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AN ACT ALLOWING LAWFUL AND REGULATED COMMERCE IN CANNABIS AND THE INVESTMENT OF CANNABIS TAX REVENUE IN PUBLIC EDUCATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1 Cannabis Control and Licensure Commission

(a) A Cannabis Control and Licensure Commission ("CCLC") is hereby created and authorized to

(1) promulgate regulations and policies and issue licenses related to the cultivation, processing, manufacture, transport, distribution, testing, and sale of cannabis plants and cannabis-type substances, and the provision of cannabis-related products and services;

(2) promulgate regulations and policies and to take enforcement actions as reasonably necessary to ensure consumer safety and public health related to the use of cannabis and cannabis-related substances, products, and services;

(3) promulgate regulations and policies to ensure that the lawful cannabis industry and ancillary industries are economically competitive, inclusive of racial minorities, and inclusive of persons and communities who have been adversely affected by cannabis prohibition, and accessible to low-income persons seeking to start and/or participate in new businesses.

(4) Oversee the creation and administration of a community reinvestment fund which shall be funded through revenue derived from cannabis sales. The Community Reinvestment Fund through the CCLC shall have the authority to issue grants to Municipal Equity programs designees.

(b) The CCLC shall consist of one Chief Cannabis Commissioner to be elected as a Statewide Constitutional Officer and four(4) Associate Commissioners.

(a) One Associate Commissioner shall be appointed by the Governor on the basis of their expertise in the regulation and business of consumer commodities;

(b) One Associate Commissioner shall be appointed by the Chair of the Black and Puerto Rican Caucus on the basis of their expertise in community investment and equity for communities disproportionately impacted by the war on drugs;

- (c) One Associate Commissioner shall be appointed by the Legislature based on their expertise in Criminal Justice;
- (d) One Associate Commissioner shall be appointed by the Department of Consumer Protection based on their expertise in the production and distribution of Cannabis and Cannabis products.;¹
- (e) The CCLC shall be an independent public agency reporting to Governor and funded by an annual appropriation to be determined by the General Assembly.

(c) The Chief Commissioner shall serve as the chair and shall preside over all official activities of the CCLC.

d) The Governor may remove any member for neglect of duty, misconduct or malfeasance in office, after providing the member with a written statement of the charges and an opportunity to be heard.

(e) Three members shall constitute a quorum for conducting the business of the Commission. A vacancy shall not impair the right of the remaining members to exercise the powers of the Commission.

(f) The Commission may expend for such staff, consultants, investigators, administrators, counsel, and other assistants as may be necessary for the performance of its duties.

(g) Any party aggrieved by a final action of this Commission may seek review of that action in Superior Court or other Court of competent jurisdiction pursuant to section 4-183 of the general statutes.²

(h) The CCLC shall issue such regulations and policies, establish such fees and financial requirements, establish such investigative and enforcement mechanisms, and establish and issue such civil penalties and fines as it deems reasonably necessary to fulfill its duties under this Act, provided that:

- (1) no regulation or policy promulgated by CCLC sets any limit on the number of applicants who may apply for any license related to the cultivation, production, or sale of cannabis plants or cannabis-like substances;
- (1) no regulation or policy promulgated by the CCLC sets any limits on the number of licenses that may be issued related to the cultivation, production, or sale of cannabis plants or cannabis-like substances;

¹ Section 1 closely follows Massachusetts' 2016 Ballot Question 4 legalizing recreational Cannabis (passed and pending implementation) with three large exceptions: Paragraphs (g) and (h) are new. (g) is intended to clarify and ensure the enforceability of this Act. (h) is intended to provide stronger measures for ensuring the remedial and inclusionary nature of regulations and licensing under this Act.

² CT Uniform Administrative Procedures Act. Thirdly, Section 2, below, establishes an Advisory Board, similar to the Advisory Board found in Massachusetts Question 4, but structured to be *independent* of the Commission and provide a *check* on regulations and policies that violate this Act (i.e. regulations that create a disparate impact on communities of color, without mitigations).

- (2) no regulation or policy promulgated by the CCLC prohibits the hiring, application for a license, licensing, or participation in full or partial business ownership of any individual with a record of criminal arrest or conviction in the State, except for convictions for fraud related to securities regulated by the Securities and Exchange Commission.³
- (3) the implementation of any regulation and policy related to licensing and the promotion of cannabis-related businesses and employment shall be subject to review for disparate racial impact or burden on minorities in the State and for conformity with Title VI of the 1964 Civil Rights Act every two years. Upon a finding of disparate racial impact or burden the CCLC shall, within one year of the finding, amend such regulation or policy or provide such mitigation measures so as to substantially reduce the disparate impact or burden. Any part of this paragraph (4) shall be enforceable through a private right of action by any aggrieved person, including, but not limited to the violation of Title VI.⁴
- (4) Fair labor agreements are available to all owners and staff of a licensed cannabis business. All Cannabis related license applicants or license holders must attest that it has entered into a Labor Peace Agreement if the Applicant was requested to do so by a bona-fide labor organization. If a labor organization has yet to request a Labor Peace Agreement from the Applicants, then the Applicant shall attest that it will enter into Labor Peace Agreement if in the future a labor organization so requests. Refusal to do so shall make an applicant or license holder ineligible for approval or renewal.
- (5) in any licensure process under the jurisdiction of the CCLC in which a fee of any kind may be collected by any Department or Agency of the State, the CCLC shall give every municipality the option of administering the process locally and collecting the fees directly and for the benefit of the administering municipality. However, the CCLC shall, at all times, supervise and maintain oversight over such locally administered licensure and may revoke such local authority for good cause, which may include, but not be limited to, violations of any provisions of this Act, misappropriation of fees, and the inability to issue licenses in a fair or timely manner.⁵
- (6) any fee or financial requirement, but not including any form of tax, related to application or licensure shall be eligible for a financial hardship waiver. The

