

Marijuana Series: New Jersey Marijuana Politics Are Fluid, But Governor Murphy

March 14, 2018

By: Brian P. Sharkey

Although the status of marijuana legalization has been the focus of attention in New Jersey since Governor Murphy took office in January, the past several days have seen increased activity in this area. The biggest development that we will focus on is Governor Murphy's remarks supporting legalization in his Budget Address on March 13, but that is far from the only newsworthy development over the past few days.

The day before the Governor's Budget Address, Senate President Stephen Sweeney stated that he was opposed to a recent bill, S.1926, that was introduced by Senator Ron Rice, a Democrat, and Senator Robert Singer, a Republican, that would decriminalize possession of small amounts of marijuana. Senate President Sweeney told NJ Advance Media that "I really don't have an interest in it[.] I don't see it moving forward at this time. You're basically legalizing something that's not legal now. If you're gonna do it, do it right. Regulate it and manage it properly." (The title of the NJ Advance Media article covering this topic is "Decriminalizing weed instead of legalizing it won't happen, N.J. Senate president says".) In contrast, the Republican State Assembly Minority Leader Jon Bramnick indicated that he supports the decriminalization approach, as he explained that "[n]o one should be a convicted criminal and not be able to get a job because they had a small amount of marijuana[.]" Meanwhile, Senator Tom Kean, Jr., the State Senate Minority Leader, noted that the Republican caucus in the Legislature did not have an official stance with respect to this subject.

In the face of potential bipartisan opposition in the Legislature to both the legalization or decriminalization of marijuana, Senator Singer suggested a different approach: putting the question of whether to legalize marijuana to voters in a referendum. As to the possibility of a referendum, Senate President Sweeney told NJ Advance Media that he would consult with Senator Nicholas Scutari, who has been the leading proponent of legalization in the New Jersey Senate and who has sponsored legalization legislation, though Senate President Sweeney expressed concern about the referendum process and stressed his preference for legislation.

Another significant development from March 12 was the introduction of A.3581, a bill that would legalize possession of small amounts of marijuana. The legislation was sponsored by Assemblyman Reed Gusciora, who has been the Assembly's leading advocate for legalization. There are a number of differences between the legislation sponsored by Assemblyman Gusciora in the Assembly and the bill sponsored by Senator Scutari in the Senate, but according to press reports the legislators will be exploring whether it is possible to compromise and find common ground to advance the bills.

While all of that is significant, the biggest development over the past several days was Governor Murphy's first Budget Address. Governor Murphy devoted considerable attention to the issue of marijuana during his remarks, as he touched upon his support for the State's medicinal marijuana program and then focused on the question of legalization, as well as his opposition to decriminalization. Specifically, Governor Murphy stated that social justice is "the principal reason I advocate for legalizing adult-use marijuana. According to research, New Jersey spends upwards of \$140 million per year adjudicating low-level marijuana possession offenses. And, marijuana-related arrest rates are tilted three-to-one against African-Americans, even though rates of marijuana use are similar among races.

These resources must have a better use, whether to tackle the trafficking of illegal guns, provide stronger community policing, or to crack the back of our opioid epidemic, which was devastating our urban centers long before it made headlines.

I greatly respect those in this chamber who have proposed decriminalizing possession of small amounts of marijuana, and I thank them for recognizing the importance of doing what's right and just for those who carry criminal records for past possession arrests. But decriminalization alone will not put the corner dealer out of business, it will not help us protect our kids, and it will not end the racial disparities we see.

If these are our goals – as they must be – then the only sensible option is the careful legalization, regulation, and taxation of marijuana sales to adults.

Legalization will allow us to reinvest directly in our communities – especially the urban neighborhoods hardest hit by the misguided War on Drugs – in their economic development, in health care and housing, child care and after-school programs, and other critical areas. These investments will pay dividends far greater than the cost of mass incarceration.

I did not come to this overnight, myself. After all, we are the parents of four children under the age of 21. But from the standpoint of social justice, and from the standpoint of protecting our kids and lifting up our communities, I could not arrive at any other conclusion.

I commend Senator Scutari, and Assemblymen Gusciora, Eustace, and Kennedy for their efforts to change this conversation. I thank Senate President Sweeney, too, for his support. I am committed to working with you to get this passed this year." (emphasis added)

Governor Murphy's comments about marijuana were not confined to just his Budget Address. For example, he tweeted that "I advocate for legalization, regulation and taxation of marijuana sales to adults. This will allow us to reinvest directly in our communities, and these investments will pay dividends – in contract to the cost of mass incarceration." Furthermore, the Governor's office's press release accompanying his Budget Address declared that "[t]he Administration plans to legalize adult-use marijuana by January 1, 2019 to help end the cycle of non-violent, low-level drug offenses holding individuals back. Legalizing marijuana will generate an estimated \$80 million in revenue for this year."

The two biggest takeaways from Governor Murphy's statements are his continued support for legalization and his commitment to "get this passed this year." This is important because the prospects for legalization remain murky, which is disappointing to those who thought that legalization would occur quickly because of Governor Murphy's support and the fact that the Legislature is controlled by his fellow Democrats. Those in the pro-legalization camp can hope that the Governor's continued advocacy will help to build support in the Legislature. But perhaps it will not. In that regard, Senator Kean issued a statement following the Governor's address in which reasoned that the Governor "shouldn't count on revenues from marijuana legalization. It's not clear that there is support among Republicans or Democrats to legalize it." The focus going forward will be on whether the Legislature will be able to achieve clarity in support of, or opposition to, legalization. If it turns out that the Governor's support is not enough to persuade the Legislature, it may be that the issue is put to voters in a referendum, especially in view of Senate President Sweeney's opposition to decriminalization.