

Date of Hearing: July 13, 2021

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
SB 519 (Wiener) – As Amended July 1, 2021
AS PROPOSED TO BE AMENDED

SENATE VOTE: 21-16

SUBJECT: Controlled substances: decriminalization of certain hallucinogenic substances.

SUMMARY: Makes it lawful for a person 21 years of age or older to possess, obtain, and ingest specified controlled substances classified as hallucinogens. Makes it lawful for the facilitated or supportive use of specified controlled substances classified as hallucinogens. Makes it unlawful for persons under the age of 21 to do such acts related to those hallucinogens, as specified. Requires the California Department of Public Health (DPH) to convene a working group to study specified hallucinogens and make recommendations to the Legislature regarding the statewide regulation of those hallucinogens and other controlled substances. Specifically, **this bill:**

- 1) 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.
- 2) Provides that, if there is a change in federal law permitting the prescription, furnishing, or dispensing of psilocybin, psilocyn, dimethyltryptamine (DMT), Ibogaine, mescaline, lysergic acid diethylamide (LSD), or 3,4-methylenedioxyamphetamine (MDMA) products, 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.
- 3) Removes mescaline from existing law that prohibits the possession of specified controlled substances.
- 4) Removes mescaline from existing law that makes it illegal to possess any device, instrument, or paraphernalia used for unlawfully injecting or smoking specified controlled substances, except as specified.
- 5) Removes from existing law the prohibition by an individual of delivering, furnishing, or transferring, or possessing with intent to deliver, furnish or transfer, or to manufacture with the intent to deliver, furnish or transfer, drug paraphernalia to test or analyze specified controlled substances.
- 6) Permits the possession of 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 in the human body any of the following substances: DMT, Ibogaine, LSD, mescaline, psilocybin, psilocyn, or MDMA.

- 7) Removes mescaline from existing law that makes it 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.
- 8) Removes mescaline from existing law that makes it unlawful to be under the influence of specified drugs.
- 9) Exempts DMT, Ibogaine, LSD, psilocybin, psilocyn from existing law that makes it unlawful to possess those substances, methamphetamine, and other specified controlled substances.
- 10) Exempts, as specified in 22) below, DMT, Ibogaine, LSD, psilocybin, and psilocyn from existing law that makes it unlawful to sell, give away, or transport for sale specified controlled substances.
- 11) Exempts as specified in 22) below, DMT, Ibogaine, LSD, psilocybin, and psilocyn from the code section that makes it unlawful for a person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give specified controlled substances.
- 12) Repeals existing law that makes it illegal for a person who, with the intent to produce psilocybin or psilocyn, cultivates any spores or mycelium capable of producing mushrooms or other material that contains such a controlled substance.
- 13) Repeals existing law that makes it illegal to transport, import into this state, sell, furnish, give 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.
- 14) Repeals existing law which permits spores or mycelium capable of producing mushrooms or other material which contains psilocyn or psilocybin to be lawfully obtained and used for bona fide research, instruction, or analysis, if not in violation of federal law, and if the research, instruction, or analysis is approved by the Research Advisory Panel.
- 15) Repeals existing legislative findings and declarations related to drug and alcohol education.
- 16) Makes all of the following acts involving mescaline lawful for a natural person 21 years of age or older:
 - a) The possession, processing, obtaining, giving away without financial gain, or transportation of not more than the allowable amount of mescaline for personal use or facilitated or supported use;
 - b) The ingesting of mescaline;
 - c) 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 facilitated or supported use by that person, and possession of any product produced by those plants; and,
 - d) Assisting another person or persons who are 21 years of age or older with any of the acts described in 16) a)-c) above.

