STATE OF ARKANSAS
ATTORNEY GENERAL
LESLIE RUTLEDGE

Opinion No. 2016-078

August 1, 2016

Mary L. Berry, Sponsor
Post Office Box 511
Summit, AR 72677

Dear Ms. Berry:

I am writing in response to your request for certification, pursuant to Ark. Code Ann. § 7-9-107 (Supp. 2015), of the popular name and ballot title for a proposed initiated measure.

At the outset, I wish to make clear to you that the decision to certify or reject a popular name and ballot title is in no way a reflection of my view of the merits of a particular proposal. I am not authorized to, and do not consider the merits of the measure when making my determination to certify or reject a popular name and ballot title.

The Attorney General is required, pursuant to Ark. Code Ann. § 7-9-107, to certify the popular name and ballot title of all proposed initiative and referendum acts or amendments before the petitions are circulated for signature. The law provides that the Attorney General *may, if practicable*, substitute and certify a more suitable and correct popular name and ballot title. Or, if the proposed popular name and ballot title are sufficiently misleading, the Attorney General may reject the entire petition.

Section 7-9-107 neither requires nor authorizes this office to make legal determinations concerning the merits of the act or amendment, or concerning the likelihood that it will accomplish its stated objective. In addition, consistent with Arkansas Supreme Court precedent, unless the measure is "clearly contrary to

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law,"[1] this office will not require that a measure's proponents acknowledge in the ballot title any possible constitutional infirmities.[2] Consequently, this review has been limited primarily to a determination, pursuant to the guidelines that have been set forth by the Arkansas Supreme Court, discussed below, of whether the popular name and ballot title you have submitted accurately and impartially summarize the provisions of your proposal.

The purpose of my review and certification is to ensure that the popular name and ballot title honestly, intelligibly, and fairly set forth the purpose of the proposed amendment or act.[3]

REQUEST

You have requested certification, pursuant to Ark. Code Ann. § 7-9-107, of the following popular name and ballot title for a proposed constitutional amendment:

Popular Name

The Arkansas Cannabis Amendment

Ballot Title

> An amendment to the Arkansas Constitution concerning the cannabis plant, providing that the cultivation, production, distribution, sale, possession, and use of the cannabis plant and cannabis-related products produced therefrom may not be prohibited under state law, but shall be regulated under state law; recognizing that such activities remain unlawful under federal law; providing for the release from incarceration, probation, or parole of all persons

[1] *See Kurrus v. Priest,* 342 Ark. 434, 445, 29 S.W.3d 669, 675 (2000); *Donovan v. Priest,* 326 Ark. 353, 359, 931 S.W.2d 119, 121 (1996); *Plugge v. McCuen*, 310 Ark. 654, 841 S.W.2d 139 (1992).

[2] As part of my review, however, I may address constitutional concerns for consideration by the measure's proponents.

[3] *See Arkansas Women's Political Caucus v. Riviere*, 283 Ark. 463, 466, 677 S.W.2d 848 (1984).

> whose only conviction(s) were of state laws pertaining to the cultivation, production, distribution, sale, and possession of marijuana or possession of marijuana paraphernalia, and the expungement of records relating to such conviction(s); dividing cannabis into industrial hemp (containing 0.3% or less THC) and marijuana (containing more than 0.3% THC); regulating the cultivation, production, distribution and the sale of industrial hemp and products produced therefrom; providing that anyone 18 years of age or older may obtain an industrial hemp license permitting the person to cultivate and sell industrial hemp; authorizing both medical and recreational use of marijuana; providing that anyone 21 years of age or older may obtain a marijuana license permitting the person to cultivate, produce, distribute and sell marijuana and products produced therefrom; providing that a licensed person may cultivate up to 36 cannabis plants in a location not subject to public view without optical aid; providing that sales of recreational marijuana will be subject to existing sales taxes and an additional 5% excise tax; providing that the state shall not impose any tax on the sale of medical marijuana to patients; permitting medical use of marijuana by a person of any age whose physician has recommended such use in writing; providing that the manufacture, possession, purchase, sale, and distribution of marijuana paraphernalia is lawful under state law; and providing that the amendment (a) is not intended to require employers to permit activities relating to marijuana in the workplace, (b) is not intended to permit driving under the influence of marijuana, (c) is not intended to permit the transfer of recreational marijuana to anyone under 21 years of age, (d) nor permit anyone under 21 years of age to cultivate, produce, sell possess, or use recreational marijuana.

