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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair  
2021 - 2022 Regular

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**Bill No:** SB 519                      **Hearing Date:** April 6, 2021  
**Author:** Wiener  
**Version:** March 25, 2021  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** SJ

**Subject:** *Controlled substances: decriminalization of certain hallucinogenic substances*

## HISTORY

**Source:** Heroic Hearts Project  
Veterans Exploring Treatment Solutions

**Prior Legislation:** None

**Support:** California Attorneys for Criminal Justice; Chacruna Institute; City of Oakland Councilmember Noel Gallo; City of Oakland Councilmember Sheng Thao; DC Marijuana Justice; Decriminalize Nature; Dr. Bronner's; Entheogenic Research, Integration, and Education Board; Health in Justice Action Lab; Law Enforcement Action Partnership; McAllister Garfield, P.C.; Multidisciplinary Association for Psychedelic Studies; New Approach Advocacy; North Star Project; Pacific Neuroscience Institute; Sacred Garden Community Church; San Francisco Bay Area Hispanic Chamber of Commerce; San Francisco Psychedelic Society; San Francisco Public Defender; Students for Sensible Drug Policy, UC Berkeley Chapter; The Huichol Center for Cultural Survival and Traditional Arts; Unlimited Sciences; Veterans of War; an individual

**Opposition:** California College and University Police Chiefs Association; California Narcotic Officers' Association; California Police Chiefs Association; California State Sheriffs' Association; Congress of Racial Equality; International Faith Based Coalition; Peace Officers' Research Association of California

## PURPOSE

*The purposes of this bill are to make lawful the possession for personal use and the social sharing of specified controlled substances by and with persons 21 years of age or older, and to provide for the resentencing or dismissal and sealing of convictions for offenses that would be made lawful by this bill.*

*Existing law* classifies controlled substances into five schedules according to their danger and potential for abuse. Schedule I controlled substances have the greatest restrictions and penalties, including prohibiting the prescribing of a Schedule I controlled substance. (Health & Saf. Code, §§ 11054-11058.)

*Existing law* classifies several hallucinogenic substances including dimethyltryptamine (DMT), ibogaine, lysergic acid diethylamide (LSD), mescaline, psilocybin, and psilocyn as Schedule I substances. (Health & Saf. Code, § 11054, subd. (d).)

*This bill* defines mescaline as derived from plants presently classified botanically in the Echinopsis or Trichocereus genus of cacti, including, without limitation, the Bolivian Torch Cactus, San Pedro Cactus, or Peruvian Torch Cactus, but not including mescaline derived from any plant defined as peyote.

*Existing law* classifies ketamine as a Schedule III substance. (Health & Saf. Code, § 11056, subd. (g).)

*Existing law* provides that, upon change in federal law permitting the prescription, furnishing, or dispensing of a cannabidiol product, a physician, pharmacist, or other authorized healing arts licensee acting within his or her scope of practice who prescribes, furnishes, or dispenses a cannabidiol product in accordance with federal law, shall be deemed to be in compliance with state law. (Health & Saf. Code, § 11150.2, subd. (a).)

*This bill* provides that, upon change in federal law permitting the prescription, furnishing, or dispensing of a psilocybin, psiloyn, DMT, ibogaine, mescaline, LSD, or 3,4-methylenedioxyamphetamine (MDMA) product, a physician, pharmacist, or other authorized healing arts licensee acting within their scope of practice who prescribes, furnishes, or dispenses that product in accordance with federal law, shall be deemed to be in compliance with state law.

*Existing law* prohibits the possession of several specified controlled substances. (Health & Saf. Code, § 11350, subd. (a).)

*This bill* removes mescaline from this code section.

*Existing law* makes it is unlawful to possess any device, instrument, or paraphernalia used for unlawfully injecting or smoking specified controlled substances, except as specified. (Health & Saf. Code, § 11364, subd. (a).)

*This bill* removes mescaline from this code section.

*Existing law* make it unlawful for any person to deliver, furnish, or transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. (Health & Saf. § 11364.7.)

*This bill* removes test and analyze from this subdivision and provides that this subdivision does not apply to any paraphernalia that is intended to be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, any of the following substances: DMT, ibogaine, LSD, mescaline, psilocybin, psilocin, ketamine, or MDMA.

*Existing law* provides that it is unlawful to visit or to be in any room or place where specified controlled substances are being unlawfully smoked or used with knowledge that such activity is occurring. (Health & Saf. Code, § 11365, subd. (a).)

