

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To amend the Controlled Substances Act to provide for a new rule regarding the application of the Act to marihuana, and for other purposes.

**IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.**

**S. 1917**

To reform sentencing laws and correctional institutions, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BOOKER

Viz:

1 At the end, add the following:

2 **TITLE IV—MARIJUANA JUSTICE**  
3 **ACT**

4 **SEC. 401. SHORT TITLE.**

5 This title may be cited as the “Marijuana Justice Act  
6 of 2018”.

7 **SEC. 402. DE-SCHEDULING MARIHUANA.**

8 (a) MARIHUANA REMOVED FROM SCHEDULE OF  
9 CONTROLLED SUBSTANCES.—Subsection (c) of schedule  
10 I of section 202(c) of the Controlled Substances Act (21  
11 U.S.C. 812) is amended—

1 (1) by striking “marihuana”; and

2 (2) by striking “tetrahydrocannabinols”.

3 (b) REMOVAL OF PROHIBITION ON IMPORT AND EX-  
4 PORT.—Section 1010(b) of the Controlled Substances Im-  
5 port and Export Act (21 U.S.C. 960) is amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (F), by inserting “or”  
8 after the semicolon;

9 (B) by striking subparagraph (G); and

10 (C) by redesignating subparagraph (H) as  
11 subparagraph (G);

12 (2) in paragraph (2)—

13 (A) in subparagraph (F), by inserting “or”  
14 after the semicolon;

15 (B) by striking subparagraph (G); and

16 (C) by redesignating subparagraph (H) as  
17 subparagraph (G);

18 (3) in paragraph (3), by striking “paragraphs  
19 (1), (2), and (4)” and inserting “paragraphs (1) and  
20 (2)”;

21 (4) by striking paragraph (4); and

22 (5) by redesignating paragraphs (5), (6), and  
23 (7) as paragraphs (4), (5), and (6), respectively.

1 (c) CONFORMING AMENDMENTS TO CONTROLLED  
2 SUBSTANCES ACT.—The Controlled Substances Act (21  
3 U.S.C. 801 et seq.) is amended—

4 (1) in section 102(44) (21 U.S.C. 802(44)), by  
5 striking “marihuana,”;

6 (2) in section 401(b) (21 U.S.C. 841(b))—

7 (A) in paragraph (1)—

8 (i) in subparagraph (A)—

9 (I) in clause (vi), by inserting  
10 “or” after the semicolon;

11 (II) by striking (vii); and

12 (III) by redesignating clause  
13 (viii) as clause (vii);

14 (ii) in subparagraph (B)—

15 (I) by striking clause (vii); and

16 (II) by redesignating clause (viii)  
17 as clause (vii);

18 (iii) in subparagraph (C), in the first  
19 sentence, by striking “subparagraphs (A),  
20 (B), and (D)” and inserting “subpara-  
21 graphs (A) and (B)”;

22 (iv) by striking subparagraph (D);

23 (v) by redesignating subparagraph (E)  
24 as subparagraph (D); and

1 (vi) in subparagraph (D)(i), as so re-  
2 designated, by striking “subparagraphs (C)  
3 and (D)” and inserting “subparagraph  
4 (C)”;

5 (B) by striking paragraph (4); and

6 (C) by redesignating paragraphs (5), (6),  
7 and (7) as paragraphs (4), (5), and (6), respec-  
8 tively;

9 (3) in section 402(c)(2)(B) (21 U.S.C.  
10 842(c)(2)(B)), by striking “, marihuana,”;

11 (4) in section 403(d)(1) (21 U.S.C. 843(d)(1)),  
12 by striking “, marihuana,”;

13 (5) in section 418(a) (21 U.S.C. 859(a)), by  
14 striking the last sentence;

15 (6) in section 419(a) (21 U.S.C. 860(a)), by  
16 striking the last sentence;

17 (7) in section 422(d) (21 U.S.C. 863(d))—

18 (A) in the matter preceding paragraph (1),  
19 by striking “marijuana,”; and

20 (B) in paragraph (5), by striking “, such  
21 as a marihuana cigarette,”; and

22 (8) in section 516(d) (21 U.S.C. 886(d)), by  
23 striking “section 401(b)(6)” each place the term ap-  
24 pears and inserting “section 401(b)(5)”.

