

HOUSE BILL 488

E1, E2
HB 1119/16 – JUD

7lr1243
CF 7lr2687

By: **Delegates Morhaim, Barve, Frick, Reznik, Anderson, Gutierrez, Hayes, Hettleman, Lierman, A. Miller, Moon, Oaks, Robinson, Sydnor, Tarlau, Turner, M. Washington, and K. Young**

Introduced and read first time: January 27, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Use or Possession of a Controlled Dangerous Substance – De**
3 **Minimis Quantity**

4 FOR the purpose of making certain violations relating to the use or possession of certain
5 de minimis quantities of certain controlled dangerous substances a civil offense
6 rather than a misdemeanor; applying penalties for a first or second finding of guilt
7 involving the use or possession of less than 10 grams of marijuana to a first or second
8 finding of guilt involving the use or possession of a de minimis quantity of certain
9 controlled dangerous substances; applying certain procedural provisions relating to
10 issuance of a citation for use or possession of less than 10 grams of marijuana to a
11 first or second finding of guilt involving the use or possession of a de minimis
12 quantity of certain controlled dangerous substances; altering a certain provision of
13 law so as to require a court to order a person who commits a certain violation,
14 regardless of the age of the person, to attend a certain drug education program, refer
15 the person to an assessment for substance abuse disorder, and refer the person to
16 substance abuse treatment under certain circumstances; defining a certain term;
17 making conforming changes; providing for the effective date of certain provisions of
18 this Act; providing for the termination of certain provisions of this Act; and generally
19 relating to use or possession of a controlled dangerous substance.

20 BY repealing and reenacting, with amendments,
21 Article – Criminal Law
22 Section 5–601
23 Annotated Code of Maryland
24 (2012 Replacement Volume and 2016 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Criminal Law
27 Section 5–601

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2012 Replacement Volume and 2016 Supplement)
3 (As enacted by Chapter 515 of the Acts of the General Assembly of 2016)

4 BY repealing and reenacting, with amendments,
5 Article – Criminal Law
6 Section 5–601.1
7 Annotated Code of Maryland
8 (2012 Replacement Volume and 2016 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
10 That the Laws of Maryland read as follows:

11 **Article – Criminal Law**

12 5–601.

13 (a) IN THIS SECTION, “DE MINIMIS QUANTITY OF A CONTROLLED
14 DANGEROUS SUBSTANCE” MEANS LESS THAN:

15 (1) 10 GRAMS OF MARIJUANA;

16 (2) 300 MILLIGRAMS OF COCAINE;

17 (3) 300 MILLIGRAMS OF HEROIN;

18 (4) 5 TABLETS OF 3, 4–METHYLENEDIOXYMETHAMPHETAMINE
19 (MDMA);

20 (5) 5 TABLETS OF LYSERGIC ACID DIETHYLAMIDE (LSD);

21 (6) 300 MILLIGRAMS OF METHADONE; OR

22 (7) 200 MILLIGRAMS OF AMPHETAMINE.

23 (B) Except as otherwise provided in this title, a person may not:

24 (1) possess or administer to another a controlled dangerous substance,
25 unless obtained directly or by prescription or order from an authorized provider acting in
26 the course of professional practice; or

27 (2) obtain or attempt to obtain a controlled dangerous substance, or
28 procure or attempt to procure the administration of a controlled dangerous substance by:

29 (i) fraud, deceit, misrepresentation, or subterfuge;

- 1 (ii) the counterfeiting or alteration of a prescription or a written
2 order;
- 3 (iii) the concealment of a material fact;
- 4 (iv) the use of a false name or address;
- 5 (v) falsely assuming the title of or representing to be a
6 manufacturer, distributor, or authorized provider; or
- 7 (vi) making, issuing, or presenting a false or counterfeit prescription
8 or written order.

9 **[(b)] (C)** Information that is communicated to a physician in an effort to obtain
10 a controlled dangerous substance in violation of this section is not a privileged
11 communication.

12 **[(c)] (D)** (1) Except as provided in paragraphs (2), (3), and (4) of this
13 subsection, a person who violates this section is guilty of a misdemeanor and on conviction
14 is subject to imprisonment not exceeding 4 years or a fine not exceeding \$25,000 or both.