*This bill* removes mescaline from this code section.

*Existing law* provides that the possession of methamphetamine and other specified controlled substances is unlawful. (Health & Saf. Code, § 11377, subd. (a).)

*This bill* provides exceptions for ketamine, DMT, ibogaine, LSD, psilocybin, psilocin.

*Existing law* makes it unlawful for a person to transport, import into this state, sell, furnish, administer, or give away, or offer to transport, import into this state, sell, furnish, administer, or give away, or attempt to import into this state or transport specified controlled substances. (Health & Saf. Code, § 11379.)

*Existing law* makes it unlawful to possess for sale or to sell ketamine. (Health & Saf. Code, § 11379.2.)

*Existing law* makes it unlawful for a person to agree, consent, or in any manner offer to unlawfully sell, furnish, transport, administer, or give specified controlled substances. (Health & Saf. Code, § 11382.)

*Existing law* provides that it is unlawful to be under the influence of specified controlled substances. (Health & Saf. Code, § 11550, subd. (a).)

*This bill* removes mescaline from this code section.

*Existing law* makes it unlawful for a person who, with the intent to produce psilocybin or psilocyn, cultivates any spores or mycelium capable of producing mushrooms or other material which contains such a controlled substance. (Health & Saf. Code, § 11390.)

*This bill* repeals this provision of law.

*Existing law* makes it unlawful to transport, import into this state, sell, furnish, gives away, or offer to transport, import into this state, sell, furnish, or give away any spores or mycelium capable of producing mushrooms or other material which contain psilocybin or psilocyn. (Health & Saf. Code, § 11391.)

*This bill* repeals this provision of law.

*Existing law* provides that a controlled substance analog shall be treated the same as the controlled substance classified in Section 11054 or 11055. Defines “controlled substance analog” to mean either of the following: (1) a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance classified in Section 11054 or 11055; or (2) a substance that has, is represented as having, or is intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to, or greater than, the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance classified in Section 11054 or 11055. (Health & Saf. Code, § 11401, subds. (a) & (b).)

*Existing law* includes several legislative findings and declarations related to drug and alcohol education. Provides that any material, curricula, teachings, or promotion of responsible use of alcohol or drugs, if the use is unlawful, is inconsistent with the law. Provides that the “no unlawful use” message applies to all drug and alcohol programs, and that these materials are to teach and promote that any unlawful use of drugs and alcohol is illegal and dangerous. (Health & Saf. Code, § 11999.)

*This bill* repeals this provision of law.

*This bill* provides that all of the following is lawful for a natural person 21 years of age or older:

- The possession, processing, obtaining, or transportation of mescaline for personal use or for social sharing.
- The ingesting of mescaline.
- The social sharing of mescaline.
- The possession, planting, cultivating, harvesting, or processing of plants capable of producing mescaline, on property owned or controlled by a person, for personal use or social sharing by that person, and possession of any product produced by those plants.

*This bill* provides that possession of mescaline by a person 21 years of age or older on the grounds of any school during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility is a misdemeanor.

*This bill* provides that the punishment for a person who knowingly gives away or administers mescaline to a person who is under 18 years of age in violation of law is imprisonment in a county jail for a period of not more than six months or by a fine of not more than \$500, or by both that fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

*This bill* provides that the punishment for a person 18 years of age or over who knowingly gives away or administers mescaline to a minor under 14 years of age in violation of law is imprisonment in the state prison for a period of 3, 5, or 7 years.

*This bill* provides that a person who knowingly gives away or administers mescaline to a person who is at least 18 years of age, but under 21 years of age is guilty of an infraction.

*This bill* provides that possession of mescaline by a person under 18 years of age is punishable as an infraction. Requires the minor to either: (1) complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days, commencing when the drug education or counseling services are made available to them for a first offense; or (2) complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days, commencing when the drug education or counseling services are made available to them for a second or subsequent offense.

*This bill* provides that possession of mescaline by a person at least 18 years of age but less than 21 years of age is punishable as an infraction.

*This bill* provides that mescaline or related products involved in any way with conduct deemed lawful are not contraband nor subject to seizure. Prohibits lawful conduct from constituting the basis for detention, search, or arrest, or the basis for the seizure or forfeiture of assets.

