

SENATE BILL NO. 242—SENATORS NGUYEN AND DONATE

MARCH 9, 2023

JOINT SPONSORS: ASSEMBLYMEN CARTER AND MARZOLA

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to certain controlled substances. (BDR 40-39)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to controlled substances; establishing procedures for a research facility to obtain the approval of the Department of Health and Human Services to conduct certain studies involving certain controlled substances; decriminalizing certain conduct by persons who are 18 years of age or older involving psilocybin and MDMA if conducted in connection with and within the scope of an approved study; decriminalizing certain conduct by persons who are 18 years of age or older involving 4 ounces or less of fungi that produces psilocybin or psilocin; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Pharmacy to administer the Uniform Controlled Substances Act and to add substances to or delete or reschedule all substances enumerated in schedules I, II, III, IV and V by regulation. (NRS 453.146) Existing regulations of the Board list psilocybin, psilocin and 3,4-methylenedioxymethamphetamine, commonly referred to as MDMA, as schedule I controlled substances. (NAC 453.510)

Existing law prohibits certain acts relating to controlled substances, including, without limitation: (1) importing, transporting, selling, exchanging, bartering, supplying, prescribing, dispensing, giving away or administering the controlled substance; (2) manufacturing or compounding the controlled substance; (3) unlawfully possessing the controlled substance not for the purpose of sale; (4) unlawfully possessing the controlled substance for the purpose of sale; and (5) for



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schedule I and II controlled substances, trafficking in the controlled substance. (NRS 453.321, 453.322, 453.336, 453.337, 453.338, 453.3385) Existing law also: (1) authorizes the Board to authorize the possession and distribution of controlled substances by persons engaged in research; and (2) requires a practitioner to comply with certain registration requirements before conducting research regarding a controlled substance. (NRS 453.155, 453.231)

Section 2 of this bill authorizes a research facility to submit to the Department of Health and Human Services an application for approval to conduct a study that includes a clinical trial involving persons who are 18 years of age or older to study the use of MDMA or psilocybin in the treatment of mental health and other medical conditions. **Section 2** requires the Department to adopt regulations establishing criteria for determining whether to approve an application to conduct such a study. If the Department approves the application, **section 2** provides that any person who is 18 years of age or older who engages in certain conduct involving psilocybin or MDMA in connection with and within the scope of the study does not commit a violation of any law, ordinance, rule or regulation of this State or any political subdivision of this State and any such conduct must not constitute the basis for any investigation, detention, search, seizure, arrest, prosecution or other legal penalty against the person.

Section 3 of this bill provides that a person who is 18 years of age or older and who engages in certain conduct involving 4 ounces or less of fungi that produces psilocybin or psilocin, regardless of whether the conduct occurs in connection with a study, does not commit a violation of any law, ordinance, rule or regulation of this State or any political subdivision of this State and any such conduct must not constitute the basis for any investigation, detention, search, seizure, arrest, prosecution or other legal penalty against the person.

WHEREAS, Nevada has a high prevalence of adults with behavioral health conditions; and

WHEREAS, Studies conducted by nationally and internationally recognized medical institutions indicate that psilocybin and 3,4-methylenedioxymethamphetamine, commonly known as MDMA, have shown efficacy and safety in the treatment of a variety of behavioral health conditions, including, without limitation, addiction, depression, post-traumatic stress disorder, anxiety disorders and psychological distress relating to the end of life; and

WHEREAS, The United States Food and Drug Administration has determined that preliminary clinical evidence indicates that psilocybin and MDMA may demonstrate substantial improvement over available therapies for treatment-resistant depression and post-traumatic stress disorder, respectively, and has accordingly granted Breakthrough Therapy designation for treatment that uses psilocybin as a therapy for treatment-resistant depression and treatment that uses MDMA as a therapy for post-traumatic stress disorder; and

WHEREAS, Numerous state and local lawmaking bodies throughout the United States have already enacted or are currently considering legislation decriminalizing certain conduct by certain persons relating to psilocybin and psilocin; now, therefore



