



Independent Research. Poverty Solutions. Better DC Government.

**Testimony of Doni Crawford, Senior Policy Analyst
At the Public Hearing on the Medical Cannabis Amendment Act of 2021 and
the Comprehensive Cannabis Legalization and Regulation Act of 2021
Committee of the Whole, Committee on Business and Economic Development, and
Committee on Judiciary and Public Safety
November 19, 2021**

Good morning, Chairpersons Mendelson, McDuffie, Allen, staff, and members of the Committees. Thank you for the opportunity to testify today. My name is Doni Crawford, and I am a senior policy analyst at the DC Fiscal Policy Institute (DCFPI). DCFPI is a nonprofit organization that promotes budget choices to address DC's racial and economic inequities and to build widespread prosperity in the District of Columbia, through independent research and policy recommendations.

Today, my oral testimony will focus on B24-118, the Comprehensive Cannabis Legalization and Regulation Act of 2021. My written testimony includes recommendations on strengthening B24-113, the Medical Cannabis Amendment Act of 2021, as it will likely be enacted first—presenting us with the immediate opportunity to continue making improvements to our existing cannabis market.

DCFPI applauds the hard work and intentionality that went into making this cannabis legalization and regulation bill, which is arguably the best in the nation. When we were all having conversations last year on how to incorporate racial equity as a key focus of DC government, *this* bill is an example of what that looks like in the legislative design of public policy. It may have taken more than a year to collaboratively engage with stakeholders, but it is undoubtedly worth the extra time and work to get this right, and I hope future bills are crafted in a similar way.

In a report this spring, DCFPI wrote about how the DC Council can usher in a restorative and racially inclusive recreational cannabis industry for the Black and brown communities most harmed by criminalization and the failed War on Drugs.¹ These guiding principles are to address historic and current harm; design a cannabis industry that fosters racial inclusion; and devote cannabis tax revenue to build community wealth. This bill follows these principles in a number of ways including by automatically expunging most cannabis-related arrests, prosecutions, and convictions; setting aside half of all available licenses created by the bill to social equity program participants and setting up a dedicated funding stream to support them; and, thinking through what allocating half of cannabis sales tax revenue toward community reinvestment could look like as a part of this process.

To make this bill even stronger, DCFPI makes a number of recommendations, including the following three core recommendations:

- Strengthen the social equity provisions to prioritize licenses for returning citizens, and allow them to fully participate in the industry as employees and owners without any restrictions;

- Devote *all* cannabis tax revenue and licensing fees (none to the General Fund) to the social equity program, community reinvestment, and assistance for returning citizens; and,
- Modify the Community Reinvestment Program Fund to entirely support direct, unrestricted cash assistance to returning citizens, their families, and Black and brown communities harmed by criminalization and the failed War on Drugs, making DC one of the first cities in the nation to structure their fund in this way.

Understanding the History of Cannabis Policy Elucidates the Need for Us to Get This Right

The history of cannabis criminalization is rooted in racism and intentional efforts to harm Black and brown people. For many thousands of years, Eastern cultures used cannabis for a variety of purposes. Hemp fiber from the plant was used to make clothing, rope, paper, canvas, sails, and shoes. People also used cannabis during religious ceremonies, as an anesthetic for surgeries, and as a psychoactive.² But early racist associations in the US connecting cannabis usage to imagined violence in Mexican, Japanese, and Black communities laid the groundwork for cannabis prohibition and the “War on Drugs”—both of which fueled unjust over policing and mass incarceration of Black and brown people.³ Criminalization directly harmed many Black and brown families’ ability to be hired for a job, secure housing, receive federal financial aid for higher education and financial assistance to support their family, drive, own a business, vote, etc.⁴

This history of injustice has carried over into present-day racial inequities. Today, Black ownership of storefront cannabis dispensaries is estimated to be around one percent nationwide.⁵ Another national survey found that the percentage of Black and brown people that have launched a cannabis business and/or have *any* (not controlling) ownership stake in a cannabis business, is slightly higher at four and six percent, respectively.⁶ And unjust policing and the criminalization of Black people continues today. In DC, Black people continue to make up 89 percent of all cannabis-related arrests both before and after legalization, according to a recent Washington Post study.⁷

Now is the time to atone for these historical and ongoing injustices by ushering in a new cannabis industry rooted in racial equity and racial justice.

