



# **RACIAL EQUITY IMPACT NOTE**

DEPARTMENT OF LEGISLATIVE SERVICES  
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2024 Session  
HB0041

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## **Crimes – Firearms – Penalties and Procedures (Violent Firearms Offender Act of 2024)**

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### **Bill Summary**

This emergency bill (1) alters provisions and penalties pertaining to several firearms-related offenses; (2) prohibits a District Court commissioner from authorizing the pretrial release of defendants meeting specified criteria; and (3) specifies that the violation of a condition of probation, parole, or mandatory supervision involving the use or possession of a firearm is not a technical violation.

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### **Racial Equity Impact Statement**

Black offenders will be significantly impacted by provisions in the bill that (1) reclassify, from a misdemeanor to a felony, the use of a firearm in the commission of a crime of violence or felony and (2) increase penalties for subsequent violations of the prohibition on illegal possession of a firearm under the Public Safety Article. For example, Black defendants are 11 times more likely than their white counterparts to be convicted of the former charge and almost 13 times more likely to be convicted of the latter charge. In addition, Black individuals are likely to be negatively impacted by the changes in the bill increasing the length of incarceration for offenders, as Black offenders are almost 20 times more likely to be incarcerated for violations involving illegal possession of a firearm relative to white offenders. The bill will likely perpetuate or increase the pronounced racial disparities shown by existing data. Additional data on charges, arrests, and related enforcement would be useful to understand the overall equity impacts of the bill.

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## Analysis

### *Criminal Procedure Provisions*

The bill expands the prohibition on District Court commissioners from authorizing the pretrial release of defendants meeting specified criteria, including a defendant charged with one of a list of specified crimes if the defendant has previously been convicted of a crime of violence under § 14-101 of the Criminal Law Article or any of the specified crimes. The bill expands this prohibition by adding specified firearms-related offenses and a crime in another jurisdiction that would be considered to be one of the listed crimes to the list. The prohibition applies if the defendant is on pretrial release for a crime of violence or one of the specified crimes.

Under the bill, a violation involving the use or possession of a firearm is not a technical violation. Under current law, a “technical violation” of a condition of probation, parole, or mandatory supervision is a violation that does not involve (1) an arrest or a summons issued by a District Court commissioner on a statement of charges filed by a law enforcement officer; (2) a violation of a criminal prohibition other than a minor traffic offense; (3) a violation of a no-contact or stay-away order; or (4) absconding.

### *Offense-related Provisions*

In addition to other penalty changes, the bill reclassifies several existing firearm-related offenses from misdemeanors to felonies and adds new mandatory minimum penalties for those offenses.

Specifically, the offense related changes in the bill that this analysis will discuss are (1) the reclassification from a misdemeanor to a felony the offense of use of a firearm in the commission of a felony or crime of violence and (2) the increase in the maximum incarceration penalty from 5 to 10 years for a second or subsequent violation of § 5-133 of the Public Safety Article, which prohibits the possession of a regulated firearm by specified individuals. In the District Court and the circuit courts, charges for these two offenses comprised over 90% of the combined charges for all offenses covered by the bill in both fiscal 2022 and 2023.

### *Impacts of the Bill*

Changing crimes from misdemeanors to felonies means that (1) such cases are likely to be filed in the circuit courts rather than the District Court and (2) some persons may eventually serve longer incarcerations due to more stringent penalty provisions. Accordingly, it is assumed that this bill shifts an unknown number of cases from the District Court to the circuit courts. It is not known to what extent such a prospective shift could affect actual sentencing practices.

Generally, individuals convicted of felonies often experience significant collateral consequences as a result, such as losing the right to vote, disqualification from obtaining certain professional licenses, and a prohibition on legal gun ownership, to name just a few of the adverse consequences.