25 (d) OTHER CONFORMING AMENDMENTS.—

1           (1) NATIONAL FOREST SYSTEM DRUG CONTROL  
2 ACT OF 1986.—The National Forest System Drug  
3 Control Act of 1986 (16 U.S.C. 559b et seq.) is  
4 amended—

5           (A) in section 15002(a) (16 U.S.C.  
6 559b(a)) by striking “marijuana and other”;

7           (B) in section 15003(2) (16 U.S.C.  
8 559c(2)) by striking “marijuana and other”;  
9 and

10           (C) in section 15004(2) (16 U.S.C.  
11 559d(2)) by striking “marijuana and other”.

12           (2) INTERCEPTION OF COMMUNICATIONS.—Sec-  
13 tion 2516 of title 18, United States Code, is amend-  
14 ed—

15           (A) in subsection (1)(e), by striking “mari-  
16 huana,”; and

17           (B) in subsection (2) by striking “mari-  
18 huana,”.

19 **SEC. 403. INELIGIBILITY FOR CERTAIN FUNDS.**

20           (a) DEFINITIONS.—In this section—

21           (1) the term “covered State” means a State  
22 that has not enacted a statute legalizing marijuana  
23 in the State;

24           (2) the term “disproportionate arrest rate”  
25 means—

1           (A) the percentage of minority individuals  
2           arrested for a marijuana related offense in a  
3           State is higher than the percentage of the non-  
4           minority individual population of the State, as  
5           determined by the most recent census data; or

6           (B) the percentage of low-income individ-  
7           uals arrested for a marijuana offense in a State  
8           is higher than the percentage of the population  
9           of the State that are not low-income individ-  
10          uals, as determined by the most recent census  
11          data;

12          (3) the term “disproportionate incarceration  
13          rate” means the percentage of minority individuals  
14          incarcerated for a marijuana related offense in a  
15          State is higher than the percentage of the non-mi-  
16          nority individual population of the State, as deter-  
17          mined by the most recent census data;

18          (4) the term “low-income individual” means an  
19          individual whose taxable income (as defined in sec-  
20          tion 63 of the Internal Revenue Code of 1986) is  
21          equal to or below the maximum dollar amount for  
22          the 15 percent rate bracket applicable to the indi-  
23          vidual under section 1 of the Internal Revenue Code  
24          of 1986;

1           (5) the term “marijuana” has the meaning  
2           given the term “marihuana” in section 102 of the  
3           Controlled Substances Act (21 U.S.C. 802); and

4           (6) the term “minority individual” means an in-  
5           dividual who is a member of a racial or ethnic mi-  
6           nority group.

7           (b) INELIGIBILITY FOR CERTAIN FUNDS.—

8           (1) IN GENERAL.—For any fiscal year begin-  
9           ning after the date of enactment of this Act in which  
10          the Attorney General, acting through the Director of  
11          the Bureau of Justice Assistance, determines that a  
12          covered State has a disproportionate arrest rate or  
13          a disproportionate incarceration rate for marijuana  
14          offenses, the covered State—

15                 (A) shall not be eligible to receive any Fed-  
16                 eral funds for the construction or staffing of a  
17                 prison or jail; and

18                 (B) shall be subject to not more than a 10-  
19                 percent reduction of the funds that would oth-  
20                 erwise be allocated for that fiscal year to the  
21                 covered State under subpart 1 of part E of title  
22                 I of the Omnibus Crime Control and Safe  
23                 Streets Act of 1968 (34 U.S.C. 10151 et seq.),  
24                 whether characterized as the Edward Byrne  
25                 Memorial State and Local Law Enforcement

1 Assistance Programs, the Local Government  
2 Law Enforcement Block Grants Program, the  
3 Edward Byrne Memorial Justice Assistance  
4 Grant Program, or otherwise.

