



Testimony for the House Judiciary Committee

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HB 474 - Criminal Procedure - Probation, Parole, and Pretrial Release

FAVORABLE

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The ACLU of Maryland urges a favorable report on HB 474, which would prevent a court from denying pretrial release and probation as well as the Maryland Parole Commission from re-incarcerating an individual who has violated parole on the sole basis of marijuana possession or a urinalysis indicating marijuana use.

In 2022, the General Assembly moved to legalize the recreational use of marijuana, which Marylanders affirmed that same year. In so doing, the General Assembly made clear that arrest and incarceration for minor amounts of marijuana is a failed policy that ruins lives – primarily lives of people of color. HB 474 is the logical next step in disentangling individuals from the criminal justice system for using marijuana. HB 474 would allow Maryland to cut incarceration costs, maintain public safety, enable returning citizens to continue their re-entry into society, and allow the Parole Commission to focus its resources on high-risk offenders.

Technical probationary violations are a frequent cause of recidivism.

Annually, 600,000 people return to jail nationally. At least 45% of whom are re-incarcerated for violations of their terms of parole. 1 in 4 people returns to jail for technical violations, not for committing a crime.¹ In Maryland, nearly 60 percent of those sentenced to prison in 2014 were behind bars for breaking the rules of their community supervision. Technical violations, such as failing a drug test or missing a meeting, accounted for more than 70 percent of parole and mandatory supervision returns to prison and over 40 percent of probation revocations.² With the decriminalization and legalization of medical use for certain substances, such as marijuana, its use should not be grounds for reincarcerating individuals.

¹Handelman, S., Theriault, M., & Crime and Justice News. (2020, March 6). Recidivism's Hidden Drivers: 'Technical Violations' of Probation or Parole. Retrieved March 9, 2020, from <https://thecrimereport.org/2020/03/05/the-hidden-driver-of-recidivism-technical-violations-of-probation-or-parole/>

² Maryland's 2016 Criminal Justice Reform. (2017). Retrieved 9 March 2020, from <http://goccp.maryland.gov/wp-content/uploads/justice-reinvestment-advisory-20180220-supplemental-materials.pdf>

Incarceration reinforces the cycle of poverty and impacts communities.

Children with parents who return to jail bear the burden as well. Parental incarceration increases the risk of child criminal involvement, psychological problems, reduces educational attainment, increases poverty, and attachment issues.³ Moreover, disrupting lives and families to address substance use disorder is simply unethical.

Reducing incarceration rates and the rate of recidivism among parolees continues to be cost-effective for the state.

A 2015 study found that in Maryland, approximately 56 percent of the persons on parole were convicted of non-violent offenses, including 33 percent who were convicted of drug offenses.⁴ Moreover, one out of every five people released on parole will return to prison, and half of those will be for a technical violation.⁵ Those individuals whose parole has been revoked for marijuana possession pose little to no risk to our communities, yet we continue to spend precious taxpayer dollars to re-incarcerate them. As of 2015, the cost of incarcerating an individual for a year in Maryland is \$44,601,⁶ compared with the cost of paroling someone for one year, which was only \$1,422, as reported in a 2009 study.⁷

By reducing the number of people who will be re-incarcerated from parole, HB 474 can both save taxpayer dollars and allow returning Marylanders to continue their re-entry process.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on HB 474.

³ Martin, E. (2017, March 1). Hidden Consequences: The Impact of Incarceration on Dependent Children. Retrieved March 9, 2020, from <https://nij.ojp.gov/topics/articles/hidden-consequences-impact-incarceration-dependent-children>

⁴ The Release Valve; Parole in Maryland, Feb. 2009. Available at http://www.justicepolicy.org/uploads/justicepolicy/documents/maryland_parole.pdf. Accessed Mar. 2, 2023.

⁵ *Id.*

⁶ “The Price of Prisons - the Price of Prisons - Prison Spending in 2015.” Vera Institute of Justice. Vera Institute of Justice. Accessed March 3, 2023. <https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends-prison-spending>.

⁷ *Supra note 1.*