### *Use of a Firearm in Commission of a Crime of Violence*

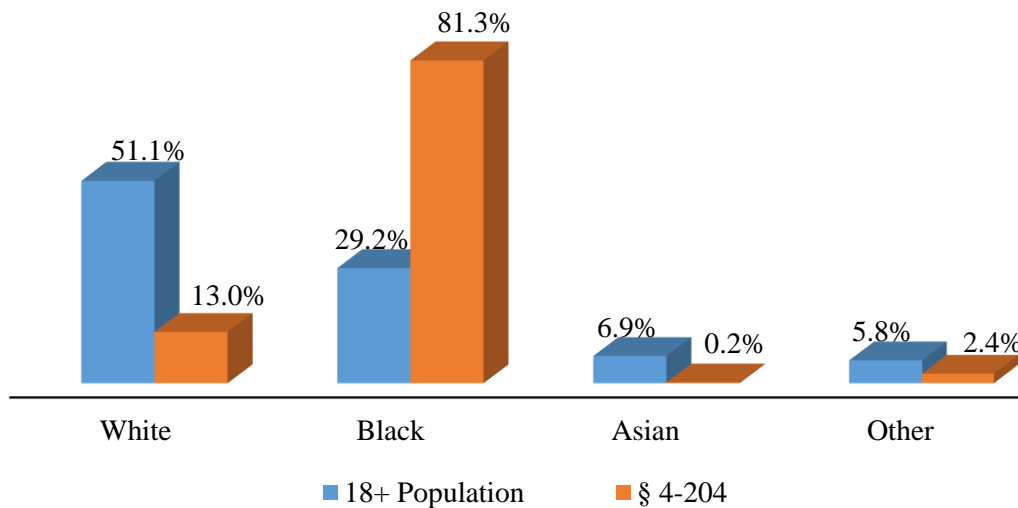
Section 4-204 of the Criminal Law Article prohibits the use of a firearm in the commission of a crime of violence (as defined under § 5-101 of the Public Safety Article) or a felony. Section 5-101

of the Public Safety Article defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) assault in the first or second degree; (4) burglary in the first, second, or third degree; (5) carjacking and armed carjacking; (6) escape in the first degree; (7) kidnapping; (8) voluntary manslaughter; (9) maiming; (10) mayhem; (11) murder in the first or second degree; (12) rape in the first or second degree; (13) robbery; (14) robbery with a dangerous weapon; (15) sexual offense in the first, second, or third degree; (16) home invasion; (17) felony sex trafficking and forced marriage; (18) an attempt to commit offenses (1) through (17); or (19) assault with the intent to commit offenses (1) through (17) or a crime punishable by imprisonment for more than one year.

According to the Maryland State Commission on Criminal Sentencing Policy (MSCCSP), in fiscal 2021 and 2022, the circuit courts convicted and sentenced 455 individuals for a total of 469 violations of § 4-204 of the Criminal Law Article. Of these individuals, 81% are Black and 13% are white. Individuals of other races or unknown races account for the remaining 6% of the total. **Exhibit 1** shows these percentages in relation to each group’s share of the State’s adult population.

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**Exhibit 1**  
**Circuit Court Convictions for Use of Firearm in Commission of a Felony or Crime of Violence as Compared to Maryland’s Adult Population**  
**Fiscal 2021-2022**



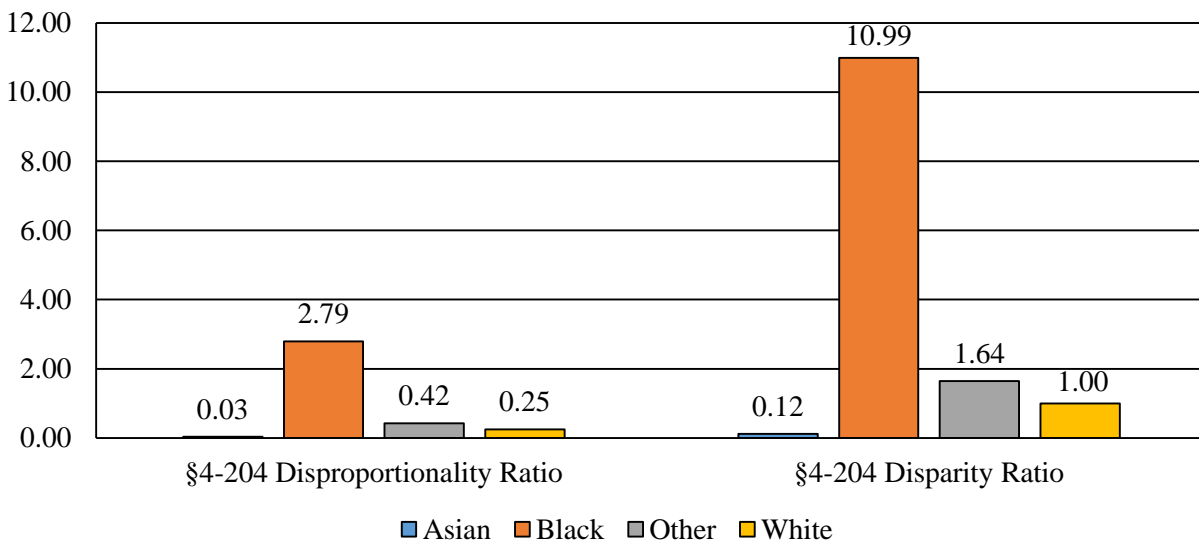
Note: The number of individuals sentenced in the circuit courts differ from the total number of sentences due to individuals receiving sentences for multiple offenses.

