

Department of Legislative Services
Maryland General Assembly
2021 Session

RACIAL AND EQUITY IMPACT NOTE

Senate Bill 708 (Senator Feldman, *et al.*)
Finance and Budget and Taxation

Cannabis – Legalization and Regulation

Summary

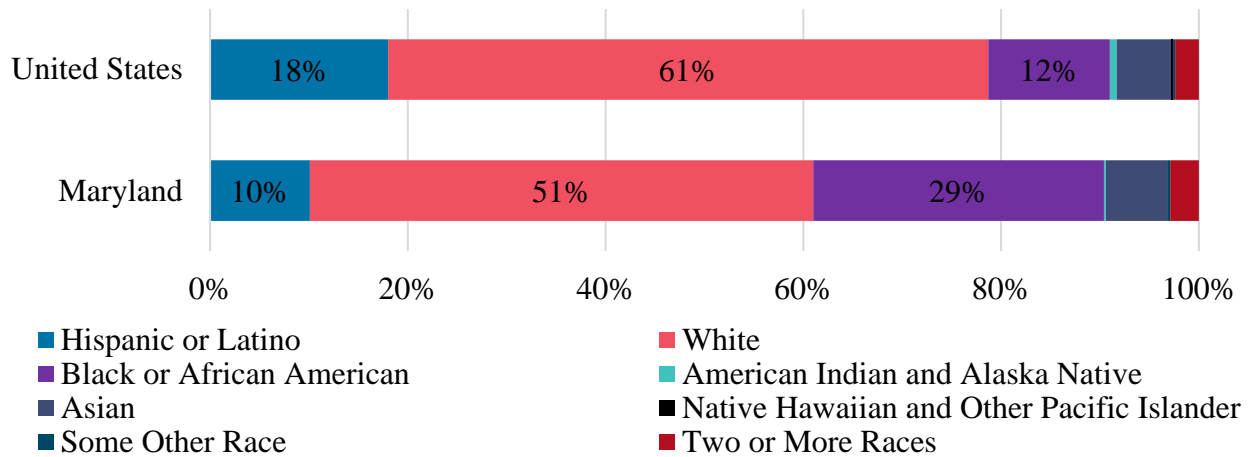
This bill generally legalizes marijuana (which is renamed cannabis) for individuals at least age 21. Among other things, the bill (1) establishes a regulatory and taxation framework for cannabis establishments within the Alcohol and Tobacco Commission; (2) establishes provisions related to social equity in the legal cannabis industry; and (3) establishes a process for dismissal of or post-conviction relief for marijuana-related offenses and expungement of the dispositions of marijuana-related charges. The commission, in consultation with specified entities, must complete two disparity studies by April 1, 2022, and by January 1, 2024, respectively.

Maryland Demographics

Race and Ethnicity of the Maryland Population

In 2019, Maryland's estimated population was just over 6 million individuals. Compared to the U.S. population overall, the State's population by race alone is more diverse. As shown in **Exhibit 1**, in Maryland, 44.5% of the population identify as non-White or multi-racial compared to 27.5% of the national population. In both the State and national population, the largest shares of the non-White population are individuals who are Black or African American, with 29.9% of the State population identifying only as Black or African American and another 1.4% identifying as more than one race including Black or African American. In both the State and the nation, approximately 6% of the population identified as Asian. Maryland's population is slightly less diverse than the U.S. population overall by ethnicity, however. In Maryland, 10.1% of the population identified as Hispanic or Latino compared to 18.0% of the U.S. population overall.

Exhibit 1
U.S. and Maryland Population by Race and Ethnicity
2019



Source: University of Baltimore Schaefer Center

Marijuana Use and Arrest Demographics

While data is limited, surveys have estimated that similar percentages of the White and Black populations in the United States have used marijuana or that usage by Whites is higher. In 2017, the Brookings Institution conducted a national study on marijuana usage by race. The study found that Blacks and Whites use marijuana at similar rates. The most recent comprehensive data available is an annual survey conducted by the Substance Abuse and Mental Health Services Administration. As shown in **Exhibit 2**, this survey shows that, at the national level, White individuals are more likely to use marijuana during their lifetime than individuals of any other race, excluding those who identify as two or more races.