³ This exception on securities fraud is experimental and may be eliminated; I am, however, curious to see if it would be feasible to exclude individuals who have engaged in “white-collar” crimes that breach the public trust from the cannabis industry. It would be a nice reversal from the status quo in which high-end criminals are able to reenter money-making industries with few barriers.

⁴ This creation of a state private right of action under Title VI may appear redundant; however, I recommend being explicit where Title VI is concerned insofar as the Supreme Court, in Sandoval, held that Title VI does not, in itself, have a private right of action.

⁵ This paragraph reflects your request that the bill allow for a greater degree of local control over licensure and allowing municipalities to collect more revenue.

regulations for any such waivers shall be promulgated by the CCLC and shall be consistent with the remedial and inclusionary purposes of this Act.⁶

- (7) any person directly aggrieved by a regulation or policy promulgated in violation of any of the restrictions enumerated above may seek injunctive relief in any court of competent jurisdiction.
- (8) any authority under this Act delegated by the CCLC to a municipality or other public or private entity, shall be subject to all the restrictions enumerated above. Any person aggrieved by any entity acting pursuant to authority delegated to it by the CCLC shall have the same right to relief as if the action had been undertaken by the CCLC.

(i) Licensing Structure

(a) The license classification pursuant to CLCC shall, at a minimum, be as follows:

- (1) Cultivation; outdoor; Small.(under 10,000sq/ft)
- (2) Cultivation; indoor; Small.(under 10,000sq/ft
- (3) Cultivation; Outdoor, medium; (10,000-10,0000 sq/ft).
- (4) Cultivation; indoor, medium; (10,000-10,0000 sq/ft).
- (5) Cultivation; Indoor; Large.(More than 100,000 Sq/ft)
- (6) Cultivation; Outdoor; Large. (More than 100,000 Sq/ft)
- (7) Cultivation; Nursery.
- (8) Manufacturer, Home based.
- (9) Manufacturer, Medium(Under 100,000 sqft).
- (10) Manufacturer, Large(Over 100,000 square ft).
- (11) Retailer
- (12) Distributor/Delivery
- (13) Testing laboratory

⁶ Rather than state, in the Act, a cap on particular fees or a total waiver of bond or capital requirements (reasonable fees are difficult to predict this early on and a waiver of fees, bonds, and other financial requirements would tend to benefit the very wealthy and, possibly open the door to various kinds of fraud) it may make more sense to require that all fees and financial requirements be waivable on the grounds of financial hardship.

(14) Marijuana Lounge(Onsite consumption and sales)

(15) Special event license

(16) Microbusiness(Vertical integration under 10,000 sq ft)

(17) Worker owned Co-op

(18) Community Owned Garden

(j) In order to achieve the express purpose of encouraging participation by impacted communities, licensing fees shall not exceed \$1000 for any license except for facilities over \$100,000 sq feet which shall pay a flat fee of \$100,000.

(k) All municipalities designated as “Historically over policed communities” shall be eligible to establish their licensing structure under the *Municipal Cannabis Equity Pilot Program* prior to any new non-equity licenses being issued. Such equity programs will be overseen by the office of justice reinvestment with the express purpose of ensuring participation in ownership, employment, and consumer access by communities disproportionately impacted by cannabis prohibition.

(l) No general applicant licenses shall be awarded until the completion of the “*Municipal Cannabis Equity Pilot Program*” as deemed by the Office of Justice Reinvestment.

(m) Following the completion of the *Municipal Cannabis Equity Pilot Program*, In order to achieve the express purpose of empowering communities most impact by the war on drugs, all licenses will be controlled to ensure a 2-1 ratio of equity applicants to general applicants for all licenses.

(n) Equity applicants

(1) An applicant will be deemed an “Equity empowerment applicant” if 51%+ of owners meet 2 of the following criteria

(a) Has a history of arrest or imprisonment for a cannabis related crime

(b) Has a Parent who was convicted of a cannabis related crime

(c) Has been a resident of an “Historically over policed community” for at least 5 years

(d) Has an annual income at or less than 80 percent of Connecticut Average Median Income

(e) A person who is of Black, African American, Hispanic, Latino, or Native American descent

(2) Equity applicants shall be granted the following benefits

(a) All initial application fees to secure a license are waived

(b) Future license renewal fees shall be no more than 50% of the general license fee

(c) Prioritized application review and expedited processing

- (d) Assigned *Justice Reinvestment Officer* to assist with application process
- (e) Ability to apply for community reinvestment grants through the community reinvestment fund

Section 2 Cannabis Advisory Board

(a) There shall be a Cannabis Advisory Board (“Board”) to study and make recommendations regarding the regulation of cannabis and any activity related to cannabis.⁷ The Board shall consist of 9 members nominated by the Governor and confirmed by the Legislature and shall consist of:

- 1 expert in Cannabis cultivation
- 1 expert in Cannabis retailing
- 1 expert in Cannabis product manufacturing
- 1 expert in Cannabis testing
- 1 expert in Labor protections, law and negotiations
- 1 experts in public health
- 1 experts in Criminal Justice
- 1 experts in social welfare or social justice, and
- 1 attorney with experience providing legal services to Cannabis businesses, Cannabis consumers or medical Cannabis patients the State or in other relevant jurisdiction in which the medical or recreational use of Cannabis is permitted.