- 17) Provides that the following conduct involving mescaline is unlawful and subject to the following penalties:
- a) 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 punishable by up to six months in the county jail;
 - b) Knowingly giving away or administering mescaline to a person who is under 18 years of age is a misdemeanor punishable by 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 as a felony punishable by imprisonment in the county jail for up to three years;
 - c) 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 guilty of a felony, punishable in the state prison for a period of three, five, or seven years;
 - d) Knowingly giving away or administering mescaline to a person who is at least 18 years of age, but under 21 years of age is guilty of an infraction;
 - e) Possession of mescaline by a person under 18 years of age is punishable as an infraction and requires the minor to either: i) 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, ii) 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 for a second or subsequent offense; and,
 - f) Possession of mescaline by a person at least 18 years of age but less than 21 years of age is punishable as an infraction.
- 18) 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.
- 19) Defines “allowable amount” to include the aggregate allowable amounts per person for use in the context of facilitated or supported use. “Allowable amount” does not include the weight of any material of which the substance is a part or to which the substance is added, dissolved, held in solution or suspended, or any ingredient or material combined with the substances specified in this bill to prepare topical or oral administrations, food, drink, or other product including but not limited to mescaline, DMT or psilocybin brews or teas. Establishes those allowable amounts per person to be the following:
- a) An amount of 2 grams of DMT;
 - b) An amount of 15 grams of Ibogaine;
 - c) An amount of 0.01 grams of LSD;
 - d) An amount of 4 grams of Mescaline;
 - e) An amount of 2 grams of the controlled substance Psilocybin or 4 ounces of a plant or fungi containing the controlled substance Psilocybin.
 - f) An amount of 2 grams of the controlled substance Psilocyn or 4 ounces of a plant or fungi containing the controlled substance of Psilocyn; and,
 - g) An amount of 4 grams of MDMA.

- 20) Defines “financial gain” as “the receipt of money or other valuable consideration in exchange for the item being shared.” Excludes from the definition, reasonable fees for counseling, spiritual guidance, or related services that are provided in conjunction with administering or using mescaline under the guidance and supervision, and on the premises, of the person providing those services.
- 21) Defines “personal use” as “for the personal ingestion or other personal and noncommercial use by the person in possession.”
- 22) Defines “facilitated or supported use” to mean assisting a person or persons 21 years of age or older with the personal use or use by multiple persons as part of a group of a controlled substance, as specified including giving away and possessing aggregate amounts of the specified substances for use by multiple persons as part of a group including in the context of group counseling, spiritual guidance, community-based healing, or related services.
- 23) Specifies that all of the following acts involving DMT, Ibogaine, LSD, psilocybin, psilocyn, and MDMA are lawful for a person 21 years of age or older:
 - a) The possession, processing, obtaining, giving away without financial gain, or transportation of DMT, Ibogaine, LSD, psilocybin, psilocyn, and MDMA for personal use or for facilitated or supported use;
 - b) Ingesting of DMT, Ibogaine, LSD, psilocybin, psilocyn, and MDMA;
 - c) The possession, planting, cultivating, harvesting, or processing of plants or fungi capable of producing of DMT, Ibogaine, LSD, psilocybin, and psilocyn on property owned or controlled by a person, for personal use or for facilitated or supported use 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; and,
 - d) Assisting another person or persons who are 21 years of age or older with any of the acts described in 23) a-c above.
- 24) Imposes all of the same criminal penalties with respect to DMT, Ibogaine, LSD, psilocybin, psilocyn, and MDMA that applies to mescaline in 17) a)-f) above, specifically:
 - a) Possession of one of these substances on the grounds of any school is a misdemeanor;
 - b) Giving away or administering one of these substances to a person under 18 is an alternate felony/misdemeanor;
 - c) Giving away or administering one of these substances to a person under 14 is a felony;
 - d) Giving away or administering one of these substances to a person at least 18 years old but under 21 is an infraction;
 - e) Possession of one of these substances by a person under 18 years of age is an infraction; and,
 - f) Possession of one of these substances by a person at least 18 years of age but under 21 is an infraction.
- 25) Requires DPH to convene a working group to study and make recommendations regarding:
 - a) public education, public health, and harm reduction; and,
 - b) possible regulatory systems that California could adopt to promote safe and equitable access to certain substances in permitted legal contexts, including facilitated group use of substances and spiritual use of substances in groups, and recommending options for caregiving including facilitated services, therapy, end-of-life care, and compassionate use of those controlled substance.