Exhibit 2
Marijuana Use Nationally by Race and Ethnicity
2019

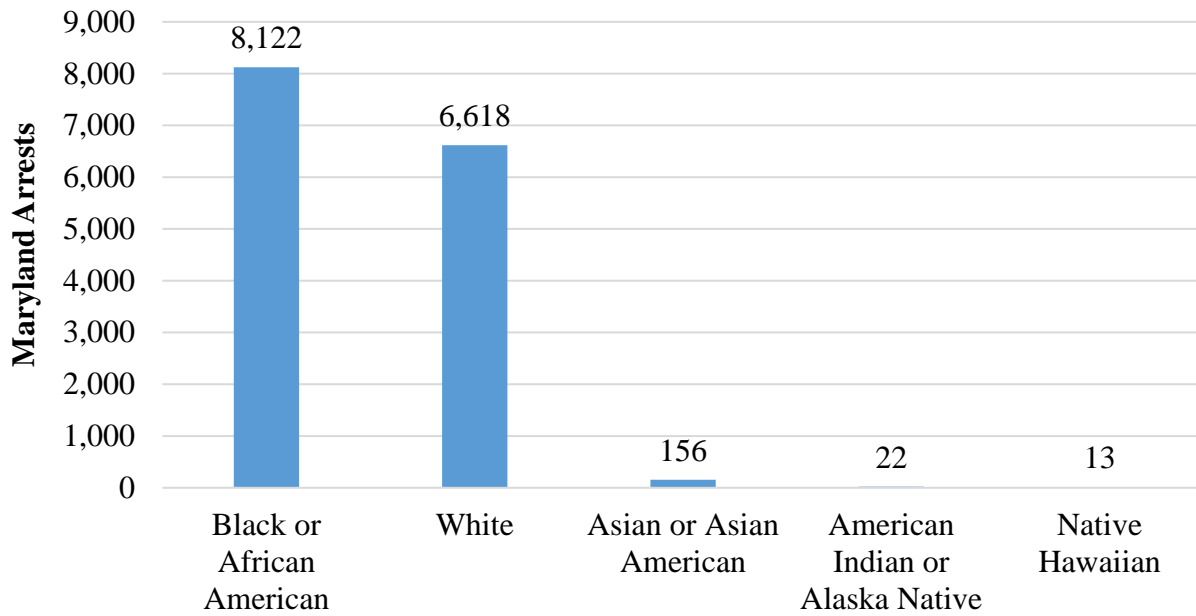
<u>Race/Ethnicity</u>	Age 18 and Over		Age 26 and Over	
	<u>Use in</u> <u>Last Year</u>	<u>Lifetime</u> <u>Use</u>	<u>Use in</u> <u>Last Year</u>	<u>Lifetime</u> <u>Use</u>
Hispanic or Latino	15%	37%	12%	35%
White	19%	55%	16%	55%
Black or African American	20%	46%	17%	46%
American Indian or Alaska Native	20%	52%	18%	51%
Native Hawaiian or Other Pacific Islander	15%	43%	12%	44%
Asian	8%	22%	6%	20%
Two or More Races	31%	67%	27%	69%
Total	18%	49%	15%	49%

Source: University of Baltimore Schaefer Center; Substance Abuse and Mental Health Services Administration

This current research confirms the results of the 2017 study – both the Black and White populations at the national level use marijuana at the same rate. Although marijuana usage is roughly equal across groups, studies show that African Americans, or people identified as Black, are more likely to be arrested or incarcerated for marijuana possession.

As shown in **Exhibit 3**, as reported in the FBI Uniform Crime Report, there were almost 15,000 arrests in Maryland for marijuana possession in 2019. Of these arrests, 8,122 were of people who were Black or African American and 6,618 were of people who were White, while Asians or Asian Americans, American Indians or Alaska Natives, and Native Hawaiians had a combined total of 191 arrests.