RESPONSE

The popular name is primarily a useful legislative device.[4] It need not contain detailed information or include exceptions that might be required of a ballot title, but it must not be misleading or give partisan coloring to the merit of the

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[4] *Pafford v. Hall*, 217 Ark. 734, 739, 233 S.W.2d 72, 75 (1950).

proposal.[5] The popular name is to be considered together with the ballot title in determining the ballot title's sufficiency.[6]

The ballot title must include an impartial summary of the proposed amendment or act that will give the voter a fair understanding of the issues presented.[7] According to the Court, if information omitted from the ballot title is an "essential fact which would give the voter serious ground for reflection, it must be disclosed."[8] At the same time, however, a ballot title must be brief and concise;[9] otherwise voters could run afoul of Ark. Code Ann. § 7-5-309's five-minute limit in voting booths when other voters are waiting in line.[10] The ballot title is not required to be perfect, nor is it reasonable to expect the title to cover or anticipate every possible legal argument the proposed measure might evoke.[11] The title, however, must be "free of any misleading tendency whether by amplification, omission, or fallacy, and it must not be tinged with partisan coloring."[12] The ballot title must be honest and impartial,[13] and it must convey an intelligible idea of the scope and significance of a proposed change in the law.[14]

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[5] *See, e.g., Chaney v. Bryant*, 259 Ark. 294, 297, 532 S.W.2d 741, 743 (1976); *Moore v. Hall*, 229 Ark. 411, 316 S.W.2d 207 (1958). For a better understanding of the term "partisan coloring," see note 12 *infra*.

[6] *May v. Daniels,* 359 Ark. 100, 105, 194 S.W.3d 771, 776 (2004).

[7] *Becker v. Riviere*, 270 Ark. 219, 226, 604 S.W.2d 555, 558 (1980) (internal citations omitted).

[8] *Bailey v. McCuen*, 318 Ark. 277, 285, 884 S.W.2d 938, 942 (1994).

[9] *See* Ark. Code Ann. § 7-9-107(b).

[10] *Bailey* at 284, 884 S.W.2d at 944.

[11] *Id.* at 293, 844 S.W.2d at 946-47.

[12] *Id.* at 284, 884 S.W.2d at 942. Language "tinged with partisan coloring" has been identified by the Arkansas Supreme Court as language that "creates a fatally misleading tendency" (*Crochet v. Priest*, 326 Ark. 338, 347, 931 S.W.2d 128, 133 (1996)) or that "gives the voter only the impression that the proponents of the proposed amendment wish to convey of the activity represented by the words." (*Christian Civic Action Committee v. McCuen*, 318 Ark. 241, 249, 884 S.W.2d 605, 610 (1994)).

[13] *Becker v. McCuen,* 303 Ark. 482, 489, 798 S.W.2d 71, 74 (1990).

[14] *Christian Civic Action Committee*, 318 Ark. at 245, 884 S.W.2d at 607 (internal quotations omitted).

Furthermore, the Court has confirmed that a proposed measure cannot be approved if the text of the proposal itself contributes to confusion and disconnect between the language in the popular name and the ballot title and the language in the proposed measure.[15] The Court concluded that "internal inconsistencies would inevitably lead to confusion in drafting a popular name and ballot title and to confusion in the ballot title itself."[16] Where the effects of a proposed measure on current law are unclear or ambiguous, it is impossible for me to perform my statutory duty to the satisfaction of the Arkansas Supreme Court without (1) clarification or removal of the ambiguities in the proposal itself, and (2) conformance of the popular name and ballot title to the newly worded proposal.

On April 25, 2016, I certified a popular name and ballot title submitted by you on this topic. However, your current proposal has substantive differences (specifically, the addition of section 4) from the proposal that resulted in certification. As explained below, these additions have caused ambiguities that require rejection of the popular name and ballot title. Moreover, since I am required to reject the popular name and ballot title due to ambiguities in the underlying proposal's new section, I also think it worthwhile to point out several other ambiguities that my additional review has identified in the underlying proposal.