Source: U.S. Census Bureau; Maryland State Commission on Criminal Sentencing Policy; Department of Legislative Services

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When compared to their share of the overall State population, Black offenders are significantly overrepresented in cases adjudicated by circuit courts for violating § 4-204. **Exhibit 2** shows the disproportionality and disparity ratios by race from the fiscal 2021 to 2022 circuit court sentencing data. The disproportionality ratio for the Black population is 2.79. This means that Black individuals are nearly three times more likely to be sentenced for this offense given their share of the adult population in the State. The disproportionality ratio for the white population is 0.25, which means that white individuals are considerably less likely to be sentenced under the statute as compared to their share of the overall adult population.

**Exhibit 2**  
**Disproportionality and Disparity Ratios**  
**Circuit Court Convictions for Use of a Firearm in**  
**Commission of a Felony or Crime of Violence**  
**Fiscal 2021-2022**

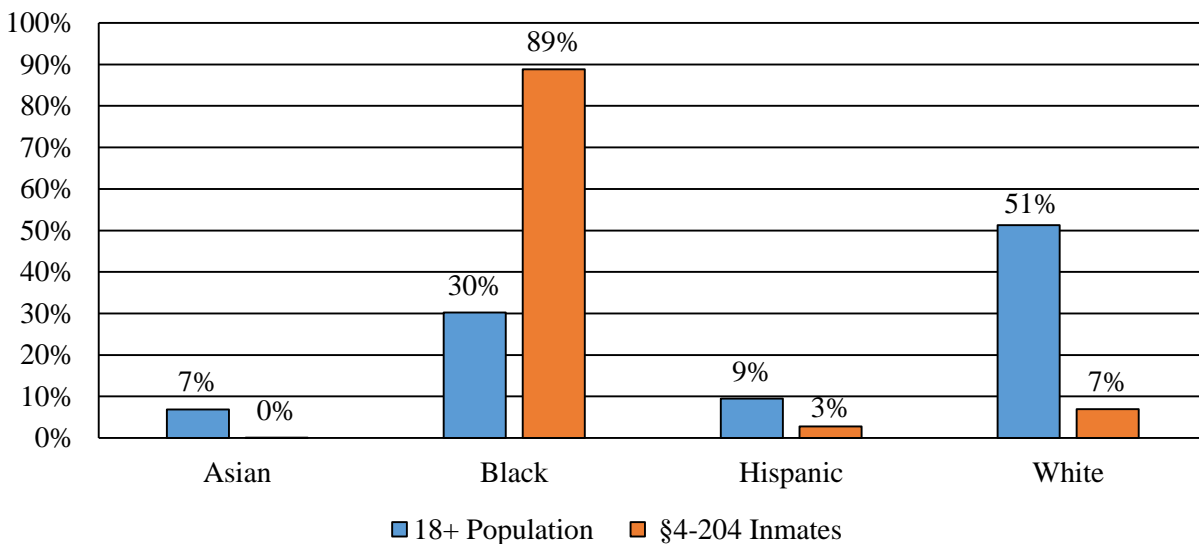


Source: Maryland State Commission on Criminal Sentencing Policy; Department of Legislative Services

The disparity ratio illustrates inequities in outcomes when comparing one or more racial or ethnic minority groups within a dataset to the white population within that same dataset. Within the universe of all individuals charged in the circuit court under § 4-204, a disparity ratio illustrates how specific racial groups compare to their white counterparts. In this instance, the disparity ratio for Black offenders is 10.99. This means that Black defendants are 11 times more likely to be sentenced for violations of § 4-204 relative to their white peers.

According to the Department of Public Safety and Correctional Services (DPSCS), as of January 2024, there were 3,646 individuals incarcerated for violating § 4-204 of the Criminal Law Article. Of these inmates, 89% are Black, 7% are white, and 3% are Hispanic. Inmates who are Asian, Native American or Alaskan Native, Native Hawaiian or Pacific Islander, or of other or unknown races account for the remaining 1% of the total. **Exhibit 3** shows these percentages in relation to each group’s share of the State’s adult population.

