



Legislation Text

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Res. No. 740

Resolution calling upon the New York City Administration for Children's Services to implement a policy finding that a person's mere possession or use of marijuana does not by itself create an imminent risk of harm to a child, warranting the child's removal.

By Council Members Lander, Levin, Treyger, Rivera, Rosenthal, Miller and the Public Advocate (Mr. Williams)

Whereas, According to a July 2010 report by the Drug Policy Alliance, "Pot as Pretext: Marijuana, Race and The New Disorder in New York City Street Policing," marijuana arrests doubled from the mid-1990s to a peak of more than 50,000 arrests in 2010; and

Whereas, At its peak, according to the Drug Policy Alliance, marijuana arrests constituted the most frequent type of arrest in New York City at a cost to taxpayers of up to \$75 million a year and an incalculable socio-economic cost for those arrested; and

Whereas, According to a 2013 report by the American Civil Liberties Union (ACLU), "The War on Marijuana in Black and White," despite comparable use of marijuana among Blacks and Whites, a comprehensive analysis of national, state and county arrest data for the period 2001 to 2010 exposed significant across-the-board racial disparities in the implementation of marijuana enforcement; and

Whereas, The ACLU Report found that Blacks were 4.5 times more likely than Whites to be arrested for marijuana possession in New York State, 9.7 times more likely than Whites to be arrested in Brooklyn and 9.4 times more likely than Whites to be arrested in Manhattan; and

Whereas, According to a 2015 report by the New York City Police Department, "Broken Windows and Quality-of-Life Policing in New York City," the NYPD issued a September 2011 memorandum reiterating state

guidance that those found in possession of small amounts of marijuana should be issued court summonses rather than be arrested; and

Whereas, In November 2014, according to the NYPD report, Mayor de Blasio and then-Police Commissioner Bratton issued another order outlining the NYPD's approach to marijuana possession whereby individuals found in possession of less than 25 grams of marijuana would be issued court summonses instead of be arrested; and

Whereas, According to the NYPD report, marijuana arrests declined substantially by more than 25,000 arrests, a nearly 50 percent decline between their peak in 2010 and 2014; and

Whereas, According to an October 2014 report by the Drug Policy Alliance, "Race, Class & Marijuana Arrests in Mayor DeBlasio's Two New Yorks", despite decreases in overall arrests, 86% of the people arrested for marijuana possession in New York City were Black and Latino, compared to 10% for Whites and 4% for others; and

Whereas, According to an August 17, 2011 *New York Times* article, "No Cause for Marijuana Case, but Enough for Child Neglect" ("the *New York Times* article"), hundreds of New Yorkers who were caught by police with small amounts of marijuana, or who simply admitted using it, were involved in civil child neglect cases, even though they did not face criminal charges; and

Whereas, Additionally according to the *New York Times* article, some of these parents lost custody of their children; and

Whereas, The *New York Times* article stated that the child welfare system was an alternate system of justice for these parents when compared to the criminal court system; and

Whereas, Lawyers interviewed for the *New York Times* article said they had more than a dozen cases on their dockets involving parents who had never faced neglect allegations but whose children were placed in foster care because of marijuana allegations; and

Whereas, The Administration for Children's Services does not automatically find that a child is in

immediate risk of harm if a parent or caregiver possesses or consumes alcohol; and

Whereas, While sometimes parents were allowed to keep custody of their children when neglect had been found, serious repercussions can follow such a finding, such as prohibiting parents from taking jobs around children, barring individuals from being foster care parents or adopting children, and making it easier for Family Court judges to later remove children from their homes; and

Whereas, Since the *New York Times* article, there has been greater public acceptance of marijuana use across the country, which has led to the legalization of the substance for medical or recreational purposes in over 20 states; and

Whereas, On July 7, 2014, New York became the 23rd state to legalize medicinal marijuana, which act, in addition to decriminalizing the possession of small amounts of marijuana, reflects a growing national trend toward the acceptance of marijuana use; and

Whereas, Given the racial disparities in marijuana enforcement in New York that continue despite this growing trend, there are reasons to be particularly cautious in pursuing civil child neglect cases based merely on the possession of small amounts of marijuana or the admission of marijuana use by parents; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Administration for Children's Services to implement a policy finding that a person's mere possession or use of marijuana does not by itself create an imminent risk of harm to a child, warranting the child's removal.

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