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HOUSE JOINT RESOLUTION NO. 526

Offered January 11, 2023

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Requesting the Department of Social Services to study marijuana possession or use as justification for removal of child or denial of custody or visitation. Report.

Patrons—Bourne, Adams, D.M., Maldonado, Price, Rasoul, Simon and Simonds

Referred to Committee on Rules

WHEREAS, § 4.1-1100 of the Code of Virginia allows persons 21 years of age or older to lawfully possess up to one ounce of marijuana; and

WHEREAS, in light of the Commonwealth's legalization of marijuana, the sole fact that a parent possesses or uses marijuana should not serve as justification to deny such parent custody of or visitation with his child or to support a finding of child abuse or neglect and removal of the child from the parent's home; and

WHEREAS, possession or use of marijuana, like possession or use of alcohol, should be considered in custody, visitation, and child abuse or neglect investigations only when such possession or use creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon the parent's child a physical or mental injury; and

WHEREAS, other states that legalized marijuana have enacted legislation to ensure that parents are not unduly punished and denied rights over, custody of, or visitation with their children due solely to the parent's possession or use of marijuana, while also ensuring the safety of children; and

WHEREAS, research shows that children achieve better outcomes and quality of life when they are able to safely live in a familial setting; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Social Services be requested to study marijuana possession or use as justification for removal or denial of custody or visitation.

In conducting its study, the Department of Social Services (the Department) shall (i) determine the prevalence of parents being denied custody or visitation of their children and children being found to have been abused or neglected or removed from their home due solely to the parent's possession or use of marijuana; (ii) group the data regarding such denials of custody and visitation and removals in a manner that allows identification of trends based on location, demographics, and socioeconomic status; (iii) identify and analyze the effects that such denials of custody or visitation and removals have on children and their families; (iv) analyze whether alternatives to denials of custody or visitation or removal exist that better serve the needs of the child and his family and promote preservation of the family structure; (v) identify and examine relevant statutory and regulatory changes that have been made in other states that have legalized marijuana; (vi) consider and recommend any changes that should be made to the Commonwealth's laws, regulations, guidance documents, or other instructional materials regarding custody, visitation, and removal to account for the Commonwealth's legalization of marijuana and protect the rights, interests, and well-being of children and families, including consideration of changes that would align the treatment of marijuana with alcohol in custody, visitation, and removal cases; and (vii) make any other recommendations deemed necessary or appropriate by the Department.

All agencies of the Commonwealth shall provide assistance to and share information with the Department for this study, upon request.

The Department shall complete its meetings by November 30, 2023, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2024 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

INTRODUCED

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