It is my opinion, based on the above precepts, that a number of additions or changes to your ballot title are necessary in order to more fully and correctly summarize your proposal. I cannot, however, at this time, fairly or completely summarize the effect of your proposed measure to the electorate in a popular name or ballot title without the resolution of the ambiguities in the text of the measure itself. And thus I cannot determine precisely what changes to the ballot title are necessary to fully and correctly summarize your proposal. It is therefore not appropriate, in my opinion, for me to try to substitute and certify a more suitable and correct popular name and ballot title pursuant to Ark. Code Ann. § 7-9-107(b). Instead, you may, if you wish, redesign the proposed measure and ballot title, and then resubmit for certification. In order to aid your redesign, I highlight below the more concerning ambiguities in the *text* of your proposal.

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[15] *Cf. Roberts v. Priest*, 341 Ark. 813, 825, 20 S.W.3d 376, 382 (2000).

[16] *Id.*

1. Subsections 4(a) and 4(b) refer to an industrial hemp license and industrial hemp field tags, and appear to require a person to obtain tags to cultivate industrial hemp and a license to cultivate or sell industrial hemp. Subsection 4(d), however, in stating that no industrial hemp license is required for "producing ... products containing industrial hemp," implies that a license is not required for cultivating industrial hemp (which is inarguably part of the process of "producing ... products containing industrial hemp"). The proposal accordingly is ambiguous with respect to the circumstances under which a license or tags are needed.

2. Subsection 4(d) provides that "[n]othing in this section requires entities producing or selling products containing industrial hemp in Arkansas to obtain an industrial hemp license." Subsection 4(e) provides that "[n]othing in this section precludes the imposition of additional rules and regulation the state may adopt and impose." The proposal is ambiguous with respect to whether the state, acting in accordance with subsection 4(e), could impose a requirement that entities producing or selling products containing industrial hemp must obtain an industrial hemp license.

3. Subsections 4(a) and 5(a) provide that "any person" of age may obtain an industrial hemp license or marijuana license, respectively. However, subsection 4(e), quoted above, and subsection 5(g), which is a substantially similar provision applying to marijuana, provide that sections 4 and 5 do not preclude the imposition of rules prohibiting certain persons (e.g., persons convicted of violent felonies or found to have engaged in deceptive trade practices) from obtaining licenses. It is ambiguous whether the proposal would allow any such restrictions as to who may be prohibited from obtaining a license.

4. Subsection 5(e) provides for a state excise tax on the sale of recreational marijuana. Subsection 5(f) provides that the state "shall not impose any tax upon the sale of medical marijuana." The proposal is unclear and ambiguous with respect to whether subsection 5(f) is referring to the excise tax mentioned in subsection 5(e) or to other taxes as well. It is also unclear whether subsection 5(f) would shield from income taxation income realized from sales of medical marijuana.

5. Subsection 6(b) provides that "[a]ny parent" may provide medical marijuana to a minor child, suggesting that one parent may, acting alone, do so over the objection of the other parent. The subsection also, however, refers to "their minor child" and refers to the person(s) authorized to provide medical marijuana to a minor child as "they." The subsection is accordingly ambiguous with respect to the authority of one parent acting without the consent of the other.

6. Subsection 7(b) can be read to permit a person with a marijuana license to use marijuana paraphernalia to introduce marijuana "into the human body" of another person, regardless of the other person's consent. It seems unlikely that that was the intent but without clarification, the ballot title must describe this unusual result. The same issue is present in subsections 7(c) and 7(d).

7. Section 9 is ambiguous with respect to whether the phrase "only conviction(s)" refers only to the conviction(s) for which the person is currently serving incarceration, probation, or parole, or to all of a person's convictions during his lifetime. Thus it is unclear whether the proposal would require the release of a person serving a prison sentence solely for a marijuana offense but who had earlier been convicted of, say, robbery.

CONCLUSION

The ambiguities noted above are not necessarily all the ambiguities contained in your proposal, but they are sufficiently serious to require me to reject your popular name and ballot title. I am unable to substitute language in a ballot title for your measure due to these ambiguities. Further, additional ambiguities may come to light on review of any revisions of your proposal, as did some of the ambiguities noted above.

My office, in the certification of ballot titles and popular names, does not address the merits, philosophy, or ideology of proposed measures. I have no constitutional role in the shaping or drafting of such measures. My statutory mandate is embodied only in Ark. Code Ann. § 7-9-107, and my duty is to the electorate.

