

The Schedule I Status of Marijuana

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November 25, 2019

The [Controlled Substances Act](#) (CSA) places various substances in one of five schedules based on their medical use, potential for abuse, and safety or risk for dependence. The [five schedules](#) are progressively ordered, with substances regarded as the least dangerous and addictive classified as Schedule V and those considered the most dangerous and addictive classified as Schedule I. [By law](#), Schedule I substances have a “high potential for abuse” with “no currently accepted medical use in treatment in the United States” and cannot safely be dispensed under a prescription. The CSA prohibits the manufacture, distribution, dispensation, and possession of Schedule I substances except for bona fide, federal government-approved research studies.

Marijuana is currently listed as a [Schedule I controlled substance](#) under the CSA, and has been on Schedule I since the CSA was enacted in 1970 ([P.L. 91-513](#)). For background on how marijuana came to be placed on Schedule I, see [Appendix B](#) of CRS Report R44782, *The Marijuana Policy Gap and the Path Forward*.

The CSA placed the control of marijuana under federal jurisdiction regardless of state regulations and laws. Over the last several decades, states and territories have established a range of laws and policies regarding marijuana’s medical and recreational use. Most have deviated from an across-the-board prohibition of marijuana, and it is now more the rule than the exception that states and territories have laws and policies allowing for some cultivation, sale, distribution, and possession of marijuana.

Select Issues Surrounding the Schedule I Status of Marijuana

Differences between federal and state laws and policies have created a number of issues. Additionally, there are issues surrounding the Schedule I status of marijuana. Some of these are highlighted below.

- **Institutions of Higher Education (IHEs).** Under the [Higher Education Act of 1965](#), IHEs must adopt a program to prevent the use of illicit drugs and alcohol and annually distribute standards of conduct that clearly prohibit the unlawful possession, use, or distribution of illicit drugs and alcohol on the institution’s property or as part of any of its

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activities, and that describe applicable legal sanctions. An IHE's policy prohibiting marijuana use on campus may affect students with medical marijuana prescriptions by disallowing its use. It has been reported that IHEs may refuse to permit research on marijuana, as they could be at risk of losing sources of federal funds should they do so.

- **Financial Services for Marijuana-Related Businesses.** In spite of the guidance issued by the Treasury Department's Financial Crimes Enforcement Network (FinCEN) on how financial institutions may provide banking services to marijuana-related businesses, many financial institutions remain reluctant to openly enter into relationships with state-authorized marijuana businesses due to the Schedule I status of marijuana.
- **Research on Marijuana.** The Schedule I status has reportedly created difficulty for researchers who seek to study marijuana but are potentially unable to meet the strict requirements of the CSA, or seek a different strain, potency, or quality of marijuana for their research than what is lawfully available.
- **Other.** Violations of laws based on marijuana's Schedule I status give rise to a range of other issues, including eligibility for student financial aid, public housing, food assistance, gun ownership, visas, and employment.

Drug Enforcement Administration (DEA) Rejection of Petitions to Reschedule

There has been mounting public pressure for the DEA to reevaluate marijuana as a Schedule I controlled substance. Over the years, several entities have submitted petitions to reschedule marijuana. In August 2016, after a five-year evaluation process done in conjunction with the Food and Drug Administration (FDA), the DEA rejected two petitions—one submitted by two state governors and the other submitted by a New Mexico health provider—to move marijuana to a less-restrictive schedule under the CSA. Consistent with past practice, the rejections were based on a conclusion by both the FDA and the DEA that marijuana continues to meet the criteria for inclusion on Schedule I—namely that it has a high potential for abuse, has no currently accepted medical use, and lacks an accepted level of safety for use under medical supervision.

Authority to Alter the Schedule Status of Marijuana

Both Congress and the Administration have the ability to alter marijuana's status as a Schedule I substance. The Administration could make changes on its own, though it is bound by the CSA to evaluate a substance prior to altering its scheduling status. Congress could also alter marijuana's status, such as by amending the CSA, without such confines. Of note, in congressional hearings and other forums some Members of Congress in both major parties have questioned the Schedule I nature of marijuana. Those questioning its status have expressed support for, at minimum, moving it to a lower schedule. Some have gone further and expressed support for its removal from the CSA altogether.

Options for Congress

Congress could do a number of things to address the schedule status of marijuana. It may choose to (1) maintain marijuana's status on Schedule I, (2) amend the CSA to move marijuana to a lower schedule, (3) create an entirely new schedule or other category for marijuana, or (4) remove it entirely from the CSA. If Congress chooses to remove marijuana as a controlled substance under the CSA, it could seek to regulate and tax commercial marijuana activities. If marijuana remains a controlled substance under the CSA under any schedule, this would maintain the existing conflict with states that have legalized recreational marijuana, but may help resolve conflicts with medical marijuana laws. The creation of a new schedule

solely for marijuana would give Congress an opportunity to modify the criminality of marijuana under the CSA.

On November 20, 2019, the House Committee on the Judiciary marked up H.R. 3884, the Marijuana Opportunity Reinvestment and Expungement Act of 2019 (the MORE Act). Among other things, the bill would remove marijuana from the CSA altogether. Other bills introduced in the House in the 116th Congress, including H.R. 4323 and H.R. 171, would move marijuana to a lower schedule of the CSA.

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