

# LEGALIZE IT RIGHT

Dear Governor Northam:

I write you today on behalf of the ACLU of Virginia, Marijuana Justice, RISE for Youth, New Virginia Majority, and 20 other organizations from across the Commonwealth regarding Senate Bill 1406 and House Bill 2312 which would delay legalization of simple marijuana possession until 2024 and maintain punitive penalties for underage possession.

The current marijuana legislation does not reflect your promise to prioritize racial equity and justice, as it permits the over-policing and excessive punishment of people of color and young people. Virginia has the incredible opportunity to be the first state in the South to legalize marijuana, but your job will not be complete if you do not legalize in a way that rights the wrongs of the disparate impact the War on Drugs has had on Black and Brown communities.

We urge you to recommend that both Senate Bill 1406 and House Bill 2312 be amended to address the following two concerns:

**1. Legalize possession of less than one ounce and reduce the charge for possession of one ounce to five pounds to a civil penalty, effective July 1, 2021.**

We recognize that the legal market and regulatory system will take time to set up, but we cannot risk more people being caught in the system for acting in ways that will soon be legal. If you do not make this change, the prohibition will not be repealed until January 1, 2024 and simple marijuana possession will still carry civil and potential criminal penalties.

Furthermore, delaying the repeal will fall hardest on Black and Brown communities. Data from the Office of the Executive Secretary show that decriminalization did not end the racial disparities in marijuana enforcement: Since July 1, 2020, more than 4,505 adults have been charged with simple marijuana possession and 142 children have been charged in Juvenile and Domestic Relations District Court. Black Virginians represent 52 percent of the adult marijuana possession charges since “decriminalization,” even though Black people only account for 20 percent of the Commonwealth’s population. This penalization rate is 4x higher than that of white Virginians.

Delaying the prohibition on simple possession will harm Virginians every day for more than two more years – especially Black and Brown Virginians. The only way to stop this racially disparate harm is to repeal the prohibition

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starting July 1, 2021. Justice delayed is justice denied.

## **2. Take no action that will criminalize another generation of youth.**

We request that you remove the delinquency charge for juveniles found in possession, which will be used by courts as a gateway to bring too many young people – especially Black and Brown youth – under probation and surveillance. These experiences will only increase their chance of “risky” behavior and interaction with the criminal legal system and potentially subject them to harsher treatment in the future. Stopping the harm of prohibition includes ending criminal justice responses to possession, not just for adults, but for youth too.

We also ask that underage persons found in possession are evaluated for appropriate services, rather than mandated to attend a substance abuse treatment or education program when that may not address the root cause of their usage. Marijuana use by underage youth is most often a cry for help that should be met with compassion, forgiveness, and a holistic assessment of their personal needs to determine the appropriate wraparound services.

Finally, we ask you to remove the class 2 misdemeanor charge for possession on school grounds. This is an overly punitive policy that threatens to increase Black and Brown youth’s interaction with law enforcement and feed the school-to-prison pipeline.

We ask that you follow New Jersey’s lead. Just last month, New Jersey’s governor legalized simple possession even though legal sales will not begin for months to come. They also took a more rehabilitative approach to holding youth accountable for underage possession by implementing a progressive warning and referral scheme that puts young people in contact with community-based support services rather than the criminal legal system.

The proponents of this legislation argue that it is a reasonable intermediate step pending full legalization and regulation of marijuana. Given that the legislation does not honor the values of equity or racial justice, we disagree that signing it into law in its current form is “reasonable.” The legislation in front of you will only perpetuate the racially disparate marijuana enforcement for two-and-a-half years, and it will result in far too many Black and Brown children entering the criminal legal system. Virginia cannot seriously legalize marijuana without first redressing the harms of the war on marijuana and eliminating the tools of racist policing. Please amend this legislation to be something all Virginians can be proud of.

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Thank you for your attention to this important matter, and if you have questions or need more information please do not hesitate to contact Ashna Khanna, ACLU of Virginia legislative director, either by calling **(248) 231-2551** or emailing [akhanna@acluva.org](mailto:akhanna@acluva.org).

Sincerely,

ACLU of Virginia  
ACLU People Power Fairfax  
Angel Fire Wellness  
BLM 804  
Cannaclusive  
Commonwealth Equal  
Community Change - Black  
Freedom Collective  
Drug Policy Alliance  
Fairfax County Young Adult  
Committee  
Marijuana Justice  
Minorities 4 Medical Marijuana  
Mommies and Mary Jane  
NAACP Loudoun

New Virginia Majority  
Racial Justice Alexandria  
Resource, Information, Help  
for the Disadvantaged and  
Disenfranchised (RIHD)  
RISE for Youth  
The Activated People  
The Black Cannabis Group  
The Ounce Brand  
Virginia Cannabis Group  
Virginia Justice Democrats  
Virginia Student Power Network  
Writing Our Way Out