(b) Members of the Board shall serve renewable terms of 2 years, but shall not serve more than a total of 6 years. Members of the Board shall serve with reasonable compensation to be set by the Governor and shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties. Members of the Board shall be subject to State conflict-of-interest laws and policies.

(c) The Board shall be an independent public agency reporting to Governor and funded by an annual appropriation to be determined by the General Assembly.

(d) The Board shall meet at its discretion but no less than monthly. A majority of the members of the board present and voting shall constitute a quorum.

(e) The Board shall have the power to hire such staff, consultants, and other such persons as it deems necessary to carry out its duties.

⁷ Departing from the Massachusetts Question 4 model, this Advisory Board is independent of the Commission. I preserve the advisory nature of the Board here, however, and it has little or no regulatory power. Therefore, I suggest that the purview of the Board be as wide as possible so that that it may be a voice for fairness and the protection of persons and communities of color in cannabis regulation and policy. This may be important to prevent regulatory capture, with the Commission, by large corporate interests.

(f) The Board shall have standing to seek judicial review of any action taken by the CCLC or its delegatee that it reasonably believes to violate any provision of Section 1(h) of this Act.

(a) The Advisory board may opt to have such actions reviewed by the Attorney General's office as is expedient to the resolution of conflict within the law

(g) The Board shall:

(1) advise the CCLC, Governor, and the General Assembly on Cannabis cultivation, processing, manufacture, transport, distribution, testing and sale, with emphasis on ensuring that the lawful cannabis industry remedies past racial discrimination in the application and enforcement of state and federal drug laws and that the lawful cannabis industry encourages employment of and investment in persons and communities of color, including persons and communities adversely affected by cannabis prohibition and other drug laws;

(2) consider all matters submitted to it by the CCLC, the Governor, and the leadership of the General Assembly;

(3) on its own initiative, recommend to the CCLC, the Governor, or the leadership of the General Assembly guidelines, rules and regulations and any changes to guidelines, rules and regulations that the board considers important or necessary; and

(4) advise on the preparation of regulations and policies under this Act.

(h) The Board may, at its sole discretion, consider, investigate, and render an advisory opinion on any matter submitted to it by any person or entity not named in this Section 2. The Board may also, on its own initiative, undertake such investigations or studies and issue such advisory opinions as it deems reasonable and consistent with the purposes of the Board under this Act.

Section 3 Criminal Code

(a) Notwithstanding any law or regulation to the contrary, no person shall be:

(1) arrested, prosecuted, detained, and sentenced or disqualified under the general statutes or any regulations promulgated pursuant to any general statutes;

(2) denied any right or privilege or have any right or privilege restricted or revoked, or

(3) have any property or asset subject to seizure or forfeiture

for possessing, using, cultivating, purchasing, processing, manufacturing, transporting, selling, or sharing, with or without remuneration, cannabis plants or cannabis-related substances or for facilitating or assisting in any activity related to cannabis, except as permitted under the regulations or policies related to cannabis promulgated by the CCLC or as permitted under such statutes and regulations that have been expressly reviewed and ratified by the CCLC. ***This subsection shall be retroactive to the passage of the act.***

(b) Notwithstanding any law or regulation to the contrary, any person who has been arrested or convicted of an offense under Title 21a, Title 53, or Title 53a of the Connecticut General

Statutes where the underlying conduct in any way related to cannabis and/or marijuana shall be eligible for the expungement of that offense from his or her criminal record.

(c) Notwithstanding any law or regulation to the contrary, any person who is serving a term of involuntary confinement in any facility, is subject to a suspended term of confinement, or is subject to probation or parole for any offense for which cannabis was a necessary element of the offense shall have his or her term of confinement, probation or parole for the specific offense commuted to such length of time as he or she has already served.⁸

(d) The Departments and Agencies of this State, the Judiciary of this State, and the municipalities of this State shall, within 180 days of this Act's passage into law, submit to the CCLC, the Advisory Board, the Governor, and the leadership of the General Assembly such recommendations for the repeal or amendment of existing statutes, regulations, and ordinances, and the enactment of new statutes, regulations, and ordinances, as they deem necessary for the implementation of this Section 3.

(e) The failure of any body or person to be established or to undertake any action required by this Act shall not prevent or delay the effectiveness of Section 3(a), (b), and (c). Any person directly aggrieved by a violation of any part of Section 3 may seek direct judicial relief if no other forum for relief is available due to a delay in the implementation of this Act.⁹

(f) In addition to any other cause of action or remedy under (e), upon the effective date of Section 3, any person directly aggrieved by a criminal prosecution or seizure of property or assets in contravention of Section 3(a) or by involuntary confinement in contravention of Section 3(c) may seek relief under the civil rights statutes of this State. A complainant for relief under (f) shall be entitled to a rebuttable presumption that a violation of Section 3(a) or 3(c) is an intentional deprivation of rights under color of law.¹⁰

(g) Any fines, discipline, or penalties levied for cannabis activity without a permit shall be civil in nature and carry no threat of prison or confinement

Section 4 Taxation of Cannabis

(a) A cannabis excise tax of (10%) is hereby levied at the point of sale from any consumer transaction derived from commerce in or substantially related to cannabis plants or cannabis-related substances.

