



CONSENT CALENDAR
DATE: March 14, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin (Author), Councilmember Robinson (Co-Sponsor)

Subject: Support for SB-58: controlled substances

RECOMMENDATION

Send a letter of support for Sen. Wiener's Senate Bill 58, which would decriminalize psilocybin, psilocyn, MDMA, DMT, ketamine, mescaline, and ibogaine; expunge criminal records for use and possession of these substances; and establish a commission to provide recommendations to the state legislature on therapeutic uses.

BACKGROUND

In 2021, State Senator Scott Wiener introduced Senate Bill 519 to decriminalize the possession and personal use of the following substances: psilocybin, psilocyn, 4-methylenedioxymethamphetamine ("MDMA"), Lysergic acid diethylamide ("LSD"), ketamine, Dimethyltryptamine ("DMT"), mescaline (from non-peyote sources) and ibogaine, given these substances can have therapeutic and medicinal benefits. The Berkeley City Council sent a letter of support for SB 519 in 2021. The bill stalled in the Assembly Appropriations Committee, but it has been reintroduced for the current session as Senate Bill 58.

SB 519 would also have expunged any criminal records for people convicted of possession or personal use of these substances, as well as establishing a commission that will provide the Legislature with regulatory recommendations that California should adopt to legalize personal and therapeutic use of these specified substances.

Existing law lists psilocybin, psilocybin, mescaline, MDMA, LSD, DMT and ibogaine as Schedule I Drugs. According to the Drug Enforcement Agency (DEA), Schedule I Drugs have "no accepted medical use and high potential for abuse." Ketamine is listed as a Schedule III drug and is Food and Drug Administration (FDA)-approved to treat depression. California law criminalizes the possession, sale, and transfer of Schedule I drugs.

In the 1950s, LSD was studied for its potential benefits in treating alcoholism.¹ Research on the medicinal uses of psychedelics and other controlled substances largely halted after the 1970 signing of the Controlled Substances Act by President Nixon. In later interviews, former Nixon adviser John Ehrlichman explained that Nixon's War on Drugs was explicitly designed for racist and political ends, rather than for public health and safety:

“The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.”²

In recent years, emerging medical research has revived an interest in therapeutic uses of psychedelics and other controlled substances.³ Washington, D.C. voters passed Initiative 81 in 2020, which decriminalized personal use and possession of plant-based psychedelics.⁴ In the state of Oregon, voters approved two ballot measures decriminalizing non-commercial possession⁵ of all scheduled substances, and creating a state-licensed psilocybin-assisted therapy program.⁶ In the state of California, two municipalities (Oakland and Santa Cruz) have introduced decriminalization ordinances.

In recent years, the FDA has issued “Breakthrough Therapy” distinctions to MDMA-assisted therapy for PTSD and psilocybin-assisted therapy for treatment-resistant depression, respectively, which expedites the process for approval as treatment for serious or life-threatening conditions.⁷

Mental health treatment and ending the War on Drugs are both racial equity issues. According to the U.S. Department of Health and Human Services, Black adults are

¹ Costandi, M. (2014). A brief history of psychedelic psychiatry. *The Guardian*. Retrieved from <https://www.theguardian.com/science/neurophilosophy/2014/sep/02/psychedelic-psychiatry>

² Baum, D. (2014). Legalize it all: How to win the war on drugs. *Harper's Magazine*. Retrieved from <https://harpers.org/archive/2016/04/legalize-it-all/>

³ Carhart-Harris, R. L., & Goodwin, G. M. (2017). The Therapeutic Potential of Psychedelic Drugs: Past, Present, and Future. *Neuropsychopharmacology : official publication of the American College of Neuropsychopharmacology*, 42(11), 2105–2113. <https://doi.org/10.1038/npp.2017.84>

⁴ https://decrimnaturedc.org/wp-content/uploads/2020/02/Entheogenic_Plant_and_Fungus_Policy_Act_of_2020_published_2_18_2020.pdf

⁵ <http://oregonvotes.org/irr/2020/044text.pdf>

⁶ <http://oregonvotes.org/irr/2020/034cbt.pdf>

⁷ Serkis, S. (2020). Psychology Trends For 2021: Psilocybin, MDMA, and Covid-19 Aftereffects. *Forbes*. Retrieved from <https://www.forbes.com/sites/stephaniesarkis/2020/12/09/psychology-trends-for-2021-psilocybin-mdma-and-covid-19-aftereffects/?sh=a7ab8a95ce03>

more likely to report persistent symptoms of emotional distress, but are least likely to receive adequate care for mental health.⁸

ENVIRONMENTAL IMPACTS

None.

FISCAL IMPACTS

None.

CONTACT

Councilmember Terry Taplin, District 2, 510-981-7120

ATTACHMENTS/SUPPORTING MATERIALS

1. Letter of Support

⁸ <https://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=4&lvlid=24>

The Honorable Sen. Scott Wiener
State Capitol, Room 5100
1021 O St., Suite 8620
Sacramento, CA 95814

RE: Support for SB 58: controlled substances

Dear Senator Wiener:

The City Council of the City of Berkeley hereby registers its support of Senate Bill 58, to decriminalize the possession and personal use of the following substances: psilocybin, psilocyn, MDMA, LSD, ketamine, DMT, mescaline (from non-peyote sources) and ibogaine, as an incremental step to dismantle the white supremacist War on Drugs policies that have harmed Black and brown communities for decades. This legislation will also expunge any criminal records for people convicted of possession and personal use of these substances, and establish a working group to provide recommendations to the Legislature on therapeutic use.

In the 1960s, researchers were conducting promising studies on the effectiveness of psychedelic substances to treat ailments such as depression and PTSD, until the War on Drugs halted this work. Today, we know this racist policy framework does not improve public safety, deter personal use, or help people who may be experiencing substance use disorder. Modern research on psychedelics shows promising signs for mental health treatment.

California must stop criminalizing substances that have potentially major medical potential. Thank you for your leadership with this important legislation.

Respectfully,

City Council
City of Berkeley
2180 Milvia St
Berkeley, CA 94704

cc: Senator Nancy Skinner
Assemblymember Buffy Wicks