*This bill* defines the following terms:

- “Financial gain” means the receipt of money or other valuable consideration in exchange for the item being shared. Does not include reasonable fees for counseling, spiritual guidance, or related services that are provided in conjunction with administering or use of mescaline under the guidance and supervision, and on the premises, of the person providing those services.
- “Personal use” means for the personal ingestion or other personal and noncommercial use by the person in possession.
- “Social sharing” means the giving away or consensual administering of mescaline by a person 21 years of age or older, to another person 21 years of age or older, not for financial gain, including in the context of group counseling, spiritual guidance, community-based healing, or related services.

*This bill* provides all of the above provisions regarding lawful and unlawful acts related to mescaline also apply to the analog statute, but specifies that MDMA is excluded.

*This bill* provides that all of the following is lawful for a natural person 21 years of age or older:

- The possession, processing, obtaining, or transportation of DMT, ibogain, LSD, psilocybin, psilocyn, and ketamine for personal use or for social sharing.
- The ingesting of DMT, ibogain, LSD, psilocybin, psilocyn, and ketamine.
- The social sharing of DMT, ibogain, LSD, psilocybin, psilocyn, and ketamine.
- The possession, planting, cultivating, harvesting, or processing of plants capable of producing of DMT, ibogain, LSD, psilocybin, psilocyn, and ketamine, on property owned or controlled by a person, for personal use or social sharing by that person, and possession of any product produced by those plants including spores or mycelium capable of producing mushrooms or other material which contain psilocybin or psilocyn for that purpose.

*This bill* includes all of the same criminal penalties with respect to DMT, ibogain, LSD, psilocybin, psilocyn, and ketamine by a person as apply to mescaline under the provisions of this bill. Specifically:

- Possession one of these substances on the grounds of any school is a misdemeanor.
- Giving away or administering one of these substances to a person under 18 is a wobbler.
- Giving away or administering one of these substances to a person under 14 is a felony.
- Giving away or administering one of these substances to a person at least 18 years old but under 21 is an infraction.
- Possession of one of these substances by a person under 18 years of age is an infraction.
- Possession of one of these substances by a person at least 18 years of age but under 21 is an infraction.

*This bill* creates a process for individuals who are currently serving or who have served a sentence for a conviction and who would not have been convicted had the provisions of this bill been in effect at the time, to petition the sentencing court to request resentencing or dismissal.

*This bill* creates a process and establishes a timeline for the identification of individuals who may be eligible for recall or dismissal of sentence or dismissal and sealing by the Department of Justice (DOJ). Requires DOJ to notify a county prosecutor's office of all eligible cases within its jurisdiction. Requires a county prosecutor's office to review all cases and determine whether to challenge the recall or dismissal or dismissal and sealing. Establishes a deadline by which a county prosecutor's office must inform the court and the public defender's office when it is challenging a particular case. Requires the public defender's office to make a reasonable effort to notify the person of the challenge. Requires the prosecution to inform the court when it is not challenging a case, and in those cases the court is required to reduce or dismiss the conviction pursuant to the provisions of this bill. Requires the court to notify DOJ of the recall or dismissal or dismissal and sealing, and requires DOJ to update its records accordingly.

*This bill* requires the State Department of Public Health to convene a working group, as specified, to research and make recommendations to the Legislature regarding, among other things, the regulation and the substances made lawful by this bill, as specified.

*This bill* contains several legislative declarations and findings.

*This bill* contains a severability provision.

*This bill* contains technical and conforming changes.

## COMMENTS

### 1. Need for This Bill

According to the author:

Senate Bill 519 decriminalizes the possession and personal use of certain psychedelic drugs, specifically, psilocybin, psilocyn, MDMA, LSD, ketamine, DMT, mescaline and ibogaine, for people 21 years and older. Growing scientific evidence shows that these substances have therapeutic benefits. Criminalizing people for the possession or use of controlled substances is a failed policy approach, as it does not improve public safety, deter use, or help people who may be experiencing substance use disorder. In recent years, various California cities including Santa Cruz and Oakland as well as Washington, D.C. and Somerville, Massachusetts have all decriminalized psychedelic plants and fungi. Last November, Oregon voters decriminalized the personal use of all substances and authorized the creation of a state-licensed, psilocybin-assisted therapy program over the next two years. Other countries have also successfully decriminalized the possession and personal use of all controlled substances. With mental health issues on the rise, it is time that California take an incremental and measured step to dismantle failed war on drugs policies by ending the criminalization of people that possess and use substances with immense healing potential. This legislation will also expunge any criminal records for people convicted of possession and personal use of these substances and promote safer use. In light of ongoing

clinical trials and research, SB 519 will establish a working group to provide recommendations for the Legislature on how California can regulate the legal use of these substances.

