Predictions on the Passage of Medical and Recreational Marijuana Laws 2016 and Beyond
By Ret. Judge Mary Celeste

The map of the U.S. is starting to fill in with state upon state passing recreational and medical marijuana laws. There are several states that attempted or succeeded on placing recreational or medical marijuana laws on the ballot for 2016. Missouri for medical marijuana and Michigan for recreational marijuana had the required number of petitions, however, there were technical problems that failed to qualify them for the ballot. In Missouri, a judge upheld a ruling that determined that the disqualification by election officials who disqualified thousands of petition signatures because voters had mistakenly signed forms indicating that they resided in the wrong county. In Missouri polling indicated that over 60% of voters backed the proposal. In Michigan state rules invalidated the signatures that were older than 180 days thus disqualifying it for the ballot. and the Michigan proponents vow to bring it forward again 2018. Oklahoma's medical marijuana measure had the required signatures and qualified but was stymied by their state attorney general.

The Arizona Marijuana Legalization Initiative, known as Proposition 205 would allow medical marijuana dispensaries already in place the first opportunity to sell recreational cannabis. Adults over the age of 21 will be allowed to grow 6 plants while a 15% tax is levied on the plant. An August 2016 poll found 50% of registered voters favor legalization, 40% oppose the measure and 10% are undecided. In Arkansas, Issue 7 also known as the Arkansas Medical Cannabis Act will allow patients with an extensive list of qualifying conditions to consume marijuana with a doctor's approval. The Arkansas citizens are about evenly split on whether they will support the measure.

Voting "yes" on California Proposition 64 will legalize recreational marijuana while enacting a 15% sales tax and a $9.25 per ounce cultivation tax. “The law will also prevent licenses that would allow corporate money to create a monopoly on the industry.” The Proposition will have a unique provision that would allow for resentencing and destruction of records for prior marijuana convictions. Polling data compiled by two polling entities show the measure leading among voters by some 30%. Like California, Nevada is vying for recreational marijuana with Question 2. It will tax from cannabis sales and reallocated the revenue to K-12 education. According to polling data, the Nevada Marijuana Legalization Initiative leads by a margin of 57% to 33%.

In Florida, Amendment 2 medical marijuana initiative “would allow doctors to prescribe marijuana to those affected by cancer, epilepsy, glaucoma, HIV/AIDS, PTSD, Crohn’s Disease, Parkinson’s Disease, ALS, multiple sclerosis or other debilitating medical conditions of the same kind or class as or comparable to those enumerated.” A recent survey from has 70% support for the initiative. In Maine, Question 1 will legalize, regulate, and tax cannabis. Fifty-three percent of voters support the measure while 38% oppose it. In Massachusetts, Question 4 recreational marijuana will allow residents to possibly possess less than 10 ounces in their homes and up to one ounce in public.
Voters back Question 4 by a margin of 53% to 40%, according to polling data released in September 2016.\textsuperscript{xix}

While North Dakota is seeking a new medical marijuana law, Montana is tweaking their existing medical marijuana law. The North Dakota Compassionate Care Act, or Initiated Statutory Measure 5, will set up a system of nonprofit “compassion centers” to make medical cannabis available to people with a long list of qualifying conditions. It will also allow patients to grow up to 8 plants if they live more than 40 miles from a “compassion center.” \textsuperscript{xx} The polling data from 2014 had support for medical marijuana at 47%, with 41% opposed. \textsuperscript{xxi} “I-182 renames the Montana Marijuana Act to the Montana Medical Marijuana Act and amends the Act. I-182 allows a single treating physician to certify medical marijuana for a patient diagnosed with chronic pain and includes post-traumatic stress disorder (PTSD) as a “debilitating medical condition” for which a physician may certify medical marijuana.” \textsuperscript{xxii} There doesn’t appear to be any recent polling on the initiative’s prospects.

Along with those states that failed to qualify for a ballot measure this election cycle and will probably be back, the next wave of states that seem ripe for recreational marijuana laws are those states that already have in place medical marijuana laws and have decriminalized possession. Don’t be surprised to see the following states with measures on the ballot over the next couple of years: Connecticut; Delaware; Illinois; Maryland, Montana; New York; Rhode Island; and Vermont. \textsuperscript{xxiii} Perhaps at some point in the future all of the U.S. will have medical and recreational marijuana laws, which would be in keeping with our neighbor to the north. Canada unlike the U.S. will soon have uniform marijuana laws. \textsuperscript{xxiv}
Patients will be able to possess 2 ½ ounces or grow up to 5 plants and 12 seedlings if they live more than 20 miles from one of the at least 39 care centers. A designated caregiver would also be able to grow for up to 5 patients.

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Judge Mary A. Celeste sat on the Denver County Court bench where she was the Presiding Judge 2009 and 2010; the first woman to hold that position and the co-founder of the Denver County Court Sobriety Court. She is the current education co-chair for the IALGT Judges; chair-elect for the ABA National Conference of Specialized Courts and Faculty for the National Center for DWI Courts (NCDC) and the National judicial College (NJC). She has recently chaired the Criminal Justice Group for the Colorado Task Force for Drunk and Impaired Driving and has served as the NHTSA Judicial Outreach Liaison for Region 8. She sat on the Colorado Advisory Committee for the United States Civil Rights Commission and served as the President of the of the American Judge’s Association, the Colorado Women’s Bar Association Foundation and as an Adjunct Professor at the D.U. Sturm College of Law. She has written many articles and is a national speaker and expert on the topic of marijuana and alcohol impaired and drugged driving.