B24-118: Comprehensive Cannabis Legalization and Regulation Act of 2021

Strengthen Social Equity Provisions to Prioritize Licenses for Returning Citizens

The Comprehensive Cannabis Legalization and Regulation Act of 2021 commendably establishes a social equity program that intends to foster racial inclusion by defining social equity applicants as applications with 60 percent ownership and control by DC residents who have resided for at least ten of the last 20 years in a disproportionately impacted area or have been arrested or convicted of any offense that is eligible for expungement under this bill and/or are members of an impacted family. The social equity program would set aside half of all available licenses created by the bill to program participants; require the Alcohol Beverage and Cannabis Administration (ABCA) Board to only consider license applications by social equity applicants and medical cannabis establishments for one year; waive 75 percent of any nonrefundable fees for applicants; and require ABCA to create a public data portal to track program progress and efforts to achieve racial inclusion.

Earlier this year, the Council considered emergency legislation that would have set aside medical licenses and provide preferences for businesses with at least 51 percent ownership by one or more returning citizens previously incarcerated for the manufacture, distribution, or possession, with intent to manufacture or distribute a controlled substance.⁸ While the bill did not advance, it did generate discussion on how to broaden equity for returning citizens in the cannabis industry in the future.⁹

DCFPI developed a few ideas for prioritizing returning citizens in the cannabis industry and includes them here for Council consideration:

- Allow solely social equity applicants, especially those with ownership by people who have been arrested or convicted of any offense that is eligible for expungement under this bill, to receive license consideration in the first year following the issuance of final regulations;
- Expedite applications with ownership by people who have been arrested or convicted of any offense that is eligible for expungement under this bill;
- Set aside half of the social equity licenses for applicants with ownership by people who have been arrested or convicted of any offense that is eligible for expungement under this bill;
- Only allow delivery endorsements to be set aside for social equity applicants and/or applicants with ownership by people who have been arrested or convicted of any offense that is eligible for expungement under this bill (this may require creating a delivery license category because currently, only off-premises retailer or microbusiness licensees may obtain delivery endorsements); and/or,
- Consider expanding these protections to people who have been arrested and/or convicted of cannabis-related offenses, their families and the families of returning citizens, and long-term residents of overpoliced communities, particularly when cannabis was criminalized.

Additionally, the bill states that a prior drug possession conviction cannot be the sole ground for denial of a license. As a result, criminal records can still be considered and used against returning citizens and/or people directly impacted by past drug prohibition. The Council should eliminate this language to allow their full participation in the industry and eliminate any stigma that might infuse the process with bias that limits how many impacted people get a license.

Devote *all* Cannabis Tax Revenue and Licensing Fees to Social Equity, Community Reinvestment, and Returning Citizens

As proposed, the Comprehensive Cannabis Legalization and Regulation Act of 2021 would devote 50 percent of cannabis sales tax revenue to the Community Reinvestment Program Fund, 30 percent to the Cannabis Equity and Opportunity Fund, and 20 percent to the General Fund. Additionally, only the initial licensing and permitting fees would be deposited into the Cannabis Equity and Opportunity Fund, while the revenue from the renewal of licenses and permits, and penalties and fines, would be deposited into the General Fund. Until we ensure that this industry is as restorative and racially inclusive as possible, all monies should be deposited into dedicated funds to support that purpose. Additional uses of the revenue outlined above could also include setting aside revenue to support civil legal services and pay legal fees for DC residents filing a petition to have their record expunged, vacated, or set-aside as authorized under this bill. The revenue can also assist them with potential time lost from work when meeting with representation from the Public Defender Service and other firms, and other unexpected costs.

Modify the Community Reinvestment Program Fund to Entirely Support Direct, Unrestricted Cash Assistance

As designed, the Community Reinvestment Program Fund would provide grants to community-based organizations that address an excessively broad range of issues including economic development, mental health treatment, substance use disorder treatment, non-law enforcement violence prevention services, homeless prevention services, re-entry services, youth development, and civil legal aid in eligible program areas. A mayor-appointed Community Reinvestment Program Board—made up of community-based organizations, returning citizens, community members, and government officials—would be responsible for selecting grantees.