## 2. Hallucinogens

Hallucinogens<sup>1</sup> are a diverse group of drugs that alter a person's perception or awareness of their surroundings. Some hallucinogens are found in plants and fungi and some are synthetically produced. According to the National Institute on Drug Abuse, hallucinogens are commonly split into two categories: classic hallucinogens and dissociative drugs. Both types can cause hallucinations, and dissociative drugs can cause the user to feel disconnected from their body or environment. Hallucinogens can be consumed in a variety of ways, including swallowed as tablets, pills, or liquid, consumed raw or dried, snorted, injected, inhaled, vaporized, smoked, or absorbed through the lining of the mouth using drug-soaked pieces of paper. Common hallucinogens include LSD, DMT, psilocybin, peyote, mescaline, and ketamine.

Many hallucinogenic substances, including LSD, DMT, mescaline, and psilocybin are classified as Schedule I substances under the state's Uniform Controlled Substances Act. Schedule I substances are defined as those controlled substances having no medical utility and that have a high potential for abuse. There is research, however, that indicates that many of these substances have therapeutic benefits. (See Davis et. al, *Effects of Psilocybin-Assisted Therapy on Major Depressive Disorder*, JAMA Psychiatry (2020) available at <<https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2772630>>; Sascha Thal & Miriam Lommen, *Current Perspective on MDMA-Assisted Psychotherapy for Posttraumatic Stress Disorder*, 48 J. Contemp. Psychotherapy 109 (2018) available at <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5917000/>>; Fuentes et. al, *Therapeutic Use of LSD in Psychiatry: A Systematic Review of Randomized-Controlled Clinical Trials*, 10 Frontiers in Psychiatry 943 (2019) available at <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6985449/>> .)

In recent years, the U.S. Federal Drug Administration (FDA) has designated psilocybin as a "breakthrough therapy" to treat severe depression. (<<https://www.livescience.com/psilocybin-depression-breakthrough-therapy.html>> [as of Mar. 31, 2021].) In addition, the FDA recently granted "breakthrough therapy" status to MDMA-assisted psychotherapy to treat post-traumatic stress disorder. (<<https://www.washingtonpost.com/magazine/2020/09/21/psychedelic-medicine-will-it-be-accessible-to-all/?arc404=true>> [as of Mar. 31, 2021].) The "breakthrough therapy" designation is "a process designed to expedite the development and review of drugs that are intended to treat a serious condition and preliminary clinical evidence indicates that the drug may demonstrate substantial improvement over available therapy on a clinically significant endpoint." (<<https://www.fda.gov/patients/fast-track-breakthrough-therapy-accelerated-approval-priority-review/breakthrough-therapy>> [as of Mar. 31, 2021].)

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<sup>1</sup> Some advocates and researchers use the term psychedelic rather than hallucinogen while others use the terms interchangeably. Notably, some sources define psychedelics as a subset of hallucinogens. The term entheogenic has come into use more recently to describe this class of substances. This analysis uses the term hallucinogen as a result of its use in the controlled substance schedules in the state's Uniform Controlled Substances Act.