Based on what has been submitted, my statutory duty is to reject your proposed ballot title for the foregoing reasons and instruct you to redesign the proposed

measure and ballot title.[17] You may resubmit your proposed act along with a proposed popular name and ballot title at your convenience.

Sincerely,

LESLIE RUTLEDGE
Attorney General

Enclosures

[17] Ark. Code Ann. § 7-9-107(c).

Popular Name: The Arkansas Cannabis Amendment

Ballot Title: An amendment to the Arkansas Constitution concerning the cannabis plant, providing that the cultivation, production, distribution, sale, possession, and use of the cannabis plant and cannabis-related products produced therefrom may not be prohibited under state law, but shall be regulated under state law; recognizing that such activities remain unlawful under federal law; providing for the release from incarceration, probation, or parole of all persons whose only conviction(s) were of state laws pertaining to the cultivation, production, distribution, sale, and possession of marijuana or possession of marijuana paraphernalia, and the expungement of records relating to such conviction(s); dividing cannabis into industrial hemp (containing 0.3% or less THC) and marijuana (containing more than 0.3% THC); regulating the cultivation, production, distribution and the sale of industrial hemp and products produced therefrom; providing that anyone 18 years of age or older may obtain an industrial hemp license permitting the person to cultivate and sell industrial hemp; authorizing both medical and recreational use of marijuana; providing that anyone 21 years of age or older may obtain a marijuana license permitting the person to cultivate, produce, distribute, and sell marijuana and products produced therefrom; providing that a licensed person may cultivate up to 36 cannabis plants in a location not subject to public view without optical aid; providing that sales of recreational marijuana will be subject to existing sales taxes and an additional 5% excise tax; providing that the state shall not impose any tax on the sale of medical marijuana to patients; permitting medical use of marijuana by a person of any age whose physician has recommended such use in writing; providing that the manufacture, possession, purchase, sale, and distribution of marijuana paraphernalia is lawful under state law; and providing that the amendment (a) is not intended to require employers to permit activities relating to marijuana in the workplace, (b) is not intended to permit driving under the influence of marijuana, (c) is not intended to permit the transfer of recreational marijuana to anyone under 21 years of age, (d) nor permit anyone under 21 years of age to cultivate, produce, sell, possess, or use recreational marijuana.

Section 1. This is an amendment to the Arkansas Constitution that shall be called "The Arkansas Cannabis Amendment."

Section 2. Effective January 20, 2019 the cultivation, production, distribution, sale, possession, and use of the cannabis plant (genus Cannabis) and products produced from the cannabis plant (genus Cannabis) shall be regulated pursuant to the provisions of this amendment, and made lawful in every geographic area of every county of this state under Arkansas law, but acknowledging that the listed activities with respect to the cannabis plant remain illegal under federal law and that the amendment shall have no effect on federal law.

Section 3. Definitions: The following terms are defined for the purposes of this amendment:

(a) "Industrial hemp" means any part of the cannabis plant (genus Cannabis), living or not, containing three tenths of one percent (0.3%) or less, by dry weight, Delta-9-tetrahydrocannabinol (Delta-9-THC).

(b) "Industrial hemp field tag" means a label issued by the state that a cultivator attaches to any fence post, or post where industrial hemp is being grown. A field tag is used for identifying one square acre or less of industrial hemp plants. Each tag shall display the industrial hemp license account number and an expiration date that corresponds with the cultivators industrial hemp license. Each field tag may be bar-coded or embedded with radio frequency identification (RFID) smart chip.

(c) "Industrial hemp license" means a registration card issued by the state to any person eighteen (18) years of age or older to lawfully cultivate and sell industrial hemp. Each license shall display a license account number, an expiration date, and the photo, name, date of birth, and current address of the holder.

(d) "Marijuana" means any part of the cannabis plant (genus Cannabis), living or not, containing greater than three tenths of one percent (0.3%), by dry weight, Delta-9-tetrahydrocannabinol (Delta-9-THC).

(e) "Marijuana license" means a registration card issued by the state to any person twenty-one (21) years of age or older to lawfully cultivate, produce, distribute, and sell marijuana and products produced containing marijuana for recreational and medical purposes. Each license shall display a license account number, an expiration date, and the photo, name, date of birth, and current address of the holder.