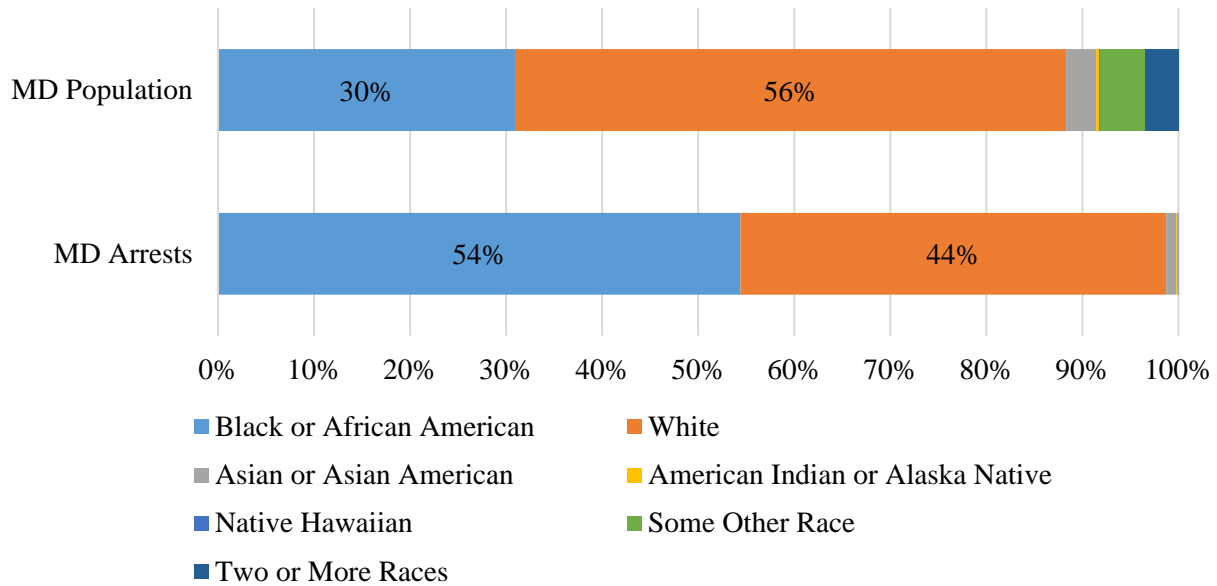
Exhibit 3
Arrests for Marijuana Possession in Maryland
2019



Source: Bowie State University; University of Baltimore Schaefer Center; FBI Uniform Crime Report (2020)

Exhibit 4 shows 2019 marijuana possession arrests in Maryland by race. While African Americans, or people identified as Black, constitute approximately 30% of Maryland’s population, they comprise 54% of the arrests for marijuana in the State. In contrast, Whites constitute 56% of Maryland’s population but only account for 44% of 2019 marijuana arrests.

Exhibit 4
Marijuana Arrests and Overall Population in Maryland
2019



Source: Bowie State University; University of Baltimore Schaefer Center

Possession of small amounts of marijuana for personal use was decriminalized in Maryland in 2014, so that those found with less than 10 grams of the drug are subject to a fine but not incarceration.

