

MDDCSAM - SB 143 - FAV - Intent to Distribute Mari

Uploaded by: Adams, MD, Joseph

Position: FAV



MDDCSAM is the Maryland state chapter of the American Society of Addiction Medicine whose members are physicians and other health providers who treat people with substance use disorders.

SB143 Criminal Law – Marijuana – Possession and Possession With Intent to Distribute
Senate Judicial Proceedings Committee January 20, 2021

FAVORABLE

I am Joseph Adams, MD, FASAM, an internist and addiction medicine physician who participated in drafting the policy statement on cannabis by the American Society of Addiction Medicine (ASAM) released in October 2020.

ASAM’s policy strongly supports decriminalization for cannabis possession and goes much further, stating, “Cannabis use and possession should be decriminalized, and civil fines and fees should be eliminated whenever possible. A range of non-mandatory civil penalties to enforce restrictions such as age, place of use, quantity limits and others may be needed, however. Contingencies such as referral for clinical assessment or educational activities are preferred as alternatives to civil penalties. There should be no mandatory minimum penalties, which disproportionately punish people of limited means.” (www.asam.org/advocacy/find-a-policy-statement/view-policy-statement/public-policy-statements/2020/10/13/cannabis)

Addiction medicine physicians and other healthcare providers are well aware that the majority of people who use cannabis do not have resulting discernable harms, and do not develop cannabis use disorder.

The greatest harms appear to be those imposed unnecessarily through harsh civil and criminal penalties for marijuana possession.

For those with substance use disorders due to cannabis or other substances, healthcare providers work with care managers and counselors to **support employment as an important part of recovery.**

A criminal record hinders these efforts, often serving as an insurmountable barrier to employment, possibly for life. Criminal as well as civil penalties for substance use are antithetical to our efforts to help people become productive, positive influences within their families and communities.

A large group of people use cannabis recreationally, without harms, **not unlike the social use of alcohol, and often with fewer harms than daily tobacco use.** Our society’s record of criminalizing cannabis use has unfair, disproportionate and profound impacts on racial minorities and **is not actually effective in reducing its use.** These policies can actually contribute to crime and unemployment.

Currently **the charge of “possession with intent to distribute” does not require evidence of intent to distribute,** but is based simply on possession of relatively small amounts of marijuana.

We respectfully urge a favorable report.

SB 143_FAV_ACLUMD_Amanuel.pdf

Uploaded by: Amanuel, Yanet

Position: FAV



**Testimony for the Senate Judicial Proceedings Committee
January 20, 2021**

YANET AMANUEL
PUBLIC POLICY ADVOCATE

**SB 143 Criminal Law - Marijuana - Possession and Possession With
Intent to Distribute**

FAVORABLE

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The ACLU of Maryland urges a favorable report on SB 143, which would raise from 10 grams to 1 ounce, the amount of marijuana for which possession is a civil offense and set a threshold that possession of 1 ounce or less of marijuana alone is not enough to charge someone with possession with intent to distribute.

While the Maryland General Assembly has begun to reform the laws related to marijuana possession, there is more work to do. We support this bill's efforts to further reverse the harmful effects of the failed war on drugs.

Possession with the Intent to Distribute (PWID) has been the top driver of prison sentences

In 2015, the Justice Reinvestment Coordinating Council unearthed troubling data about the impact of Maryland's drug laws on our prison population—at that time, simple possession of a controlled dangerous substance (CDS) was one of the top ten offenses at prison admission and 32% of all prison admissions were for drug offenses.¹ More recently, the 2015 Maryland Uniform Crime Report shows that in 2015, 21,971 arrests were made for marijuana possession.²

Additionally, there appears to have been an uptick—more pronounced in some jurisdictions—in marijuana distribution arrests since the 2014 decriminalization of marijuana possession of 10g or less. According to the 2015 Uniform Crime Report, as compared to 2014, arrests for possession of marijuana decreased 37% while marijuana distribution arrests increased 5% in 2015.³ This trend suggests that at least some portion of persons in possession of 10 grams or less are now being charged with a distribution offense, when the offense may in fact be more appropriately charged as possession. SB 143 is a reasonable response to this dynamic.

