



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2023 Session
SB0073

Criminal Law - Cannabis-Related Offenses - Civil Penalties

Bill Summary

This bill generally decriminalizes and alters penalties for specified cannabis-related offenses. The bill also authorizes performance of specified hours of community service in lieu of fines for certain offenses. The bill takes effect October 1, 2023, contingent upon Section 4 of Chapter 26 of 2022 taking effect on July 1, 2023.

Racial Equity Impact Statement

The bill's establishment of a framework of civil penalties for cannabis-related offenses that are currently specified as criminal offenses will significantly reduce cannabis arrests, charges, and convictions for these specified violations. Available court data on arrests and charges for cannabis possession suggests that the bill's provisions will impact tens of thousands of individuals who would no longer be subject to criminal penalties. Given the significant racial disparities evident in arrest and charging data, it would impact Black people in Maryland to the greatest degree. Data limitations have prevented further analysis with respect to other minority groups.

Analysis

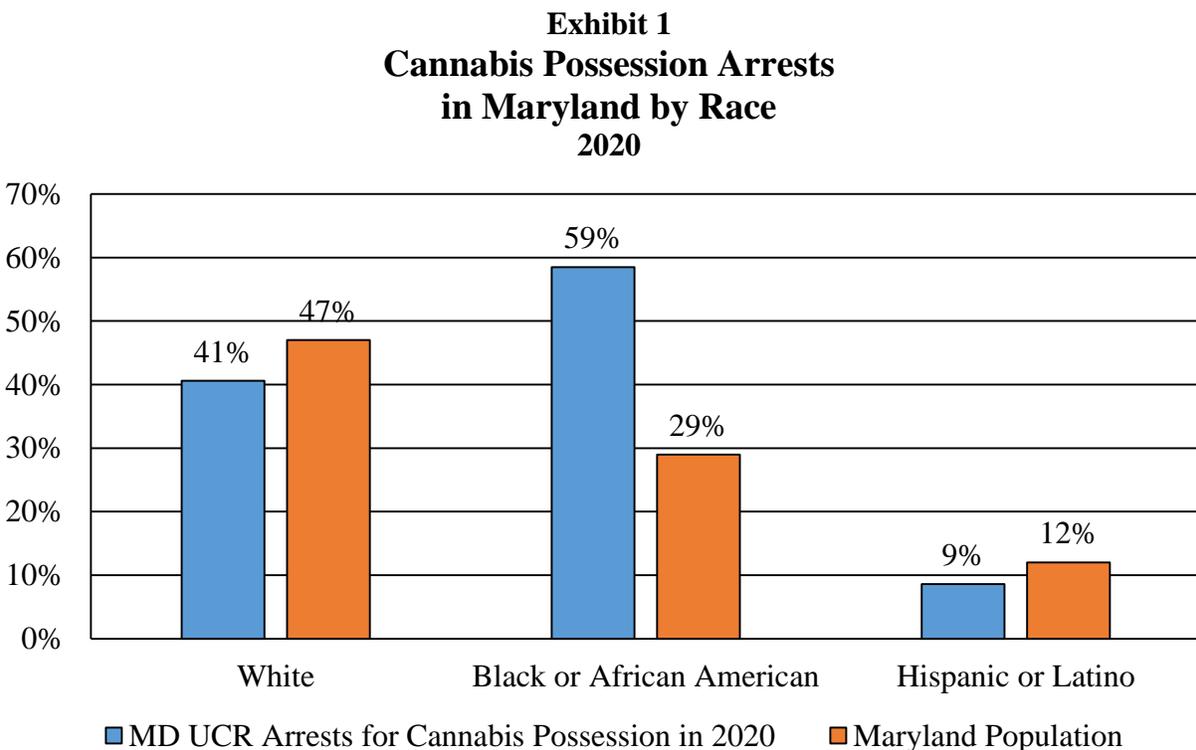
Generally, this bill substitutes civil penalties in place of criminal penalties for certain offenses relating to possession, possession with the intent to distribute, and cultivating and manufacturing cannabis products. The bill also makes specified cannabis cultivation and manufacturing violations a civil offense and removes the associated incarceration penalties.