(f) "Marijuana paraphernalia" means any lawful equipment, utensils, products, and materials which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, containing or concealing medical or recreational marijuana, or for ingesting, inhaling or otherwise introducing medical or recreational marijuana into the human body.

(g) "Marijuana plant tag" means a label issued by the state that the cultivator attaches to the base or branch of a growing marijuana plant, and is used for tracking the plants origin from cultivation to sale. Such a label may be bar-coded or be embedded with a radio frequency identification (RFID) smart chip. Each tag shall display the marijuana license account number and an expiration date that corresponds with the cultivators marijuana license.

(h) "Medical marijuana" means marijuana and products produced containing marijuana that is used for the treatment of any disease, illness, or injury.

(i)"Physician" means a doctor of medicine or doctor of osteopathic medicine who holds a valid, unrestricted, and existing license to practice in the state of Arkansas and has been issued a registration from the United States Drug Enforcement Administration to prescribe controlled substances.

(j) "Products produced" means any lawful items and substances manufactured from the cannabis plant (genus Cannabis) that may contain Delta-9-tetrahydrocannabinol (Delta-9-THC), whereas marijuana products contain greater than three tenths of one percent (0.3%) Delta-9-tetrahydrocannabinol (Delta-9-THC) and industrial hemp products contain three tenths of one percent (0.3%) or less Delta-9-THC. Any item whose components may contain a variation in Delta-9-THC content that would span above the three tenths of one percent (0.3%) threshold is to be considered marijuana.

(k) "Recreational marijuana" means marijuana and products produced containing marijuana that is used as an intoxicant.

(l) "Written recommendation" means a document provided to a patient by a physician, authorizing the patient's use of medical marijuana. The document shall contain the patient's name, the physician's name, type of marijuana product to be used, dosage, a list of dates in which orders may be filled to supply the patient's monthly or weekly need, and an expiration date, and a name of an adult (18 years of age or older) who may procure the monthly or weekly order for the patient if needed.

Section 4. The regulation of industrial hemp.

The cultivation, production, distribution, sale, possession, and use of industrial hemp and products produced therefrom shall be lawful in every geographic area of every county of this state under Arkansas law, and shall be regulated by the state, and such regulations are subject to the following conditions:

(a) The cost of an industrial hemp license that shall be issued and required by the state to authorize any person eighteen (18) years of age or older to cultivate and sell industrial hemp shall not exceed thirty dollars ($30.00) a year, and any person eighteen years of age or older shall qualify to obtain such a license and there shall be no limit to the number of licenses issued in this state.

(b) The cost of an industrial hemp field tag that shall be issued and required by the state to regulate the cultivation of industrial hemp shall not exceed ten dollars ($10.00) per field tag per year, and any person with an industrial hemp license as defined in Section 3(c) may obtain such tags, and there shall be no limit to the number of field tags allowed per year per person with an industrial hemp license.

(c) Any person issued an industrial hemp license and field tag(s) may cultivate industrial hemp on property lawfully in possession of the person with the industrial hemp license or with the consent of the person(s) lawfully in possession of the property.

(d) Nothing in this section requires entities producing or selling products containing industrial hemp in Arkansas to obtain an industrial hemp license.

(e) Nothing in this section precludes the imposition of additional rules and regulation the state may adopt and impose.

Section 5. The regulation of marijuana.

The cultivation, production, distribution, sale, possession and use of marijuana and products produced therefrom for recreational and medical purposes shall be lawful in every geographic area of every county of this state under Arkansas law, and shall be regulated by the state, and such regulations are subject to the following conditions:

(a) The cost of a marijuana license that shall be issued and required by the state to authorize any person twenty-one (21) years of age or older to cultivate, produce, distribute, and sell marijuana and products produced containing marijuana for recreational and medical purposes shall not exceed thirty dollars ($30.00) per license per year, and any person twenty-one (21) years of age or older shall qualify to obtain such a license, and there shall be no limit to the number of licenses issued in this state.

(b) The cost of a marijuana plant tag that shall be issued and required by the state to regulate the cultivation of marijuana plants produced in this state, shall not exceed six dollars ($6.00) per tag, and any person with a marijuana license as defined in Section 3(e) shall qualify to obtain such tags, and there shall be a limit of thirty-six (36) tags allowed per year per licensed person. Each tag shall display the marijuana license account number and an expiration date that corresponds with the cultivators marijuana license. Marijuana plant tags may be purchased in any quantity, but not to exceed thirty-six (36) tags per licensed person per year.