**Exhibit 3**  
**Inmates Incarcerated for Use of Firearm in Commission of a Felony or Crime of Violence as Compared to Maryland’s Adult Population**  
**January 2024**

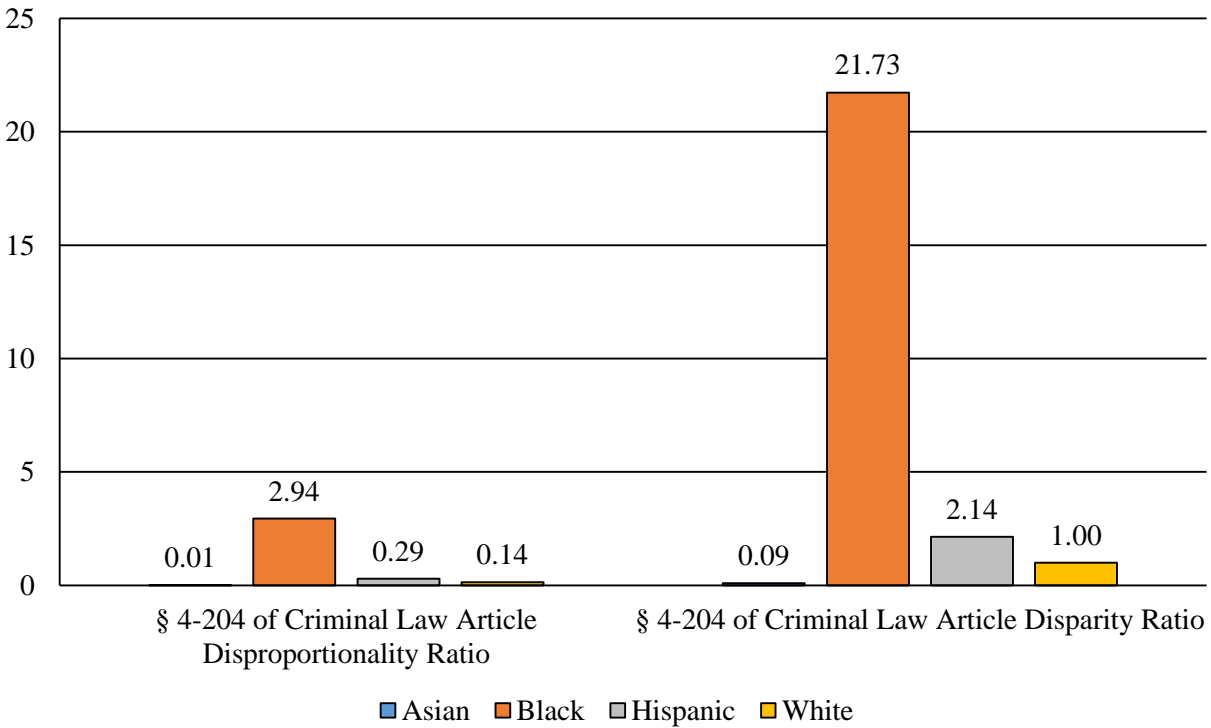


Source: U.S. Census Bureau; Department of Public Safety and Correctional Services; Department of Legislative Services

*Racial Disproportionality and Disparity for Inmates Incarcerated for Violating § 4-204 of the Criminal Law Article*

When compared to their share of the overall State population, Black offenders are significantly overrepresented in the inmate population of offenders convicted of violating § 4-204. **Exhibit 4** shows the disproportionality and disparity ratios by race and ethnicity for incarceration data. The disproportionality ratio for the Black population is 2.94. This means that Black individuals are nearly three times more likely to be incarcerated for this offense given their share of the adult population in the State. The disproportionality ratio for the white population is 0.14, which means that white individuals are far less likely to be incarcerated for this offense as compared to their share of the overall adult population.

**Exhibit 4**  
**Disproportionality and Disparity Ratios**  
**Inmates Incarcerated for Use of Firearm in**  
**Commission of a Felony or Crime of Violence**  
**January 2024**



Source: Department of Public Safety and Correctional Services; Department of Legislative Services

The disparity ratio in this instance for Black inmates is 21.73. This means that Black offenders are almost 22 times more likely to be incarcerated for violations of § 4-204 relative to their white peers. Insufficient data prevented the analysis of disproportionality and disparity ratios related to other racial groups.