¹ Justice Reinvestment Coordinating Council, Presentation—Maryland Prison Drivers (July 29, 2015).

² Crime in Maryland, 2015 Uniform Crime Report (p. 110)

³ Crime in Maryland, 2015 Uniform Crime Report (p. 110)

SB 143 has the potential to save precious taxpayer dollars and avoid the collateral consequences of convictions

The threshold proposed in SB 143 can potentially divert some distribution charges toward simple possession charges, which can save precious taxpayer dollars. The average cost of incarcerating a person in a state facility is approximately \$870 per month. Operating costs of local detention facilities range from \$40 to \$170 per inmate. These are persons who engaged in consensual adult conduct and pose no real public safety threat.

Moreover, for those who are not actually incarcerated for criminal possession of marijuana, there nonetheless remain the costs of judicial resources expended adjudicating these cases. In 2010, Maryland spent approximately \$106 million enforcing marijuana possession laws.⁴ More importantly, raising the civil possession amount has the potential to reduce the negative collateral consequences of criminal convictions, including loss of wages, employment consequences, and household instability.

Therefore, SB 143 has the potential to reduce the incarcerated population, conserve judicial resources, save taxpayer dollars, and avoid the disruption in lives caused by unnecessary entanglement with the criminal legal system.

Maryland's simple possession law is among the most modest in the country

Under Maryland's law, possession of up to 10g of marijuana is a civil infraction. Twenty seven states have enacted laws with alternatives to the possibility of jail time for the possession of small amounts of marijuana. Of these states, Maryland's 10g is the smallest amount decriminalized. The majority of states have decriminalized 1 ounce, with several having higher amounts.⁵

SB 143 dovetails with the progress Maryland has already made toward reversing the failed war on drugs—from expunging civil possession of marijuana to reducing the jail penalty to a maximum 6 months. The bill is the next logical and reasonable step in the right direction.

Drug offenses disproportionately affect communities of color

Marijuana possession arrests disproportionately affect communities of color. Regardless of whether the county is majority White or majority Black, the racial disparity in the arrest rates is consistent.⁶ In 2013, Baltimore was 64% African American, but 91% of all minor marijuana arrests were of African Americans.⁷ In 2010, Montgomery County was 18% African American but 46% of all marijuana possession arrests were of African Americans.⁸

⁴ ACLU of Maryland, *The Maryland War on Marijuana in Black and White* (2013).

⁵ Project, Marijuana Policy. "Decriminalization." *MPP*, www.mpp.org/issues/decriminalization/.

⁶ *Id.*

⁷ *Baltimore Mayor 'Appalled' at Disproportionate Marijuana Arrest rates for African Americans*, FOX45 (Feb. 21, 2014). Available at: <http://foxbaltimore.com/news/features/top-stories/stories/baltimore-mayor-appalled-at-disproportionate-marijuana-arrest-rates-african-americans-25690.shtml#Uwn47aU7VBW>.

⁸ ACLU of Maryland, *The Maryland War on Marijuana in Black and White* (October 2013), http://www.aclu-md.org/marijuana_reform.

Finally, studies consistently show that people of all races use and possess marijuana at similar rates. In spite of this fact, African Americans in Maryland are 3 times more likely than their white counterparts to be arrested for marijuana possession.

SB 143 is a reasonable remedy to the uptick in distribution arrests since the decriminalization of simple possession. For the foregoing reasons, we urge a favorable report on SB 143.