Cannabis Usage

Despite national data showing that the lifetime use of cannabis for African Americans, or people racially identified as Black, is less than their white counterparts, charges and convictions for possession of cannabis show racial disparities. The most recent comprehensive data available on cannabis usage is an annual survey conducted by the Substance Abuse and Mental Health Services Administration. The 2021 survey shows that, at the national level, white adults are more likely to use cannabis during their lifetimes than individuals of any other race, with the exception of American Indians and Alaska Natives and those who identify as two or more races.

Cannabis Possession Arrests

With respect to arrests, Maryland's annual Uniform Crime Report indicates 10,256 arrests in 2020 for possession of cannabis. As shown in **Exhibit 1**, of this total, 59% were African American, or people racially identified as Black, 41% were white, and 9% were Hispanic. African Americans, or people racially identified as Black, are approximately twice as likely to be arrested for cannabis possession than what would be expected given their proportion of the State's population and are over two times more likely to be arrested for cannabis possession than their white peers.



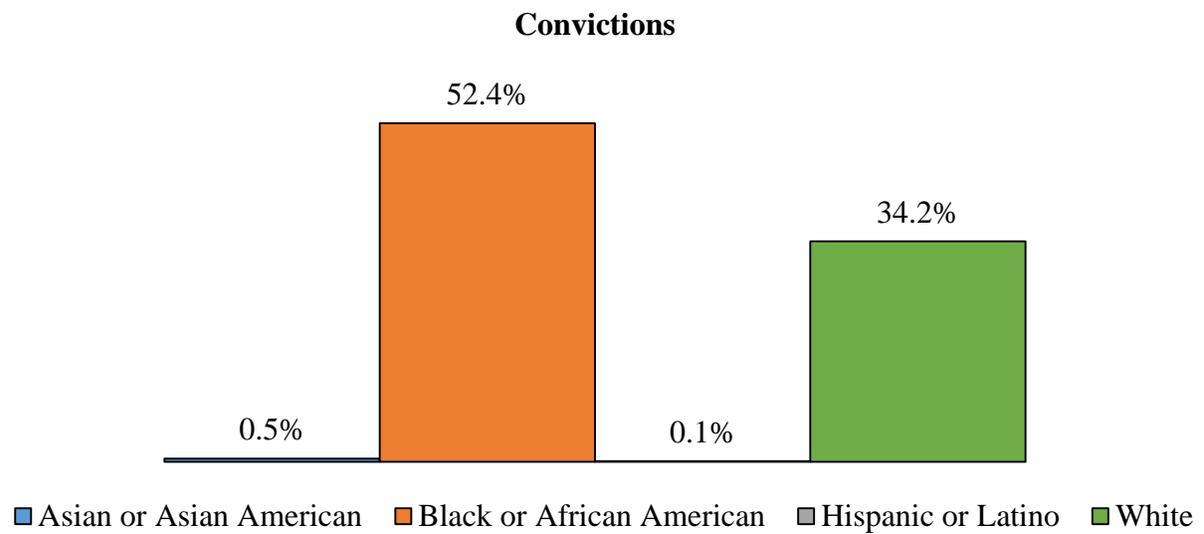
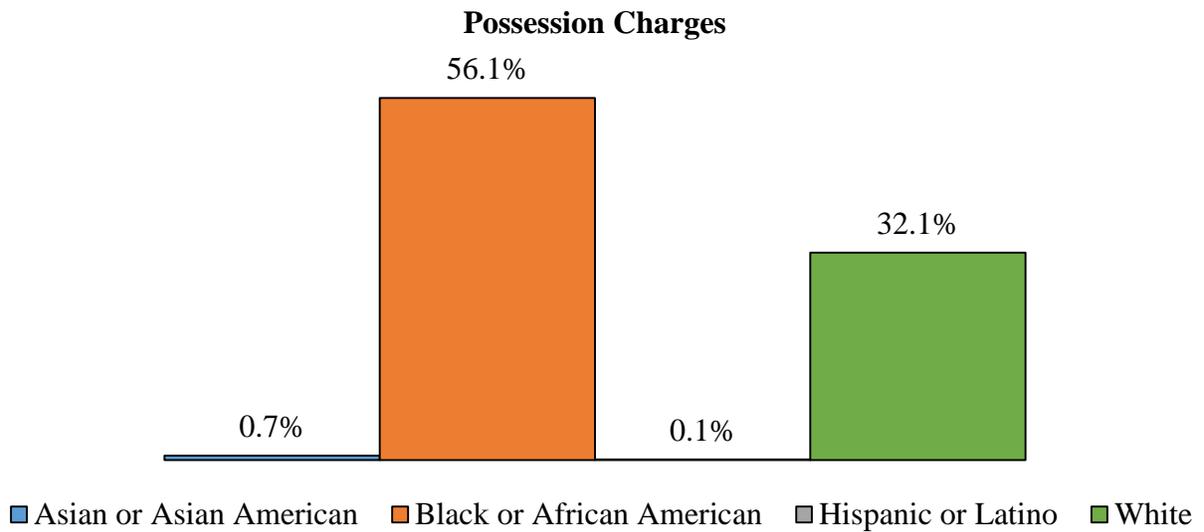
Source: Maryland's 2020 Uniform Crime Report; Department of Legislative Services

