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## HB 837: CANNABIS REFORM

Hearing before the House Judiciary Committee  
February 14, 2022

Position: FAVORABLE WITH AMENDMENTS

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization that advances social justice, economic and racial equity, and fundamental human rights in Maryland. The PJC **supports HB 837 with amendments** that would implement cannabis reform while prioritizing race equity in enforcement outcomes and the legalized market.

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**Several states have reformed their cannabis laws with good intentions.** Many of those states specifically intended to repair longstanding racial disparities in the harms caused by criminalization. Nevertheless, in many states with legalized cannabis, racial disparities persist in enforcement outcomes, and new disparities have taken shape in the legalized private sector.

In D.C., where the legalization campaign focused on racist outcomes, cannabis arrests are down overall, but Black residents “still account for just under 90 percent of those arrested on all pot-related charges.” For example, in the four years after possession was legalized, 84 percent of those arrested for public consumption were Black.<sup>1</sup> In Colorado, where legalization has had the longest runway, the State recently found that Black residents remain *twice* as likely to be arrested on cannabis-related charges as their white neighbors.<sup>2</sup> In some states, including Maine, Vermont, and Washington, disparities have even *increased* post-legalization.<sup>3</sup>

Similar results have played out in the legalized cannabis market. A 2017 survey found that, across all states with some form of legalized cannabis distribution, 81 percent of people with some amount of ownership in a cannabis business were white, with only 5.7 percent being Latine and 4.3 percent Black.<sup>4</sup>

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<sup>1</sup> Paul Schwartzman & John Harden, *D.C. Legalized Marijuana, but One Thing Didn't Change*, Wash. Post (Sept. 15, 2020), [https://www.washingtonpost.com/local/legal-issues/dc-marijuana-arrest-legal/2020/09/15/65c20348-d01b-11ea-9038-af089b63ac21\\_story.html](https://www.washingtonpost.com/local/legal-issues/dc-marijuana-arrest-legal/2020/09/15/65c20348-d01b-11ea-9038-af089b63ac21_story.html).

<sup>2</sup> Colorado Dep't of Pub. Safety, *Impacts of Marijuana Legalization in Colorado* (July 2021), [https://cdpsdocs.state.co.us/ors/docs/reports/2021-SB13-283\\_Rpt.pdf](https://cdpsdocs.state.co.us/ors/docs/reports/2021-SB13-283_Rpt.pdf).

<sup>3</sup> ACLU, *A Tale of Two Countries* 34–36 (2020), [https://www.aclu.org/sites/default/files/field\\_document/marijuanareport\\_03232021.pdf](https://www.aclu.org/sites/default/files/field_document/marijuanareport_03232021.pdf).

<sup>4</sup> Katherine Harris & William Martin, *Persistent Inequities in Cannabis Policy*, *Judges J.*, Winter 2021, at 9–13, <https://www.bakerinstitute.org/media/files/files/Od04dbdb/inequities-in-cannabis-policy-2021.pdf>.

**HB 837 would make Maryland another “good intentions” state.** The bill would surely have a positive impact by reducing legal interactions related to cannabis. But “the expectation that legislation will improve racial equity [should not be] treated as a foregone conclusion, one requiring no additional action beyond legalization itself.”<sup>5</sup> To avoid the inequity that persists in other states, Maryland must not only follow their lead but learn from their mistakes and innovate better solutions.

**The approach in SB 692 anticipates future inequitable outcomes that HB 837 leaves to the status quo:**

- SB 692 affirmatively legalizes the paraphernalia associated with cannabis use, whereas HB 837 is silent on paraphernalia, leaving a hook for cannabis-based law enforcement interactions;
- SB 692 anticipates that some charged with civil offenses will be unable to pay the fine, and it allows community service, whereas HB 837’s fines could overburden low-income people;
- SB 692 does not punish public consumption, which is disproportionately enforced against low-income people and people of color, whereas HB 837 imposes its highest fine—\$500—for smoking in public;
- SB 692 provides for vacatur, not merely expungement, for past cannabis convictions, whereas HB 837 provides only for expungement;
- SB 692 expressly addresses the use of cannabis odor by law enforcement as a basis for probable cause, whereas HB 837 is silent on the issue;
- SB 692 directs cannabis-related revenues only to reparative causes—the Community Reinvestment Repair Fund and the Small, Minority, and Women-Owned business fund—whereas HB 837 includes causes that should be funded independently, like “data collection and research,” law enforcement training, and substance abuse education campaigns.

Altogether, HB 837’s shortcomings will mean continuing interactions between law enforcement and the community, and continuing entanglement of low-income people with legal systems, based solely on cannabis. It will be no surprise when those affected are disproportionately Black and Latine.

The General Assembly will take a vital step towards greater racial equity in Maryland when it implements cannabis reform. It should take this opportunity deliberately and proactively to prevent racial disparities in whatever legal landscape results from its action. **The PJC strongly urges a favorable report after amendments to HB 837 based on the approach in SB 692.**

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<sup>5</sup> *Id.*