⁸ This is a more condensed version of the MCBA model bill language, In light of the drafting styles that I have seen in some CT bills, brevity may be seen as a virtue in CT bill proposals.

⁹ This paragraph forces key remedial provisions related to criminal justice to take effect, regardless of what state agencies do.

¹⁰ This paragraph gives civil rights enforcement teeth to individuals for the most serious problems that may arise if the Act is delayed (prosecution, asset forfeiture, continued imprisonment).

(b) Any state excise taxes levied at the point of sale shall not exceed 10% of the total price of the purchase. Total taxes, State and municipal, shall not exceed 20% of the total purchase price.

(c) Municipalities may adopt the creation of a municipal excise tax of no more than 10% at the point of sale, which shall be collected by the state but returned to the municipality in which it was collected.

(d) The CCLC in collaboration with the office of Justice Reinvestment, shall make recommendations to the general assembly on best uses of cannabis funds left over after CLCC program costs to effectively repair the damage done by the war on drugs. The CLCC shall give priority in the distribution of cannabis business tax revenue to:

(1) No less than 51% of the gross revenue collected through the cannabis business tax shall go to; to the capital improvement of public school districts in “Historically over policed” communities to ensure all Public K-12 institutions have;

(a) adequate physical facilities and classrooms that provide sufficient light, space, heat, and air to permit children to learn

(b) adequate instrumentalities of learning such as desks, chairs, pencils, computers, and reasonably current textbooks

(c) Sufficient personnel adequately trained to teach those subject areas

(2) No less than 20% Shall go to the community reinvestment fund through which municipalities can apply for grant dollars

(3) No less than 20% shall go to fund municipal equity programs

(4) All remaining money shall go toward public education campaigns through faith based or non-profit partners currently engaged in youth support services

(e) The cannabis business tax under this Section 4 shall not relieve or be the basis for relief for any person or entity of any other tax obligation, liens, or garnishments.

(f) No portion of the revenue generated under this act may be provided to law enforcement agencies, with the exception of offices providing public counsel services.

Section 5 Office of Justice Reinvestment

(a) An Office of Justice Reinvestment is hereby created as an entity within and reporting to the CCLC, with the explicit goals of:

(1) fostering a diverse lawful Cannabis economic sector, invest in communities that have been historically harmed by Cannabis prohibition, remedy the cumulative harms of disparities in the criminal justice system and of social stigmatization related to Cannabis prohibition;

(2) ensuring that a substantial portion of State revenue derived from the lawful Cannabis sector is directed toward minority communities that have disproportionately experienced harm from Cannabis prohibition.

(3) ensure that applications for licensure in Cannabis-related business are encouraged from minority communities, other communities adversely affected by Cannabis prohibition, and entities that qualify as minority-owned business enterprises.

(4) work with a diverse range of public and private agencies, organizations and groups to publicize the availability of economic opportunities under this Act.

The office of Justice Reinvestment is hereby granted the powers to:

(1) Oversee implementation of the “*Municipal Cannabis Equity Pilot Program*”

(2) Ensure municipal equity programs are supported

(3) Collect industry demographic data

(4) Ensure equity goals in ownership, employment and consumer access are met

(5) Revoke licenses for any license holder who does not meet the social equity goals outlined in their original application

(6) Ensure fair labor agreements are available to all staff of a licensed cannabis business. All Cannabis related applicants or license holders must attest that it has entered into a Labor Peace Agreement if the Applicant was requested to do so by a bona-fide labor organization. If a labor organization has yet to request a Labor Peace Agreement from the Applicants, then the Applicant shall attest that it will enter into Labor Peace Agreement if in the future a labor organization so requests. Refusal to do so shall make an applicant or license holder ineligible for approval or renewal.

(7) Engage with municipal governments to promulgate regulations for the *Municipal Cannabis Equity Pilot Program*. No more than 10(10) municipalities shall be chosen by the OJR as “Historically over policed communities” based on historical arrest rates in which a municipality can show disproportionate policing of it’s resident for cannabis crimes, or other such designation as previously defined by the state. The purpose of this program is to:

(a) Ensure communities most affected by cannabis prohibition have the ability to own and operate 51%+ of the cannabis businesses in designated distressed urban communities.

(b) Ensure 51%+ of employees within new cannabis businesses are from impacted urban communities.

(c) Ensure that 51%+ of tax revenue generated from cannabis sales go toward improving the education programs of designated distressed urban municipalities

(d) Municipalities that have passed a municipal cannabis equity ordinance, and certified as a “Historically over policed community” per their equity study, shall be eligible for the Municipal Cannabis Equity Pilot Program.