15 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
16 person whose violation of this section involves the use or possession of marijuana in the
17 amount of 10 grams or more is guilty of the misdemeanor of possession of marijuana and is
18 subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.

19 (ii) 1. A first finding of guilt under this section involving the use
20 or possession of [less than 10 grams of marijuana] **A DE MINIMIS QUANTITY OF A**
21 **CONTROLLED DANGEROUS SUBSTANCE** is a civil offense punishable by a fine not
22 exceeding \$100.

23 2. A second finding of guilt under this section involving the
24 use or possession of [less than 10 grams of marijuana] **A DE MINIMIS QUANTITY OF A**
25 **CONTROLLED DANGEROUS SUBSTANCE** is a civil offense punishable by a fine not
26 exceeding \$250.

27 3. A third or subsequent finding of guilt under this section
28 involving the use or possession of less than 10 grams of marijuana is a civil offense
29 punishable by a fine not exceeding \$500.

30 4. A. In addition to a fine, a court shall order a person
31 [under the age of 21 years] who commits a violation punishable under subparagraph 1,
32 2, or 3 of this subparagraph to attend a drug education program approved by the
33 Department of Health and Mental Hygiene, refer the person to an assessment for substance
34 abuse disorder, and refer the person to substance abuse treatment, if necessary.

1 B. [In addition to a fine, a court shall order a person at least
2 21 years old who commits a violation punishable under subparagraph 3 of this
3 subparagraph to attend a drug education program approved by the Department of Health
4 and Mental Hygiene, refer the person to an assessment for substance abuse disorder, and
5 refer the person to substance abuse treatment, if necessary.

6 C.] A court that orders a person to a drug education program
7 or substance abuse assessment or treatment under this subparagraph may hold the
8 case sub curia pending receipt of proof of completion of the program, assessment, or
9 treatment.

10 (3) (i) 1. In this paragraph the following words have the meanings
11 indicated.

12 2. “Bona fide physician–patient relationship” means a
13 relationship in which the physician has ongoing responsibility for the assessment, care, and
14 treatment of a patient’s medical condition.

15 3. “Caregiver” means an individual designated by a patient
16 with a debilitating medical condition to provide physical or medical assistance to the
17 patient, including assisting with the medical use of marijuana, who:

18 A. is a resident of the State;

19 B. is at least 21 years old;

20 C. is an immediate family member, a spouse, or a domestic
21 partner of the patient;

22 D. has not been convicted of a crime of violence as defined in
23 § 14–101 of this article;

24 E. has not been convicted of a violation of a State or federal
25 controlled dangerous substances law;

26 F. has not been convicted of a crime of moral turpitude;

27 G. has been designated as caregiver by the patient in writing
28 that has been placed in the patient’s medical record prior to arrest;

29 H. is the only individual designated by the patient to serve as
30 caregiver; and

31 I. is not serving as caregiver for any other patient.

1 4. “Debilitating medical condition” means a chronic or
2 debilitating disease or medical condition or the treatment of a chronic or debilitating
3 disease or medical condition that produces one or more of the following, as documented by
4 a physician with whom the patient has a bona fide physician–patient relationship:

5 A. cachexia or wasting syndrome;

6 B. severe or chronic pain;

7 C. severe nausea;

8 D. seizures;

9 E. severe and persistent muscle spasms; or

10 F. any other condition that is severe and resistant to
11 conventional medicine.

12 (ii) 1. In a prosecution for the use or possession of marijuana, the
13 defendant may introduce and the court shall consider as a mitigating factor any evidence
14 of medical necessity.

15 2. Notwithstanding paragraph (2) of this subsection, if the
16 court finds that the person used or possessed marijuana because of medical necessity, the
17 court shall dismiss the charge.

18 (iii) 1. In a prosecution for the use or possession of marijuana
19 under this section, it is an affirmative defense that the defendant used or possessed
20 marijuana because:

21 A. the defendant has a debilitating medical condition that
22 has been diagnosed by a physician with whom the defendant has a bona fide
23 physician–patient relationship;

24 B. the debilitating medical condition is severe and resistant
25 to conventional medicine; and

26 C. marijuana is likely to provide the defendant with
27 therapeutic or palliative relief from the debilitating medical condition.

