

Legislative Report

Date: 07/19/2024

To: Senate Majority Leader Erin Murphy, Speaker of the House Melissa Hortman, Senate Minority Leader Mark Johnson, House Minority Leader Lisa Demuth

CC: Representative Zach Stephenson, Senator Matt Klein, Senator Lindsey Port

From: Charlene Briner Interim Director, Office of Cannabis Management

RE: Report required under Minnesota Statutes 342.04(b)

The Office of Cannabis Management is required under Minnesota Statutes, section 342.04(b), to provide a report to the Legislature that includes “the locations of citations issued, and arrests made for cannabis offenses, and the subareas, such as census tracts or neighborhoods, that experience a disproportionately large amount of cannabis enforcement.” That report was also to be used, pursuant to section 342.17, to identify persons who have resided for the past five years in an area that “experienced a disproportionately large amount of cannabis enforcement.” As explained below, the office is unable to locate verifiable, uniform, statewide data that would allow for the office to complete the requisite study.

The Office of Cannabis Management, in partnership with the research division of the Office of Medical Cannabis at the Minnesota Department of Health, set out to locate and review data necessary to complete the report on disproportionately impacted communities. Regrettably, the data necessary to complete this study are neither uniformly available across the state (or country), nor are they maintained at a level that would allow for the office to conduct the study at the subarea or census tract level. Generally, in order to operationalize “over enforcement,” we require data prior to conviction, e.g., data on police interactions or arrests, which are maintained at the policing unit level rather than with the courts. Because of this, idiosyncratic recordkeeping policies would result different data categories based on locality. In some cases, members of the research team were able to determine the community of offense at either a city or county, U of M campus or the airport, but were not able to get the finer level of location detail needed to meet the statutory requirement that the data be reported based on subareas, e.g., census tracts or neighborhoods.

Recognizing that the data required to determine subareas that experienced cannabis enforcement disproportionately are not available, OCM proposed—and the Legislature agreed to—changes to the social equity applicant eligibility criteria to capture and preserve the original spirit of the statute:

(a) An applicant qualifies as a social equity applicant if the applicant:

(6) has been a resident for the last five years of one or more subareas, such as census tracts or neighborhoods:

(i) that experienced a disproportionately large amount of cannabis enforcement as determined by the study conducted by the office pursuant to section 342.04, paragraph (b), or another report based on federal or state data on arrests or convictions;

(ii) where the poverty rate was 20 percent or more;

(iii) where the median family income did not exceed 80 percent of the statewide median family income or, if in a metropolitan area, did not exceed the greater of 80 percent of the statewide median family income or 80 percent of the median family income for that metropolitan area;

(iv) where at least 20 percent of the households receive assistance through the Supplemental Nutrition Assistance Program; or

(v) where the population has a high level of vulnerability according to the Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR) Social Vulnerability Index[.]

Like the Legislature's use of the poverty rate and median income measures, the addition of categories related to the Supplemental Nutrition Assistance Program and the CDC/ATSDR are designed to capture the known effects that the overzealous prosecution of the war on drugs has had on communities. This change still allows social equity applicants to provide the office with data that show they reside in an area that experienced disproportionate policing by providing a study that confirms their subarea was over policed, relying on state of federal data.

This will be the office's only communication to the Legislature with respect to the study to be conducted on under section 342.04(b). A copy of this letter has been provided to the Legislative Reference Library.