



# Legislative Council Legal and Social Issues Committee

**Hearing date: 14 February 2025**

**Question taken on notice**

**Directed to:** Federation of Community Legal Centres

**Received date:** 4 March 2025

1. **Michael GALEA, p. 37**

**Question asked:**

You also touched on Planet Youth, the Icelandic model. I am curious if there is anything that you could maybe provide to us on notice with some pointers and some resources or, if you have them yourself, if you can provide them to us. It would be terrific for us to have a look at them, because I think we can all agree: whatever the model, the less young people using cannabis, the better.

**Response:**

We thank you for the opportunity to provide further information on the Planet Youth Icelandic Prevention Model and its potential applicability in Victoria.

Planet Youth was developed from the Icelandic Prevention Model – an evidence-based participatory approach which was effective in reducing substance use in Iceland for over 20 years.<sup>1</sup> The Planet Youth model is designed to strengthen protective factors, mitigate risk factors, and build healthy community environments for positive youth development by focusing on key domains in the local school community, such as family, peer group, leisure time, and school.<sup>2</sup>

Detailed information about implementing the Icelandic model for preventing adolescent substance use<sup>3</sup> has been published in various academic journals, including examples of community development goals and school-based initiatives to address drug use in school communities as part of early intervention and primary prevention initiatives.<sup>4</sup>

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<sup>1</sup> Planet Youth, [The Icelandic Prevention Model](#).

<sup>2</sup> Ibid.

<sup>3</sup> See e.g. Kristjansson et al., [Implementing the Icelandic Model for Preventing Adolescent Substance Use](#) (4 June 2019) 21(1) *Health Promotion Practice*.

<sup>4</sup> See Planet Youth, [Publications](#).

In Australia, the Alcohol and Drug Foundation partnered with Planet Youth to trial the model as the Local Drug Action Team (LDATs) program in New South Wales (Lithgow, Blue Mountains and Inner West) and South Australia (Murray Bridge, Limestone Coast, Port Pirie and Salisbury) with funding from the Australian and South Australian Governments respectively.<sup>5</sup> Practical outcomes from Planet Youth activities in Australian trials include:

- surveys providing insights to inform evidence-informed community led action
- community groups, schools and parents working in partnership
- increased parent and carer LDAT membership
- more youth participating in extracurricular activities, and
- regular monthly meetings and sub-groups for projects.<sup>6</sup>

The 2024 Local Drug Action Teams Highlights report confirms that:

*“Evaluation found that 92% of LDATs were able to provide evidence of impact, and of those, 83% identified positive impacts resulting from their activities. Overall, 86% of LDATs increased their knowledge of best practice AOD harm prevention through the program, a 16% increase on previous years.”<sup>7</sup>*

We hope this information and resources are useful in exploring the possible implementation of this model in Victoria.

## 2. **Michael GALEA, p. 37**

### **Question asked:**

I would also like, if we briefly have time, to put to all of you, whoever feels best qualified to answer: in the FCLC submission you say that more than 12,000 Victorians were charged with cannabis abuse in the three years to June 2023. How many of these, if you know, were in full isolation and not connected with other offences?

### **Response:**

We thank you for your question, and have tried to provide what information we can.

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<sup>5</sup> Alcohol and Drug Foundation, [LDAT and Planet Youth](#) (2024).

<sup>6</sup> Alcohol and Drug Foundation, [Planet Youth pilot sites are reaping rewards](#).

<sup>7</sup> Alcohol and Drug Foundation, [Local Drug Action Teams Highlights Report 2024](#) (2024).

The Sentencing Advisory Council of Victoria reported in its snapshot of Magistrates' Court sentencing outcomes from 1 July 2020 to 30 June 2023 that during this 3 year period:

- 13,758 charges of possess cannabis were sentenced.
- In 11,995 cases sentenced, each case included at least 1 charge of possess cannabis.
- The most common sentence for a charge of this offence was a fine (36.5%, or 5,023 of 13,758 charges).<sup>8</sup>

More recent data released by Victoria's Crime Statistics Agency shows that 7,678 offences for drug use and possession of cannabis and 743 for cultivate or manufacture of cannabis were recorded for the year ending in September 2024.<sup>9</sup> This data does not include total amounts of cannabis involved.

In responding to this question on notice, we were unable to locate publicly available data from the Sentencing Advisory Council of Victoria, Crime Statistics Agency of Victoria or Magistrates' Court of Victoria which separated out the numbers of people charged with minor cannabis offences charged in isolation, compared with those charged alongside other criminal offences.

However, we reviewed the data received from 37 of Victoria's 49 community legal centres in the 2023/24 financial year, which showed that for around 70 per cent of community legal services for minor illicit drug offences, these charges were the only problem type (i.e. not accompanied by other criminal charges or other accompanying legal issues).

Unfortunately, we are unable to provide any further data to assist the Committee to answer this question at this stage.

### 3. **David ETTERSHANK, p. 37-38**

#### **Question asked:**

Could I ask you: in terms of looking at the utility of the Bill that is being considered, have you applied your minds at all to the question of how it might interact with other legislation?

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<sup>8</sup> Sentencing Advisory Council, [Possess cannabis: Drugs, Poisons and Controlled Substances Act 1981 \(Vic\) s 73\(1\) – Magistrates' Court sentencing outcomes, 1 July 2020 to 30 June 2023](#).

<sup>9</sup> Crime Statistics Agency of Victoria, [Offences Recorded – Tabular Visualisation \(Drug offences by drug type > Offence Subdivision C30 Drug use and possession > CSA Drug Type Cannabis\)](#) (December 2024).

