

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 370

(Senator McCray)(By Request - Baltimore City
Administration)

Judicial Proceedings

Drug Paraphernalia for Administration - Decriminalization

This bill (1) reduces penalties for offenses involving drug paraphernalia and controlled paraphernalia; (2) repeals specified prohibited acts under existing prohibitions involving drug paraphernalia; (3) narrows the definition of “controlled paraphernalia” by removing references to specified items; (4) repeals the prohibition on possessing or distributing controlled paraphernalia to administer a controlled dangerous substance (CDS); and (5) removes measuring spoons from the list of items commonly used to engage in specified CDS-related acts for purposes of establishing an unlawful intent to use controlled paraphernalia to engage in those acts.

Fiscal Summary

State Effect: Minimal decrease in general fund revenues due to the bill’s alteration of the application of existing penalty provisions and the reduction of specified penalties. Expenditures are not materially affected, as discussed below.

Local Effect: Potential minimal decrease in local expenditures due to the bill’s alteration of the application of existing penalty provisions and the reduction of specified penalties. Local revenues are not materially affected, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Use or Possession of Drug Paraphernalia – Prohibitions and Penalties (§ 5-619(c) of the Criminal Law Article)

Currently, unless authorized under law, a person may not use or possess with intent to use drug paraphernalia to:

- plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a CDS; or
- inject, ingest, inhale, or otherwise introduce a CDS into the human body.

Chapter 4 of 2016 repealed the criminal prohibition on use or possession of marijuana-related drug paraphernalia.

The bill repeals the prohibition on a person using or possessing with intent to use drug paraphernalia to inject, ingest, inhale, or otherwise introduce a CDS into the human body.

Under current law, a person who violates this prohibition is guilty of a misdemeanor punishable by a fine of up to \$500 for a first violation and imprisonment for up to two years and/or a \$2,000 maximum fine for each subsequent violation. The bill reduces the penalty for a subsequent violation to imprisonment for up to one year and/or a \$1,000 maximum fine.

Under current law, a first-time violation of this prohibition committed by a person with a prior conviction for delivery of drug paraphernalia by an adult to a minor who is at least three years younger is a misdemeanor subject to imprisonment for up to two years and/or a maximum fine of \$2,000. The bill does not alter this penalty.

Delivery or Sale of Drug Paraphernalia – Prohibitions and Penalties (§ 5-619(d) of the Criminal Law Article)

Unless authorized under law, a person may not deliver or sell, or manufacture or possess with the intent to deliver or sell, drug paraphernalia, knowing or under circumstances where a person reasonably should know that the drug paraphernalia will be used to:

- plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a CDS; or
- inject, ingest, inhale, or otherwise introduce a CDS into the human body.

The bill repeals the prohibition on a person delivering or selling or manufacturing or possessing with the intent to deliver or sell drug paraphernalia that will be used to inject, ingest, inhale, or otherwise introduce a CDS into the human body.

Under current law, violators are guilty of a misdemeanor punishable by a fine of up to \$500 for a first violation and imprisonment for up to two years and/or a \$2,000 maximum fine for each subsequent violation. The bill reduces the penalty for a subsequent violation to imprisonment for up to one year and/or a \$1,000 maximum fine.

Under current law, a first-time violation of this prohibition committed by a person with a prior conviction for delivery of drug paraphernalia by an adult to a minor who is at least three years younger is a misdemeanor subject to imprisonment for up to two years and/or a maximum fine of \$2,000. The bill does not alter this penalty.

Under current law, delivery of drug paraphernalia by an adult to a minor who is at least three years younger is a separate misdemeanor, punishable by imprisonment for up to eight years and/or a \$15,000 maximum fine. The bill does not alter this penalty.

Controlled Paraphernalia – Definition (§ 5-101 of the Criminal Law Article)

Under current law, “controlled paraphernalia” means (1) a hypodermic syringe, needle, or any other object or combination of objects adapted to administer a CDS by hypodermic injection; (2) a gelatin capsule, glassine envelope, or other container suitable for packaging individual quantities of a CDS; or (3) lactose, quinine, mannite, mannitol, dextrose, sucrose, procaine hydrochloride, or any other substance suitable as a diluent or adulterant.