### 3. Reform Efforts Related to Hallucinogens

Efforts to deprioritize the policing or prosecution of conduct related to certain hallucinogens and to acknowledge the therapeutic value of hallucinogens have gained support in recent years. In 2019, voters in Denver approved a measure to make the personal use and possession of psilocybin by adults 21 years of age and older the lowest law enforcement priority and to prohibit the city from spending resources to impose criminal penalties related to such conduct. (<https://static1.squarespace.com/static/5bb4f9c27046803ce123a760/t/5c6360158165f54e1f1b090a/1550016533926/DPMDI.pdf>) The same year, the Oakland City Council passed a resolution prohibiting the use of city funding “to assist in the enforcement of laws imposing criminal penalties for the use and possession of entheogenic plants by adults” and specifies that investigating people for growing, buying, distributing or possessing those substances “shall be amongst the lowest law enforcement priority for the City of Oakland.” (<https://www.npr.org/2019/06/05/730061916/oakland-city-council-effectively-decriminalizes-psychedelic-mushrooms>) A resolution passed by the Santa Cruz City Council in 2020 made the personal possession and use of entheogenic plants and fungi a low priority for law enforcement. (<https://www.forbes.com/sites/davidcarpenter/2020/02/01/santa-cruz-is-third-us-city-to-decriminalize-psilocybin-plant-medicine-as-advocacy-expands/?sh=16cd782c5d0d>) A similar measure was passed by the Ann Arbor City Council last year. (<https://apnews.com/article/plants-archive-fungi-ann-arbor-b0ce69ca0961c150e0f900e8ea4cf432>) Initiative 81, the Entheogenic Plant and Fungus Policy Act of 2020, recently went into effect in Washington D.C. The measure makes “the investigation and arrest of persons 18 years of age or older, for non-commercial planting, cultivating, purchasing, transporting, distributing, engaging in practices with, and/or possessing entheogenic plants and fungi” among the lowest enforcement priorities for the local police department. ([https://decrimnaturedc.org/wp-content/uploads/2020/02/Entheogenic\\_Plant\\_and\\_Fungus\\_Policy\\_Act\\_of\\_2020\\_published\\_2\\_18\\_2020.pdf](https://decrimnaturedc.org/wp-content/uploads/2020/02/Entheogenic_Plant_and_Fungus_Policy_Act_of_2020_published_2_18_2020.pdf))

In 2020, Oregon voters approved Measure 109, the Psilocybin Services Act, which directs the Oregon Health Authority to create a state-licensed, psilocybin-assisted therapy program over the next two years. (<https://www.opb.org/article/2020/11/04/oregon-measure-109-psilocybin/>) In doing so, the state will determine how to regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products as well as the provision of psilocybin services. (<https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/Pages/psilocybin-services-act.aspx>) During the same election, Oregon voters approved Measure 110 which reduced the personal noncommercial possession of small amounts of a Schedule I-IV controlled substance, including several hallucinogens, from a criminal offense to a civil violation resulting in a maximum fine of \$100. (<http://oregonvotes.org/irr/2020/044text.pdf>)

### 4. Major Provisions of This Bill

#### Decriminalization of Specified Conduct

This bill provides that all of the following is lawful for a natural person 21 years of age or older:

- The possession, processing, obtaining, or transportation of mescaline, DMT, ibogain, LSD, psilocybin, psilocyn, and ketamine for personal use or for social sharing.
- The ingesting of mescaline, DMT, ibogain, LSD, psilocybin, psilocyn, and ketamine.
- The social sharing of mescaline, DMT, ibogain, LSD, psilocybin, psilocyn, and ketamine.

- The possession, planting, cultivating, harvesting, or processing of plants capable of producing mescaline, DMT, ibogain, LSD, psilocybin, psilocyn, and ketamine, on property owned or controlled by a person, for personal use or social sharing by that person, and possession of any product produced by those plants.

This bill defines the following terms:

- “Financial gain” means the receipt of money or other valuable consideration in exchange for the item being shared. Does not include reasonable fees for counseling, spiritual guidance, or related services that are provided in conjunction with administering or use of mescaline under the guidance and supervision, and on the premises, of the person providing those services.
- “Personal use” means for the personal ingestion or other personal and noncommercial use by the person in possession.
- “Social sharing” means the giving away or consensual administering of mescaline by a person 21 years of age or older, to another person 21 years of age or older, not for financial gain, including in the context of group counseling, spiritual guidance, community-based healing, or related services.

#### Conduct That Remains Subject to Penalties

With respect to mescaline, DMT, ibogain, LSD, psilocybin, psilocyn, and ketamine, the conduct described below remains subject to the following penalties:

- Possession of one of these substances on the grounds of any school during hours that the school is open for classes or school-related programs or at any time when minors are using the facility is a misdemeanor.
- Knowingly giving away or administering one of these substances to a person under 18 is a wobbler.
- For a person 18 years of age or older, knowingly giving away or administering one of these substances to a person under 14 is a felony with a term of 3, 5, or 7 years.
- Knowingly giving away or administering one of these substances to a person at least 18 years old but under 21 is an infraction.
- Possession of one of these substances by a person under 18 years of age is an infraction and requires completion of drug education or counseling and community service.
- Possession of one of these substances by a person at least 18 years of age but under 21 is an infraction.

