RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES

MARYLAND · GENERAL · ASSEMBLY

2022 Session
HB0001

Constitutional Amendment - Cannabis - Adult Use and Possession

Summary

This proposed constitutional amendment, if approved by the voters at the next general election to be held in November 2022, authorizes an individual at least age 21 to use and possess cannabis in the State beginning July 1, 2023, subject to the requirement that the General Assembly provide for the use, distribution, possession, regulation, and taxation of cannabis through legislation.
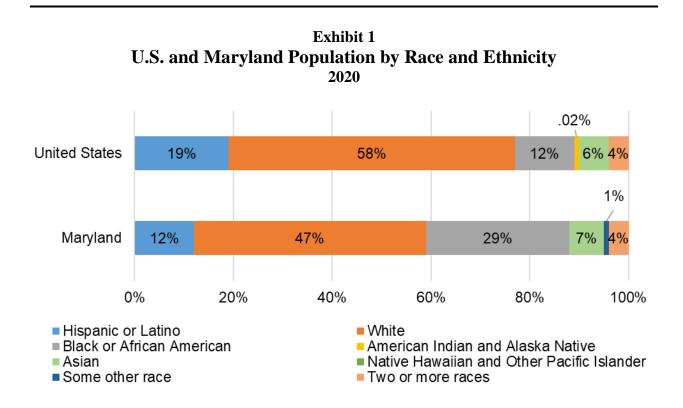
Maryland Demographics

Race and Ethnicity of the Maryland Population

Maryland's 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland's racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as "other" and "multiracial" (*i.e.*, two or more racial identities), which total 5% of the State's population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report "White" as their racial group. Despite this decrease, non-Hispanic Whites remain the largest single-race demographic group in the State at 47% of the State's population.

Compared to the U.S. population overall, Maryland's population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau's Diversity Index. As shown in **Exhibit 1**, in Maryland, 47% identify as White alone compared to 58% of the national population. Similarly, 51% of the population identify as non-White or multi-racial compared to 38% of the national population. In both the State and national populations, the largest shares of the non-White population are individuals who are Black or African American, with 29% of the State population identifying only as Black or African American and another 2.5% identifying as Black in combination with some other race. Maryland's

Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State's overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State's population identified as Hispanic or Latino compared to 19% of the U.S. population.

Exhibit 1
U.S. and Maryland Population by Race and Ethnicity
2020

Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.

Racial Equity Impact Statement

This bill establishes, if approved by the voters, a minimum age of 21 for the legal use and possession of cannabis (marijuana). As discussed in more detail below, data illustrates that individuals who are 18 years old and older use marijuana at approximately the same rate across most racial demographic groups. However, African Americans, or people identified as Black, are more likely to be arrested or incarcerated in disproportionate numbers for marijuana possession compared to all other racial groups.

Given statewide racial and ethnic demographics for the entire population as compared to the demographics of individuals arrested for possession of marijuana, the provisions in the bill will significantly decrease marijuana possession arrest rates that have disproportionately impacted Black communities more than White and non-Black communities in the State.

Marijuana Usage and Arrest Demographics

Marijuana Usage

The most recent comprehensive data available on marijuana usage is an annual survey conducted by the Substance Abuse and Mental Health Services Administration. As shown in **Exhibit 2**, the 2019 survey shows that, at the national level, White individuals are more likely to use marijuana during their lifetime than individuals of any other race, excluding those who identify as two or more races.

Exhibit 2
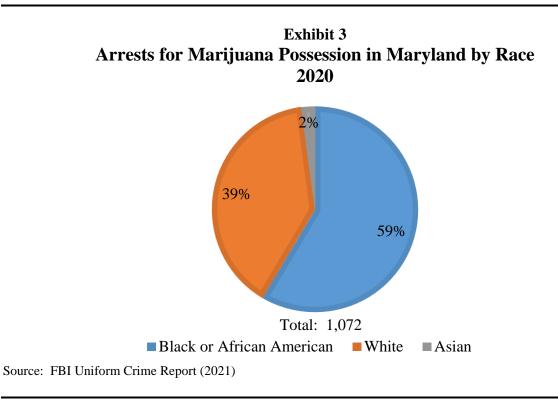### Marijuana Use Nationally by Race and Ethnicity
2019

