



September 29, 2021

The Honorable Jerrold Nadler
Chairman
House Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jim Jordan
Ranking Member
House Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Vote YES on the Marijuana Opportunity Reinvestment and Expungement (MORE) Act

Dear Chairman Nadler, Ranking Member Jordan, and Members of the House Committee on the Judiciary:

On behalf of the American Civil Liberties Union (ACLU) and The Leadership Conference on Civil and Human Rights, we write to communicate our strong support of the Marijuana Opportunity Reinvestment and Expungement (MORE) Act, H.R. 3617, and encourage you to vote in favor of this legislation. We also urge you to work to remove expungement exclusions from this legislation and to oppose any amendments that may shrink the impact of this bill.

The MORE Act is bipartisan legislation supported by the [Marijuana Justice Coalition](#), of which the ACLU and The Leadership Conference are members. Since first convening in 2018, the Marijuana Justice Coalition has worked tirelessly to advance the MORE Act – the most sweeping piece of marijuana reform ever considered by the U.S. Congress. In 2019, shortly after the bill’s introduction in the last Congress, more than [100](#) national and state organizations collectively urged the House of Representatives to swiftly advance this comprehensive marijuana justice bill that addresses justice reform, racial justice, and equity.

Last year, the House made history by passing the MORE Act, marking the first time a full chamber of Congress has taken up and voted favorably for a marijuana descheduling bill.¹ Since that time, the circumstances of this past year have made the War on Drugs even more untenable and amplified the voices of those demanding transformation in our criminal-legal system. In the face of a growing national dialogue on discriminatory law enforcement practices, including the disproportionate policing of drug use in communities of color, transforming our criminal-legal system and redressing its harms is more relevant and more pressing than ever before. In fact, sixty-five percent of voters support ending the War on Drugs. Marijuana reform represents a modest but necessary first step toward that transformation and toward repairing the harm wrought by this failed policy scheme. The MORE Act remains the most effective and equitable way forward.

Overincarceration and racial disparities created by the enforcement of marijuana laws remain significant issues in the United States. These prohibitions result in 545,602 marijuana arrests annually, with a disproportionate effect on communities of color.² Black people are 3.64 times more likely to be arrested for possession of marijuana than White people, despite studies indicating that the usage rate between the

¹ Lozano, Alicia Victoria, “House passes historic bill to decriminalize cannabis.” *NBC News*. Dec. 4, 2020. <https://www.nbcnews.com/politics/congress/congress-takes-historic-bill-decriminalize-cannabis-n1249905>.

² FBI, 2019 Crime in the United States. <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019>.

two groups is nearly the same.³ The enforcement of these laws burdens individuals with drug conviction records that affect their ability to work, find housing, and provide for their families and their future. For example, individuals with a past felony drug conviction are subject to a lifetime ban from receiving Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF) benefits.⁴ This ban undermines the efforts of those striving to transition successfully into the community and support their families.⁵ Further, as marijuana possession can result in deportation, marijuana criminalization remains a driver of family separation in the immigration system.⁶ Additionally, although Black, Latino, and Indigenous people have been disproportionately affected by cannabis criminalization, they have overwhelmingly been shut out of the regulated marijuana marketplace due to financial barriers and past drug convictions barring entry to the market. Currently, estimates show that less than one percent of the marijuana industry is owned or operated by people of color.⁷