(e) Municipalities approved for the program shall be provided:

(i) Prioritized licensing review and approval;

(ii) priority in application for community reinvestment funds;

- (iii) Assigned a specific Community Justice officer from the Office of Justice Reinvestment to assist with applying for community reinvestment funds;
 - (iv) The power to set the number of licenses as deemed appropriate by local equity programs, to encourage full participation by impacted communities
 - (v) The ability to issue grants or other start up resources to designated equity applicants
- (8) Oversee the development of proper regulations to distribute funds from the community reinvestment fund to Municipal or Community applicants
- (a) In order for a municipal government to be eligible for community reinvestment dollars, they must have an established Municipal Cannabis Equity Ordinance established;
 - (b) Members of the general public may also submit applications for funding requests to the Office of Justice Reinvestment, provided those residents have participated in sufficient training programs as deemed appropriate by the OJR

(b) Within 180 days from the effective date of this Act, the CCLC shall appoint a Director of Cannabis Justice that shall oversee the Office of Justice Reinvestment.

(c) The Director shall have executive authority to carry out the purposes of the OJR as described in (a) and to employ such persons, delegate such duties, create such departments, promulgate such regulations and policies, establish such programs, and expend such allocated funds as it deems necessary to carry out the functions of the OJR.

(d) Beginning two fiscal years from the establishment of the OJR, the State Department of Revenue shall, each fiscal year, direct the first 10 million dollars of State revenue derived from any Cannabis-related sales taxes, corporate income taxes, property licensing fees, permitting fees, and sales of state or municipal property from the preceding fiscal year, to the OJR.

(e) After the initial two years, a minimum of 10% of total cannabis related revenues shall be used to fund the OJR and it's programming.

(f) Using such funds allocated under (d) and (e), the office shall promulgate, establish, and implement such regulations, policies, grants, loans, programs, and technical assistance as it deems necessary to carry out its duties under this Section and to support such activities as specifically authorized or required under any provision of this Act.

(g) The Director shall designate one or more Justice Reinvestment Officers who shall have such authority as the Commission deems necessary to carry out the following tasks:

(1) lead outreach, training, and education efforts related to the purposes of the OJR as described in (a) or any other purpose or goal of this Act

(2) maintain records and evaluate the effectiveness of such outreach, training, and education efforts

(3) measure the performance of entities and individuals regulated or licensed under any part of this Act relative to the purposes of the OJR

(4) investigate entities or persons regulated under any provision of this Act for compliance with any regulation, policy, or remedial purpose of this Act; issue subpoenas for documents, witnesses, or any evidence relevant to an investigation; issue written determinations of probable cause that an entity or person is in violation of any provision of this Act; seek injunctive or other relief, including but not limited to suspensions of licenses or permits, for any violation of any provision of this Act or on behalf of any entity or person or class of entities or persons aggrieved by a violation of any provision of this Act.

(5) provide training and education regarding this Act to police departments, prosecutors and public defenders, parole departments, police oversight boards, the judiciary, and any other law enforcement or judicial entity

(6) provide implicit-bias training and education to law enforcement and judicial bodies

(7) provide technical, investigative, and legal assistance to police oversight bodies

(g) In cooperation with other agencies of the State or its municipalities, the Office of Cannabis Justice Reinvestment shall ensure that, in any license or permit issued by any State or municipal agency for the specific purpose of the cultivation, sale, manufacture, or use of Cannabis or Cannabis-related goods or services, the license or permit application shall require an express plan to reinvest a portion of revenue generation by the licensee or permittee into communities disproportionately harmed by Cannabis prohibition, through projects including but not limited to community infrastructure development and job creation programs. The Commission shall ensure that such a plan is a substantial factor in the evaluation of the application. However, no portion of the revenue generated under this Section may be provided to law enforcement agencies, with the exception of Offices providing public counsel services.

(h) The office of Justice Reinvestment shall, in coordination with the CCLC and Advisory Board, annually promulgate a schedule of minimum reinvestment percentage required for each type of license or permit subject to paragraph (g).

(i) The Commission shall be authorized to suspend or revoke any license or permit whose holder fails to substantially comply with the reinvestment plan proposed in its application. Within 180 of its establishment, the Commission shall promulgate procedures and regulations for an administrative fair hearing regarding the suspension or revocation of a license or permit for substantial failure to implement a reinvestment plan.

(j) The Commission shall keep records on the race, gender, and city of residence of each applicant for a license or permit issued by any State or municipal agency for the specific purpose of the cultivation, sale, manufacture, or use of Cannabis or Cannabis-related goods or services.

(k) For every license or permit holder subject to (j) and employing more than one person, the Commission shall require the holder to annually submit a report summarizing the number of the holder's minority and women owners, directors, and employees.

(l) The Commission may promulgate such regulations or establish such programs that provide financial or other incentives for license or permit holders who meet or exceed the goals of their reinvestment plans as it finds necessary to carry out the remedial purposes of this Act.

(m) The Commission may promulgate such regulations, including provisions for license or permit non-renewal or revocation, or establish such civil penalties for license or permit holders who substantially fail to meet the goals of their reinvestment plans, as it finds necessary to carry out the remedial purposes of this Act.

(n) This Section shall be funded by an emergency appropriation, within 180 days of the effective date of this Act, from the General Operating Budget of the State for the first two years and funded thereafter by a line item in the Annual Budget of the State.

Section 6 Relief From Sentences, Penalties, and Court Costs

This is a "clean slate" design, that commutes all sentences and penalties for all Cannabis-related offenses including distribution and trafficking. I have included exceptions for sale to minors, endangerment or neglect of a minor, and operating a motor vehicle under the influence.