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 453 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *A research facility may submit to the Department an application for approval to conduct a study that includes a clinical trial involving persons who are 18 years of age or older to study the use of MDMA or psilocybin in the treatment of mental health and other medical conditions, including, without limitation:*

- (a) Depression;*
- (b) Anxiety;*
- (c) Post-traumatic stress disorder;*
- (d) Bipolar disorder;*
- (e) Chronic pain; and*
- (f) Migraines.*

2. *An application to conduct a study submitted pursuant to subsection 1 must include:*

- (a) The name and address of the research facility;*
- (b) A detailed description of the study that includes, without limitation, a description of the goals and scope of the study, the methods to be used in conducting the study and the duration of the study; and*
- (c) Such other information as the Department may require.*

3. *Upon receipt of an application to conduct a study submitted pursuant to subsection 1, the Department shall evaluate the application under criteria prescribed by the Department pursuant to subsection 5. If the Department approves the study, the Department shall provide written notice to the research facility of the approval.*

4. *Notwithstanding any other provision of law, if the Department approves an application to conduct a study pursuant to subsection 1, any person who is 18 years of age or older and who engages in any of the following conduct in connection with and within the scope of the study does not commit a violation of any law, ordinance, rule or regulation of this State or any political subdivision of this State and any such conduct may not constitute the basis for any investigation, detention, search, seizure, arrest, prosecution or other legal penalty against the person:*

- (a) The possession, use, consumption, cultivation, manufacturing, growing, harvesting, preparation, compounding, conversion, handling, transportation, administration, sharing, giving away, testing or delivery of MDMA or psilocybin by the person or between the person and another person who engages in such conduct in connection with and within the scope of the study.*



(b) The possession, use, production, handling, transportation, distribution, sharing, giving away or delivery of paraphernalia that is used in the cultivation, production, storage or use of MDMA or psilocybin by the person or between the person and another person who engages in such conduct in connection with and within the scope of the study.

(c) Being in the presence or vicinity of any conduct described in this subsection.

(d) Aiding or abetting any conduct described in this section.

5. The Department shall adopt regulations establishing criteria to be used in evaluating whether to approve to an application to conduct a study submitted pursuant to subsection 1. The criteria must include, without limitation, consideration of the scientific value and potential impact of the study.

6. As used in this section:

(a) “MDMA” means 3,4-methylenedioxymethamphetamine. The term includes any mixture or substance that contains a detectable amount of 3,4-methylenedioxymethamphetamine but does not contain any controlled substance other than 3,4-methylenedioxymethamphetamine.

(b) “Psilocybin” includes psilocybin, psilocin, any fungi that produces psilocybin or psilocin and any mixture or substance that contains a detectable amount of psilocybin or psilocin but does not contain any controlled substance other than psilocybin or psilocin.

(c) “Research facility” means a university, college, medical school, medical facility or other organization which has as one of its principal purposes the conducting of medical or scientific research.

Sec. 3. 1. Notwithstanding any other provision of law, any person who is 18 years of age or older and who engages in any of the following conduct does not commit a violation of any law, ordinance, rule or regulation of this State or any political subdivision of this State and any such conduct may not constitute the basis for any investigation, detention, search, seizure, arrest, prosecution or other legal penalty against the person:

(a) The possession, use, consumption, cultivation, manufacturing, growing, harvesting, preparation, compounding, conversion, handling, transportation, administration, sharing, giving away, testing or delivery of 4 ounces or less of fungi that produces psilocybin or psilocin by the person or between the person and another person who is 18 years of age or older.

(b) The possession, use, production, handling, transportation, distribution, sharing, giving away or delivery of paraphernalia that is used in the cultivation, production, storage or use of fungi that produces psilocybin or psilocin.



1 (c) *Being in the presence or vicinity of any conduct described*
2 *in this subsection.*

3 (d) *Aiding or abetting any conduct described in this section.*

4 2. *This section must not be construed or interpreted to allow a*
5 *person to distribute or sell any amount of fungi that produces*
6 *psilocybin or psilocin for remuneration as part of a business*
7 *promotion or other commercial activity.*

8 **Sec. 4.** This act becomes effective upon passage and approval.