Race/Ethnicity	Age 18 and Over		Age 26 and Over	
	Use in Last Year	Lifetime Use	Use in Last Year	Lifetime Use
Hispanic or Latino	15%	37%	12%	35%
White	19%	55%	16%	55%
Black or African American	20%	46%	17%	46%
American Indian or Alaska Native	20%	52%	18%	51%
Native Hawaiian or Other Pacific Islander	15%	43%	12%	44%
Asian	8%	22%	6%	20%
Two or More Races	31%	67%	27%	69%
Total	**18%**	**49%**	**15%**	**49%**

Source: University of Baltimore Schaefer Center; Substance Abuse and Mental Health Services Administration
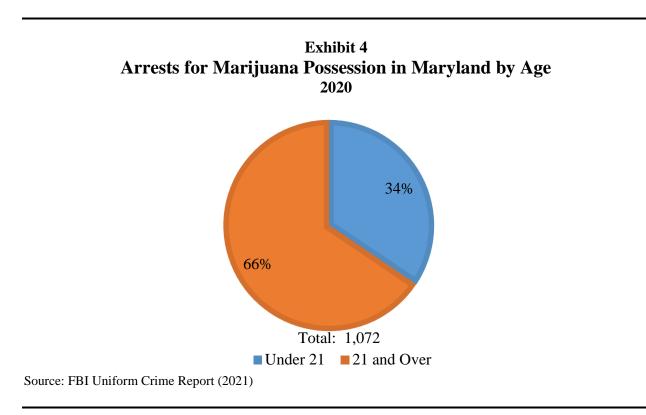
This research confirms the results of a 2017 study by the National Institute on Drug Abuse that found both the Black and White populations at the national level use marijuana at the same rate. Although marijuana usage is roughly equal across groups, arrest data shows that African Americans, or people identified as Black, are more likely to be arrested or incarcerated for marijuana possession.
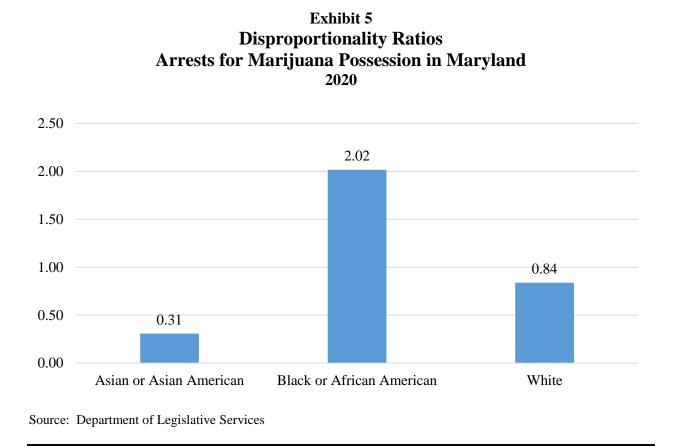
Marijuana Possession Arrests

Exhibit 3 illustrates the percentage of arrests in Maryland for possession of marijuana in 2020 by race. There was a total of 1,072 arrests for marijuana possession. Of the individuals arrested, 59% were Black or African American, 39% were White, and 2% were Asians or Asian Americans.

Exhibit 3
Arrests for Marijuana Possession in Maryland by Race
2020

Total: 1,072

■ Black or African American   ■ White   ■ Asian
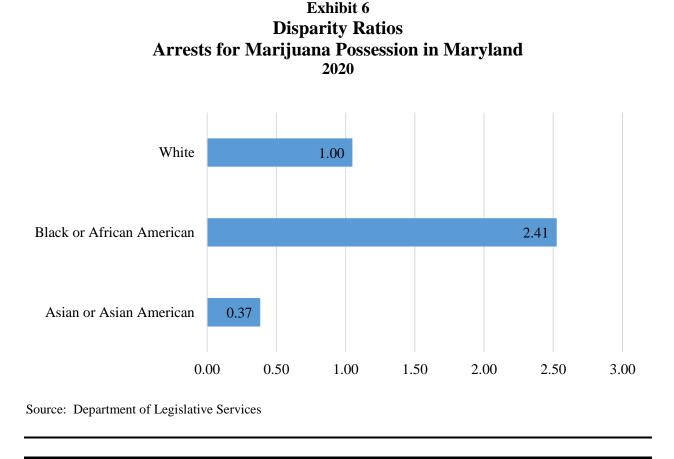
Source: FBI Uniform Crime Report (2021)