- 26) Requires the State Public Health Officer or their designee to chair the working group and for the group to include without limitation, persons with expertise in psychedelic therapy, medicine and public health, drug policy, harm reduction, youth drug education; law enforcement, and other first responders and people with experience with the traditional indigenous use of psychedelic substances, including representatives from the National Council of the Native American Church and Indian tribes in California.
- 27) Authorizes the working group to contract with outside entities, including public or private universities for research assistance. Requires the working group is to study, without limitation, all of the following:
- a) Education campaigns that provide accurate information about substances specified in the bill, their effects, strategies for safer use, and peer support including but not limited to public service announcements and curricula; and public health approaches for crisis prevention and response, including appropriate crisis training for first responders including law enforcement, emergency medical services (EMS), fire service and unarmed co-responder units;
 - b) The available research on the public health and public safety implications of decriminalizing controlled substances specified in this bill;
 - c) The available research on the safety and efficacy of using controlled substances specified in this bill in a therapeutic setting for treating post traumatic stress disorder (PTSD), depression, anxiety, addiction, and other mental health conditions;
 - d) The available research on the safe use of controlled substances specified in this bill for other uses including as part of religious, spiritual, or creative experiences; and,
 - e) Regulated use models for the controlled substances specified in this bill from other jurisdictions.
- 28) Requires the working group to develop policy recommendation regarding, without limitation, all of the following:
- a) The content and scope of educational campaigns and accurate public health approaches regarding use, effect, and risk reduction for the substances specified in this bill including but not limited to public service announcements, educational curricula, and appropriate crisis response, and appropriate training for first and multi-responders including law enforcement, EMS, fire service, and unarmed co-responder units;
 - a) Policies for minimizing use-related risks related to product safety, appropriate use, and impacts of detrimental substance abuse;
 - b) The authorization of various controlled substances for regulated uses;
 - c) The appropriate regulation of the therapeutic use of controlled substances, including qualifications, training, and licensing of therapists or facilitators;
 - d) The regulation of controlled substances specified in this bill for nontherapeutic use, including responsible marketing, produces safety, and cultural responsibility; and,
 - e) Safe and equitable production, access, use, and delivery of the controlled substances specified in this bill; and,
- 29) Requires the working group to submit two reports to the Legislature detailing their findings and recommendations as follows:
- a) No later than January 1, 2023, a report on their findings and recommendations related to 27) a) and b) and 28) a) and b) above;

- b) No later than January 1, 2024, a report on their findings and recommendations related to the remaining provisions of their charge.

30) Makes technical and conforming changes.

31) Makes Legislative findings and declarations.

EXISTING LAW:

- 1) Establishes the California Uniform Controlled Substances (CURES) Act that lists controlled substances in five schedules intended to list drugs in decreasing order of harm and increasing medical utility or safety and provides penalties for possession of and commerce in controlled substances. Schedule I includes the most serious and heavily controlled substances with Schedule V being the least serious and most lightly controlled substances. Classifies several hallucinogenic substances including DMT, Ibogaine, LSD, mescaline, psilocybin, and psilocyn as Schedule I substances.
- 2) Requires every person who possesses any controlled substance in Schedule I, II, or III of the CURES Act, that includes opiates, opium derivatives, depressants, cocaine base, mescaline, peyote, tetrahydrocannabinol, and certain hallucinogenic substances (including mescaline), or any controlled substance in Schedule III, IV, or V that is a narcotic drug, unless by a written prescription of a licensed physician, dentist, podiatrist, or veterinarian, to be punished by imprisonment in a county jail for not more than one year, or punished by a term of imprisonment in a county jail or state prison for 16 months, or for two or three years for one or more prior convictions, as specified.
- 3) 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, is deemed to comply with state law.
- 4) Makes it unlawful to possess any device, instrument, or paraphernalia used for unlawfully injecting or smoking specified controlled substances including mescaline.
- 5) Makes it a misdemeanor for any person, except as authorized by law, 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 or under circumstances where one reasonably should know 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, as specified.
- 6) Makes it unlawful to visit or to be in any room or place where any controlled substances specified in 1) of existing law above, including mescaline, are being unlawfully smoked or used with knowledge that such activity is occurring, as specified.
- 7) Requires every person who possesses any controlled substance classified in Schedule III, IV, or V that is not a narcotic drug; hallucinogenic substances in Schedule I, except cannabis, mescaline, peyote, and tetrahydrocannabinols; gamma hydroxybutyric acid, a depressant in

Schedule III; fenethylamine and N-Ethylamphetamine of Schedule I; and, stimulants, depressants, and immediate precursors of amphetamine, methamphetamine, and phencyclidine in Schedule II, unless upon a prescription, as specified, to be punished by imprisonment in a county jail for a period of not more than one year, as specified.