#### Relief Afforded Under This Bill

##### *Petitioner-Initiated*

This bill establishes a process for eligible individuals to petition the court to request a resentencing or a dismissal. This language is modeled after the procedures laid out in the Adult Use of Marijuana Act. A person who is currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty under the provisions of this bill had they been in effect at the time of the offense may petition the sentencing court for a recall or dismissal of sentence. Upon receiving a petition, the court must presume the petitioner satisfies the criteria in unless the party opposing the petition proves by clear and convincing

evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria, the court must grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.

A person who is serving a sentence and is resentenced pursuant to the provisions of this bill must be given credit for any time already served and is be subject to supervision for one year following completion of their time in custody or is be subject to whatever supervision time they would have otherwise been subject to after release, whichever is shorter. However, the court may, in its discretion, as part of its resentencing order, release the person from supervision. This bill specifies that under no circumstances may resentencing result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.

A person who has completed their sentence for a conviction, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense had the provisions of this bill been in effect at the time of the offense, may file an application before the sentencing court to have the conviction dismissed and sealed because the prior conviction is now legally invalid. The court must presume the petitioner satisfies the eligibility criteria unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria. Once the applicant satisfies the criteria, the court must redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid. No hearing is necessary to grant or deny an application for a person who has completed their sentence.

#### *Criminal Justice System-Initiated*

This bill establishes a process expedite the identification, review, and notification of individuals who may be eligible for relief under this bill. This language appears to be modeled after the process codified in AB 1793 (Bonta), Chapter 993, Statutes of 2018. Specifically, this bill requires DOJ review the records in the state summary criminal history information database and identify past convictions that are potentially eligible for recall or dismissal of sentence or dismissal and sealing by July 1, 2022. DOJ is then required to notify the prosecution of all cases in their jurisdiction that are eligible for recall or dismissal of sentence or dismissal and sealing. The county district attorney offices are then required to review all cases and determine whether to challenge the recall or dismissal of sentence or dismissal and sealing by July 1, 2023.

The prosecution may challenge the resentencing of a person when the person does not meet the eligibility criteria or presents an unreasonable risk to public safety. However, the prosecution may only challenge the dismissal and sealing of a person who has completed their sentence for a conviction when the person does not meet the eligibility criteria. The prosecution must inform the court and the public defender's office in their county when it is challenging a particular recall or dismissal of sentence or dismissal and sealing on or before July 1, 2023. The prosecution is also required to inform the court when it is not challenging a particular recall or dismissal of sentence or dismissal and sealing. Upon receiving notice that the prosecution is going to challenge the resentencing or dismissal, the public defender's office must make a reasonable effort to notify the person of that fact. If the prosecution does not challenge the recall or dismissal of sentence or dismissal and sealing by July 1, 2023, the court must reduce or dismiss the conviction and then notify DOJ of the recall or dismissal of sentence or dismissal and

sealing. DOJ must then modify the state summary criminal history information database accordingly.

## 5. Argument in Support

According to California Attorneys for Criminal Justice:

Criminalizing individuals for the possession or personal use of controlled substances is a policy approach that has largely failed. These kinds of criminal sanctions do not improve public safety, deter use, or help those people experiencing addiction, but instead contribute to further mass incarceration. Current law also ignores the advancing medical science around psychedelics, and their therapeutic benefits.

SB 519 will finally reverse these policies and ensure that people 21 and older can use these substances without the fear of incarceration. Most importantly, the bill will provide for the dismissal and sealing of pending and prior convictions for possession or use of these substances, allowing these individuals to reenter society.

## 6. Argument in Opposition

The Peace Officers' Research Association of California writes:

SB 519 would make lawful, for individuals 21 or older, the possession for personal use and social sharing of hallucinogenic drugs, such as mushrooms, LSD, MDMA (aka "molly" or "ecstasy"), ketamine, and more. This bill would only provide penalties for possession of these substances on school grounds, or possession by, or sharing with, persons under 21 years of age.

As officers who experience first-hand the impact drugs can have on individuals and those around them, PORAC has serious concerns with SB 519 (Wiener) and the concept of decriminalizing drug-related offenses. We believe many of the penalties related to controlled substances work as a deterrent or a reason for individuals to get the treatment they need to turn their lives around. Furthermore, we believe SB 519 will cause an increase in the selling and personal use of drugs, which will lead to greater crime and arrests in our communities. As we have seen so many times, it is often the most vulnerable populations, and those who have the weakest support systems, that will be most susceptible to the increased access and use of drugs.

-- END --