With respect to age, the 2020 FBI Uniform Crime Report shows that a majority of the 1,072 individuals arrested were 21 years of age or older. As **Exhibit 4** illustrates, 66% of the arrested individuals were 21 and older and 34% were under the age of 21.

Exhibit 4
Arrests for Marijuana Possession in Maryland by Age
2020

Total: 1,072

■ Under 21   ■ 21 and Over

Source: FBI Uniform Crime Report (2021)

As shown in **Exhibit 5**, current data reveals that the disproportionality ratio of arrests for marijuana possession for African Americans, or people identified as Black, in Maryland is 2.02. This means that African Americans, or people identified as Black, are twice as likely to be arrested for marijuana possession as compared to their proportion of the State's population. Whites and other non-Black racial groups have disproportionality ratios of less than 1.00, with Whites at 0.84 and Asians or Asian Americans at 0.31. Thus, individuals in these groups are less likely to be arrested for marijuana possession as compared to their overall proportion of the State population.

Exhibit 5
Disproportionality Ratios
Arrests for Marijuana Possession in Maryland
2020

Source: Department of Legislative Services

Exhibit 6 shows how disparity ratios vary among the different racial groups with respect to the number of arrests for marijuana possession in Maryland. The 2020 data reveals that African Americans, or people identified as Black, have a racial disparity ratio of 2.41. This means that African Americans, or people identified as Black, are more than twice as likely to be arrested for marijuana possession as Whites. The data also shows that Asian Americans, or people identified as Asian, have a disparity ratio of 0.37 and are therefore much less likely to be arrested for marijuana possession than Whites. Data were not available to analyze disproportionality and disparity ratios related to ethnicity.

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Exhibit 6
Disparity Ratios
Arrests for Marijuana Possession in Maryland
2020

Source: Department of Legislative Services

Conclusion

While evidence shows that racial and ethnic groups use marijuana at similar rates, arrest data indicates that African Americans, or persons identified as Black, are disproportionately and disparately impacted by arrests or incarceration for marijuana possession. Moreover, data shows that two-thirds of adults arrested for marijuana possession in 2020 were 21 years of age or older. Thus, the bill's intention to establish a minimum age of 21 to legally use and possess cannabis would reduce arrests for marijuana use and possession for individuals who are at least 21 years old, regardless of their racial and ethnic identity.

However, the exact magnitude of this bill's potential impact on racial equity cannot be fully determined without additional historical data on the amounts of marijuana that individuals were arrested with, and the number of citations issued, across racial and ethnic groups. The actual impact will also depend on the decisions made by the General Assembly in providing for the use, distribution, possession, and regulation of marijuana.

Methodologies, Assumptions, and Uncertainties

Although some reports use disparity and disproportionality interchangeably, this racial equity impact note distinguishes them. Disproportionality is the state of being out of proportion. It compares the proportion of one racial or ethnic group of a target population to the proportion of the same racial or ethnic demographic group in the general population. Disparity, however, refers to a state of being unequal. A disparity describes an unequal outcome experienced by one racial or ethnic group of the target population as contrast against a different racial or ethnic group in the target population.

The information provided in this note is drawn from quantitative data analysis of available statistical datasets on crime and criminal justice collected by entities at the national and state level. Moreover, the information includes scholarly literature on racial and ethnic disparities in the U.S. criminal justice system.

Information Sources: U.S. Census Bureau; University of Baltimore Schaefer Center; Substance Abuse and Mental Health Services Administration; FBI Uniform Crime Report; Department of Legislative Services

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