(a) Any person serving a term of or subject to:

(1) criminal or civil confinement in an adult or juvenile facility;

(2) confinement, but presently suspended;

(3) probation or parole;

(4) community service;

(5) any other sentence involving restrictions upon liberty;

(6) any monetary penalty; or

(7) court costs, probation fees, public defender fees or other fees directly related to the administration of justice;

(8) for any offense in which Cannabis, in any form, or paraphernalia for the consumption of Cannabis is involved shall have his or her term for the specific offense commuted to such length of time he or she has already served or, have the outstanding balance for any penalties or fees directly related to the offense reduced to zero.

(b) Notwithstanding relief granted under (a), any person participating in any court-ordered drug treatment, victim restitution or victim reconciliation program for an offense that is now lawful under this Act may voluntarily continue in such program under the same or more lenient terms.

(c) Voluntary continuation in a program under (b) shall not constitute an admission or evidence of guilt or liability in any criminal or civil proceeding or impair eligibility for any relief or benefit under this Act.

Implementation of the Clean Slate

(d) The Commissioners of the Departments of Corrections and Probation shall be authorized to and shall promulgate such regulations and policies as necessary to implement (a) and (b) of this Section no more than 30 days from the effective date of this Act. Regulations and policies promulgated under this Section shall be deemed emergency regulations and policies under the Administrative Procedures Act of this State and shall take immediate effect.

Implementation of Return

(f) The Administrative Office of the Trial Court shall, within 180 days of the effective date of this Act, issue a form that may be filed by any person in the District Court where they reside to seek relief under paragraph (e). Any form issued under (f) and any Rules of Court for the use of such a form shall be easily understood and completed by a person of ordinary intelligence and shall be issued in the five most common languages of this State. No filing fees or other court fees shall be required to seek relief under (e).

(g) Monies to be issued under (e) shall not be unduly delayed for failure by persons to comply with procedural Rules issued under (f) or other Rules of the Court that do not directly relate to the substantive merits of a person's claim to relief under (e).

(h) Any person aggrieved by the failure of any administrative agency or the Administrative Office of the Trial Court to implement this Section in a reasonable and timely manner may seek a writ of mandamus or other similar order from the superior court where he or she resides.

(i) Any person aggrieved by a violation of this Section may seek injunctive or other relief from the superior court where he or she resides or is otherwise housed, incarcerated, or sentenced.

New paragraph allowing for enforcement of this Section even if this part or any other part of the Act is delayed in its implementation.

(j) The failure of any body or person to be established or to undertake any action required by this Act shall not prevent or delay the effectiveness of this Section. Any person directly aggrieved by a violation of any part of this Section may seek direct judicial relief if no other forum for relief is available due to a delay in the implementation of this Act.

New paragraph creating a specific civil rights action for a violation of this section related to criminal prosecution, asset forfeiture, or imprisonment (fundamental rights violations).

(k) In addition to any other cause of action or remedy under this Section, upon the effective date of this Section, any person directly aggrieved by a criminal prosecution or seizure of property or assets in contravention of this Section or by involuntary confinement in contravention of this Section may seek relief under the civil rights laws of this State. A complainant for relief under (k) shall be entitled to a rebuttable presumption that a violation covered by (k) is an intentional deprivation of rights under color of law.

(l) Notwithstanding any contrary provision of this Section, no relief under this Section shall apply to any offense directly related to the sale or other distribution of Cannabis to a minor, endangerment or neglect of a minor, or operating a motor vehicle while impaired by Cannabis.

Section 7 Expungement

(a) “Marijuana-related offense” means a violation of section 21a-279a, 21a-279(a), 21a-279(b), 21a-277(b), 21a-278(b), 21a-278a(b), 21a-267(d), 21a-267(a), 21a-267(b), 21a-267(c), 21a-277(c), 21a-408g(a), 21a-408g(b).

(b) On or after July 1, 2019, no prosecuting authority may initiate or maintain a prosecution for a marijuana-related offense, and any person charged with a marijuana-related offense shall be entitled to dismissal of any marijuana-related offense charge(s) pending against them.

(c) On July 1, 2019, all police and court records and records of the state’s or prosecuting attorney or the prosecuting grand juror reflecting a conviction of marijuana possession in any court in this state shall be erased by operation of law. Subsequent to the erasure, the clerk or any person charged with the retention and control of such records shall not disclose their existence or any information pertaining to any conviction so erased to anyone other than the person convicted or their counsel. Records erased pursuant to this subsection shall not be admitted as evidence in any proceeding conducted under the laws of this state.

(d) No later than January 1, 2020, the Department of Emergency Services and Public Protection shall erase all records of arrests and convictions for marijuana-related offenses in all criminal information systems operated by it, including, but not limited to, the Connecticut Justice Information System, the Connecticut On-Line Law Enforcement Communications and Telecommunications System, the Master Name Index / Computerized Criminal History, and the Offender Based Tracking System.

(e) No later than January 1, 2020, the Department of Emergency Services and Public Protection shall ensure the removal of any conviction erased by subsection (a) from the Federal Bureau of Investigation’s Interstate Identification Index and the National Instant Criminal Background Check system.

(f) No later than February 1, 2020, the attorney general shall issue a letter to background check data aggregators explaining that the General Assembly has abolished the above-enumerated marijuana-related offenses, that the effect of the abolition is the same as a pardon under the law

of this state, and that any person convicted in the past of a marijuana-related offense is treated by the law of this state as if the conviction never occurred. The attorney general shall make such letters available on the public website of the attorney general's office.

