

By: Hinojosa

H.B. No. 122

A BILL TO BE ENTITLED

AN ACT

relating to the medical use of marihuana; providing an affirmative defense to prosecution for possession of marihuana.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.121, Health and Safety Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) It is an affirmative defense to prosecution under Subsection (a) that the person possessed the marihuana:

(1) as a patient of a physician licensed to practice medicine in this state pursuant to the recommendation of that physician for the amelioration of the symptoms or effects of a medical condition; or

(2) as the primary caregiver of a patient described by Subdivision (1), and the person possessed the marihuana only with intent to assist the patient.

(d) An agency, including a law enforcement agency, of this state or a political subdivision of this state may not initiate an administrative, civil, or criminal investigation into a physician licensed to practice medicine in this state solely on the ground that the physician:

(1) discussed marihuana as a treatment option with a patient of the physician; or

(2) made a written or oral statement that, in the physician's professional opinion, the potential benefits of the use

1 of marihuana would likely outweigh the health risks for a
2 particular patient.

3 SECTION 2. Subchapter B, Chapter 164, Occupations Code, is
4 amended by adding Section 164.0535 to read as follows:

5 Sec. 164.0535. MEDICAL USE OF MARIHUANA. A physician may
6 not be denied any right or privilege or be subject to any
7 disciplinary action solely for making a written or oral statement
8 that, in the physician's professional opinion, the potential
9 benefits of the use of marihuana would likely outweigh the health
10 risks for a particular patient.

11 SECTION 3. The change in law made by this Act applies only
12 to an offense committed on or after the effective date of this Act.
13 An offense committed before the effective date of this Act is
14 governed by the law in effect on the date the offense was committed,
15 and the former law is continued in effect for that purpose. For
16 purposes of this section, an offense was committed before the
17 effective date of this Act if any element of the offense occurred
18 before that date.

19 SECTION 4. This Act takes effect September 1, 2019.