DCFPI supports the allocation of 50 percent of cannabis sales tax revenue toward community reinvestment, but the revenue should be used to explicitly benefit individuals and communities disproportionately targeted and harmed by criminalization of cannabis and the failed War on Drugs. DC should seek to be one of the first cities in the nation to pursue a robust and restorative, direct, unrestricted cash assistance program with cannabis tax revenue as a result of legalization. To date, a national scan of state and local cannabis reinvestment efforts yields just two noteworthy examples along these lines:

- Evanston, Illinois: The most well-known cannabis reinvestment effort. The city dedicated the first \$10 million of its Municipal Cannabis Retailers' Occupation Tax toward reinvestment, starting with a \$400,000 homeownership grants program.¹⁰ This program also accepts private donations to grow the fund. It still has shortfalls as a model as it dictates allowable uses for the fund and seeks to pursue broader restitution than just remedies for the failed War on Drugs.
- Cambridge, Massachusetts: Unlike in Evanston, this planned program will be designed as restitution for the racist War on Drugs. The program details are still in development but will include setting aside a percentage of local cannabis sales to be distributed to “current and former Cambridge residents who have been harmed by the war on drugs, with a targeted launch date of July 2022.”¹¹

In DC, the proposed Community Reinvestment Program Board could help design and shape how a cash assistance program would be structured, including by:

- Defining eligible recipient criteria – i.e., use the criteria for a social equity applicant or develop a new, more tailored category of eligible recipients;
- Determining payments – i.e., one-time lump sum vs. quarterly payments;
- Designing program intake – i.e., assess whether there is data available, such as arrest and conviction data, to proactively reach out to individuals and not require everyone to apply for assistance;
- Considering whether to allow private donations – i.e., assess whether private businesses, individuals, and organizations will be able to contribute to grow the fund;
- Exempting assistance from local DC income taxes for recipients with moderate and low incomes, and protecting individuals from losing access to other income supports, such as TANF – i.e., legislating exemptions when possible, pursuing federal waivers as needed, and setting aside funding for a counselor to help individuals understand how receiving the cash assistance would affect their other benefits; and,

- Deciding whether to partner with non-governmental partners to deliver cash assistance – i.e., similar to how the DC CARES cash assistance program for excluded workers currently operates.

B24-113: Medical Cannabis Amendment Act of 2021

Strengthen Employment and Entrepreneurship Opportunities for Returning Citizens

The Medical Cannabis Amendment Act of 2021 would improve the existing medical cannabis program by: renaming and using the race-neutral scientific term of “cannabis” throughout DC Law and DC Code; expanding where qualifying medical cannabis patients can obtain their medication; allowing for safe use treatment facilities at dispensaries; and removing some prohibitions on returning citizens’ ability to work and own in the industry. However, the proposed bill would still prohibit individuals with certain felony convictions within the last three years from applying to be a director, owner, officer, or agent of a dispensary, cultivation center, or testing laboratory.

The District should not discriminate against individuals with criminal records for cannabis-related offenses. These individuals have already faced consequences and the District does not need to enact a second form of punishment. For some, their prior involvement with cannabis could potentially bring some level of skill and expertise. And for those individuals who are returning citizens, it would benefit the District, communities, and families to help them reintegrate into society rather than erect additional barriers to their success. These individuals should have an opportunity to make a living and share in the prosperity of the new industry.

As B24-113 will likely be enacted before B24-118, DCFPI recommends that the Council include entrepreneurship protections for all returning citizens and people with certain felony convictions in the medical bill. They should amend existing B24-118 language to ensure that in both bills, prior convictions cannot be considered at all and used against returning citizens and people directly harmed by past drug prohibition who want to pursue licensure. Additionally, as with B24-118, it is worth considering prioritizing licensure applications by returning citizens either through set asides or expedition.