- 8) Requires, except as specified, every person who transports, imports, sells, furnishes, administers, or gives away, or offers to do or attempts such actions, any controlled substance in 5) above, but also excluding ethylamine, pyrrolidine, and thiophene analogs of phencyclidine, which are hallucinogenic substances in Schedule I, and depressant phencyclidines and the immediate precursors of phenylacetone of Schedule II, unless upon a prescription, as specified, to be punished by imprisonment for a period of two, three, or four years, as specified.
- 9) Provides that the possession of methamphetamine and other specified controlled substances is unlawful.
- 10) Requires, except as specified, every person who possesses for sale or sells specified controlled substances to be punished by imprisonment in county jail for a period of not more than one year or in the state prison.
- 11) Requires, except as specified, every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give any controlled substance specified in 7) above to any person, as specified, to be punished by imprisonment in county jail for not more than one year, as specified.
- 12) Requires every person, except as otherwise authorized by law, who, with intent to produce psilocybin or psilocyn in Schedule I, cultivates any spores or mycelium capable of producing mushrooms, or other material that contains such a controlled substance to be punished by imprisonment in county jail for a period of not more than one year or in state prison.
- 13) Prohibits a person from using or being under the influence of specified controlled substances, including mescaline, except when administered by or under the direction of a person licensed to dispense, prescribe, or administer controlled substances.
- 14) Makes Legislative finding and declarations about various drug and alcohol related programs that provide education, prevention, intervention, treatment, or enforcement; about the unlawful possession, purchase, or use of alcohol by persons under the age of 21; and, the unlawfulness of public and private agencies providing mixed messages about drugs and alcohol.

FISCAL EFFECT: According to the Senate Appropriations Committee, costs related to DPH to fulfill its obligations with respect to the working group (and subsequent report) that would be established by this bill, would include costs of \$416,000 for 1.0 Health Program Specialist II, 1.0 Research Scientist II/III, and 0.5 Associate Governmental Program Analyst from fiscal year (FY) 2022-23 through FY 2024-2025. Additionally, DPH indicates that it would incur external contracts costing \$1.35 million in FY 2022-2023 and \$650,000 in FY 2023-24. (General Fund)

COMMENTS:

1) **PURPOSE OF THIS BILL.** According to the author, this bill decriminalizes the possession and personal use of certain psychedelic drugs, specifically, psilocybin, psilocyn, MDMA, LSD, 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 (SUD). 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. The author concludes that with mental health issues on the rise, it is time that California take an incremental and measured step to dismantle the failed war on drugs policies by ending the criminalization of people that possess and use substances with immense healing potential. In light of ongoing clinical trials and research, this bill will establish a working group to provide recommendations for the Legislature on how California can regulate the legal use of these substances.

2) BACKGROUND.

a) **California and Federal Drug Schedule.** The California and Federal schedules mirror each other closely. Both have five schedules intended to list drugs in decreasing order of harm and increasing medical utility or safety and provides penalties for possession of and commerce in controlled substances. Schedule I includes the most serious and heavily controlled substances, with Schedule V being the least serious and most lightly controlled substances. The drugs on each schedule are largely consistent.

Schedule I – The drug has a high potential for abuse; the drug has no currently accepted medical use in treatment in the United States; there is a lack of accepted safety for use of the drug under medical supervision.

Schedule II – The drug has a high potential for abuse; the drug has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions; abuse of the drug may lead to severe psychological or physical dependence.

Schedule III – The drug has potential for abuse less than the drugs or other substances in Schedule I and II; the drug has a currently accepted medical use in treatment in the United States; abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

Schedule IV – The drug has a low potential for abuse relative to the drugs in Schedule III; the drug has a currently accepted medical use in the United States; abuse of the drug may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

Schedule V – The drug has a low potential for abuse relative to the drugs or other

substances in IV; the drug has a currently accepted medical use in treatment in the United States; abuse of the drug may lead to limited physical dependence of psychological dependence relative to the drugs or other substances in Schedule IV.