2021 MDMDA Senate Bill 143 SUPPORT.pdf

Uploaded by: Bagwell, Ashlie

Position: FAV



TESTIMONY ON BEHALF OF THE MARYLAND MEDICAL DISPENSARY ASSOCIATION

Senate Bill 143—Criminal Law-Marijuana-Possession and Possession with Intent
to Distribute
SUPPORT
Senate Judicial Proceedings Committee
January 20, 2021

The Maryland Medical Dispensary Association (MDMDA) was established in May, 2017 in order to promote the common interests and goals of the Medical Cannabis Dispensaries in Maryland. MDMDA advocates for laws, regulations and public policies that foster a healthy, professional and secure medical cannabis industry in the State. MDMDA works on the State and local level to advance the interests of licensed dispensaries as well as to provide a forum for the exchange of information in the Medical Cannabis Industry.

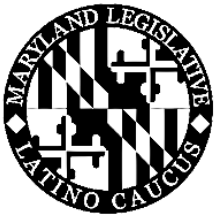
The MDMDA strongly supports Senate Bill 143, which would increase the amount of marijuana decriminalized in Maryland from ten grams to one ounce. As proposed in Senate Bill 143, possession of between 10 grams and one ounce or less of marijuana would be punishable by a civil fine of \$100 rather than a criminal penalty and potential jail time. Measures like this one are important as they further reduce the number of arrests and criminal charges for simple marijuana possession. As the Senate Judicial Proceedings Committee is well aware, these arrests disproportionately impact people of color in Maryland and across the country. Too, this discussion and policy decision is incredibly important and timely as the state continues its discussions about moving towards an adult use market.

While we join with others in supporting going above even the proposed one ounce limit, we understand and appreciate the value and benefit in movement in the right direction. For these reasons, the MDMDA urges a favorable vote on Senate Bill 143.

SB143_LatinoCaucus_FAV.pdf

Uploaded by: Caucus, MD Latino

Position: FAV



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TO: Senator William C. Smith, Jr., Chair
Senator Jeff Waldstreicher, Vice Chair
Judicial Proceedings Committee Members

FROM: Maryland Legislative Latino Caucus (MLLC)

DATE: January 20, 2021

RE: SB143 Criminal Law - Marijuana - Possession and Possession
With Intent to Distribute

The MLLC supports SB143 Criminal Law - Marijuana - Possession and Possession With Intent to Distribute.

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of SB143.

Maryland has taken appropriate strides in correcting the wrongs of drug-related mass incarceration against people of color. In 2014, the Maryland General Assembly decriminalized possession of up to 10 grams of marijuana. It is now measured as a civil offense that carries a \$100 fine. It was good step to begin marijuana possession reform, but more can be done.

Despite our state's decriminalization efforts, 2018 data reports that Black Marylanders are [twice](#) as likely to be arrested for marijuana possession as white Marylanders. A similar trend is seen in [Baltimore](#) where Black residents are disproportionately arrested. This hyper-policing of low-level marijuana infractions severely hurts our communities of color, including Latino and immigrant families. Convictions of these arrests damage employment and education opportunities, and housing stability. These individuals should not bear this burden for small amounts when there is a growing majority that supports [legalization](#).

SB143 increases the threshold for the civil offense of possession of marijuana from less than 10 grams to less than one ounce. Maryland has among the smallest amounts of decriminalization in the nation, where most states have decriminalized one ounce. Now, is the time to right another wrong.

The MLLC supports this bill and urges a favorable report on SB143.

Bill position sb143 Further Marijuana decrim.pdf

Uploaded by: Fraser, Stanford

Position: FAV



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GOVERNOR

OFFICE OF THE PUBLIC DEFENDER

PAUL B. DEWOLFE
PUBLIC DEFENDER
CHARLES E. DORSEY, III
DEPUTY PUBLIC DEFENDER

Testimony for the House Judiciary Committee

SB 0143 Criminal Law - Marijuana - Possession and Possession With Intent to Distribute

FAVORABLE

The Office of the Public Defender supports SB 0143, which expands the amount of marijuana possession that is decriminalized in the State of Maryland. By 2021, fifteen states have completely legalized marijuana. And recent Gallup polling demonstrates that 68% of Americans support marijuana legalization.¹ While this bill isn't full legalization, it increases the amount of marijuana an individual could possess without risking criminal penalty. Thus, this bill leads Maryland in a positive direction in its Marijuana laws.