(g) It shall be a discriminatory practice in violation of sections 46a-60, 46a-64, 46a-64c, 46a-66, 46a-70, 46a-71, 46a-72, 46a-73, 46a-75, and 46a-76, to discriminate against an individual because of such individual's erased conviction of marijuana possession.

Section 8: Family and Children

Per a recommendation, the Family Law and Cannabis Alliance model language has been adopted here and broadened to conform to the way this model bill is generally drafted (see underlining). Adoption is also expressly included in a new section, per another recommendation.

(a) Neither the presence of cannabinoid components or metabolites in a person's bodily fluids, nor conduct related to the use of Cannabis or the participation in Cannabis-related activities lawful under this Act by a custodial or noncustodial parent, grandparent, pregnant woman, legal guardian, or other person charged with the well-being of a child, shall form the sole or primary basis for any action or proceeding by a child welfare agency or in a family or juvenile court. This subsection shall apply only to conduct in compliance with this Act.¹¹

(b) Neither the presence of cannabinoid components or metabolites in a person's bodily fluids, nor conduct related to the use of Cannabis lawful under this Act may be the sole basis of any adverse finding, adverse evidence, or restriction of any right of privilege in a proceeding related to adoption, fostering, or a person's fitness to adopt or foster.

Section 9: Educational Institutions, Financial Aid, and Student Loans

Per recommendations, this Section has now been revised to include a new disciplinary reporting requirement in (a) and expanded to address financial aid, student loans, and student housing.

(a) (1) Any educational institution receiving public funds or subject to State regulations ("school") shall revise and implement student disciplinary policies to conform to the criteria in this Section.

(2) The Departments of Elementary and Secondary Education and Department of Higher Education, in consultation with the Advisory Board, shall promulgate regulations and policies for the implementation of this Section. Such regulations shall include but not be limited to regulations for collecting information regarding student disciplinary actions related to Cannabis and to undertake remedial measures to

¹¹ <http://flcalliance.org/resources/parent-protective-model-language/> February 19, 2015 site last updated.

correct discriminatory conduct, disparate impacts, and improper implementation of this Section by any school covered by (a).

(3) Each school shall file a detailed report, consistent with regulations and policies issued under (2), with the relevant regulatory agency for each disciplinary action related to Cannabis.

(b) Any student found unlawfully in possession of Cannabis on the premises of his or her school or while engaged in school activities, such as field trips, athletic competitions, or science fairs off-premises, may receive or be subject to counseling, drug-related education, or community service related to the school, or any combination of such actions programs as may be appropriate for the individual student's educational and social needs. Such disciplinary action must not be more severe than equivalent school penalties for the underage use of alcohol.

(c) Any school may elect to establish a restorative justice program for addressing matters related to Cannabis, other controlled substances, alcohol or tobacco. Any such restorative justice program shall include, but not be limited to, an education curriculum that may be tailored to the needs and circumstances of individual students.

(d) Any school may elect to establish a Cannabis diversion program or other substance abuse diversion program, as part of a school drug policy. Any such diversion program shall include, but not be limited to, counseling, support, and education regarding Cannabis abuse and other substance abuse.

(e) No student found unlawfully in possession of Cannabis on school premises or while engaged in school activities, such as field trips, athletic competitions, or science fairs off school premises, may be subject to out of school suspension of more than 10 days.

(f) No school disciplinary policy shall be construed to prohibit the involvement of student or school in a criminal investigation reasonably related to the unlawful possession or distribution of Cannabis on school premises or in the course of school activities. In any investigation or other proceeding where a student subject to school discipline for possession of Cannabis may reasonably be expected to be a witness or to be subject to arrest, the student shall have a right to independent counsel free of charge. Any student entitled to counsel under this (f) or any other provision of this Act or under State or Federal law shall be promptly informed of his or her right to counsel and be granted the means to request counsel by the school.

(g) No beneficiary of financial aid or student loans shall have his or her eligibility, rights, privileges or options revoked, restricted, or otherwise adversely changed on the basis of Cannabis-related activity lawful under this Act. Any contractual provision or policy contrary to (g) shall be deemed void and against public policy.

(h) No person lawfully dwelling in student housing shall be subject to discipline, termination of residency, eviction, or any other housing-related sanction for Cannabis-related activity lawful under this Act or school discipline for Cannabis-related activity, where permitted under this Section, that does not substantially involve housing-related misconduct. Any contractual provision or policy contrary to (h) shall be deemed void and against public policy.

(i) Violation of any part of this Section shall give rise to a private right of action by any student subject to school discipline under this Section or any legal parent or guardian or such a student. Such an action may be filed in the district court in the city or county of the school.

Section 10: Housing

New prohibition against eviction for unlawful Cannabis activity by a minor (a)(3), per a recommendation. However, this may have complicated consequences for youth shelters and other juvenile facilities under (b).

(a) It shall be unlawful to:

(1) refuse to rent, lease, license, sell, or otherwise make unavailable any unit of housing on the basis of a person's prior charge or conviction for a Cannabis-related offense;

(2) make any inquiry into a prospective tenant, licensee, or purchaser's criminal history related to Cannabis;

(3) discriminate in the terms, conditions, or privileges of the sale or rental of any dwelling on the basis of a person's prior charge or conviction for a Cannabis-related offense.

(b) Homeless shelters, respite homes, nursing homes, and other long-term care facilities shall not be exempt from the provisions of (a).