28 2. A. In a prosecution for the possession of marijuana
29 under this section, it is an affirmative defense that the defendant possessed marijuana
30 because the marijuana was intended for medical use by an individual with a debilitating
31 medical condition for whom the defendant is a caregiver.

32 B. A defendant may not assert the affirmative defense under
33 this subsubparagraph unless the defendant notifies the State’s Attorney of the defendant’s

1 intention to assert the affirmative defense and provides the State's Attorney with all
 2 documentation in support of the affirmative defense in accordance with the rules of
 3 discovery provided in Maryland Rules 4-262 and 4-263.

4 3. An affirmative defense under this subparagraph may not
 5 be used if the defendant was:

6 A. using marijuana in a public place or assisting the
 7 individual for whom the defendant is a caregiver in using the marijuana in a public place;
 8 or

9 B. in possession of more than 1 ounce of marijuana.

10 (4) A violation of this section involving the smoking of marijuana in a
 11 public place is a civil offense punishable by a fine not exceeding \$500.

12 ~~[(d)] (E)~~ The provisions of subsection ~~[(c)(2)(ii)] (D)(2)(II)~~ of this section making
 13 the possession of [marijuana] **A DE MINIMIS QUANTITY OF A CONTROLLED DANGEROUS**
 14 **SUBSTANCE** a civil offense may not be construed to affect the laws relating to:

15 (1) operating a vehicle or vessel while under the influence of or while
 16 impaired by a controlled dangerous substance; or

17 (2) seizure and forfeiture.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 19 as follows:

20 Article – Criminal Law

21 5-601.

22 (a) **IN THIS SECTION, “DE MINIMIS QUANTITY OF A CONTROLLED**
 23 **DANGEROUS SUBSTANCE” MEANS LESS THAN:**

24 **(1) 10 GRAMS OF MARIJUANA;**

25 **(2) 300 MILLIGRAMS OF COCAINE;**

26 **(3) 300 MILLIGRAMS OF HEROIN;**

27 **(4) 5 TABLETS OF 3, 4-METHYLENEDIOXYMETHAMPHETAMINE**
 28 **(MDMA);**

29 **(5) 5 TABLETS OF LYSERGIC ACID DIETHYLAMIDE (LSD);**

1 **(6) 300 MILLIGRAMS OF METHADONE; OR**

2 **(7) 200 MILLIGRAMS OF AMPHETAMINE.**

3 **(B)** Except as otherwise provided in this title, a person may not:

4 (1) possess or administer to another a controlled dangerous substance,
5 unless obtained directly or by prescription or order from an authorized provider acting in
6 the course of professional practice; or

7 (2) obtain or attempt to obtain a controlled dangerous substance, or
8 procure or attempt to procure the administration of a controlled dangerous substance by:

9 (i) fraud, deceit, misrepresentation, or subterfuge;

10 (ii) the counterfeiting or alteration of a prescription or a written
11 order;

12 (iii) the concealment of a material fact;

13 (iv) the use of a false name or address;

14 (v) falsely assuming the title of or representing to be a
15 manufacturer, distributor, or authorized provider; or

16 (vi) making, issuing, or presenting a false or counterfeit prescription
17 or written order.

18 **[(b)] (C)** Information that is communicated to a physician in an effort to obtain
19 a controlled dangerous substance in violation of this section is not a privileged
20 communication.

21 **[(c)] (D)** (1) Except as provided in paragraphs (2), (3), and (4) of this
22 subsection, a person who violates this section is guilty of a misdemeanor and on conviction
23 is subject to:

24 (i) for a first conviction, imprisonment not exceeding 1 year or a fine
25 not exceeding \$5,000 or both;

26 (ii) for a second or third conviction, imprisonment not exceeding 18
27 months or a fine not exceeding \$5,000 or both; or

28 (iii) for a fourth or subsequent conviction, imprisonment not
29 exceeding 2 years or a fine not exceeding \$5,000 or both.