The bill removes the following items from the definition of controlled paraphernalia: a hypodermic syringe, needle, or any other object or combination of objects adapted to administer a CDS by hypodermic injection.

Possession or Distribution of Controlled Paraphernalia (§ 5-620 of the Criminal Law Article)

Under current law, in general, a person may not obtain or attempt to obtain controlled paraphernalia by:

- fraud, deceit, misrepresentation, or subterfuge;

- counterfeiting a prescription or a written order;
- concealing a material fact or the use of a false name or address;
- falsely assuming the title of or representing to be a manufacturer, distributor, or authorized provider;
- making or issuing a false or counterfeit prescription or written order; or
- possessing or distributing controlled paraphernalia under circumstances that reasonably indicate an intention to use the controlled paraphernalia for purposes of illegally *administering* a CDS.

The bill repeals the prohibition on possessing or distributing controlled paraphernalia to illegally *administer* a CDS and replaces it with a prohibition on possessing or distributing controlled paraphernalia to illegally manufacture, distribute, or dispense a CDS.

Under current law, evidence of circumstances that reasonably indicate an intent to use controlled paraphernalia to manufacture, *administer*, distribute, or dispense a CDS unlawfully include the close proximity of the controlled paraphernalia to an adulterant, diluent, or equipment commonly used to illegally manufacture, *administer*, distribute, or dispense a CDS, including a scale, a sieve, a strainer, *a measuring spoon*, staples, a stapler, a glassine envelope, a gelatin capsule, procaine hydrochloride, mannitol, lactose, quinine, and a CDS.

The bill removes measuring spoons from the above list of items and repeals any references related to the administration of a CDS from this provision.

A person convicted of a violation of these controlled paraphernalia prohibitions is subject to imprisonment for up to four years and/or a maximum fine of \$25,000. The bill reduces the maximum penalties for committing such an offense to imprisonment for one year and/or a \$1,000 fine.

Chapter 26 of 2022 repealed the penalty for controlled paraphernalia involving the use or possession of marijuana, for which there was a maximum penalty of one year imprisonment and/or a \$1,000 fine.

State Revenues: General fund revenues decrease minimally as a result of the bill's altered application of existing monetary penalties and reduction of specified monetary penalties from cases heard in the District Court.

State Expenditures: General fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) are not materially affected. DPSCS reports that during fiscal 2024, the Division of Correction received three inmates, and the Division of Parole

and Probation opened cases for 77 individuals who committed an offense under § 5-619 or § 5-620 of the Criminal Law Article.

The Office of the Public Defender (OPD) advises that the bill results in reduced caseloads for the office. The Department of Legislative Services advises that given current OPD caseloads and resources, it is assumed that any reduction in OPD caseloads generated by the bill is redirected to other cases.

Local Revenues: Revenues for circuit courts are not anticipated to be materially affected due to the low number of cases that are distributed across multiple jurisdictions in the State. According to the Maryland Sentencing Guidelines Database, the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) received the following information for sentences in the State’s circuit courts during fiscal 2024:

- two individuals were sentenced for two counts of a subsequent offense of use or possession with intent to use drug paraphernalia under § 5-619(c) of the Criminal Law Article;
- zero individuals were sentenced for the subsequent offense of delivering or selling, or manufacturing or possessing with the intent to deliver or sell, drug paraphernalia under § 5-619(d) of the Criminal Law Article; and
- seven individuals were sentenced for seven counts of possession or distribution of controlled paraphernalia under § 5-620 of the Criminal Law Article.

MSCCSP advises that because first-time violations of Sections 5-619(c) and 5-619(d) of the Criminal Law Article do not carry the possibility of incarceration, those violations are not guidelines-eligible offenses, and the MSCCSP does not collect data for them. Even in the absence of such data, it is not expected that the bill’s implementation will materially reduce fine revenues collected in the circuit courts.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 706 of 2024; HB 1209 of 2024; HB 173 and SB 762 of 2023; and HB 481 and SB 509 of 2022.

Designated Cross File: HB 556 (Delegate Simpson, *et al.*) - Judiciary.

Information Source(s): Harford and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Association of Counties; Department of Public Safety and

Correctional Services; Maryland State's Attorneys' Association; Department of
Legislative Services

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