Data were not available to analyze levels of disproportionality and disparity related to ethnicity and other racial groups. It is anticipated that additional State-level arrest data will be made available in the near future to allow for further analysis.

Cannabis Possession Charges and Convictions

The Administrative Office of the Courts (AOC) provided data from 2020 detailing cannabis possession charges and convictions from all counties excluding Baltimore City and Prince George's County. Despite the incomplete dataset, as shown in **Exhibit 2**, cannabis possession charge and conviction data illustrate a significant disparity between races charged with cannabis-related crimes. Of the total 12,430 cannabis-related charges in 2020, 6,973 (56%) of those charges encompassed people who the State racially identifies as Black or African American. Of the total cannabis-related charges, about 2,863, or 23%, led to convictions, with African Americans, or people racially identified as Black, accounting for over 52% of those convictions. Based on their share of the State's population, Black people in Maryland were nearly 3 times more likely to be charged with a cannabis-related crime and were 2.5 times more likely to be found guilty of a cannabis-related violation than whites.

Exhibit 2
Cannabis Possession Charges and Convictions by Race
2020



Note: Data from courts in Baltimore City and Prince George’s County are not included.

Source: Administrative Office of the Courts

There is not data available to analyze levels of disproportionality and disparity related to ethnicity and other racial groups. It is anticipated that additional statewide conviction data will be made available in the near future to allow for further analysis.

Conclusion

The bill's provisions making cannabis possession in excess of the legal personal use amount a civil offense instead of a criminal offense would eliminate arrests, charges, and convictions for a vast amount of cannabis-related activity. While all racial groups in the State would be impacted, since African Americans, or people racially identified as Black, have been disproportionately negatively affected by existing cannabis possession laws, they will be impacted to a greater extent.

The exact magnitude of this bill's potential impact on racial equity cannot be fully determined without additional historical and consistent data on the specific amounts of cannabis that individuals were arrested with, the number of charges, sentence outcomes, and the number of citations issued across racial and ethnic groups. In addition, the actual measurable impact will also depend on the developing statutory framework and regulation for the use, distribution, possession, and regulation of cannabis.

Data Limitations

The AOC data used in this analysis does not include information from courts in Baltimore City and Prince George's County. In terms of racial demographics, these two jurisdictions hold the largest Black or African American populations in the State. While the omission of these jurisdictions does not invalidate this analysis, it is a limitation that speaks to the barriers in assessing racial inequities. Despite this data limitation, the analysis in this note illustrates significant racial disparities relating to cannabis possession laws. Considering the persistent trends of racial disparity for African Americans, or people racially identified as Black, in the available State and national data, it can be inferred that including data from the omitted jurisdictions would likely illustrate an even larger disparity in the Maryland criminal justice system.

