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SENATE BILL DRS35182-MLa-48A

Short Title: Marijuana/Diversion Court/Class 3 Misd. Study. (Public)

Sponsors: Senators Mohammed, Murdock, and Woodard (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO RECLASSIFY MISDEMEANOR POSSESSION OF MARIJUANA OR
3 HASHISH OFFENSES AS INFRACTIONS, TO ALLOW THE EXPUNCTION OF CLASS
4 3 MISDEMEANOR POSSESSION OF MARIJUANA OR HASHISH OFFENSES, TO
5 STUDY RECLASSIFYING CERTAIN CLASS 3 MISDEMEANOR OFFENSES AS
6 INFRACTIONS, AND TO PROVIDE FUNDING FOR DRUG TREATMENT COURT
7 PROGRAMS AND MENTAL HEALTH COURT PROGRAMS.

8 The General Assembly of North Carolina enacts:

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10 **PART I. DECRIMINALIZE MISDEMEANOR POSSESSION OF MARIJUANA OR**
11 **HASHISH**

12 **SECTION 1.(a)** G.S. 90-95(d)(4) reads as rewritten:

13 "(4) ~~A-Except as otherwise provided in this subdivision, a controlled substance~~
14 ~~classified in Schedule VI shall be guilty of a Class 3 misdemeanor, but any~~
15 ~~sentence of imprisonment imposed must be suspended and the judge may not~~
16 ~~require at the time of sentencing that the defendant serve a period of~~
17 ~~imprisonment as a special condition of probation. If the quantity of the~~
18 ~~controlled substance exceeds one half of an ounce (avoirdupois) of marijuana~~
19 ~~or one twentieth of an ounce (avoirdupois) of the extracted resin of marijuana,~~
20 ~~commonly known as hashish, the violation shall be punishable as a Class 1~~
21 ~~misdemeanor. an infraction.~~ If the quantity of the controlled substance
22 exceeds one and one-half ounces (avoirdupois) of marijuana, or
23 three-twentieths of an ounce (avoirdupois) of the extracted resin of marijuana,
24 commonly known as hashish, or if the controlled substance consists of any
25 quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated
26 from the resin of marijuana, the violation shall be punishable as a Class I
27 felony."

28 **SECTION 1.(b)** Article 5 of Chapter 15A of the General Statutes is amended by
29 adding a new section to read:

30 **"§ 15A-145.8B. Expunction of certain possession of marijuana offenses.**

31 (a) If a person was charged with a misdemeanor violation of G.S. 90-95(a)(3) for
32 possession of marijuana or hashish, and the person was convicted, the conviction shall be ordered
33 to be automatically expunged no later than December 1, 2023, in the manner set forth in this
34 section.

35 (b) The clerk of each superior court shall determine which cases meet the criteria for
36 expunction set forth in subsection (a) of this section. Upon completing the review required under



1 this subsection, the clerk of each superior court shall prepare an order of expungement for each
2 case that meets the criteria set forth in subsection (a) of this section and was finalized in his or
3 her court. Upon completion of the order of expungement, the court shall order the expunction.
4 Upon order of expungement, the clerk shall forward the petition to the Administrative Office of
5 the Courts.

6 (c) No person as to whom such an order has been entered under this section shall be held
7 thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise
8 giving a false statement or response to any inquiry made for any purpose, by reason of the
9 person's failure to recite or acknowledge any expunged entries concerning apprehension, charge,
10 or trial.

11 (d) The court shall also order that the conviction ordered expunged under this section be
12 expunged from the records of the court and direct all law enforcement agencies bearing record
13 of the same to expunge their records of the conviction. The clerk shall notify State and local
14 agencies of the court's order as provided in G.S. 15A-150.

15 (e) Any other applicable State or local government agency shall expunge from its records
16 entries made as a result of the conviction ordered expunged under this section. The agency shall
17 also reverse any administrative actions taken against a person whose record is expunged under
18 this section as a result of the charges or convictions expunged. This subsection shall not apply to
19 the Department of Justice for DNA records and samples stored in the State DNA Database and
20 the State DNA Databank."

21 **SECTION 1.(c)** Subsection (a) of this section becomes effective December 1, 2021,
22 and applies to offenses committed on or after that date. The remainder of this section becomes
23 effective December 1, 2021.
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25 **PART II. STUDY RECLASSIFYING CERTAIN CLASS 3 MISDEMEANOR OFFENSES** 26 **AS INFRACTIONS**

27 **SECTION 2.(a)** Study. – The University of North Carolina at Chapel Hill School of
28 Government (School of Government), in consultation with the North Carolina Sentencing and
29 Policy Advisory Commission, shall study (i) which Class 3 misdemeanor offenses have a low
30 impact on public safety, (ii) whether the offenses should be reclassified as infractions, and (iii)
31 whether low-level traffic offenses should be moved to the North Carolina Administrative Code
32 and enforced as a civil violation by the Division of Motor Vehicles or the Department of Public
33 Safety.

34 **SECTION 2.(b)** Report. – The School of Government shall report its findings from
35 the study required under subsection (a) of this section, including any recommendations for
36 legislative action, to the Joint Legislative Oversight Committee on Justice and Public Safety by
37 March 7, 2022.
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39 **PART III. FUNDING FOR DRUG TREATMENT COURT PROGRAMS AND MENTAL** 40 **HEALTH COURT PROGRAMS**

41 **SECTION 3.(a)** There is appropriated the sum of four million two hundred thousand
42 dollars (\$4,200,000) in recurring funds for each fiscal year of the 2021-2023 fiscal biennium
43 from the General Fund to the Administrative Office of the Courts to be used to support the work
44 of the North Carolina Drug Treatment Court Program in creating and sustaining local drug
45 treatment court programs.

46 **SECTION 3.(b)** There is appropriated the sum of four million two hundred thousand
47 dollars (\$4,200,000) in recurring funds for each fiscal year of the 2021-2023 fiscal biennium
48 from the General Fund to the Administrative Office of the Courts to be used to facilitate the
49 creation and funding of new and existing mental health court programs to serve individuals that
50 have a mental health diagnosis or treatment history and are defendants in the criminal justice
51 system. Among other functions, the local mental health court programs funded by this section

1 shall recommend mental health treatment plans for individuals served by the programs and shall
2 monitor the progress of the individuals receiving treatment while the individuals remain in the
3 program.

4 **SECTION 3.(c)** This section becomes effective July 1, 2021.

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6 **PART IV. EFFECTIVE DATE**

7 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
8 law.