
By: **Delegates Murphy, Brinkley, Dembrow, Pendergrass, Montague,
Snodgrass, Baldwin, Hecht, and Kagan**

Introduced and read first time: January 28, 2000

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Marijuana - Exceptions for Compassionate Use**

3 FOR the purpose of allowing certain persons who have certain medical conditions to
4 possess marijuana and related drug paraphernalia under certain circumstances;
5 allowing certain persons related to eligible patients to possess marijuana and
6 related drug paraphernalia under certain circumstances; providing that certain
7 physicians who make certain recommendations or authorizations are not in
8 violation of certain laws; providing that certain persons who are in certain
9 locations with an eligible patient are not in violation of certain laws under
10 certain circumstances; establishing a certain defense and presumption;
11 prohibiting the medical use of marijuana under certain circumstances; providing
12 that certain persons are not liable for claims for reimbursement for the medical
13 use of marijuana; prohibiting certain false statements regarding medical use of
14 marijuana; establishing certain penalties; providing that certain laws relating
15 to drug paraphernalia do not apply to the medical use of marijuana; declaring
16 the intent of the General Assembly; making technical changes; defining certain
17 terms; making provisions of this Act severable; and generally relating to the
18 medical use of marijuana.

19 BY renumbering

20 Article 27 - Crimes and Punishments
21 Section 287A(b), (d), and (e), respectively
22 to be Section 287A(c), (e), and (f), respectively
23 Annotated Code of Maryland
24 (1996 Replacement Volume and 1999 Supplement)

25 BY repealing and reenacting, without amendments,

26 Article 27 - Crimes and Punishments
27 Section 287(a)
28 Annotated Code of Maryland
29 (1996 Replacement Volume and 1999 Supplement)

30 BY adding to

1 Article 27 - Crimes and Punishments
2 Section 287A(b) and 292
3 Annotated Code of Maryland
4 (1996 Replacement Volume and 1999 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article 27 - Crimes and Punishments
7 Section 287A(c)
8 Annotated Code of Maryland
9 (1996 Replacement Volume and 1999 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That Section(s) 287A(b), (d), and (e), respectively, of Article 27 - Crimes
12 and Punishments of the Annotated Code of Maryland be renumbered to be Section(s)
13 287A(c), (e), and (f), respectively.

14 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
15 read as follows:

16 **Article 27 - Crimes and Punishments**

17 287.

18 Except as authorized by this subheading, it is unlawful for any person:

19 (a) To possess or administer to another any controlled dangerous substance,
20 unless such substance was obtained directly, or pursuant to a valid prescription or
21 order from a practitioner, while acting in the course of his professional practice.

22 287A.

23 (B) THIS SECTION DOES NOT APPLY TO A PERSON WHO IS AUTHORIZED TO
24 POSSESS MARIJUANA UNDER § 292 OF THIS SUBHEADING.

25 [(c)] (D) It is unlawful for any person to use, or to possess with intent to use,
26 drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture,
27 compound, convert, produce, process, prepare, test, analyze, pack, repack, store,
28 contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a
29 controlled dangerous substance in violation of this subheading. Any person who
30 violates this subsection is guilty of a misdemeanor and upon conviction for a first
31 offense may be fined not more than \$500. A person who is convicted of a subsequent
32 violation of this subsection may be imprisoned for not more than 2 years or fined not
33 more than \$2,000 or both. Any person convicted of violating this subsection who
34 previously has been convicted of violating subsection [(d)(2)] (E)(2) OF THIS SECTION
35 shall be subject to the same penalties specified for subsequent violations of this
36 subsection.

1 292.

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) "ADEQUATE SUPPLY" MEANS NO MORE MARIJUANA THAN IS
5 NECESSARY TO ASSURE, THROUGHOUT THE PROJECTED COURSE OF TREATMENT,
6 THE UNINTERRUPTED AVAILABILITY OF MARIJUANA FOR THE PURPOSE OF
7 ALLEVIATING THE SYMPTOMS OR EFFECTS OF A QUALIFYING PATIENT'S
8 DEBILITATING MEDICAL CONDITION.

