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City Attorney's Office

OAKLAND CITY COUNCIL
RESOLUTION NO. 87112 C.M.S.

INTRODUCED BY COUNCILMEMBERS DAN KALB AND REBECCA KAPLAN

**RESOLUTION URGING THE ALAMEDA COUNTY DISTRICT
ATTORNEY TO PROACTIVELY APPLY PROPOSITION 64
RETROACTIVELY TO REDUCE OR DISMISS APPLICABLE
MARIJUANA SENTENCES**

WHEREAS, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA), enacted by the voters by the passage of Proposition 64 on the November 8, 2016 election, immediately legalized recreational cannabis use for adults of 21 or more years of age, including possession, obtaining, giving away to other adults, and cultivating up to six plants per residence; and

WHEREAS, AUMA allows for the reduction or dismissal of convictions for marijuana offenses that are no longer illegal under California law if a petition is filed by the convicted individual, placing the burden of correcting the record on those that have been harmed by outdated laws; and

WHEREAS, between 1915 and 2016, California law enforcement made an estimated over 2.7 million cannabis arrests; and

WHEREAS, as of January 2018, only 4,885 Californians have petitioned state courts to have their cannabis convictions expunged, according to Drug Policy Alliance; and

WHEREAS, on January 31, 2018, District Attorney George Gascón announced that the San Francisco District Attorney's office would retroactively apply AUMA without requiring action for those eligible to file petitions, which will result in thousands of marijuana felony convictions being reviewed and resentenced and thousands of misdemeanors dismissed and sealed; and

WHEREAS, Assembly Member Rob Bonta has introduced Assembly Bill 1793 with the intent of automatically facilitating reduction or expungement of prior cannabis offenses for acts that are no longer crimes; and

WHEREAS, while the Alameda County District Attorney's office's Policy Regarding Marijuana Convictions and Proposition 64 from January 2017 established a protocol for review and granting of petitions authorized by AUMA, including making public awareness announcements and working the Community Law Center and Public Defender's office to inform community members of their petition rights and states "It is the intention of the Alameda County District Attorney's Office to remove any past convictions involved (sic) H&S [Health & Safety] Sections 11357, 11359 and/or 11360 from the official criminal history record of those individuals who qualify under the new law," the policy notes that reduction, dismissal, and/or sealing of eligible past convictions without the initiative of the convicted person would be phased in at an unspecified date; and

WHEREAS, at its regular meeting of February 20, 2018, the Emeryville City Council approved the issuance of a letter signed by Mayor John Bauters to Alameda County District Attorney Nancy O'Malley urging retroactive application of Proposition 64 to eligible sentences; now, therefore, be it

RESOLVED: That the Oakland City Council respectfully urges that the Alameda County District Attorney immediately or as soon as possible implement cannabis conviction review to alleviate the necessity of petitioning in order to reduce, dismiss and/or seal eligible past convictions; and be it

FURTHER RESOLVED: That the Council President, on behalf of the City Council and City of Oakland, shall send a copy of this Resolution to Alameda County District Attorney Nancy O'Malley, Assembly Member Rob Bonta, Senator Nancy Skinner, the Alameda County Board of Supervisors, and the Office of Alameda County Public Defender.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 20 2018

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB, KAPLAN, AND PRESIDENT REID 8

NOES - 0
ABSENT - 0
ABSTENTION - 0

ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California