1 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
2 person whose violation of this section involves the use or possession of marijuana is guilty
3 of the misdemeanor of possession of marijuana and is subject to imprisonment not
4 exceeding 6 months or a fine not exceeding \$1,000 or both.

5 (ii) 1. A first finding of guilt under this section involving the use
6 or possession of [less than 10 grams of marijuana] **A DE MINIMIS QUANTITY OF A**
7 **CONTROLLED DANGEROUS SUBSTANCE** is a civil offense punishable by a fine not
8 exceeding \$100.

9 2. A second finding of guilt under this section involving the
10 use or possession of [less than 10 grams of marijuana] **A DE MINIMIS QUANTITY OF A**
11 **CONTROLLED DANGEROUS SUBSTANCE** is a civil offense punishable by a fine not
12 exceeding \$250.

13 3. A third or subsequent finding of guilt under this section
14 involving the use or possession of less than 10 grams of marijuana is a civil offense
15 punishable by a fine not exceeding \$500.

16 4. A. In addition to a fine, a court shall order a person
17 [under the age of 21 years] who commits a violation punishable under subparagraph 1,
18 2, or 3 of this subparagraph to attend a drug education program approved by the
19 Department of Health and Mental Hygiene, refer the person to an assessment for substance
20 abuse disorder, and refer the person to substance abuse treatment, if necessary.

21 B. [In addition to a fine, a court shall order a person at least
22 21 years old who commits a violation punishable under subparagraph 3 of this
23 subparagraph to attend a drug education program approved by the Department of Health
24 and Mental Hygiene, refer the person to an assessment for substance abuse disorder, and
25 refer the person to substance abuse treatment, if necessary.

26 C.] A court that orders a person to a drug education program
27 or substance abuse assessment or treatment under this subparagraph may hold the
28 case sub curia pending receipt of proof of completion of the program, assessment, or
29 treatment.

30 (3) (i) 1. In this paragraph the following words have the meanings
31 indicated.

32 2. “Bona fide physician–patient relationship” means a
33 relationship in which the physician has ongoing responsibility for the assessment, care, and
34 treatment of a patient’s medical condition.

35 3. “Caregiver” means an individual designated by a patient
36 with a debilitating medical condition to provide physical or medical assistance to the
37 patient, including assisting with the medical use of marijuana, who:

- 1 A. is a resident of the State;
- 2 B. is at least 21 years old;
- 3 C. is an immediate family member, a spouse, or a domestic
4 partner of the patient;
- 5 D. has not been convicted of a crime of violence as defined in
6 § 14–101 of this article;
- 7 E. has not been convicted of a violation of a State or federal
8 controlled dangerous substances law;
- 9 F. has not been convicted of a crime of moral turpitude;
- 10 G. has been designated as caregiver by the patient in writing
11 that has been placed in the patient’s medical record prior to arrest;
- 12 H. is the only individual designated by the patient to serve as
13 caregiver; and
- 14 I. is not serving as caregiver for any other patient.

15 4. “Debilitating medical condition” means a chronic or
16 debilitating disease or medical condition or the treatment of a chronic or debilitating
17 disease or medical condition that produces one or more of the following, as documented by
18 a physician with whom the patient has a bona fide physician–patient relationship:

- 19 A. cachexia or wasting syndrome;
- 20 B. severe or chronic pain;
- 21 C. severe nausea;
- 22 D. seizures;
- 23 E. severe and persistent muscle spasms; or
- 24 F. any other condition that is severe and resistant to
25 conventional medicine.

26 (ii) 1. In a prosecution for the use or possession of marijuana, the
27 defendant may introduce and the court shall consider as a mitigating factor any evidence
28 of medical necessity.

1 2. Notwithstanding paragraph (2) of this subsection, if the
2 court finds that the person used or possessed marijuana because of medical necessity, the
3 court shall dismiss the charge.

4 (iii) 1. In a prosecution for the use or possession of marijuana
5 under this section, it is an affirmative defense that the defendant used or possessed
6 marijuana because:

7 A. the defendant has a debilitating medical condition that
8 has been diagnosed by a physician with whom the defendant has a bona fide
9 physician–patient relationship;

10 B. the debilitating medical condition is severe and resistant
11 to conventional medicine; and

12 C. marijuana is likely to provide the defendant with
13 therapeutic or palliative relief from the debilitating medical condition.

