



Legislation Text

File #: 15-00596, **Version:** 2

Ordinance No. 15-100 adding Section 210 of Part 2 (Other Dangerous Weapons and Substances) of Article 7 (Dangerous Weapons and Substances) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to the possession of marijuana paraphernalia by persons under the age of eighteen (18), and providing penalties for the violation thereof

From:

Council President Pro Tem Jill Gaebler

Summary:

At the request of Mayor Suthers and in conjunction with Presiding Municipal Court Judge Kane and the Colorado Springs Police Department, the City Attorney's Office drafted the proposed ordinance. The purpose of the ordinance is to prohibit the possession of marijuana paraphernalia by juveniles and provide the Municipal Court with sentencing options that stress education for the protection of health, safety, and welfare of the City's juveniles.

Previous Council Action:

N/A

Background:

Currently, possession of marijuana paraphernalia by persons under the age of 18 is prohibited by Colorado law pursuant to C.R.S. § 18-13-122(3)(c) and such violations may be prosecuted by the 4th Judicial District Attorney's Office ("DAO") in state court. Given the low prosecution priority that currently exists at the DAO for marijuana related crimes, the Municipal Court, CSPD, and the City Prosecutors recognized the need for a City Code provision prohibiting the possession of marijuana paraphernalia by persons under the age of 18. The City Probation Department has programs in place geared toward education and treatment of juveniles convicted of drug-related crimes. The majority of juveniles convicted under the ordinance will be sentenced to participate in these programs.

It is important to note that the ordinance as drafted does not prohibit the possession of marijuana paraphernalia by juveniles if such possession is in compliance with the Colorado Constitution Article 18, Section 14 relating to the use of medical marijuana.

Pursuant to C.R.S. § 18-13-122(11), Colorado law specifically authorizes home rule municipalities to enact any ordinance which prohibits minors from possessing marijuana paraphernalia which is at least as restrictive or more restrictive than State law. City Council has the home rule power and authority to enact ordinances which are necessary and proper for the protection of the health, safety and welfare of its citizens and children.

Any juvenile convicted of possession of marijuana paraphernalia will be punished pursuant City Code section 1.1.202, which states that a juvenile may be sentenced to a fine of not more than \$500, or a sentence of probation, or a combination of a fine and a sentence of probation. As noted above, the most likely sentence for a juvenile convicted of violating the proposed ordinance will be a sentence to probation or a deferred sentence with treatment and education conditions.

Financial Implications:

N/A

Board/Commission Recommendation:

N/A

Stakeholder Process:

During the drafting process, the City Attorney's Office gathered input from various City Departments including CSPD, the Prosecution division of the City Attorney's Office, and the Municipal Court.

Alternatives:

City Council may choose to approve, deny or modify the attached draft ordinance.

Proposed Motion:

Approve ordinance as presented.

An ordinance adding a section of the Code of the City of Colorado Springs pertaining to the possession of marijuana paraphernalia by persons under the age of eighteen (18), and providing penalties for the violation thereof.