¹ <https://news.gallup.com/poll/323582/support-legal-marijuana-inches-new-high.aspx>

_McAllister MJ Decrim MD 2021 (SB 143) testimony f

Uploaded by: McAllister, Gordon

Position: FAV



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Detective Sergeant Neil Woods, Ret.
Derbyshire, England, LEAP UK

Date: January 20, 2021

Re: SB 143 - Criminal Law – Marijuana – Possession and Possession With
Intent to Distribute

Position: SUPPORT

To: The Maryland Senate Judicial Proceedings Committee

Distinguished Members of the Committee,

Thank you for the opportunity to testify today. I am here to represent myself, having spent my career as a criminal trial judge, and as a speaker for the Law Enforcement Action Partnership (LEAP). LEAP is a nonprofit group of police, prosecutors, judges, and other criminal justice professionals who speak from firsthand experience. Our mission is to make communities safer by focusing law enforcement resources on the greatest threats to public safety, promoting alternatives to arrest and incarceration, addressing the root causes of crime, and working toward healing police-community relations.

When I sat on the bench in the District Court of Tulsa, Oklahoma, case after case would come across my docket, and I had to decide how to administer justice in the best interest of my community. Over time, I saw how lives – how families and neighborhoods – were impacted by marijuana. In all my years working in the justice system, I never came across someone whose life was as irreparably damaged by using marijuana as it was by the legal punishment for its use.

It's time for us to stop burdening the justice system with marijuana possession cases. When police and prosecutors spend time on low-level charges, we are missing our chance to invest in serious cases and restore confidence in the justice system. Crime survivors have lost faith in the justice system's ability to serve them, and that's a travesty.

Passing SB 143 would reduce marijuana arrests, giving police, prosecutors, and judges more time to focus on the most serious offenses. In Chicago,

prosecutors have successfully reduced gun violence¹ by moving prosecutors off of misdemeanor dockets and into high-violence precincts where they can build cases against serial gun offenders.² We can do that, too.

Just as important, marijuana arrests cost us the public trust we need to do our jobs. With 600,000 marijuana arrests every year in the US, we have taught millions of families not to open the door for the police. We need to acknowledge that marijuana arrests are costing us dearly.

As a resident of Maryland, I'm proud to live in a state that's moved further than Oklahoma in recognizing the failure of our old marijuana policy. But a cornerstone of our democracy is acknowledging that we can always do better. We must change laws to fit the needs and best interests of our state. Right now, it's time to pass SB 143.

Thank you for your time and attention.

Judge Gordon McAllister (Ret.)
District Court of Tulsa, Oklahoma
Resident of Queenstown, Maryland
Speaker for the Law Enforcement Action Partnership (LEAP)

¹ "State's Attorney's Office program results in increase in repeat"

<https://chicagodefender.com/states-attorneys-office-program-results-in-increase-in-repeat-gun-charges/>. Accessed 6 Feb. 2020.

² "State's Attorney Foxx announces new unit to help combat gun" 15 Mar. 2017,

<https://wgntv.com/2017/03/15/states-attorney-foxx-announces-new-unit-to-help-combat-gun-violence-in-chicago/>. Accessed 6 Feb. 2020.

NCADD-MD - SB 143 FAV - Cannabis Decriminalization

Uploaded by: Rosen-Cohen, Nancy

Position: FAV



Senate Judicial Proceedings Committee

January 20, 2021

**Senate Bill 143 – Criminal Law - Marijuana - Possession and Possession
with Intent to Distribute
Support**

NCADD-Maryland supports Senate Bill 143 to decriminalize the possession of up to one ounce of cannabis for personal use. The bill more importantly prohibits a person who possesses up to an ounce of cannabis from being charged with possession with intent to distribute (PWID).

Maryland made the policy decision in 2014 to decriminalize the possession of personal use amounts of cannabis. Unfortunately, people are still sometimes arrested and charged for PWID for the simple act of sharing their cannabis, even when under the current 10 gram limit.