- b) **Hallucinogens.** Hallucinogens 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, and mescaline.

Many hallucinogenic substances, including LSD, DMT, mescaline, and psilocybin are classified as Schedule I substances under the CURES 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. An article from *Psychology Today*, published May 2, 2017, discussed promising clinical research on the use of psychedelics to curb addiction. A study at the University of New Mexico looked at the use of psilocybin to assist with alcohol dependence. Researchers at Johns Hopkins University found positive outcomes in the ability of psilocybin to halt nicotine addiction. A team of researchers affiliated with Boston University and Harvard Medical School, among other institutions, published a study in the *Journal of Psychopharmacology* reporting that illicit opioid users were at markedly less risk of becoming dependent on opioids if they also had experience with psychedelic drugs, suggesting a protective effect.

In the May 2020 issue of the *American Journal of Psychiatry* an evidenced-based summary of literature entitled, "Psychedelics and Psychedelic-Assisted Psychotherapy" provided a literature review on the clinical application of psychedelic drugs in psychiatric disorders. A total of 1,603 articles were identified and screened. Articles that did not contain the terms "clinical trial," "therapy," or "imaging" in the title or abstract were filtered out. The remaining 161 articles were reviewed by two or more authors and 14 articles were identified as reporting on well-designed clinical trials investigating the efficacy of LSD, MDMA, psilocybin, and ayahuasca for the treatment of mood and anxiety disorder, trauma and stress-related disorders and substance related and addictive disorders as well as end-of-life care. The most significant database exists for MDMA and psilocybin, which have been designated by the U.S. Food and Drug Administration (FDA) as "breakthrough therapies" for PTSD and treatment-resistant depression, respectively. The research on LSD and ayahuasca is observational, but available evidence suggests that these agents may have therapeutic effects in specific psychiatric disorders. The literature review concluded that while randomized clinical trials support the efficacy of MDMA in the treatment of PTSD and psilocybin in the treatment of depression and cancer-related anxiety, the research to support the use of LSD and ayahuasca (DMT) in the treatment of psychiatric disorders is preliminary, although promising. Overall, the database is insufficient for FDA approval of any psychedelic compound for routine

clinical use in psychiatric disorders at this time; however continue research on the efficacy of psychedelics for the treatment of psychiatric disorders is warranted.

As previously stated, the FDA has designated psilocybin as a “breakthrough therapy” to treat severe depression and granted “breakthrough therapy” status to MDMA-assisted psychotherapy to treat PTSD. 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.”

While the research on hallucinogenic use in therapeutic, facilitated settings is promising, the medical community, particularly the psychiatric community, remains concerned over the unsupervised personal use of hallucinogens where individuals are not pre-screened for personal mental health issues, family history of mental illness, or other risk factors for possible psychotic crisis. Further research is warranted on the long-term effects of these drugs as they relate to psychotic episodes, flashbacks, and other physiological health risk factors.

- c) **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. 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 (“psychedelic”) plants by adults, and requires investigating people for growing, buying, distributing or possessing those substances to be amongst the lowest law enforcement priority for the City of Oakland. A resolution passed by the Santa Cruz City Council in 2020 also made the personal possession and use of entheogenic plants and fungi a low priority for law enforcement. A similar measure was passed by the Ann Arbor City Council in September 2020. 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. 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. 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. During the same election, Oregon voters approved Measure 110, which reduces 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.

- 3) **SUPPORT.** Heroic Hearts Project (HHP), cosponsor of this bill, states they have been working with veterans for four years and that most of these veterans sought out HHP after