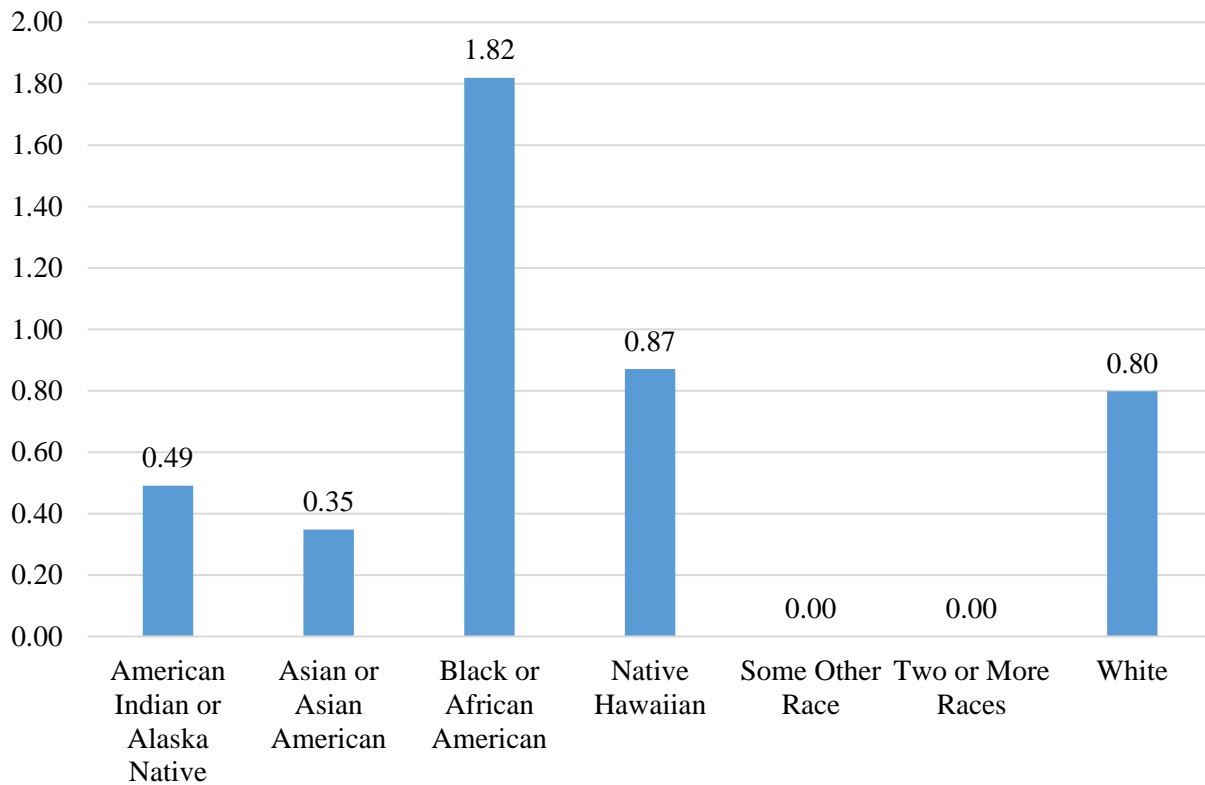
Racial and Equity Impact Statement for Senate Bill 708

Given statewide racial and ethnic demographics for the entire population as compared to the racial and ethnic demographics of individuals arrested for possession of marijuana as shown in Exhibits 1 and 4, notable patterns of disproportionality and disparities exist in arrest and incarceration rates for marijuana possession in the State.

Senate Bill 708 concerns recreational use of cannabis and related concerns, including limits on personal cannabis possession, cultivation, paraphernalia, and sales as well as expungement of certain records related to cannabis possession. The bill would decriminalize marijuana and offer relief for marijuana related offenses and expungement of the dispositions of marijuana-related charges.

As shown in **Exhibit 5**, current data reveals that the disproportionality rate of arrest for marijuana possession for African Americans, or people identified as Black, in Maryland is 1.82. This means that African Americans, or people identified as Black, are almost twice as likely to be arrested for marijuana as their proportion to their representation in the State population. Whites and other non-Black arrested racial groups have disproportionality rates of less than 1, with Native Hawaiians at 0.87, Whites at 0.80, American Indians or Alaska Natives at 0.49, Asians or Asian Americans at 0.35, and 0.00 for groups identified as multi-racial or some other race. Thus, these groups are less likely to be arrested for marijuana possession than their proportion to their representation in the State population.

Exhibit 5
Disproportionality Rates
Arrests for Marijuana Possession in Maryland
2019