9 (3) "DEBILITATING MEDICAL CONDITION" MEANS:

10 (I) CANCER, GLAUCOMA, POSITIVE STATUS FOR HUMAN
11 IMMUNODEFICIENCY VIRUS, AIDS, OR TREATMENT FOR THESE CONDITIONS;

12 (II) A CHRONIC OR DEBILITATING DISEASE OR MEDICAL
13 CONDITION, OR TREATMENT FOR ONE OF THESE CONDITIONS WHICH PRODUCES:

14 1. CACHEXIA OR WASTING SYNDROME, SEVERE PAIN, OR
15 SEVERE NAUSEA;

16 2. SEIZURES, INCLUDING THOSE THAT ARE
17 CHARACTERISTIC OF EPILEPSY; OR

18 3. SEVERE AND PERSISTENT MUSCLE SPASMS, INCLUDING
19 THOSE THAT ARE CHARACTERISTIC OF MULTIPLE SCLEROSIS; OR

20 (III) ANY OTHER MEDICAL CONDITION APPROVED BY THE
21 DEPARTMENT OF HEALTH AND MENTAL HYGIENE UNDER ITS AUTHORITY TO ADOPT
22 REGULATIONS FOR CONSIDERING REQUESTS SUBMITTED BY PHYSICIANS OR
23 POTENTIALLY QUALIFYING PATIENTS TO ADD DEBILITATING MEDICAL CONDITIONS
24 TO THOSE INCLUDED UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH.

25 (4) "MEDICAL USE" MEANS THE ACQUISITION, POSSESSION,
26 CULTIVATION, USE, DISTRIBUTION, OR TRANSPORTATION OF MARIJUANA OR
27 PARAPHERNALIA RELATING TO THE ADMINISTRATION OF MARIJUANA TO ALLEVIATE
28 THE SYMPTOMS OR EFFECTS OF A QUALIFYING PATIENT'S DEBILITATING MEDICAL
29 CONDITION.

30 (5) "PHYSICIAN" MEANS AN INDIVIDUAL WHO HAS A LICENSE TO
31 PRACTICE MEDICINE UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE.

32 (6) "PRIMARY CAREGIVER" MEANS AN INDIVIDUAL, OTHER THAN THE
33 QUALIFYING PATIENT AND THE QUALIFYING PATIENT'S PHYSICIAN, WHO IS AT
34 LEAST 18 YEARS OLD AND HAS SIGNIFICANT RESPONSIBILITY FOR MANAGING THE
35 WELL-BEING OF THE QUALIFYING PATIENT.

36 (7) "QUALIFYING PATIENT" MEANS A PERSON WHO HAS BEEN
37 DIAGNOSED BY A PHYSICIAN AS HAVING A DEBILITATING MEDICAL CONDITION.

1 (8) "WRITTEN DOCUMENTATION" MEANS A STATEMENT SIGNED BY A
2 QUALIFYING PATIENT'S PHYSICIAN OR COPIES OF THE QUALIFYING PATIENT'S
3 PERTINENT MEDICAL RECORDS WHICH STATE THAT, IN THE PHYSICIAN'S
4 PROFESSIONAL OPINION, THE POTENTIAL BENEFITS OF THE MEDICAL USE OF
5 MARIJUANA WOULD LIKELY OUTWEIGH THE HEALTH RISKS FOR A PARTICULAR
6 QUALIFYING PATIENT.

7 (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY:

8 (1) TO ENSURE THAT PATIENTS WITH A DEBILITATING MEDICAL
9 CONDITION ARE NOT PENALIZED BY THE STATE FOR OBTAINING AND USING
10 MARIJUANA STRICTLY FOR MEDICAL USE WHEN THE PATIENT'S PHYSICIAN
11 PROVIDES A PROFESSIONAL OPINION THAT MARIJUANA IS MEDICALLY BENEFICIAL
12 TO THE PATIENT;

13 (2) TO ENSURE THAT PHYSICIANS ARE NOT PENALIZED BY THE STATE
14 FOR PROVIDING THEIR PROFESSIONAL OPINIONS ON THE MEDICAL USE OF
15 MARIJUANA;

16 (3) TO ENSURE THAT COMPLIANCE WITH THIS SECTION DOES NOT PUT
17 THE STATE ITSELF IN VIOLATION OF FEDERAL LAW; AND

18 (4) TO ENSURE THAT PATIENTS AND PHYSICIANS CANNOT TAKE
19 ADVANTAGE OF THE LAW TO PROCURE MARIJUANA FOR NONMEDICAL PURPOSES
20 AND ENDANGER THE PUBLIC.

