

**Comparison of House and Senate Marijuana Decriminalization Proposals
As of February 20, 2020**

	Current Law	HB 972 (Herring) Version #20108635D-S1	SB 2 (Ebbin) Version #20108640D-H1
Penalty	<p>First offense for simple possession of marijuana is a misdemeanor punishable with a maximum fine of \$500 and a maximum 30-day jail sentence. A second or subsequent offense is punishable as Class 1 misdemeanor.</p> <p>First offender treatment: Dismissal is conditioned on substance abuse screening, assessment, treatment, and other provisions.</p> <p>Driver’s licenses can be suspended or revoked for possession of marijuana.</p>	<p>Civil penalty of no more than \$25.</p> <p>If enacted, individuals charged with a civil penalty for marijuana possession could no longer be required by the court to participate in the First Time Offender Program, as suspended sentence and substance abuse screening provisions and driver's license suspension provisions apply only to criminal violations (i.e., possession of a controlled substance, distribution of marijuana or other controlled substances) and civil violations committed by a minor.</p> <p>Raises the threshold amount of marijuana subject to the felony charge for distribution or possession with intent to distribute from one-half ounce to one ounce. Such charges for up to one ounce would be misdemeanors.</p>	Same as House.
Proceeds from Penalty	Deposited into the Literary Fund, which is used for education.	Deposited into the Drug Offender Assessment and Treatment Fund, which goes to the Departments of Corrections, Juvenile Justice, and Criminal Justice Services; Commission on Virginia Alcohol Safety Action Program; and, the Supreme Court of Virginia Office of the Executive Secretary.	Same as House.
Juvenile Penalty	Juveniles can be sentenced to drug treatment. Additionally, if they have a driver’s license, it will be suspended for six months, and if they do not have one their ability to obtain one is suspended for six months. If they are not yet eligible, their ability to obtain a license is delayed for 6 months after they turn 16 and 3 months.	The punishment for juveniles remains the same as under current law.	Same as House.

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Changes to Definition of Marijuana	<p>The definition of marijuana includes oily extracts with less than 12% of THC by weight.</p> <p>A substance with 12% or more THC is classified as hashish oil and a Schedule I controlled substance.</p>	<p>All hashish oil would fall within the definition of marijuana, and hashish oil would no longer be a Schedule I controlled substance if the THC percentage is over 12%.</p>	<p>Same as House.</p>
Prosecution	<p>Commonwealth’s Attorneys (CWA) are not required to prosecute misdemeanors in Virginia, and in some jurisdictions they do not. Marijuana possession is prosecuted by CWA in many Virginia jurisdictions; however, in Fairfax County, the CWA only handles misdemeanor cases where the defendant has an attorney.</p> <p>Some CWA in Virginia have announced their intention to stop prosecuting simple possession of marijuana cases.</p>	<p>Authorizes local government attorneys to prosecute violations, in addition to the Commonwealth’s Attorneys.</p> <p>Requires that any violation of marijuana possession under § 18.2-250.1 be charged by summons. Allows the summons to be executed by a law enforcement officer when such violation is observed by the officer.</p> <p>The intent of the legislation is for the summons to be pre-payable – this would require action by the Supreme Court of Virginia to add the offense to the pre-payable list.</p> <p>Provides a rebuttable presumption that a person who possesses no more than one ounce of marijuana possesses it for personal use.</p>	<p>Same as House.</p> <p>Also provides that the procedure for appeal and trial of marijuana civil offenses would be the same as marijuana misdemeanor offenses. The Commonwealth would be required to prove its case beyond a reasonable doubt, as is currently required for marijuana criminal violations.</p>
Court costs	<p>Court costs are assessed as they are for any other criminal case.</p>	<p>No court costs will be assessed for violations of marijuana possession under § 18.2-250.1.</p>	<p>Same as House.</p>

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Records of Violations	Currently, Central Criminal Records Exchange information is confidential.	Provides that any charges or judgment for violations of this section would not be included in a person’s criminal history record information or reported to the Central Criminal Records Exchange. <i>The House has expressed a preference for studying expungement comprehensively in the off-session.</i>	Same as House. <i>The Senate has expressed a preference for advancing a separate expungement measure this session.</i> Establishes a new code section which limits the dissemination of criminal history records when a charge for possession of marijuana is deferred and dismissed, and prohibits employers, educational institutions, and state and local government agencies from asking applicants about any information not open for public inspection. Arrest, criminal charge, and convictions of marijuana possession would be prohibited from public inspection or disclosure, with exceptions.
Other		Directs the Secretaries of Agriculture and Forestry, Finance, Health and Human Resources, and Public Safety and Homeland Security to convene a work group to study legalizing the sale and personal use of marijuana. Recommendations due to the GA and Governor by November 30, 2020. Requires that the work group consult with specific stakeholders including the Office of the Attorney General and state Department of Taxation, among others.	Substantively similar to the House version.