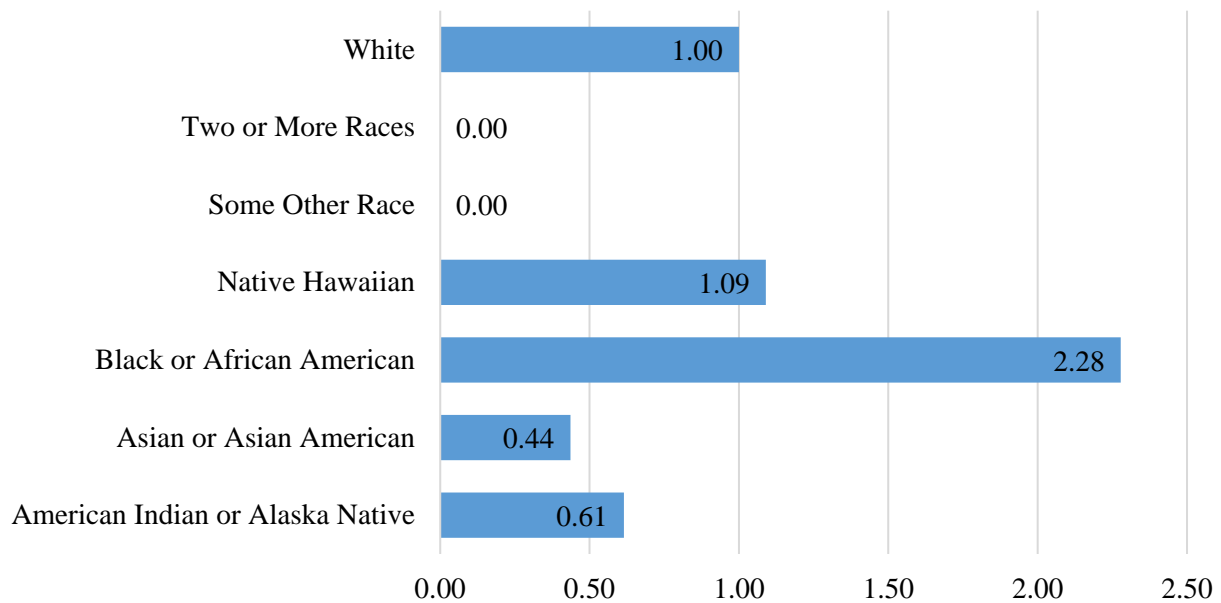


Source: Department of Legislative Services

Exhibit 6 shows how racial disparity ratios vary among the different racial groups with respect to the number of arrests for marijuana possession in Maryland. The 2019 data also reveals that African Americans, or people identified as Black, have a racial disparity ratio of greater than 1.

With a disparity ratio of 2.28, African Americans, or people identified as Black, are more than twice as likely to be arrested for marijuana possession as Whites. Furthermore, the data illustrates that Maryland’s Native Hawaiians, with a disparity ratio of 1.09, are about as likely to be arrested for marijuana possession as Whites. Regarding other non-White racial groups, Exhibit 6 shows that these groups are much less likely to be arrested for marijuana possession than Whites. Data was not available to analyze disproportionality rates and disparity ratios related to ethnicity.

Exhibit 6
Disparity Ratios
Arrests for Marijuana Possession in Maryland
2019



Source: Department of Legislative Services

Conclusion

In Maryland, racial and ethnic disparities exist throughout the criminal justice system. These disparities are not exclusive to Maryland but are prevalent throughout the American criminal justice system. National and statewide data reveal notable racial and ethnic disproportionality and disparities in arrests and incarceration for marijuana possession.

Current Trends within the State

While evidence shows that racial and ethnic groups use marijuana at similar rates, documented data reports that African Americans, or persons identified as Black, are disproportionately and disparately impacted by arrests or incarceration for marijuana possession.

Thus, provisions in Senate Bill 708 to legalize up to 4 ounces of cannabis and establish a process for dismissal of or post-conviction relief for marijuana-related offenses and expungement are likely to reduce the marijuana possession arrest rates that have disproportionately impacted Black communities more than White and non-Black communities in the State.

However, without additional data on the amounts of marijuana that individuals were arrested with and without data on the number of citations issued, the racial impact of the legislation on arrest rates cannot be fully determined.

Methodologies, Assumptions, and Uncertainties

Although some reports use disparity and disproportionality interchangeably, this racial and equity impact note distinguishes them. Disproportionality is the state of being out of proportion. It compares the proportion of one racial or ethnic group of a target population to the proportion of the same racial or ethnic demographic group in the general population. Disparity, however, refers to a state of being unequal. A disparity describes an unequal outcome experienced by one racial or ethnic group of the target population as contrast against a different racial or ethnic group in the target population.

The information provided in this note is drawn from quantitative data analysis of available statistical datasets on crime and criminal justice collected by entities at the national and state level. Moreover, the information includes scholarly literature on racial and ethnic disparities in the U.S. criminal justice system.

Information Sources: University of Baltimore Schaefer Center; Bowie State University; Department of Legislative Services

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