21 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY:

22 (1) IT SHALL BE LAWFUL FOR ANY QUALIFYING PATIENT, WHO HAS
23 OBTAINED WRITTEN DOCUMENTATION FROM THE QUALIFYING PATIENT'S
24 PHYSICIAN IN THE CONTEXT OF A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP,
25 TO ENGAGE IN THE MEDICAL USE OF MARIJUANA, PROVIDED THE QUANTITY OF
26 MARIJUANA DOES NOT EXCEED AN ADEQUATE SUPPLY;

27 (2) SUBJECT TO SUBSECTIONS (H), (I), (J), AND (K) OF THIS SECTION,
28 WHEN THE ACQUISITION, POSSESSION, CULTIVATION, DISTRIBUTION,
29 TRANSPORTATION, OR ADMINISTRATION OF MARIJUANA BY A QUALIFYING PATIENT
30 IS NOT PRACTICABLE, THE LEGAL PROTECTIONS ESTABLISHED BY THIS SECTION
31 FOR A QUALIFYING PATIENT SHALL EXTEND TO THE PATIENT'S PRIMARY
32 CAREGIVER, PROVIDED THAT THE PRIMARY CAREGIVER'S ACTIONS ARE NECESSARY
33 FOR THE QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA; AND

34 (3) A PHYSICIAN MAY NOT BE SUBJECTED TO ARREST OR PROSECUTION,
35 PENALIZED IN ANY MANNER, OR DENIED ANY RIGHT OR PRIVILEGE FOR PROVIDING
36 A PROFESSIONAL OPINION OR WRITTEN DOCUMENTATION TO A QUALIFYING
37 PATIENT ABOUT THE POTENTIAL RISKS AND BENEFITS OF THE MEDICAL USE OF
38 MARIJUANA, PROVIDED THAT THE PROFESSIONAL OPINION OR WRITTEN
39 DOCUMENTATION IS BASED ON THE PHYSICIAN'S ASSESSMENT OF THE QUALIFYING
40 PATIENT'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION MADE IN THE
41 COURSE OF A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP.

1 (D) IN ANY LEGAL PROCEEDING IN WHICH RIGHTS CREATED BY THIS ACT ARE
2 ASSERTED, A PHYSICIAN CALLED AS A WITNESS SHALL BE PERMITTED TO TESTIFY
3 BEFORE A JUDGE IN CAMERA. IF THE PHYSICIAN WITNESS SO REQUESTS, THE
4 PHYSICIAN'S TESTIMONY WHEN INTRODUCED IN A PUBLIC PROCEEDING SHALL
5 HAVE REDACTED THE NAME OF THE PHYSICIAN AND THE COURT SHALL MAINTAIN
6 THE NAME AND IDENTIFYING CHARACTERISTICS OF THE PHYSICIAN UNDER SEAL.

7 (E) (1) ANY PROPERTY THAT IS POSSESSED, OWNED, OR USED IN
8 CONNECTION WITH THE MEDICAL USE OF MARIJUANA OR ACTS INCIDENTAL TO THE
9 MEDICAL USE OF MARIJUANA, MAY NOT BE HARMED, NEGLECTED, INJURED, OR
10 DESTROYED WHILE IN THE POSSESSION OF STATE OR LOCAL LAW ENFORCEMENT
11 OFFICIALS WHERE THE PROPERTY HAS BEEN SEIZED IN CONNECTION WITH THE
12 CLAIMED MEDICAL USE OF MARIJUANA.

13 (2) ANY PROPERTY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION
14 MAY NOT BE FORFEITED UNLESS A COURT DETERMINES THAT THE OWNER HAS
15 VIOLATED THIS SECTION OR ANOTHER PROVISION OF THIS SUBHEADING.

