



Maryland State's Attorneys' Association

3300 North Ridge Road, Suite 185

Ellicott City, Maryland 21043

410-203-9881

FAX 410-203-9891

Rich Gibson
President

Steven I. Kroll
Coordinator

DATE: **March 7, 2024**

BILL NUMBER: **HB 474**

POSITION: **Unfavorable**

The Maryland State's Attorneys' Association (MSAA) opposes House Bill 474 and urges this Committee to issue an unfavorable report.

While courts enjoy broad discretion to impose conditions of pretrial release and probation, the existing rules that circumscribe this discretion are well-understood and well-reasoned – Md. Rule 4-216.1 requires courts to impose conditions only when necessary to protect the public safety or to maintain the integrity of the judicial process, and the Supreme Court of Maryland has routinely held that probation conditions must both be reasonable and bear a rational connection to the offense at issue. *E.g., Allen v. State*, 449 Md. 98 (2016).

HB 474 would radically alter these standards for a single category of violation – the use of recreational cannabis. This bill prohibits a court from finding that a defendant has violated pretrial release, probation, or parole based solely on their use of cannabis unless the court specifically prohibited the defendant from using recreational cannabis, a condition which it can only impose upon a finding that the defendant's use of cannabis could “create a danger to the defendant or others.”

There is no need to restrict the discretion of courts with regard to recreational cannabis use while a defendant is on probation or while a criminal matter is pending, or to treat recreational cannabis differently from any other recreational substance. Although the General Assembly has previously imposed such a restriction for medical cannabis, medical cannabis is fundamentally different from recreational cannabis – courts shouldn't second-guess a healthcare professional's clinical decision-making and prescribed treatment course, but from a conceptual standpoint, recreational cannabis has more in common with alcohol than prescribed cannabis. Just as there is no reason to require courts to make particular findings prior to prohibiting individuals on probation from consuming alcohol, there is no reason to do so for recreational cannabis.

This bill potentially interferes with the normal and expected operation of problem-solving courts, and restricts the discretion of the judges, who need to have the ability to fashion adequate remedies for noncompliance. MSAA urges an unfavorable report.