(c) The quantity of plants cultivated and displaying a state issued marijuana plant tag shall be limited to thirty-six (36) growing plants per person with a marijuana license, but the quantity of the products produced shall not be limited.

(d) Any person issued a marijuana license and plant tag(s) may cultivate marijuana in a location where the plant(s) is (are) not subject to public view without the use of binoculars, aircraft, or other optical aids on property lawfully in possession of the person with the marijuana license or with the consent of the person(s) lawfully in possession of the property.

(e) In addition to the regular sales tax imposed upon the sale of recreational marijuana the state shall also impose an excise tax of five percent (5%).

(f) The state shall not impose any tax upon the sale of medical marijuana to patients.

(g) Nothing in this section precludes the imposition of additional rules and regulations that the state may adopt and impose.

Section 6. Medical marijuana authorized.

Notwithstanding any other provision of law, the following acts regarding the use of medical marijuana shall not be an offense under Arkansas law, or be a basis for seizure or forfeiture of assets under Arkansas law:

(a) Any physician as defined in section 3(i) may authorize the use of medical marijuana by written recommendation to a patient for the purpose of treating an illness, injury, or disease.

(b) Any parent or guardian may provide medical marijuana to their minor child providing that they have a written recommendation authorizing the child's use.

(c) Any person eighteen (18) years of age or older may purchase medical marijuana providing that they have a written recommendation authorizing the use. This shall also include an adult (18 years of age or older) designated by the written recommendation to purchase on behalf of a patient.

(d) Nothing in this section precludes the imposition of additional rules and regulations that the state may adopt and impose.

Section 7. Marijuana paraphernalia authorized.

Notwithstanding any other provision of law, the following acts regarding marijuana paraphernalia shall not be an offense under Arkansas law or be a basis for seizure or forfeiture of assets under Arkansas law:

(a) Any person twenty-one (21) years of age or older may manufacture, possess, or purchase marijuana paraphernalia, or to distribute or sell marijuana paraphernalia to a person who is twenty-one (21)years of age or older, providing that marijuana paraphernalia being sold or distributed is new and unused and does not contain marijuana, unless the seller of such paraphernalia has a marijuana license to sell and distribute marijuana.

(b) Any person with a marijuana license may use marijuana paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, containing, or for concealing marijuana, or for ingesting, inhaling or otherwise introducing marijuana into the human body.

(c) Any person twenty-one (21) years of age or older may use marijuana paraphernalia for the purpose of containing, or concealing recreational marijuana, or for ingesting, inhaling, or otherwise introducing recreational marijuana into the human body.

(d) Any person with a written recommendation in their name may use marijuana paraphernalia for the purpose of containing, or concealing medical marijuana, or for ingesting, inhaling, or otherwise introducing medical marijuana into the human body.

(e) Nothing in this section permits a person to use marijuana paraphernalia in conjunction with an illegal substance or item that is prohibited by the state.

Section 8. Employers, driving, and minors.

(a) Nothing in this amendment is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of recreational or medical marijuana by employees.

(b) Nothing in this amendment is intended to allow driving under the influence of marijuana.

(c) Nothing in this amendment is intended to permit the transfer of recreational marijuana, with or without remuneration, to a person under the age of twenty-one (21).

(d) Nothing in this amendment is intended to permit a person under the age of twenty-one (21) to cultivate, produce, sell, possess, or use recreational marijuana.

Section 9. Non-violent marijuana offenders and criminal record expungement.

All persons who are serving incarceration, probation, or parole in this state whose only conviction(s) were due to violating state laws as they pertain to the cultivation, production, distribution, sale, and possession of marijuana and or possession of marijuana paraphernalia, and whose violation(s) occurred prior to the effective date of this amendment shall be released, and all criminal records in this state shall be expunged of such convictions that occurred prior to the effective date of this amendment.

Section 10. Conflicting Laws.

The provisions of this amendment are independent and severable, and, except where otherwise indicated in the text, shall supersede conflicting statutes, local charter, ordinance, or resolution, and other state and local provisions. If any provision of this amendment, or the application thereof to any person or circumstance, is found to be invalid or unconstitutional, the remainder of this amendment shall not be affected and shall be given effect to the fullest extent possible.