

1 HB490
2 210716-1
3 By Representative Grimsley
4 RFD: Judiciary
5 First Read: 03-MAR-21

8 SYNOPSIS: Under existing law, an individual commits
9 the crime of possession of marijuana in the first
10 degree if he or she possesses marijuana for his or
11 her personal use after being previously convicted
12 of unlawful possession of marijuana in the second
13 degree.

14 This bill would eliminate that provision and
15 require any subsequent offense for possession of
16 marijuana in the second degree to be prosecuted in
17 the district court in the county where the offense
18 occurred.

19 This bill would also permit an individual
20 who has been convicted of the crime of possession
21 of marijuana in the first degree as a result of a
22 prior conviction for unlawful possession of
23 marijuana in the second degree to have the felony
24 offense reduced to a misdemeanor.

25 Amendment 621 of the Constitution of Alabama
26 of 1901, as amended by Amendment 890, now appearing
27 as Section 111.05 of the Official ReCompilation of

1 the Constitution of Alabama of 1901, prohibits a
2 general law whose purpose or effect would be to
3 require a new or increased expenditure of local
4 funds from becoming effective with regard to a
5 local governmental entity without enactment by a
6 2/3 vote unless: it comes within one of a number of
7 specified exceptions; it is approved by the
8 affected entity; or the Legislature appropriates
9 funds, or provides a local source of revenue, to
10 the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in the amendment.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 Relating to crimes and offenses; to amend Sections
24 13A-12-213 and 13A-12-214, Code of Alabama 1975, to eliminate
25 the crime of possession of marijuana in the first degree if an
26 individual possesses marijuana for his or her personal use
27 after being previously convicted of unlawful possession of

1 marijuana in the second degree; to require any subsequent
2 offense for possession of marijuana in the second degree to be
3 prosecuted in the district court in the county where the
4 offense occurred; to permit an individual who has been
5 convicted of the crime of possession of marijuana in the first
6 degree as a result of a prior conviction for unlawful
7 possession of marijuana in the second degree to have the
8 felony offense reduced to a misdemeanor; and in connection
9 therewith would have as its purpose or effect the requirement
10 of a new or increased expenditure of local funds within the
11 meaning of Amendment 621 of the Constitution of Alabama of
12 1901, as amended by Amendment 890, now appearing as Section
13 111.05 of the Official Recompilation of the Constitution of
14 Alabama of 1901.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 13A-12-213 and 13A-12-214, Code
17 of Alabama 1975, are amended to read as follows:

18 "§13A-12-213.

19 "(a) ~~A person~~ An individual commits the crime of
20 unlawful possession of ~~marihuana~~ marijuana in the first degree
21 if, except as otherwise authorized, ~~;~~ .

22 "~~(1) He~~ he or she possesses ~~marihuana~~ marijuana for
23 other than personal use; ~~or.~~ .

24 "~~(2) He or she possesses marihuana for his or her~~
25 ~~personal use only after having been previously convicted of~~
26 ~~unlawful possession of marihuana in the second degree or~~

1 ~~unlawful possession of marihuana for his or her personal use~~
2 ~~only.~~

3 "(b) Unlawful possession of ~~marihuana~~ marijuana in
4 the first degree ~~pursuant to subdivision (1) of subsection (a)~~
5 is a Class C felony.

6 ~~(c) Unlawful possession of marihuana in the first~~
7 ~~degree pursuant to subdivision (2) of subsection (a) is a~~
8 ~~Class D felony.~~

9 "§13A-12-214.

10 "(a) ~~A person~~ An individual commits the crime of
11 unlawful possession of ~~marihuana~~ marijuana in the second
12 degree if, except as otherwise authorized, he or she possesses
13 ~~marihuana~~ marijuana for his or her personal use only.

14 "(b) Unlawful possession of ~~marihuana~~ marijuana in
15 the second degree is a Class A misdemeanor.

16 "(c) An offense for possession of marijuana in the
17 second degree after an individual has been previously
18 convicted of unlawful possession of marijuana in the second
19 degree shall be prosecuted in the district court in the county
20 where the offense occurred."

21 Section 2. (a) An individual who has been convicted
22 of the crime of possession of marihuana in the first degree as
23 a result of a prior conviction for unlawful possession of
24 marihuana in the second degree may file a motion to have his
25 or her felony offense reduced to a misdemeanor with the
26 circuit court of the county in which he or she was convicted.

1 (b) If, after review of a motion filed by an
2 individual pursuant to subsection (a), the court finds that
3 the individual has been convicted of the crime of possession
4 of marihuana in the first degree as a result of a prior
5 conviction for unlawful possession of marihuana in the second
6 degree, the court shall grant the motion.

7 Section 3. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.