having tried everything the Veteran's Administration had to offer with little to no success. Psychedelic treatment options provided these veterans with a level of relief and healing that many had come to believe was no longer possible. HHP has more than 500 veteran candidates on the waiting list and desperately needs states like California to join in this fight for better mental health treatments through psychedelic assisted therapy options to effectively support our veterans in need. HHP goes on to state that, the stigma behind psychedelic substances often overshadows its legitimate medicinal value and promise. In the 1960s, researchers were conducting promising studies on the effectiveness of psychedelic substances to treat ailments such as depression and PTSD, until the War on Drugs halted this work. Modern research clearly demonstrates that these psychedelic substances can be a tool for healing and have a promising future for mental health treatment. Beyond halting this promising research, the War on Drugs also enacted the policy of criminalizing people for the possession or personal use of controlled substances. Today, we know this is a failed policy approach as it does not improve public safety, deter personal use, or help people who may be experiencing SUD. HHP concludes that it is time California stop criminalizing people who possess and use substances that have immense medicinal potential and look towards how California should thoughtfully regulate legal use to these substances. This bill is an incremental measure that relies on a more modern understanding of these substances, and provides space for California to start a more sensible conversation about how we really ought to treat people who are using psychedelic substances for their own personal and medical purposes.

- 4) **OPPOSITION.** The Peace Officers' Research Association of California (PORAC), states in opposition that as officers who experience first-hand the impact drugs can have on individuals and those around them, PORAC has serious concerns with this bill and the concept of decriminalizing drug-related offenses. PORAC believes 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, PORAC believes this bill will cause an increase in the selling and personal use of drugs, which will lead to greater crime and arrests in our communities. In conclusion PORAC states that 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. The California State Sheriffs' Association (CSSA), states that this bill will cause confusion given federal law still makes possession of these substances illegal. Law on matters such as these should be considered together to avoid drastic differences in enforcement protocols. CSSA concludes that while proponents assert some of these substances may have medical benefits, there is remaining concern about the mind-altering potential of these substances and whether government should be encouraging use that could result in impairment. Finally, Crime Victims United states that while they recognize that a rare subgroup of therapists have incorporated these illicit drugs into treatment of certain mental health disorders; this by no means justifies their wholesale legalization for the masses – who are not necessarily under the watchful eye off a licensed therapist. Nor does it mean their use is a universally accepted practice even in the mental health community. These specific hallucinogenic drugs have the following dangerous side effects for those who take them: increased heart rate and blood pressure (which can lead to cardiac events), blurred vision seizures, trouble breathing, increased body temperature, vivid visual and auditory hallucinations (sometimes very frightening), panic, paranoia, psychosis and flashbacks. Crime Victims United concludes by stating that while it is rare for individuals to overdose on these drugs, alone, when mixed with other incompatible drugs (a

common occurrence) or situation - such as dehydration or an unsafe environment – they can be just as deadly.

- 5) **OPPOSE UNLESS AMENDED.** The William G. Nash Foundation (the Foundation) in an oppose unless amended position states that the Foundation is named after William (Will) Nash who was a bright and creative college senior, just two months from graduating with a degree in economics and a job waiting for him in San Francisco when he and some friends took psychedelics in their college dorm. Will had a challenging experience, which led to a state of psychosis. Campus first responders were called, but Will was able to fatally harm himself while in their care and custody. The Foundation states that while it is rare to overdose from these substances, individuals in altered states can and do cause harm to themselves and others. Hallucinations are a detachment from reality, with unpredictable results. They can range from euphoria to paranoia and terror, and can result in accidents, violence or suicide. It is important to note that people die in good trips as well as bad. The unpredictability is not well understood, but can be due to individual brain chemistry, varying concentrations or composition, as well as intention, mindset and setting. This is why therapeutic experiences are so tightly controlled. Patients are screened for any previous mental health issues or family history. They undergo advance counseling to ensure readiness and clear intention. They often have two “sitters,” or guides, in the room in case negative reactions occur.

The Foundation states that the increasingly robust research base demonstrating the efficacy of MDMA for PTSD and psilocybin for depression, anxiety and addiction is compelling and exciting a system must be created for those in need, especially veterans, low-income and disadvantaged people, to have access to these therapies as soon as possible. The Foundation concludes by stating that we must end the failed war on drugs, prioritizing rehabilitation over criminalization, but in doing so, must recognize that use in uncontrolled, recreational environments can be dangerous. Legalizing hallucinogenic substances without reality-based, harm reduction education for the community and proper training for first responders will create harmful, unintended consequences, especially for young people who hear about transcendent effects, but not about risks or safety.

