

## In Partnership With



## Sources

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2. 2018 Farm Bill Text. Library of Congress. 2018. pp. 420. <https://www.congress.gov/bill/115th-congress/house-bill/2/text>
3. FDA CBD FAQs. 2020. <https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-including-cannabidiol-cbd>
4. Buscher Law. <https://www.buscherlaw.com/2018-farm-bill>
5. Individual State Controlled Substances Act, Criminal Code, and Child Endangerment Laws.

## Canna-Patient Experience

# Cannabidiol and Child Protective Services



**This information is accurate at date of publication.  
March 2022.**

## CBD and CPS



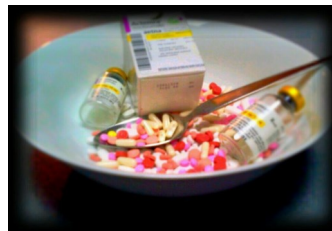
CBD is everywhere these days. It's in our morning coffee, sold in gas stations, and even infused into clothing.

At every turn, CBD seems to be as legal as apple pie. Since anyone can walk into the local gas station and buy it, it must be legal to give to my minor child, right?

Unfortunately, things aren't that straight forward. Parents aren't finding out that giving CBD to your child is illegal until they get a call from child protective services. That's right! Despite everything you see, cannabidiol use in children is still technically illegal. Unless they are legally registered in their state's medical cannabis program, minor use of CBD is illegal in the United States. There are two loopholes that we see CPS using, one Federal and one state.

## The Federal Loophole

- 2018 Farm Bill descheduled hemp cannabinoids, but placed them under the FD&C Act and FDA jurisdiction.
- The FDA classified CBD as an "active pharmaceutical ingredient" and said it did not qualify as a supplement.
- It is illegal to introduce an active pharmaceutical ingredient into commerce outside the over-the-counter regulations.
- FDA is in the process of creating CBD's regulatory framework, which means all CBD (except Epidiolex) is illegal until new regulations are created.
- Using CBD is equal to using a drug without a prescription.



## The State Loophole

- State protections are what allow CBD to be so prolifically sold. While states did update their hemp codes, they did not update their child endangerment codes. It is in the child endangerment codes, along with criminal codes, that we find the state child protective services loophole.
- Even THC-free products contain trace THC, which means even isolates contain THC in miniscule amounts. Most companies don't measure their THC passed 3 or 4 decimal points, but if that product were to be sent to a DEA lab, they'd find the 0.000065% of trace THC.

**Technically, the state assumes that you are always giving your child a Schedule I controlled substance.**

**This information is not intended as legal advice. Take this information back to your medical and legal teams to help make informed decisions.**