The MORE Act addresses the collateral consequences of federal marijuana criminalization and takes steps to ensure the legal marketplace is diverse and inclusive of individuals adversely affected by prohibition. The legislation begins by removing, or descheduling, marijuana from the Controlled Substances Act. This provision alone will have a significant impact, as it will decriminalize marijuana at the federal level while enabling states to set their own regulatory policies without threat of federal interference. This facet of the bill is especially important given that 17 states have legalized adult use of marijuana and 36 states and the District of Columbia have legalized the use of medical marijuana.⁸ Descheduling also protects noncitizens from immigration consequences due to marijuana activity, including noncitizens working in state-legal marijuana marketplaces. The bill also prevents the government from using past marijuana use as a basis for denying federal benefits like SNAP and TANF, student financial aid, or security clearances needed to obtain government jobs. Additionally, with a five percent federal excise tax on marijuana sales at the manufacturer level, the MORE Act would fund social services in communities most harmed by the War on Drugs, as well as Small Business Administration support and technical assistance for impacted communities. This tax revenue will support local jurisdictions and community leaders in developing programs to serve impacted individuals with job training, reentry services, expungement expenses, public libraries, community centers and programs, as well as opportunities dedicated to youth and health education programs. Furthermore, unlike last year's version of the MORE Act, H.R. 3617 allows individuals with marijuana convictions to engage in the federal and state permitting processes for operating within the legal marijuana industry. This change is a significant improvement from last year's bill and will be a key factor in alleviating inequities in this burgeoning marketplace.

³ American Civil Liberties Union. A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform. 2020. <https://www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform>.

⁴ 21 USC § 862a. <https://www.law.cornell.edu/uscode/text/21/862a>.

⁵ See Letter from The Leadership Conference and other organizations to President Biden RE: Repealing the lifetime ban for individuals with a felony drug conviction from SNAP/TANF.

⁶ Human Rights Watch. A Price Too High. Jun. 16, 2015. <https://www.hrw.org/report/2015/06/16/price-too-high/us-families-torn-apart-deportations-drug-offenses>.

⁷ Center for American Progress. Using Marijuana Revenue to Create Jobs. May 2019. <https://www.americanprogress.org/issues/criminal-justice/reports/2019/05/20/470031/using-marijuana-revenue-create-jobs/>.

⁸ Nat'l Conference of State Legislatures. Cannabis Overview. April 28, 2021. <https://www.ncsl.org/research/civil-and-criminal-justice/marijuana-overview.aspx>.

The MORE Act also takes significant steps to right the wrongs of decades of federal marijuana criminalization by providing for the expungement and resentencing of marijuana offenses. Last Congress, this Committee passed the MORE Act without excluding anyone from these expungement provisions. Unfortunately, this so-called “kingpin exclusion” was added before final passage of the bill. The exclusion has been interpreted broadly by courts and would prevent individuals who are not high-level participants from seeking relief under the bill’s expungement and resentencing provisions. If the exclusion remains, individuals excluded from the expungement process will continue to be blocked from accessing employment, housing, and an education based on their prior convictions. We believe the bill should be amended to ensure that those with excluded convictions are eligible for expungement within five years, assuming there have been no new convictions in the intervening time. Such a change will stay true to the intent of the bill and provide relief to those caught up in outdated enforcement efforts.

The MORE Act is needed now more than ever before. The bill will strike a blow at mass incarceration by reducing the number of people who are incarcerated while, at the same time, alleviating health challenges posed by COVID-19 in overcrowded jails and prisons. Passage of the bill will also help ameliorate economic hardship caused by COVID-19 by minimizing barriers to employment due to prior justice-system involvement and generating hundreds of thousands of new jobs through expanding the industry and investing in affected communities.⁹ Additionally, ending the federal criminalization of marijuana will allow state marijuana regulatory programs to flourish, generating crucial new revenue for states and localities.

The MORE Act represents a historic opportunity to address the decades of harm perpetrated by federal marijuana criminalization on communities of color and low-income communities. Now is the time for the House to pass the MORE Act once again. We strongly encourage you to vote in favor of this bill and oppose any amendments that will diminish the impact and opportunity this legislation provides. If you have any questions, please contact Sakira Cook, senior director, Justice Program, at cook@civilrights.org, or Aamra Ahmad, senior policy counsel, ACLU, at aahmad@aclu.org.

Sincerely,

American Civil Liberties Union

The Leadership Conference on Civil and Human Rights

⁹ Center for American Progress. Using Marijuana Revenue to Create Jobs. May 2019. <https://www.americanprogress.org/issues/criminal-justice/reports/2019/05/20/470031/using-marijuana-revenue-create-jobs/>.