(c) The provisions of (a) shall not apply to sober living houses or other housing intended to provide a therapeutic or rehabilitative environment related to drug or alcohol use or to temporary lodgings, including hotels, motels, camps, and private homes rented for brief stays.¹²

Qualifying Public Housing (Housing Governed by the Quality Housing and Work and Responsibility Act of 1998)

Advocates should draft this section to target the particular federal subsidy streams in their State that impose restrictions on housing individuals with drug convictions or for drug-related activities.

(a) This Section shall apply to any housing governed by the federal Quality Housing and Work and Responsibility Act of 1998 or any housing governed by any other provisions of federal law

¹² Incorporation of the particular State's Fair Housing Law exclusions & inclusions may be appropriate here.

that grant persons or entities that own or manage federally-assisted housing the discretion to deny persons housing to or evict persons from housing on the basis of drug-related offenses.¹³

(b) It shall be unlawful to refuse to rent, lease, license, or otherwise make unavailable any unit of housing covered by this Section on the basis of a person's charge or arrest for a Cannabis-related offense, without conviction or other substantial independent and relevant evidence based on actual conduct.¹⁴

(b) All persons or entities that own, manage, or otherwise regulate housing covered under (a) shall provide written notification of any denial of housing or any eviction on the basis of the lawful cultivation, possession, or use of Cannabis or other Cannabis-related offense to the Cannabis Control and Licensure Commission, the Cannabis Advisory Board, and the Office of Justice Reinvestment. Such written notice shall provide, with specificity, the name and address of the affected person, the race and ethnicity of the affected person, the gender of the affected person, the persons with knowledge and decision-making authority regarding the denial or eviction, the specific circumstances of the denial or eviction, and the specific reasons, facts, and evidence for the denial or eviction. Notice shall be issued to the Office of the Attorney General of the State no more than 7 days after the denial or issuance of a notice of eviction.

(c) The State Office of Attorney General shall conduct periodic disparate racial impact reviews of denials and evictions for Cannabis-related reasons under Title VI of the federal Civil Rights Act of 1964, at its discretion, but not less than once every 2 years.

(d) Should any Title VI review identify any pattern of disparate racial impact or intentional discrimination in the provision or retention of federally-assisted housing on the basis of lawful Cannabis activity, the State Office of the Attorney General shall promptly undertake, upon the recommendation of the Cannabis Control and Licensure Commission or on its own initiative, such remedial and corrective measures as it deems reasonable, including seeking equitable and injunctive relief and imposing civil penalties not to exceed \$100,000 for each instance of a

¹³ This discretion is established in federal law. See U.S. Department of Housing and Urban Development Helen R. Kanovsky, Memorandum of January 20, 2011, Medical Use of Cannabis and Reasonable Accommodation in Federal Public and Assisted Housing. Also, Figgs v. Boston Housing Authority, 469 Mass. 354 (2014), affirming federally-funded housing authority's discretion to evict on the basis of drug possession, despite state decriminalization. This section seeks to prevent abuse of such discretion without contravening the federal grant of discretion.

¹⁴ This codifies HUD guidance stating that an arrest is not evidence of criminal activity that can support an adverse admission, termination, or eviction decision. PIH 2015-19, Issued Nov. 2, 2015. HUD guidance also states, however, that "although a record of arrest(s) may not be used to deny a housing opportunity, [Public Housing Authorities] and owners may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicated that the individual is not suitable for tenancy and the PHA or owner has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions and tenancy decisions." PIH 2015-19 at p. 4.

policy or practice that creates a disparate racial impact in the provision or retention of housing covered by this Section.

Section 11: Implementation Through Local Delegation and Control

This Section attempts to develop a local implementation option if the State delays implementation of this Act, per a recommendation. It draws upon Colorado's example. In this Section, local implementation must conform to the remedial and protection dimension of this Act. Under (c) (1) local measures are then superseded if there is a subsequent State measure on the same matter. However, in (c) (2), any right, benefit or privilege lost that is lost in (1) should have the opportunity to be regained at the State level.

(a) (1) Should any part of this Act regarding the licensing of Cannabis-related businesses fail to be implemented within the timetables specified in the Act, any municipality may issue such temporary ordinances, regulations, and licenses that it deems reasonable for the operation and encouragement of Cannabis-related business.

(2) However, any such temporary ordinances, regulations, or licenses that conflict with regulations and policies issued by CCLC or that contravene any remedial or protective part of this Act shall be deemed void.

(b) (1) Any temporary ordinances, regulations, or licenses, or any other municipal activity authorized and conducted under this Section must conform to the restrictions and requirement for regulations and policies promulgated by the CCLC as specified in this Act.

(2) Lawful conformity under (1) shall be subject to judicial review by any aggrieved party.

(3) Any aggrieved party shall have a private right of action for the enforcement of any temporary ordinance, regulation, or license process issued under this Section.

(c) (1) Any temporary ordinances, regulations, or licenses issued under this Section shall be preempted by any subsequent lawful State law, regulation, or licensure process regarding the same or equivalent subject matter, type of Cannabis-related business, or Cannabis-related business practice.

(2) However, no right, benefit, or privilege conferred to a person or business under this Section by a municipality shall be revoked or terminated pursuant to (c)(1) without the opportunity to secure a comparable right, benefit, or privilege through a State administrative process in a timely manner. Any such administrative process shall include the opportunity to apply for a financial hardship waiver of fees and costs.