide with the introduction of the legalization of marijuana. The new law will allow Illinois residents 21 years old and over to possess up to 30 grams of marijuana.<sup>1</sup> This monumental reform bill, often referred to as a response to the “War on Drugs” by Cook County State’s Attorney Kim Foxx, also includes an expungement provision aimed to clear the criminal records of convictions involving 30 grams or less.<sup>2</sup> Those convicted for larger amounts may petition the court to have the charge expunged.<sup>3</sup> In a statement by State’s Attorney Foxx during a news conference following the announcement of the expungement program, she revealed her optimism that the State’s Attorney’s office is “righting the wrongs of the past.”<sup>4</sup> Foxx is hoping that the automated process of sifting through state and county data to identify which records are eligible for expungement can begin prior to January 1, 2020 in Cook County.<sup>5</sup> She wants the automatic expungements to quickly apply to records from as long ago as possible; this way, these previous convictions will no longer appear on background checks for jobs or housing, and absent from law enforcement databases.<sup>6</sup> The question remains how impactful will these expungement provisions, and other robust reforms outlined in the bill be come January.

The passage of what is considered one of the nation’s most progressive marijuana legislation bills comes with a focus on criminal justice reform, rather than the recreational implications of the law.<sup>7</sup> Illinois legislators emphasized

<sup>1</sup> Austin Berg & Vincent Caruso, *Illinois Becomes 11th State to Legalize Recreational Marijuana*, ILLINOIS POL’Y (June 25, 2019), <https://www.illinoispolicy.org/illinois-becomes-11th-state-to-legalize-recreational-marijuana/>.

<sup>2</sup> *Id.*

<sup>3</sup> Megan Crepeau, *Thousands of weed convictions will be automatically expunged in Illinois: ‘We are righting the wrongs of the past’*, CHICAGO TRIB. (Aug. 28, 2019), <https://www.chicagotribune.com/news/criminal-justice/ct-marijuana-conviction-expungement-kim-foxx-20190827-3zytvgyvmdzf4jlx4crnz5dbfae-story.html>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Sagiv Galai, *Equity Must be at the Heart of Marijuana Legalization*, AM. CIV. LIBERTIES UNION (June 26, 2019), <https://www.aclu.org/blog/criminal-law-reform/drug-law-reform/equity-must-be-heart-marijuana-legalization>.

that the benefits of the reform will have its greatest effects on individuals and communities that have suffered the greatest harm from the war on drugs; the majority so, people of color and people with low incomes.<sup>8</sup> The American Civil Liberties Union reported that despite constituting 36% of the population in Chicago, in 2016 78% of all marijuana arrests were of black people, and less than 5% were of white people.<sup>9</sup> When sitting down with Ed Yohnka, ACLU of Illinois' Director of Communication and Public Policy, he echoed similar statistics of marijuana arrests in Illinois. This data helped drive the dialogue and discussion downstate as part of the bill's debate, said Yohnka.<sup>10</sup> He went on to reiterate that the effort of the bill itself is an incredible social justice reform, and that "when you think about the notion of fairness and equity, and inclusion that is possible through [this bill], it really is important."<sup>11</sup> Yohnka shed light on the fact that there are people with nothing more than a simple marijuana charge on their records and the idea that they can get that expunged and be able to move forward is a tremendous step forward, both from a criminal justice reform and racial justice perspective.<sup>12</sup>

Some of the bill's most unique features center upon promoting equality and accessibility through programs that will fund initiatives.<sup>13</sup> These programs include teaching the technical skills needed to start a cannabis business, agricultural training and skill building programs in low-income schools, grants to entrepreneurs impacted by cannabis enforcement, and the required hiring and training of formerly incarcerated people.<sup>14</sup>

In order to ensure these equity mechanisms actually benefit the intended recipients who have been disproportionately targeted in the drug war, the bill created a "social equity program" and a "business development fund" that will give those a better chance at success.<sup>15</sup> The business development fund will provide low-interest loans to businesses owned and operated by those that come from the communities most affected by the war on drugs.<sup>16</sup> The social equity program reaches out to businesses that maintain ownership or control of

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Interview with Ed Yohnka, Director of Communication and Public Policy, ACLU of Illinois (Oct. 3, 2019) [hereinafter "Yohnka Interview"].

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Galai, *supra* note 7.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

at least 51% of residents from a “disproportionately impacted area” or “individuals who have been arrested for, or convicted of cannabis-related offenses.”<sup>17</sup> In addition, Illinois will begin reinvesting in the communities most hampered by the war on drugs by using the revenue generated by taxation.<sup>18</sup> The ACLU reports that 20% of the money will be allocated to mental health and substance abuse programs and 25% will be allocated to the pioneering Recover, Reinvest, and Renew, program known as R3.<sup>19</sup> The R3 initiative will distribute the tax-generated money to organizations and leaders seeking to mend their communities through re-entry programs, substance abuse programs, job training programs, violence reduction projects, and even trauma-treatment centers.<sup>20</sup> “We’re not just fixing problems of the past, but creating opportunities in the future,” Mr. Yohnka said, praising the efforts of these programs.<sup>21</sup> “The equity element was something people were very impressed by and drawn to both locally and nationwide,” Yohnka explains.<sup>22</sup>

The broader implications for the legalization bill are imminent through the provisions and equity programs that were fundamental in passing the legislation. The automatic expungement process and generated revenue from taxation that will go towards reinvesting in the community demonstrates the emphasis on the focus on smart drug reform.<sup>23</sup> Legalization of marijuana has led to an improvement in the prioritization of police resources in both Colorado and Washington.<sup>24</sup> Perhaps the prioritization of police reform in Illinois will too occur as a result of legalization. It is evident the effects of Illinois’ new recreational marijuana bill go beyond simply legalizing weed. Legislators took the opportunity to develop social justice initiatives that will aid those affected by harsh sanctions in the past, and provide a potential rode to success in their future. The R3 initiative, perhaps the most robust, demonstrates the commitment towards rehabilitation and regrowth of individuals to prosper, rather than suffer from their prior actions. Whether or not these programs will deliver on all that is promised will be something to scrutinize once the bill takes affect.

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Yohnka Interview, *supra* note 10.

<sup>22</sup> *Id.*

<sup>23</sup> Galai, *supra* note 7.

<sup>24</sup> David Makin, *Marijuana Legalization and Crime Clearance Rates: Testing Proponent Assertions in Colorado and Washington State*, POLICE QUARTERLY (July 2018).

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What is readily apparent, however, is the positive attention focused on the people and communities of Illinois disproportionately impacted by marijuana arrests, and the example it sets for other states to follow in a similar manner.