- 6) **DOUBLE REFERRAL.** This bill was heard in the Assembly Public Safety Committee on June 29, 2021, and passed by a vote of 5-3.
- 7) **RELATED LEGISLATION.**
- a) AB 653 (Waldron) would establish the Medication-Assisted Treatment Grant Program, in order for the Board of State and Community Corrections to award grants to county purposes relating to the treatment of SUDs and the provision of medication-assisted treatment. AB 653 is pending a hearing in the Senate Appropriations Committee.
 - b) SB 57 (Wiener), would authorize the City and County of San Francisco, the County of Los Angeles, and the City of Oakland to approve entities to operate overdose prevention program for adults supervised by healthcare professionals or other trained staff where people who use drugs can safely consume drugs and get access or referrals SUD treatment services, primary medical care, mental health services, and social services. SB 57 is pending in the Assembly Health Committee.

8) PREVIOUS LEGISLATION.

- a) AB 362 (Eggman) of 2020, would have authorized the City and County of San Francisco to approve entities to operate an overdose prevention program for adults supervised by healthcare professionals or other trained staff where people who use drugs can safely consume drugs and get access to referrals to addiction treatment. AB 362 was not heard in the Senate Health Committee due to the COVID-19 pandemic.
- b) AB 186 (Eggman), of 2018, contained similar provisions to AB 362 (Eggman). AB 186 was vetoed by Governor Brown with the following veto message:

“Fundamentally, I do not believe that enabling illegal drug use in government sponsored injection centers-with no corresponding requirement that the user undergo treatment-will reduce drug addiction. In addition, although this bill creates immunity under state law, it cannot create such immunity under federal law. In fact, the United States Attorney General has already threatened prosecution and it would be irresponsible to expose local officials and health care professionals to potential federal criminal charges.”

- c) AB 2495 (Eggman), of 2016 would have decriminalized conduct connected to use and operation of an adult public health or medical intervention facility that is permitted by state or local health departments and intended to reduce death, disability, or injury due to the use of controlled substances. AB 2495 was heard for testimony in the Assembly Public Safety Committee and returned to the desk.
- d) SB 41 (Yee), Chapter 738, Statutes of 2011, authorized a county or city to authorize a licensed pharmacist to sell or furnish 10 or fewer hypodermic needles or syringes to a person 18 or older for human use without a prescription.
- e) SB 1159 (Vasconcellos), Chapter 608, Statutes of 2004, established a five-year pilot program to allow California pharmacies, when authorized by a local government, to sell up to 10 syringes to adults without a prescription.

REGISTERED SUPPORT / OPPOSITION:

Support

Heroic Hearts Project, Inc. (cosponsor)
Veterans Exploring Treatment Solutions, Inc. (cosponsor)
City of Oakland Councilmember District 5 Noel Gallo
City of Oakland Councilmember District 4 Sheng Thao
Bend the Arc: Jewish Action
California Association of Social Rehabilitation Agencies
California Attorneys for Criminal Justice
California Public Defenders Association
Chacruna Institute
City of Berkeley
City of Oakland
DC Marijuana Justice

Dr. Bronner's
Entheogenic Research, Integration, and Education
Health in Justice Action Lab
Initiate Justice
Law Enforcement Action Partnership
Legal Services for Prisoners With Children
Los Angeles County District Attorney's Office
Los Angeles Professional Peace Officers Association
McAllister Garfield, P.C.
Mendocino Women's Political Coalition
Multidisciplinary Association for Psychedelic Studies
New Approach Advocacy
North STAR Project
Operation Evac
Pacific Neuroscience Institute
Plant Medicine Coalition
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
The Chacruna Institute for Psychedelic Plant Medicines
The Huichol Center for Cultural Survival and Traditional Arts
Unlimited Sciences
Veterans of War
Several Individuals

Oppose

California Coalition Against Drugs
California College and University Police Chiefs Association
California District Attorneys Association
California Family Council
California Narcotic Officers' Association
California Police Chiefs Association
California State Sheriffs' Association
California Statewide Law Enforcement Association
Capitol Resource Institute
Citrus Heights Police Department
City of Beverly Hills
Concerned Women for America
Congress of Racial Equality
Crime Victims Alliance
Crime Victims United of California
International Faith Based Coalition
Keep California Safe
Orange County Sheriff's Department
Organization for Justice and Equality

Peace Officers Research Association of California (PORAC)
The American Council for Evangelicals
Several Individuals

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