14 2. A. In a prosecution for the possession of marijuana
15 under this section, it is an affirmative defense that the defendant possessed marijuana
16 because the marijuana was intended for medical use by an individual with a debilitating
17 medical condition for whom the defendant is a caregiver.

18 B. A defendant may not assert the affirmative defense under
19 this subparagraph unless the defendant notifies the State’s Attorney of the defendant’s
20 intention to assert the affirmative defense and provides the State’s Attorney with all
21 documentation in support of the affirmative defense in accordance with the rules of
22 discovery provided in Maryland Rules 4–262 and 4–263.

23 3. An affirmative defense under this subparagraph may not
24 be used if the defendant was:

25 A. using marijuana in a public place or assisting the
26 individual for whom the defendant is a caregiver in using the marijuana in a public place;
27 or

28 B. in possession of more than 1 ounce of marijuana.

29 (4) A violation of this section involving the smoking of marijuana in a
30 public place is a civil offense punishable by a fine not exceeding \$500.

31 [(d)] (E) The provisions of subsection [(c)(2)(ii)] (D)(2)(II) of this section making
32 the possession of [marijuana] A DE MIMINIS QUANTITY OF A CONTROLLED DANGEROUS
33 SUBSTANCE a civil offense may not be construed to affect the laws relating to:

34 (1) operating a vehicle or vessel while under the influence of or while
35 impaired by a controlled dangerous substance; or

1 (2) seizure and forfeiture.

2 [(e)] (F) (1) (i) Before imposing a sentence under subsection [(c)] (D) of
3 this section, the court may order the Department of Health and Mental Hygiene or a
4 certified and licensed designee to conduct an assessment of the defendant for substance use
5 disorder and determine whether the defendant is in need of and may benefit from drug
6 treatment.

7 (ii) If an assessment for substance use disorder is requested by the
8 defendant and the court denies the request, the court shall state on the record the basis for
9 the denial.

10 (2) On receiving an order under paragraph (1) of this subsection, the
11 Department of Health and Mental Hygiene, or the designee, shall conduct an assessment
12 of the defendant for substance use disorder and provide the results to the court, the
13 defendant or the defendant's attorney, and the State identifying the defendant's drug
14 treatment needs.

15 (3) The court shall consider the results of an assessment performed under
16 paragraph (2) of this subsection when imposing the defendant's sentence and:

17 (i) except as provided in subparagraph (ii) of this paragraph, the
18 court shall suspend the execution of the sentence and order probation and, if the
19 assessment shows that the defendant is in need of substance abuse treatment, require the
20 Department of Health and Mental Hygiene or the designee to provide the medically
21 appropriate level of treatment as identified in the assessment; or

22 (ii) the court may impose a term of imprisonment under subsection
23 [(c)](D) of this section and order the Division of Correction or local correctional facility to
24 facilitate the medically appropriate level of treatment for the defendant as identified in the
25 assessment.

26 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
27 as follows:

28 **Article – Criminal Law**

29 5–601.1.

30 (a) IN THIS SECTION, “DE MINIMIS QUANTITY OF A CONTROLLED
31 DANGEROUS SUBSTANCE” MEANS LESS THAN:

32 (1) 10 GRAMS OF MARIJUANA;

33 (2) 300 MILLIGRAMS OF COCAINE;

- 1 **(3) 300 MILLIGRAMS OF HEROIN;**
- 2 **(4) 5 TABLETS OF 3, 4-METHYLENEDIOXYMETHAMPHETAMINE**
3 **(MDMA);**
- 4 **(5) 5 TABLETS OF LYSERGIC ACID DIETHYLAMIDE (LSD);**
- 5 **(6) 300 MILLIGRAMS OF METHADONE; OR**
- 6 **(7) 200 MILLIGRAMS OF AMPHETAMINE.**

7 **(B)** A police officer shall issue a citation to a person who the police officer has
8 probable cause to believe has committed a violation of § 5–601 of this part involving the use
9 or possession of [less than 10 grams of marijuana] **A DE MINIMIS QUANTITY OF A**
10 **CONTROLLED DANGEROUS SUBSTANCE.**

11 **[(b)] (C)** (1) A violation of § 5–601 of this part involving the use or possession
12 of [less than 10 grams of marijuana] **A DE MINIMIS QUANTITY OF A CONTROLLED**
13 **DANGEROUS SUBSTANCE** is a civil offense.