5 (2) FUNDS FOR CERTAIN PROGRAMMING.—For  
6 purposes of paragraph (1)(A), Federal funds for the  
7 construction or staffing of a prison or jail shall not  
8 include Federal funds used by a prison or jail to  
9 carry out recidivism reduction programming or drug  
10 addiction treatment.

11 (3) REALLOCATION.—Any amounts not award-  
12 ed to a covered State because of a determination  
13 under paragraph (1) shall be deposited in the Com-  
14 munity Reinvestment Fund established under section  
15 404.

16 (c) EXPUNGEMENT OF MARIJUANA OFFENSE CON-  
17 VICTIONS.—Each Federal court shall issue an order  
18 expunging each conviction for a marijuana use or posses-  
19 sion offense entered by the court before the date of enact-  
20 ment of this Act.

21 (d) SENTENCING REVIEW.—

22 (1) IN GENERAL.—For any individual who was  
23 sentenced to a term of imprisonment for a Federal  
24 criminal offense involving marijuana before the date  
25 of enactment of this Act and is still serving such



1 term of imprisonment, the court that imposed the  
2 sentence, shall, on motion of the individual, the Di-  
3 rector of the Bureau of Prisons, the attorney for the  
4 Government, or the court, conduct a sentencing  
5 hearing.

6 (2) POTENTIAL REDUCED RESENTENCING.—  
7 After a sentencing hearing under paragraph (1), a  
8 court may impose a sentence on the individual as if  
9 this title, and the amendments made by this title,  
10 were in effect at the time the offense was committed.

11 (e) RIGHT OF ACTION.—

12 (1) IN GENERAL.—An individual who is ag-  
13 grieved by a disproportionate arrest rate or a dis-  
14 proportionate incarceration rate of a State may  
15 bring a civil action in an appropriate district court  
16 of the United States.

17 (2) RELIEF.—In a civil action brought under  
18 this subsection in which the plaintiff prevails, the  
19 court shall—

20 (A) grant all necessary equitable and legal  
21 relief, including declaratory relief; and

22 (B) issue an order requiring the Attorney  
23 General, acting through the Director of the Bu-  
24 reau of Justice Assistance, to—

- 1 (i) declare the State to be ineligible to  
2 receive any Federal funds for the construc-  
3 tion or staffing of a prison or jail in ac-  
4 cordance with subsection (b)(1)(A); and  
5 (ii) reduce grant funding of the State  
6 in accordance with subsection (b)(1)(B).

7 **SEC. 404. COMMUNITY REINVESTMENT FUND.**

8 (a) ESTABLISHMENT.—There is established in the  
9 Treasury of the United States a fund, to be known as the  
10 “Community Reinvestment Fund” (referred to in this sec-  
11 tion as the “Fund”).

12 (b) DEPOSITS.—The Fund shall consist of—

13 (1) any amounts not awarded to a covered  
14 State because of a determination under section  
15 403(b)(1); and

16 (2) any amounts otherwise appropriated to the  
17 Fund.

18 (c) USE OF FUND AMOUNTS.—Amounts in the Fund  
19 shall be available to the Secretary of Housing and Urban  
20 Development to establish a grant program to reinvest in  
21 communities most affected by the war on drugs, which  
22 shall include providing grants to impacted communities for  
23 programs such as—

- 24 (1) job training;  
25 (2) reentry services;

1           (3) expenses related to the expungement of con-  
2       victions;

3           (4) public libraries;

4           (5) community centers;

5           (6) programs and opportunities dedicated to  
6       youth;

7           (7) the special purpose fund discussed below;

8       and

9           (8) health education programs.

10       (d) AVAILABILITY OF FUND AMOUNTS.—Amounts in  
11       the Fund shall be available without fiscal year limitation.

12       (e) AUTHORIZATION OF APPROPRIATIONS.—There  
13       are authorized to be appropriated to the Fund  
14       \$500,000,000 for each of fiscal years 2018 through 2040.