Testimony from Gracie Johnson
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Last Prisoner Project

RE: Last Prisoner Project Calls on Delaware Legislature to Prioritize Criminal Justice Measures in Legalization Bills This Session

January 25, 2023

Dear Members of the House Health and Human Development Committee,

When a state legalizes adult-use cannabis, it is acknowledging that public interest has shifted on the criminalization of cannabis. The magnitude of this shifting perception is clear in the landscape of national legalization, as adult-use cannabis is now legal in 21 states. However, simply repealing the prohibition of cannabis is insufficient: millions of individuals across the U.S. still bear the lifelong burden of having a cannabis record, and tens of thousands are actively serving sentences for cannabis-related convictions.

While LPP was thrilled to see that Delaware’s legalization bill HB 2 includes funding for a Justice Reinvestment Fund, the processes set forth fail to offer justice to impacted individuals. In order to adequately address the past harms of cannabis criminalization, HB 2 must not only provide funding, but also outline legislative avenues for retroactive relief through state-initiated record clearance and resentencing processes.

State-initiated record clearance is an evidence-based policy that is key to redressing the lasting harm caused by cannabis criminal records and the significant and lingering barriers they impose to success. The negative effects of a criminal record on an individual’s life are well-documented. Even minor offenses, such as nonviolent drug possession, carry lifelong consequences that can impact an individual’s access to employment, housing, voting, financial stability, social assistance programs, and other opportunities, despite the debt that has already been paid to society. State-initiated record clearance is a process in which local and state agencies identify and clear eligible records, with no action or payment required by the record holder.

State-initiated resentencing is another cornerstone of comprehensive cannabis policy. The War on Drugs and the criminalization of cannabis-related activities have created a racially inequitable criminal legal system where people of color are nearly four times more likely than
their white counterparts to be arrested for cannabis, despite similar consumption rates. Requiring Delaware courts to reconsider cannabis-related sentences upon prohibition’s repeal provides a pathway to relief for individuals whose continued incarceration will no longer be in the interests of justice.

We urge the Delaware legislature to ensure that HB 1 and HB 2 include a state-initiated record clearance process for cannabis records and guarantee the reconsideration of cannabis-related sentences in light of prohibition's repeal. It is essential that Delaware’s legalization allows those trapped in jails, prisons, or on supervision for cannabis-related activities to have a fair pathway to relief.

**About Last Prisoner Project**
The Last Prisoner Project, 501(c)(3), is a national nonpartisan, nonprofit organization focused on the intersection of cannabis and criminal justice reform. Through policy campaigns, direct intervention, and advocacy, LPP’s team of policy experts works to redress the past and continuing harms of unjust cannabis laws. We are committed to offering our technical expertise to ensure a successful and justice-informed pathway to cannabis legalization in Delaware.