

February 2, 2023

Testimony on SB 51

Criminal Procedure – Reasonable Suspicion and Probable Cause - Cannabis

Judicial Proceedings

Position: Favorable

Common Cause Maryland is in support of SB 51 which would affirm Marylanders' fourth amendment rights by ending police stops and searches based on the odor of cannabis, which oftentimes leads to Marylanders being wrongly locked out of their democracy. The scent or alleged scent of cannabis alone is not sufficient to constitute a reasonable suspicion of criminal activity - especially in a state where Marijuana has been decriminalized for nearly a decade and will become legal in less than six months.

Black Marylanders are disproportionately impacted by the use of odor stops and searches, as they are twice as likely to be stopped and searched than their white counterparts. When the perception of odor alone is enough to meet the threshold of probable cause, law enforcement officers have complete control over the narrative. The opportunity to use the alleged odor of cannabis as justification allows officers to feel empowered in making baseless and often racially motivated stops and searches.

Smell, like any human sense, is subjective. How many times have you smelled something that the person next to you did not? Regardless of how certain any given officer may be that they smell cannabis, there is no definitive way to determine where that smell could be coming from, or how it got there. It is unacceptable that, today, any law enforcement officer could smell marijuana in the air, randomly identify a "suspect" based on physical appearance, and legally search them based on entirely unverifiable claims.

SB 51 will work to close dangerous loopholes in policing as the cannabis landscape continues to evolve in Maryland. With upcoming legalization in July, continuing to allow odor stops and searches is unacceptable, and it is crucial to pass SB 51 to end these frivolous and discriminatory stops. Putting an end to these unnecessary stops will decrease the number of individuals who are being locked out of our democracy, due convictions that lead to their disenfranchisement and take away other meaningful opportunities to make their voices heard.

We strongly urge a favorable report.