The collateral damage caused by the war on drugs continues to harm people in Maryland, and disproportionately people of color. As this committee has heard repeatedly over the years, people with criminal records are too often denied employment, housing, food stamps, and scholarships, without any due consideration of the details involved in the records.

We must focus our resources on education, prevention, and health interventions when it comes to the use drugs and addictions. We urge a favorable report on SB 143.

The Maryland Affiliate of the National Council on Alcoholism and Drug Dependence (NCADD-Maryland) is a statewide organization that works to influence public and private policies on addiction, treatment, and recovery, reduce the stigma associated with the disease, and improve the understanding of addictions and the recovery process. We advocate for and with individuals and families who are affected by alcoholism and drug addiction.

OPD Written Testimony on SB0143.pdf

Uploaded by: Williams, Krystal

Position: FAV



POSITION ON PROPOSED LEGISLATION

BILL: SB0143 Criminal Law - Marijuana - Possession and Possession With Intent to Distribute

POSITION: SUPPORT

DATE: January 14, 2021

The Maryland Office of the Public Defender supports SB0143, and respectfully requests that the Senate Judicial Proceedings Committee issue a favorable report on Senate Bill 143.

Senate Bill 143 would expand the amount of marijuana possession that is decriminalized in the State of Maryland, an effort that is increasingly supported and being legislated across the country. By 2021, fifteen states have completely legalized marijuana. A recent Gallup polling further demonstrates that 68% of Americans support marijuana legalization. While this bill does not provide full legalization of marijuana, it would increase the amount of marijuana an individual could possess without risking criminal penalty. Thus, this bill helps lead Maryland in a positive direction with necessary legislative reform on the decriminalization of marijuana possession.

* * *

For these reasons, the Maryland Office of the Public Defender urges a favorable report on Senate Bill 143.

MCPA-MSA_SB 143 10 grams to 1 ounce_Oppose.pdf

Uploaded by: Morris, David

Position: UNF



Maryland Chiefs of Police Association Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith, Jr. Chairman and
Members of the Judicial Proceedings Committee

FROM: Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: January 20, 2021

RE: **SB 143 – Criminal Law – Marijuana – Possession With Intent to Distribute**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) OPPOSE SB 143. This bill would increase the amount of marijuana in which possession is a civil offense from 10 grams to one ounce.

Maryland is one of the first states to have decriminalized less than ten grams of marijuana, even though state data has shown that marijuana use is widely prevalent, especially among young adults. MCPA and MSA are concerned that this more than 150 percent increase in the amount of marijuana that one could possess and still be subject to a civil (not criminal) offense sends the wrong message to our youth, provides additional incentives for illegal activities, and exacerbates the difficulty law enforcement has in combating illegal use of drug contraband.

Further decriminalizing a drug from 10 grams up to 28 grams could also lead to more traffic fatalities on our roadways caused by impaired driving. Law enforcement believes its longstanding efforts to combat impaired driving will be seriously undermined by this legislation.

We are equally concerned that increasing this limit will promote the use of marijuana in publicly used spaces such as Ocean City beaches, the City Dock in Annapolis, Baltimore's Inner Harbor, stadiums, shopping mall parking lots, etc., and will promote the use of marijuana while driving a motor vehicle, boat or other vehicles.

The law enforcement community is concerned that, particularly among our youth, that the early and frequent use of marijuana is a gateway experience to other more compromising drugs and its increased availability should not be encouraged.

For these reasons, MCPA and MSA OPPOSE SB 143 and urge an UNFAVORABLE Committee report.

SB 143 - UNFAV - OPP.pdf

Uploaded by: Patashnick, Gavin

Position: UNF



Maryland State's Attorneys' Association

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Brian DeLeonardo
President

Steven I. Kroll
Coordinator

DATE: January 20, 2021

BILL NUMBER: SB 143

POSITION: Unfavorable

The Maryland State's Attorney's Association (MSAA) opposes SB 143.

