



### SUPPORT HB19-1263

#### Offense Level for Controlled Substance Possession

*Representatives Herod & Sandridge and Senators Marble & Lee*

#### WHAT THE BILL DOES

- Possession of schedule I or II drugs, flunitrazepam, ketamine, more than 12 ounces of marijuana or more than three ounces of marijuana concentrate would be lowered from a level 4 drug felony to a level 1 misdemeanor. Sentence can be up to two years of probation and up to 180 days in jail as a condition of, or for a violation of, probation.
- Possession of 3 ounces or less of marijuana concentrate would be lowered from a level 1 drug misdemeanor to a level 2 drug misdemeanor. Sentence can be up to 1 year of probation and up to 120 days in jail as a condition of, or for a violation of, probation.
- Creates a county court grant program to allow Judicial to provide funding for operations of a county court drug court.

#### WHAT THE BILL DOES NOT DO

**HB19-1263 does not make any changes related to drug distribution offenses.** If there is evidence that even small quantities of drugs are possessed with the intent to distribute, prosecutors can still file a felony charge of drug distribution at any quantity of drugs.

#### RESEARCH RATIONALE

Research has produced clear and convincing evidence that substance use treatment reduces alcohol, drug use and crime. Incarcerating people, or threatening to incarcerate people, who use drugs does not have a significant deterrent effect on drug use. (*Correctional and Sentencing Reform for Drug Offenders: Research Findings on Selected Key Issues*, Roger Przybylski, RKC Group, Lakewood, CO (2009).

A felony conviction is a **LIFETIME** punishment, resulting in a significantly reduced ability to obtain stable housing, education and gainful employment; the key metrics that are essential to improving public safety and reducing problematic drug use.

#### WHY CHANGE NOW?

In 2013, the Legislature passed SB13-250 that was a comprehensive rewrite of the entire Controlled Substances Act aimed at charting a new drug policy approach for Colorado. Unfortunately, those intentions have not been met. In fact, by several metrics, it's gotten substantially worse. According to data from Colorado State Judicial Department, between 2012 and 2018, felony drug filings have increased over 123% statewide and 75% of those criminal cases are for simple drug possession. **Drug possession is not a crime that warrants a felony charge.**

#### OTHER STATES

Close to 20 states, the District of Columbia and the federal government have some level misdemeanor offense for possession Schedule I or II controlled substances. 5 of those states have reclassified drug possession from a felony to misdemeanor since 2014: California, Alaska, Utah, Oklahoma and Connecticut.

#### POLLING RESULTS

In a January 2019 poll of 695 Coloradoans conducted by Public Policy Polling, 79% of those polled agreed the state should focus more on prevention and treatment and less on incarceration and punishment for drug possession. Only 25% preferred that the Legislature open another prison instead of reducing the penalty for simple drug possession.