

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1057 (Delegate Ruth)
 Judiciary

Task Force to Study the Use and Possession of De Minimis Quantities of Controlled Dangerous Substances

This bill establishes the Task Force to Study the Use and Possession of De Minimis Quantities of Controlled Dangerous Substances, staffed by the Maryland Department of Health (MDH). Task force members may not receive compensation but are entitled to reimbursement for expenses under the standard State travel regulations. The task force must report its findings and recommendations to the Governor and the General Assembly by October 1, 2025. **The bill takes effect July 1, 2024, and terminates June 30, 2026.**

Fiscal Summary

State Effect: General fund expenditures increase by at least \$177,600 in FY 2025 and by at least \$156,300 in FY 2026. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	177,600	156,300	0	0	0
Net Effect	(\$177,600)	(\$156,300)	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The task force must:

- analyze and document the relationship between drug use and crime, as specified;
- conduct a survey of research and consult with a panel of experts to recommend types of controlled dangerous substances (CDS) and *de minimis* quantity amounts that should be eligible for a civil citation for use or possession;
- review and evaluate the use of dedicated drug courts in other states with *de minimis* quantity laws and identify best practices for current drug courts in the State;
- identify alternatives to criminal justice intervention if the quantity or use of possession is above the *de minimis* amount, such as assessments of substance use or mental health disorders or referral to drug education programs;
- determine the professional requirements for providers of those drug education programs to be eligible for such referrals;
- investigate ways to increase the availability of (1) low barrier substance use disorder (SUD) treatment, as specified; (2) peer support and recovery services; (3) transitional, supportive, and permanent housing for individuals with SUD; and (4) harm reduction interventions, as specified;
- recommend ways to connect individuals cited for possession of *de minimis* quantities of CDS to specified programs and services;
- identify situations in which a *de minimis* quantity civil offense provision would not apply;
- identify fine amounts for first-time and subsequent civil offenses under a *de minimis* quantity law and alternative provisions for individuals unable to pay fines;
- identify ways in which youth younger than age 21 might be treated differently under a *de minimis* quantity law;
- identify professional training needs for criminal justice actors to encourage informed and fair implementation of a *de minimis* quantity law and determine the professional requirements of training entities to be eligible to provide the training; and
- make any other recommendations that the task force considers relevant regarding the implementation of a *de minimis* quantity law on a statewide basis.

Current Law:

Controlled Dangerous Substances

CDS are listed on one of five schedules (Schedules I through V) set forth in statute depending on their potential for abuse and acceptance for medical use. Cannabis (also known as marijuana) is listed on Schedule I. Under the federal Controlled Substances Act, for a drug or substance to be classified as Schedule I, the following findings must be made: (1) the substance has a high potential for abuse; (2) the drug or other substance has no currently accepted medical use in the United States; and (3) there is a lack of accepted

safety for use of the drug or other substance under medical supervision. No distinction is made in State law regarding the illegal possession of any CDS, regardless of which schedule it is on, with the exception of cannabis.

Criminal Penalties for Controlled Dangerous Substances (Other Than Cannabis)

Chapter 515 of 2016 (also known as the Justice Reinvestment Act) altered the criminal penalties associated with the possession, administration, obtainment, and procurement of a CDS and related offenses. Effective October 1, 2017, a person who violates these provisions is guilty of a misdemeanor and is subject to the following penalties: (1) for a first conviction, imprisonment for up to one year and/or a fine of up to \$5,000; (2) for a second or third conviction, imprisonment for up to 18 months and/or a fine of up to \$5,000; and (3) for a fourth or subsequent conviction, imprisonment for up to two years and/or a fine of up to \$5,000. The authorization to double penalties for repeat offenders applies only when the person has also been previously convicted of a crime of violence.

Adult-use Cannabis

Pursuant to Chapter 26 of 2022 and the passage of the associated constitutional amendment, a person at least age 21 may use and possess the personal use amount of cannabis. Possession of the personal use amount of cannabis by a person younger than age 21 and possession of the civil use amount of cannabis by anyone are subject to civil penalties. Possession of more than the civil use amount of cannabis by anyone is subject to a criminal penalty.

“Personal use amount” means (1) up to 1.5 ounces of usable cannabis; (2) up to 12 grams of concentrated cannabis; (3) cannabis products containing up to 750 milligrams of delta-9-tetrahydrocannabinol (THC); or (4) up to 2 cannabis plants. “Civil use amount” means (1) more than 1.5 ounces but not more than 2.5 ounces of usable cannabis; (2) more than 12 grams but not more than 20 grams of concentrated cannabis; or (3) cannabis products containing more than 750 milligrams but not more than 1,250 milligrams of delta-9-THC.

State Expenditures: MDH advises that to staff the task force, it needs to hire five contractual employees (three health policy analysts, one epidemiologist, and one administrative aide) for two years at an estimated cost of \$374,042 in fiscal 2025 and \$355,060 in fiscal 2026. The Department of Legislative Services (DLS) agrees that additional personnel are likely necessary, given the breadth of the task force’s duties and the fact that the work of the task force is not directly related to the work of MDH. However, MDH provided no information regarding the specific functions each of the five contractual employees would serve in supporting the duties of the task force. In addition, the task force membership includes representatives from various State agencies, universities, and

organizations that have relevant knowledge and can provide their expertise to support the work of the task force. Accordingly, while DLS acknowledges that MDH cannot staff the task force with existing resources, the need for five contractual employees is unjustified at this time.

Thus, MDH general fund expenditures increase by at least \$177,627 in fiscal 2025, which accounts for the bill's July 1, 2024 effective date. This estimate reflects the cost of hiring two contractual employees (one health policy analyst to staff the task force and draft the required report and one epidemiologist to perform data collection and analysis). It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Positions	2.0
Salaries and Fringe Benefits	\$162,575
Operating Expenses	<u>15,052</u>
Minimum FY 2025 State Expenditures	\$177,627

Future year expenditures, which are also minimum estimates, reflect (1) salaries with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) termination of the two contractual positions at the end of fiscal 2026, consistent with the bill's termination date. To the extent two contractual employees prove insufficient, general fund expenditures increase further to hire additional contractual employees.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Any expense reimbursements for task force members are assumed to be minimal and absorbable within existing budgeted resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2024
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