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§5–601.

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

(1) possess or administer to another a controlled dangerous substance, unless:

(i) obtained directly or by prescription or order from an authorized provider acting in the course of professional practice; or

(ii) the controlled dangerous substance is cannabis, the individual is at least 21 years old, and the amount possessed is the personal use amount; or

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

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

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

(iii) the concealment of a material fact;

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

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

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

(b) Information that is communicated to a physician in an effort to obtain a controlled dangerous substance in violation of this section is not a privileged communication.

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

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

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

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

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

(ii) 1. A finding of guilt under this section involving the use or possession of the personal use amount of cannabis by a person under the age of 21 years is a civil offense punishable by a fine not exceeding $100.

2. A finding of guilt under this section involving the use or possession of the civil use amount of cannabis is a civil offense punishable by a fine not exceeding $250.

3. A. In addition to a fine, a court may order a person under the age of 21 years who commits a violation punishable under subsubparagraph 1 or 2 of this subparagraph to attend a drug education program approved by the Maryland Department of Health, refer the person to an assessment for substance abuse disorder, and refer the person to substance abuse treatment, if necessary.

B. A court that orders a person to a drug education program or substance abuse assessment or treatment under this subsubparagraph may hold the case sub curia pending receipt of proof of completion of the program, assessment, or treatment.

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

2. "Bona fide physician–patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a patient's medical condition.

3. "Caregiver" means an individual designated by a patient with a debilitating medical condition to provide physical or medical assistance to the patient, including assisting with the medical use of cannabis, who:

A. is a resident of the State;

B. is at least 21 years old;

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

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

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

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

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

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

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

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

A. cachexia or wasting syndrome;

B. severe or chronic pain;

C. severe nausea;

D. seizures;

E. severe and persistent muscle spasms; or

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

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

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

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

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

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

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

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

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

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

A. using cannabis in a public place or assisting the individual for whom the defendant is a caregiver in using the cannabis in a public place; or

B. in possession of more than 1 ounce of cannabis.

(4) The smoking of cannabis in a public place is a civil offense punishable by:

(i) for a first finding of guilt, a fine not exceeding $50; and

(ii) for a second or subsequent finding of guilt, a fine not exceeding $150.

(d) The provisions of subsection (c)(2)(ii) of this section may not be construed to affect the laws relating to:

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

(2) seizure and forfeiture.

(e) (1) (i) Before imposing a sentence under subsection (c) of this section, the court may order the Maryland Department of Health or a certified and licensed designee to conduct an assessment of the defendant for substance use disorder and determine whether the defendant is in need of and may benefit from drug treatment.

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

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

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

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

(ii) the court may impose a term of imprisonment under subsection (c) of this section and order the Division of Correction or local correctional

facility to facilitate the medically appropriate level of treatment for the defendant as identified in the assessment.

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