

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Criminal Justice
2 Subcommittee

3 Representative Gaetz offered the following:
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 893.131, Florida Statutes, is created
8 to read:

9 893.131 Affirmative defense to prohibited acts.—

10 (1) For purposes of this section, the term "cannabis" means
11 a plant of the genus Cannabis, the dried flowers of which
12 contain .5 percent or less of tetrahydrocannabinol and more than
13 15 percent of cannabidiol weight for weight; the seeds thereof;
14 the resin extracted from any part of such plant; or any
15 compound, manufacture, salt, derivative, mixture, or preparation
16 of such plant or its seeds or resin.

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17 (2) (a) The Legislature finds that research has shown that
18 cannabis has significant health benefits to individuals
19 suffering from medical conditions, such as seizure disorders
20 among children, when ingested in a non-smoking manner.

21 (b) The Legislature intends to discourage law enforcement
22 from arresting and state attorneys from prosecuting persons who
23 commit violations of s. 893.13 and s. 893.147 when the violation
24 only involves cannabis.

25 (3) It is an affirmative defense to a prosecution under s.
26 893.13(1), (2), (3), (4), (5), (6), (7) (a)1., and (7) (a)4.; and
27 s. 893.135(1) that:

28 (a) Cannabis was the only controlled substance involved in
29 the violation;

30 (b) The person committing the offense intended that the
31 cannabis be consumed in a non-smoking manner; and

32 (c) The person committing the offense intended that the
33 cannabis be consumed by a person under the supervision of a
34 physician licensed under chapters 458 or 459.

35 (4) It is an affirmative defense to a prosecution under s.
36 893.147 that the person committing the offense intended that the
37 drug paraphernalia involved in the offense was intended to only
38 be used to:

39 (a) Plant, propagate, cultivate, grow, harvest,
40 manufacture, compound, convert, produce, process, prepare, test,
41 analyze, pack, repack, store, or contain, cannabis; or

42 (b) Introduce cannabis into the human body in a non-smoking

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43 manner.

44 Section 2. Subsection (6) is added to section 943.0585,
45 Florida Statutes, to read:

46 943.0585 Court-ordered expunction of criminal history
47 records.—The courts of this state have jurisdiction over their
48 own procedures, including the maintenance, expunction, and
49 correction of judicial records containing criminal history
50 information to the extent such procedures are not inconsistent
51 with the conditions, responsibilities, and duties established by
52 this section. Any court of competent jurisdiction may order a
53 criminal justice agency to expunge the criminal history record
54 of a minor or an adult who complies with the requirements of
55 this section. The court shall not order a criminal justice
56 agency to expunge a criminal history record until the person
57 seeking to expunge a criminal history record has applied for and
58 received a certificate of eligibility for expunction pursuant to
59 subsection (2). A criminal history record that relates to a
60 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
61 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
62 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
63 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
64 any violation specified as a predicate offense for registration
65 as a sexual predator pursuant to s. 775.21, without regard to
66 whether that offense alone is sufficient to require such
67 registration, or for registration as a sexual offender pursuant
68 to s. 943.0435, may not be expunged, without regard to whether

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69 adjudication was withheld, if the defendant was found guilty of
70 or pled guilty or nolo contendere to the offense, or if the
71 defendant, as a minor, was found to have committed, or pled
72 guilty or nolo contendere to committing, the offense as a
73 delinquent act. The court may only order expunction of a
74 criminal history record pertaining to one arrest or one incident
75 of alleged criminal activity, except as provided in this
76 section. The court may, at its sole discretion, order the
77 expunction of a criminal history record pertaining to more than
78 one arrest if the additional arrests directly relate to the
79 original arrest. If the court intends to order the expunction of
80 records pertaining to such additional arrests, such intent must
81 be specified in the order. A criminal justice agency may not
82 expunge any record pertaining to such additional arrests if the
83 order to expunge does not articulate the intention of the court
84 to expunge a record pertaining to more than one arrest. This
85 section does not prevent the court from ordering the expunction
86 of only a portion of a criminal history record pertaining to one
87 arrest or one incident of alleged criminal activity.
88 Notwithstanding any law to the contrary, a criminal justice
89 agency may comply with laws, court orders, and official requests
90 of other jurisdictions relating to expunction, correction, or
91 confidential handling of criminal history records or information
92 derived therefrom. This section does not confer any right to the
93 expunction of any criminal history record, and any request for

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94 expunction of a criminal history record may be denied at the
95 sole discretion of the court.

96 (6) Notwithstanding the eligibility requirements in
97 subsection (2)(a)2., a person is eligible to apply for and
98 receive a certificate of eligibility for expunction if the
99 person is found not guilty at trial of an offense for which the
100 person successfully raised an affirmative defense pursuant to s.
101 893.131. A person applying for a certificate of eligibility
102 pursuant to this subsection must obtain and submit to the
103 department a written, certified statement from the appropriate
104 state attorney or statewide prosecutor which indicates that the
105 person was found not guilty at trial of an offense for which the
106 person successfully raised an affirmative defense pursuant to s.
107 893.131. This subsection does not confer any right to the
108 expunction of a criminal history record, and any request for
109 expunction of a criminal history record may be denied at the
110 discretion of the court.

111 Section 3. (1) As used in this section, the term
112 "cannabidiol" means an extract from the cannabis plant that has
113 less than 0.5 percent tetrahydrocannabinol and the chemical
114 signature 2-[(1R,6R)-6-isopropenyl-3-methylcyclohex-2-en-1-yl]-
115 5-pentylbenzene-1,3-diol, or a derivative thereof, as determined
116 by the International Union of Pure and Applied Chemistry.

117 (2) In the 2014-2015 fiscal year, \$1 million in non-
118 recurring general revenue is appropriated to the Department of
119 Health for the James and Esther King Biomedical Research Program

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120 and shall be deposited into the Biomedical Research Trust Fund.
121 These funds shall be reserved for research of cannabidiol and
122 its effect on intractable childhood epilepsy.

123 (3) Biomedical research funding for research of
124 cannabidiol and its effect on intractable childhood epilepsy
125 shall be awarded pursuant to s. 215.5602, except as otherwise
126 provided in this section. An application for such funding may
127 be submitted by any research university in the state which has
128 obtained approval from the U.S. Food and Drug Administration for
129 an exploratory investigational new drug study of cannabidiol and
130 its effect on intractable childhood epilepsy. For the purposes
131 of this section, the Biomedical Research Advisory Council
132 created under s. 215.5602 shall advise the State Surgeon General
133 as to the direction and scope of research of cannabidiol and its
134 effect on intractable childhood epilepsy and the award of
135 research funding.

136 Section 4. This act shall take effect upon becoming a law.
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140 **T I T L E A M E N D M E N T**

141 Remove everything before the enacting clause and insert:
142 An act relating to cannabis; creating s. 893.131, F.S.,
143 providing definitions; providing legislative findings and
144 intent; creating an affirmative defense for specified controlled
145 substance offenses; creating an affirmative defense for

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146 specified drug paraphernalia offenses; amending s. 943.0585,
147 F.S.; providing that a person is eligible to apply for and
148 receive a certificate of eligibility for expunction,
149 notwithstanding certain eligibility requirements, if the person
150 is found not guilty at trial of an offense for which the person
151 raised an affirmative defense pursuant to s. 893.131(4);
152 providing an appropriation to the Department of Health for
153 research of cannabidiol and its effect on intractable childhood
154 epilepsy; specifying how biomedical research funding for
155 research of cannabidiol and its effect on intractable childhood
156 epilepsy shall be awarded; specifying who may apply for such
157 funding; providing an effective date.