Methodologies, Assumptions, and Uncertainties

Although some reports use disparity and disproportionality interchangeably, this racial 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.

Relevant to racial and ethnic labels and classification, the data analysis in this note follows the standards on race and ethnicity set by the U.S. Office of Management and Budget in 1997. These standards serve as a template to guide how the Racial Equity Impact Note function collects and presents data comparisons.

It is important to note that these racial and ethnic data comparisons should be made with caution, taking into account that the racial and ethnic classification system used by State agencies may differ from the U.S. Census. Additionally, individuals who identify as Hispanic or Latino may racially identify with the "some other race" category. According to the 2020 census, the "some other race" category mostly includes individuals who wrote in a Hispanic origin or nationality as

their race.

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: Maryland Uniform Crime Report; Maryland Administrative Office of the Courts; Substance Abuse and Mental Health Services Administration; National Institute on Drug Abuse; U.S. Census Bureau; Department of Legislative Services

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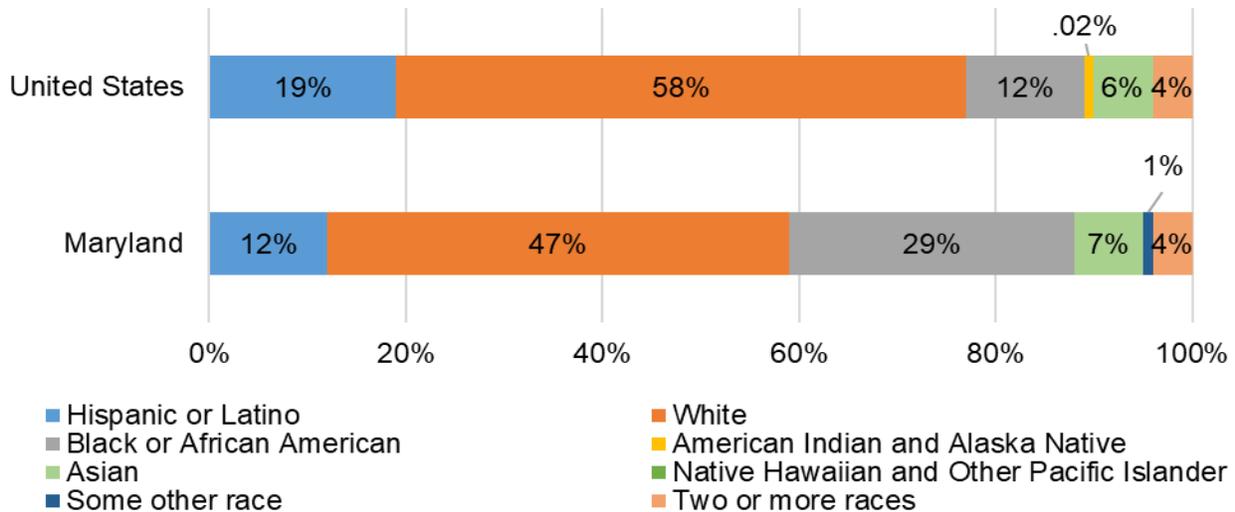
Appendix – Maryland Demographics

Race and Ethnicity of the Maryland Population

Maryland’s 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland’s racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as “other” and “multiracial” (*i.e.*, two or more racial identities), which total 5% of the State’s population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report “white” as their racial group. Despite this decrease, non-Hispanic whites remain the largest single race demographic group in the State of Maryland comprising 47% of the State’s population.

Compared to the U.S. population overall, Maryland’s population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% 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% of the State population identifying only as Black or African American and another 2.5% identifying as Black in combination with some other race. Maryland’s Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State’s overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State’s population ethnically identified as Hispanic or Latino compared to 19% of the U.S. population.

Exhibit 1
U.S. and Maryland Population by Race and Ethnicity
2020



Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.