**Response:**

We thank you for this question, and note our comments at the hearing that we support consequential amendments that would give effect to the purpose and intent of the Bill.

Unfortunately, we have not had the time to conduct a thorough analysis of every piece of legislation that interacts with the Bill, due to our limited resources and the urgency of providing these questions on notice in time for the report due date.

However, we would like to highlight the following pieces of legislation where interaction may lead to unjust outcomes for marginalised clients and communities that community legal centres assist.

**Police stop and search powers**

Currently, a police officer can only conduct a search if they have a warrant, or reasonable grounds to suspect a person may be carrying weapons, stolen items, illegal drugs, graffiti tools, or dangerous substances or when a person is in a designated search area.

If the Bill is passed, a consequential amendment would be required to ensure that a police officer would not be able to conduct a search if the only reasonable grounds for suspecting an adult aged over 18 should be searched is that they may be possession of a small amount of cannabis for personal use.

**Driving laws**

In Victoria, it is an offence for a person to drive with any amount of THC in their system, including any amount from medicinal cannabis. Police can randomly test drivers for cannabis as part of random mobile drug testing, similar to random breath testing for alcohol. There are additional criminal offences for driving while impaired or under the influence, for refusing to take a drug test, as well as for dangerous or reckless driving.

The Victorian Parliament recently passed laws to ensure that drivers using medicinal cannabis will no longer be subject to automatic licence bans from 1 March 2025, provided their driving is not impaired. This change brings driving laws relating to cannabis in line with similar laws for other prescription medication such as opioids and benzodiazepines.

Consequential amendments to drug testing and driving under the influence of cannabis laws may be required for adults authorised to use cannabis who are not driving while impaired if this Bill is passed.

## **Laws and policies related to use and disclosure of criminal records**

There are a range of laws and policies which govern how police and court records may be used and disclosed in ways which would continue to adversely affect people who have criminal charges for minor cannabis possession, use or cultivation.

We support recommendations from community legal centres such as the Victorian Aboriginal Legal Service and Fitzroy Legal Service for the automatic expungement of prior criminal charges for minor possession, use or cultivation of cannabis. If automatic expungement is not possible, the Victorian Government may want to consider changes to background check policies and processes for historic minor cannabis offences to be removed from a person's record when they apply for a criminal record check.

Consequential changes should also be considered for Victoria Police Practice Guides, Court Practice Guides, and National Police Check disclosure policies to ensure historic minor cannabis charges no longer appear on people's police records, court records or criminal record checks for employment purposes, access to visas, Working with Children Check Card applications, etc.

Amendments to the *Equal Opportunity Act 2010* (Vic) should also be prioritised to protect people from discrimination on the basis of an irrelevant criminal record.

## **Employment, health and safety laws and regulations**

Employers have legal obligations to ensure safe working environments for their employees, including protecting them from potential risks of workers being impaired by medical or recreational cannabis use which may impair cognitive and motor functions (e.g. while driving or operating heavy machinery). Some employers conduct drug tests to ensure workers are not impaired while on the job, and may implement strict zero-tolerance policies for drug use.

Consideration of consequential amendments would be useful to make clear whether worksite drug testing which shows positive results for minor personal use of cannabis in certain jobs or industries should lead to disciplinary or adverse action, or dismissal.

#### 4. The CHAIR, p. 38

**Question asked:**

I will quickly ask one question on notice before we finish off. In your experience, who is introducing young people to cannabis? And also, should there be a penalty for supplying cannabis to minors rather than charging the young people in possession? I note we are running out of time, but if we can do that on notice, that would be much appreciated – from a legal perspective, those two questions.

**Response:**

We thank you for your question, and welcome the opportunity to provide further information in response.

In response to your question about who is supplying cannabis to young people, our understandings of supplying cannabis to children and young people are mostly anecdotal from conversations and the practice experience of community legal centre criminal lawyers. Their experience shows that children and young people generally access marijuana through friends (e.g. finding an older ‘friend of a friend’ who can sell them some weed, sharing a joint with older friends, being given some pot by an older sibling or cousin).

In response to your question around a penalty for supplying cannabis to children, we can provide further information relating to existing criminal offences for the supply of a drug of dependence to a child.

Subsection 71B(1) of the *Drugs, Poisons and Controlled Substances Act 1981* (Cth) (**Act**) makes it an indictable offence for an adult to supply a drug of dependence to a child for the purposes of supply to another person, or for use of that drug of dependence by that child, and is not authorised or licensed to do so [e.g. prescription from a medical practitioner for medicinal cannabis]. This offence has a maximum penalty of 1,000 penalty units or 15 years’ imprisonment, or both. Subsection 71B(1A) sets out a more serious offence for an adult to supply at a school or in a public place within 500 metres of a school, with the higher maximum penalty of 1,600 penalty units or 20 years’ imprisonment.

Supply is defined in subsection 4(1) of the Act to mean:

- (a) *supply, provide, give or deliver, whether or not for fee, reward or consideration or in expectation of fee, reward or consideration;*
- (b) *agree or offer for the purpose of supply as defined in paragraph (a), expose for the purpose of supply as so defined, keep or have in*

- possession for the purpose of supply as so defined, send forward or receive for the purpose of supply as so defined; and*
- (c) *authorize, direct, cause, allow, suffer, permit or attempt to do any of the acts or things mentioned in paragraph (a) or paragraph (b)—and the derivatives of supply shall have corresponding meanings.*

Section 309.2 of the *Criminal Code Act 1995* (Cth) also makes it a criminal offence under Federal law for a person to supply a controlled drug to a child, with a penalty of 3,000 penalty units or 15 years' imprisonment, or both.