14 (2) Adjudication of a violation under § 5–601 of this part involving the use
15 or possession of [less than 10 grams of marijuana] **A DE MINIMIS QUANTITY OF A**
16 **CONTROLLED DANGEROUS SUBSTANCE:**

- 17 (i) is not a criminal conviction for any purpose; and
- 18 (ii) does not impose any of the civil disabilities that may result from
19 a criminal conviction.

20 **[(c)] (D)** (1) A citation issued for a violation of § 5–601 of this part involving
21 the use or possession of [less than 10 grams of marijuana] **A DE MINIMIS QUANTITY OF A**
22 **CONTROLLED DANGEROUS SUBSTANCE** shall be signed by the police officer who issues
23 the citation and shall contain:

- 24 (i) the name, address, and date of birth of the person charged;
- 25 (ii) the date and time that the violation occurred;
- 26 (iii) the location at which the violation occurred;
- 27 (iv) the fine that may be imposed;
- 28 (v) a notice stating that prepayment of the fine is allowed, except as
29 provided in paragraph (2) of this subsection; and

1 (vi) a notice in boldface type that states that the person shall:

2 1. pay the full amount of the preset fine; or

3 2. request a trial date at the date, time, and place established
4 by the District Court by writ or trial notice.

5 (2) (i) If a citation for a violation of § 5–601 of this part involving the
6 use or possession of [less than 10 grams of marijuana] **A DE MINIMIS QUANTITY OF A**
7 **CONTROLLED DANGEROUS SUBSTANCE** is issued to a person under the age of 21 years,
8 the court shall summon the person for trial.

9 (ii) If the court finds that a person at least 21 years old who has been
10 issued a citation under this section has at least twice previously been found guilty under §
11 5–601 of this part involving the use or possession of [less than 10 grams of marijuana] **A**
12 **DE MINIMIS QUANTITY OF A CONTROLLED DANGEROUS SUBSTANCE**, the court shall
13 summon the person for trial.

14 [(d)] **(E)** The form of the citation shall be uniform throughout the State and shall
15 be prescribed by the District Court.

16 [(e)] **(F)** (1) The Chief Judge of the District Court shall establish a schedule
17 for the prepayment of the fine.

18 (2) Prepayment of a fine shall be considered a plea of guilty to a Code
19 violation.

20 (3) A person described in subsection [(c)(2)]**(D)(2)** of this section may not
21 prepay the fine.

22 [(f)] **(G)** (1) A person may request a trial by sending a request for trial to the
23 District Court in the jurisdiction where the citation was issued within 30 days of the
24 issuance of the citation.

25 (2) If a person other than a person described in subsection [(c)(2)]**(D)(2)** of
26 this section does not request a trial or prepay the fine within 30 days of the issuance of the
27 citation, the court may impose the maximum fine and costs against the person and find the
28 person is guilty of a Code violation for purposes of subsection [(c)(2)(ii)]**(D)(2)(II)** of this
29 section.

30 [(g)] **(H)** The issuing jurisdiction shall forward a copy of the citation and a
31 request for trial to the District Court in the district having venue.

1 **[(h)] (I)** (1) The failure of a defendant to respond to a summons described in
2 subsection **[(c)(2)](D)(2)** of this section shall be governed by § 5–212 of the Criminal
3 Procedure Article.

4 (2) If a person at least 21 years old fails to appear after having requested
5 a trial, the court may impose the maximum fine and costs against the person and find the
6 person is guilty of a Code violation for purposes of subsection **[(c)(2)(ii)](D)(2)(II)** of this
7 section.

