

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: H.170 Name of Bill: An act relating to a study of a noncriminal, public health approach to illicit drug use

Agency/Dept: VSP/NIU-HQ Author of Bill Review: Shawn Loan

Date of Bill Review: 3/16/2015 Related Bills and Key Players: _____

Status of Bill: (check one)

☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both bodies

Recommended Position:

☐ Support ☐ Oppose ☒ Remain Neutral ☐ Support with modifications identified in # 8 below

Analysis of Bill

1. **Summary of bill and issue it addresses.** *This bill purposes to direct the Office of Legislative Council to examine the issue of a noncriminal, public health approach to low-level possession and use of illicit drugs in Vermont and to report its findings to the General Assembly on or before January 15, 2016. The bill expects the result of the study to find the decriminalization of low-level possession and use of illicit drugs to be an effective approach to decreasing people incarcerated for drug possession and decreasing the risks and dangers of drug use through medical treatment.*
2. **Is there a need for this bill?** *A year-long study to support decriminalization of the use and possession of illicit drugs would seem misdirected, since these drugs are controlled substances under Federal Law and currently a significant detriment to Vermont's quality of life, safety, and health. While well intended, the bill is not needed in the current atmosphere of drug addiction and trafficking in Vermont.*
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?** *The bill would work to support the notion that the decriminalization of low level drug possession and use would lower drug use and drug arrests, but fails to see that eliminating the possession of illicit drugs as a base for probable cause, would affect investigating more serious drug crimes. This would change how law enforcement interacts with drug possessors from "low-level" to large scale traffickers, because the possession itself would not allow criminal action. The disregarding of federal drug scheduling may influence law enforcement funding through federal and grant based sources.*
4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** *The bill would require significant analytical research regarding the current state of drug dependency and use within the state of Vermont. Medical and human service organizations would have increased caseloads using Portugal's model of social workers, medical professionals, therapists, and counselors working with all users and low level possessors cited by law enforcement. The funding for these increased programs would be assigned to health insurance, as drug dependency is considered a health issue and treated as a medical disease. Many drug users and possessor are currently covered under state or federally funded health insurance, leaving the state to fund the treatment of all persons caught*

using or possessing illicit drugs. Correctional facilities may find that with less low level drug arrests they have lower incarcerated populations, but even in the current court system, the use of drug diversion, treatment programs, and probation, rarely require low level drug possessors and users to serve a period of incarceration.

- 5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *Decriminalization of low-level drug possession and use could bring users and possessors to an open air approach to drug use and possession. Open possession and use may attract drug distributors to areas where the concentration of users are highest (towns, parks, businesses.) While the sale of illicit drugs would remain a criminal violation, the profitability of selling in these areas to a concentrated group of users who could then possess and use openly, would justify the risk of arrest.*

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why? *Drug legalization supporters, some health care professionals, and opponent to the current level of incarcerated people in the US often feel that by removing the criminal charge associated with drug possession and use, people will self-regulate without the need for punitive actions.*

6.2 Who else is likely to oppose the proposal and why? *Law enforcement, prosecutors, some medical professionals, people living in high drug trafficking areas, and people affected by the quality of life crimes often associated with drug users and possessors would likely prefer harsher sentencing for users and possessors to deter repeat offenders, areas of concentration, and to require court ordered drug treatment.*

- 7. Rationale for recommendation:** *I do not recommend the bill. The bill uses Portugal's current drug policy as a model, but poorly represents the data substantiating the current policy as a success. The data is greatly argued as evidence of both a success and failure of drug decriminalization. Several studies have argued that the numbers showing Portugal's success are skewed by data analysis and Portugal's reporting of information. A report titled "A resounding success or a disastrous failure: Re-examining the interpretation of evidence on the Portuguese decriminalization of illicit drugs" details both sides of the argument and warns of the claims by both sides of the decriminalization model.*

(http://www.undrugcontrol.info/images/stories/documents/A_resounding_success_or_a_disastrous_failure.pdf)

- 8. Specific modifications that would be needed to recommend support of this bill:** *Decreases in the criminal penalties of low-level possession and the use of illicit drug is hotly debated topic. Current drug use and dependency in Vermont is a serious issue and most agree that treatment, whether court ordered or self-obtained, is needed to curb the dependency problem. With the use of arrests and criminal charges, the state can mandate treatment for early offenders and hopefully prevent recidivism.*

9. Gubernatorial appointments to board or commission?

Secretary/Commissioner has reviewed this document



Date: 4/7/15