Continue to Monitor the Placement of Cannabis Facilities in Communities and Make Legislative Changes as Needed

The District should continue to monitor the placement of cannabis dispensaries and cultivation centers to ensure equitable access and fair distribution in communities. Currently, there are seven operational cannabis dispensaries in the District. However, prior to the opening of the last two dispensaries in Wards 7 and 8, registered medical cannabis patients living east of the Anacostia River had to travel far to receive their medication.¹² The District commendably increased the cap on the number of dispensaries from five to seven and required that the additional two dispensaries be located in Wards 7 and 8. And largely due to zoning requirements that dictate where cultivation centers can be housed for the medical cannabis program, six of the eight cannabis cultivation centers are located in Ward 5.^{13,14} Community concern about this overconcentration prompted DC Council changes that limited the number of cultivation centers by ward.

The Medical Cannabis Amendment Act of 2021 would allow the mayor to increase the number of dispensaries in DC from eight to 16 by rulemaking and increase the number of dispensaries to two from one in any ward in which five or more cultivation centers have been registered to operate. This will likely assist in opening up the recreational market opportunities whenever B24-118 is enacted. But in the future, the District should use similar reflective decision-making to ensure equal access to dispensaries and fair distribution. For example, there are currently no dispensaries and cultivation centers located in Ward 3 while Ward 5 is home to 75 percent of DC's cultivation centers. The District can make further legislative changes or add prioritizations to future Alcohol Beverage Regulation Administration (ABRA) regulations to ensure that no scarcity remains in wards.

The Council can further preempt any traditional Not-In-My-Backyard (NIMBY) roadblocks by partnering with the Office of Planning to approve zoning changes that lead to fair cannabis distribution and access across the District. Additionally, it will be important to always consider whether the cost of land and property in some wards limit distribution and equitable access to the industry and make ward caps potentially more harmful than helpful. And any future dispensary and cultivation center placement in Wards 7 and 8 specifically should be paired with significant anti-displacement strategies and local hiring practices to mitigate the negative effects of economic development, and rising land costs and property values.

Thank you for the opportunity to testify and I am happy to answer any questions.

¹ Doni Crawford, [First in Line: Why the District Must Take a Reparative Approach to Recreational Cannabis Policy for Black and Brown Communities](#), DC Fiscal Policy Institute, February 16, 2021.

² Barney Warf, [High Points: An Historical Geography of Cannabis](#), *Geographical Review*, 104 (4): 418-421, October 2014.

³ Eric Schlosser, [Reefer Madness](#), *The Atlantic*, August 1994 Issue.

⁴ U.S. Commission on Civil Rights, [Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities](#), June 2019.

⁵ Amanda Chicago Lewis, [America's Whites-Only Weed Boom: How Black People are Being Shut Out of America's Weed Boom – Whitewashing the Green Rush](#), BuzzFeed News, March 16, 2016.

⁶ Marijuana Business Daily, [Women & Minorities in the Marijuana Industry](#), September 2017, pg.10

⁷ Paul Schwartzman and John D. Harden, [D.C. legalized marijuana, but one thing didn't change: Almost everyone arrested on pot charges is Black](#), *The Washington Post*, September 15, 2020.

⁸ Council of the District of Columbia, [Returning Citizens Cannabis Equity Emergency Amendment Act of 2021](#), B24-0221, May 4, 2021.

⁹ Gaspard Le Dem, [D.C. Councilmember Withdraws Bill Prioritizing Formerly Incarcerated Entrepreneurs In Cannabis Industry](#), *The Outlaw Report*, May 5, 2021.

¹⁰ Erika Storlie, [Resolution 126-R-19, Establishing a City of Evanston Funding Source](#), City of Evanston, November 25, 2019.

¹¹ City Clerk's Office, [Policy Order - POR 2021 #166](#), City of Cambridge, September 13, 2021.

¹² Martin Auster Muhle, [Second Marijuana Dispensary Opens East of The Anacostia River In D.C.](#), WAMU, August 15, 2019.

¹³ Alcohol Beverage Regulation Administration, [Medical Cannabis Program Update](#), January 27, 2021.

¹⁴ Martin Auster Muhle, [No Medical Marijuana Cultivation in Ward 7! D.C. Council Moves Against Hopeful Cultivator](#), DCist, March 20, 2012.