8 **[(i)] (J)** In any proceeding for a Code violation under § 5–601 of this part
9 involving the use or possession of [less than 10 grams of marijuana] **A DE MINIMIS**
10 **QUANTITY OF A CONTROLLED DANGEROUS SUBSTANCE:**

11 (1) the State has the burden to prove the guilt of the defendant by a
12 preponderance of the evidence;

13 (2) the court shall apply the evidentiary standards as prescribed by law or
14 rule for the trial of a criminal case;

15 (3) the court shall ensure that the defendant has received a copy of the
16 charges against the defendant and that the defendant understands those charges;

17 (4) the defendant is entitled to cross–examine all witnesses who appear
18 against the defendant, to produce evidence or witnesses on behalf of the defendant, and to
19 testify on the defendant’s own behalf, if the defendant chooses to do so;

20 (5) the defendant is entitled to be represented by counsel of the defendant’s
21 choice and at the expense of the defendant; and

22 (6) the defendant may enter a plea of guilty or not guilty, and the verdict
23 of the court in the case shall be:

24 (i) guilty of a Code violation;

25 (ii) not guilty of a Code violation; or

26 (iii) probation before judgment, imposed by the court in the same
27 manner and to the same extent as is allowed by law in the trial of a criminal case.

28 **[(j)] (K)** (1) The defendant is liable for the costs of the proceedings in the
29 District Court.

30 (2) The court costs in a Code violation case under § 5–601 of this part
31 involving the use or possession of [less than 10 grams of marijuana] **A DE MINIMIS**
32 **QUANTITY OF A CONTROLLED DANGEROUS SUBSTANCE** in which costs are imposed are
33 \$5.

1 **[(k)] (L)** (1) The State's Attorney for any county may prosecute a Code
2 violation under § 5–601 of this part involving the use or possession of [less than 10 grams
3 of marijuana] **A DE MINIMIS QUANTITY OF A CONTROLLED DANGEROUS SUBSTANCE**
4 in the same manner as prosecution of a violation of the criminal laws of the State.

5 (2) In a Code violation case under § 5–601 of this part involving the use or
6 possession of [less than 10 grams of marijuana] **A DE MINIMIS QUANTITY OF A**
7 **CONTROLLED DANGEROUS SUBSTANCE**, the State's Attorney may:

8 (i) enter a nolle prosequi or move to place the case on the stet docket;
9 and

10 (ii) exercise authority in the same manner as prescribed by law for
11 violation of the criminal laws of the State.

12 **[(l)] (M)** A person issued a citation for a violation of § 5–601 of this part involving
13 the use or possession of [less than 10 grams of marijuana] **A DE MINIMIS QUANTITY OF A**
14 **CONTROLLED DANGEROUS SUBSTANCE** who is under the age of 18 years shall be subject
15 to the procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article.

16 **[(m)] (N)** A citation for a violation of § 5–601 of this part involving the use or
17 possession of [less than 10 grams of marijuana] **A DE MINIMIS QUANTITY OF A**
18 **CONTROLLED DANGEROUS SUBSTANCE** and the official record of a court regarding the
19 citation are not subject to public inspection and may not be included on the public Web site
20 maintained by the Maryland Judiciary if:

21 (1) the defendant has prepaid the fine;

22 (2) the defendant has pled guilty to or been found guilty of the Code
23 violation and has fully paid the fine and costs imposed for the violation;

24 (3) the defendant has received a probation before judgment and has fully
25 paid the fine and completed any terms imposed by the court;

26 (4) the case has been removed from the stet docket after the defendant fully
27 paid the fine and completed any terms imposed by the court;

28 (5) the State has entered a nolle prosequi;

29 (6) the defendant has been found not guilty of the charge; or

30 (7) the charge has been dismissed.

31 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
32 take effect on the taking effect of Section 2 of Chapter 515 of the Acts of the General

1 Assembly of 2016. If Section 2 of Chapter 515 takes effect, Section 1 of this Act shall be
2 abrogated and of no further force and effect. This Act may not be interpreted to have any
3 effect on Section 2 of Chapter 515.

4 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of
5 Section 4 of this Act, this Act shall take effect October 1, 2017.