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FISCAL IMPACT REPORT

SPONSOR: McSorley DATE TYPED: 02/27/01 HB _____
 SHORT TITLE: Possession of Controlled Substances SB 317
 ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Corrections Department
 Attorney General's Office (AG)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

HB 317 changes possession of eight ounces or more of marijuana from a fourth degree felony to a misdemeanor for first or second offense but continues it as a fourth degree felony for third or subsequent offenses. HB 317 also reduces possession of less than two grams of PCP, two grams of methamphetamine or less than two grams of any narcotic drug enumerated in Schedule I or II to a misdemeanor for a first or second offense, but makes a person guilty of a fourth degree felony upon a third or subsequent offense. HB 317 also requires a conditional discharge on a possession charge for a first conviction.

Significant Issues

The CD believes that the significant issue presented by HB 317 is the record keeping that would be required to keep track of the number of possession offenses an individual has accrued. The AG notes that since HB 317 reduces penalties from the current law, the intent of HB 317 appears to be to encourage offenders to seek treatment. Access to treatment is a correlative issue that may be a limiting factor on the ability of an offender to effectuate change.

FISCAL IMPLICATIONS

The decreased criminal penalties for certain drug offenses could result in shorter prison and probation terms for those offenders which, in turn, could result in a decrease in costs to the CD. On the other hand the decrease in the level of offense for certain drug crimes may result in a minimal decrease in revenues from the lower amount of probationary fees being collected.

ADMINISTRATIVE IMPLICATIONS

HB 317 could result in a minimal decrease in the administrative burden upon prison, probation and support personnel who would be responsible for a somewhat smaller prison population and probation caseload due to the shorter sentences.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

Conflicts with:

- SB 315, Possession of Marijuana
- SB 319, Compassionate Use Medical Marijuana Act
- HB 355, Control of Methamphetamine
- HB 431, Compassionate Use Medical Marijuana Act

Related to:

- SB 313, Possession of Controlled Substances

OTHER SUBSTANTIVE ISSUES

DPS provided the following:

HB 317 would require a conditional discharge in the event of a first possession offense. This creates some ambiguity as to when an offense becomes a second, third or subsequent offense. The first offense, which has been conditionally discharged, may be utilized to aggravate the penalty to a more serious crime.

The DPS reports eight ounces or more of marijuana is not reasonably a personal-use amount, and is found on illegal traffickers and cultivators of marijuana. Two grams of Phencyclidine, Methamphetamine, and Schedule I and II narcotics drugs like heroin is over thirty dosage units of these drugs. These amounts are generally possessed and sold by traffickers and should not be reduced to misdemeanor crimes.

DW/ar:prr