SB 143 alters the demarcation between civil and criminal possession of marijuana by increasing the threshold to one ounce. This legislation further creates a new presumption against the State that an individual in possession of less than one ounce of marijuana is not in violation of possession with intent to distribute marijuana unless there is the admission of undefined "other evidence."

Decriminalizing the possession of marijuana by steadily incremental amounts does nothing to address issues surrounding the illicit sale and consumption of narcotics, which includes organized crime, violence and public health concerns. The belief that these issues will simply evaporate under this construct is illogical. Many other States have attended legalization through ballot initiatives which brings with it healthy public debate and a mandate. These State's legislatures have then addressed some of the above concerns by developing financial and regulatory frameworks. Maryland should adopt this methodology, rather than resort to piecemeal legislation.

The incorporation of an undefined rebuttable presumption against the State further complicates this issue. Presumptions against evidence generally take away from a fact finder's right to fairly evaluate evidence and affix weight where appropriate. This rebuttable presumption requires the State to prove an extra element of a crime, where none has existed prior, which will create confusion amongst jurors and is generally unfair. The entire purpose of a criminal trial is to force the State to provide evidence to prove each and every element of a crime beyond a reasonable doubt in order to overcome the original presumption of innocence. Additional rules governing a trial have evolved so that each side is given equal opportunity to argue that the evidence presented applies, or does not apply, to this presumption so that a measured and fair outcome may be achieved. This overarching principle is hampered by adding additional stressors onto the process, including adding confusing elements to crimes, and, as in this case, beginning each possession with intent to distribute case from the vantage point that the evidence is untrue. The presumption proposed in this legislation usurps the province of the jury and thwarts any notion of an equitable trial.

This legislation fails to solve any real issue and provides an arbitrary line along with an inequitable evidentiary tactic. Both of these issues should be reserved for a ballot measure.

For these reasons, the MSAA requests an unfavorable report on SB 143.

sb 143.pdf

Uploaded by: Shellenberger, Scott

Position: UNF

Bill Number: SB 143
Scott D. Shellenberger, States Attorney for Baltimore County
Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION OF SENATE BILL 143
CRIMINAL LAW – MARIJUANA - POSSESSION AND POSSESSION WITH INTENT
TO DISTRIBUTE

I write on behalf of the Maryland States Attorneys Association in opposition to Senate Bill 143, Marijuana- Possession and Possession with Intent to Distribute. The Bill proposes to increase the amount of marijuana which would only be a civil offense to possess from 10 grams to one ounce. In addition, the Bill would create a statutory presumption that a person is not in violation of the law making it a crime to distribute or possess with intent to distribute marijuana if the sole evidence of the crime is the possession of an ounce or less of marijuana.

This Bill would almost triple the amount of "personal possession" marijuana the Legislature elected to remove criminal liability for just a few years ago. Attached is a picture of slightly more than one ounce of marijuana. That is a lot of marijuana. There are obviously varying opinions throughout this State about the benefits or detriments of the decriminalization of marijuana. I will leave that issue to the opinion of others and the potential effect on the community and citizens of this State. I do know the Legislature has a task force studying this. Shouldn't we wait for their full analysis?

The biggest concern with this Bill is the creation of the presumption contrary to possible prosecution of drug dealers who choose to deal marijuana. The Bill would even create the presumption against prosecution for someone who actually sells an ounce or less of marijuana. It could arguably create the presumption for someone who possesses separately bagged amounts of marijuana which only totals up to 28 grams. It is a reality that we most often would not choose to charge a person who possesses an ounce or less of marijuana with having the intent to distribute or convince a jury of such an intent but that situation should be addressed in each case and its' circumstances. For example, if an individual has previous convictions for distributing marijuana and doesn't personally use marijuana and the police catch him with an ounce of marijuana, this Bill would likely preclude the prosecution of that person. It does not make sense that prosecutors should be required to battle a statutory presumption which does not exist in any other comparable area of the criminal law.

We ask for an unfavorable report.