16 (3) MARIJUANA, PARAPHERNALIA, AND OTHER PROPERTY SEIZED BY
17 STATE OR LOCAL LAW ENFORCEMENT OFFICIALS FROM A QUALIFYING PATIENT OR
18 PRIMARY CAREGIVER IN CONNECTION WITH THE CLAIMED MEDICAL USE OF
19 MARIJUANA SHALL BE RETURNED IMMEDIATELY ON THE DETERMINATION OF THE
20 COURT THAT THE QUALIFYING PATIENT OR PRIMARY CAREGIVER IS ENTITLED TO
21 THE PROTECTIONS CONTAINED IN THIS SECTION, OR ON THE ENTRY OF A NOLLE
22 PROSEQUI, A STET, A DISMISSAL OF CHARGES, OR AN ACQUITTAL.

23 (F) A PERSON MAY NOT BE PROSECUTED FOR A CRIMINAL OFFENSE SOLELY
24 FOR BEING IN THE PRESENCE OR VICINITY OF THE MEDICAL USE OF MARIJUANA.

25 (G) (1) IT IS AN AFFIRMATIVE DEFENSE FOR ANY QUALIFYING PATIENT OR
26 PRIMARY CAREGIVER CHARGED WITH A VIOLATION OF THIS SUBHEADING THAT
27 MEDICAL USE OF MARIJUANA IS AUTHORIZED UNDER THIS SECTION.

28 (2) THERE IS A PRESUMPTION THAT THE MEDICAL USE OF MARIJUANA
29 IS AUTHORIZED UNDER THIS SECTION IF:

30 (I) THE QUALIFYING PATIENT WAS DIAGNOSED BY A PHYSICIAN
31 AS HAVING A DEBILITATING MEDICAL CONDITION;

32 (II) THE QUALIFYING PATIENT'S PHYSICIAN IN THE CONTEXT OF A
33 BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP HAS STATED THAT IN THE
34 PHYSICIAN'S PROFESSIONAL OPINION THE POTENTIAL BENEFITS OF THE MEDICAL
35 USE OF MARIJUANA WOULD LIKELY OUTWEIGH THE HEALTH RISKS FOR THE
36 PARTICULAR QUALIFYING PATIENT; AND

37 (III) THE QUALIFYING PATIENT AND THE QUALIFYING PATIENT'S
38 PRIMARY CAREGIVER WERE COLLECTIVELY IN POSSESSION OF A QUANTITY OF
39 MARIJUANA THAT DOES NOT EXCEED AN ADEQUATE SUPPLY.

1 (H) A QUALIFYING PATIENT MAY NOT ENGAGE IN THE MEDICAL USE OF
2 MARIJUANA IN A WAY THAT ENDANGERS THE HEALTH OR WELL-BEING OF ANOTHER
3 INDIVIDUAL.

4 (I) A GOVERNMENTAL, PRIVATE, OR ANY OTHER HEALTH INSURANCE
5 PROVIDER IS NOT LIABLE FOR ANY CLAIM FOR REIMBURSEMENT FOR THE MEDICAL
6 USE OF MARIJUANA.

7 (J) THE ACCOMMODATION OF THE MEDICAL USE OF MARIJUANA MAY NOT BE
8 REQUIRED IN ANY PLACE OF EMPLOYMENT.

9 (K) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, AN INDIVIDUAL,
10 INCLUDING A QUALIFYING PATIENT OR PRIMARY CAREGIVER, IS NOT ENTITLED TO
11 THE PROTECTIONS OF THIS SECTION FOR THE ACQUISITION, POSSESSION,
12 CULTIVATION, USE, DISTRIBUTION, TRANSPORTATION, OR ADMINISTRATION OF
13 MARIJUANA FOR ANY USE OTHER THAN MEDICAL USE.

14 (L) (1) A PERSON MAY NOT MAKE A FRAUDULENT REPRESENTATION
15 REGARDING MEDICAL USE OF MARIJUANA TO A LAW ENFORCEMENT OFFICER FOR
16 THE PURPOSE OF AVOIDING ARREST AND PROSECUTION.

17 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
18 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
19 EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

20 SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this
21 Act or the application thereof to any person or circumstance is held invalid for any
22 reason in a court of competent jurisdiction, the invalidity does not affect other
23 provisions or any other application of this Act which can be given effect without the
24 invalid provision or application, and for this purpose the provisions of this Act are
25 declared severable.

26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2000.