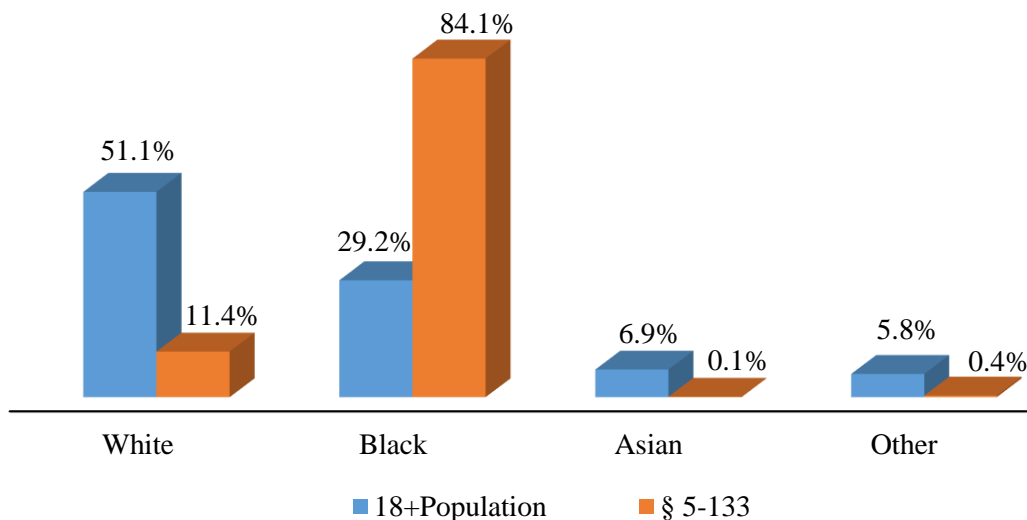
*Illegal Possession of a Firearm*

Section 5-133 of the Public Safety Article prohibits the possession of a regulated firearm by specified individuals. The bill increases the maximum incarceration penalty for a second or subsequent violation of this prohibition from 5 to 10 years. Generally, a person is prohibited from possessing regulated firearms, rifles, or shotguns if the person has been convicted of a specified disqualifying crime or crimes. Other disqualifiers exist for fugitives, habitual drunkards, specified juvenile delinquents, and individuals addicted to certain controlled dangerous substances and more.

Similar to convictions under § 4-204, the convicted population for illegal possession of a regulated firearm is largely comprised of Black offenders. According to MSCCSP data, circuit courts convicted 901 individuals for a total of 947 violations of § 5-133 in fiscal 2021 and 2022. Of these individuals, 84% were Black, 11% were white, and 5% were of other or unknown races. **Exhibit 5** shows these percentages in relation to each group’s share of Maryland’s adult population.

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**Exhibit 5**  
**Circuit Court Convictions for Illegal Possession of a Firearm**  
**Compared to Maryland’s Adult Population**  
**Fiscal 2021–2022**



Note: The circuit court data does not distinguish between second or subsequent offenders as the penalty in existing law for this offense does not have a separate penalty for repeat offenders.

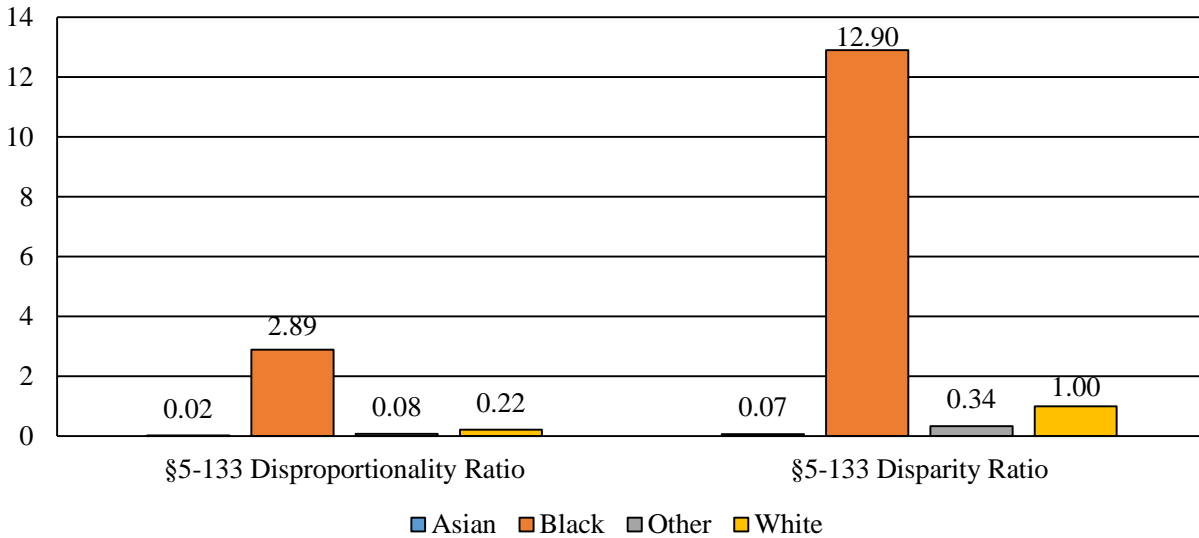
Source: U.S. Census Bureau; Maryland State Commission on Criminal Sentencing Policy; Department of Legislative Services

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*Racial Disproportionality and Disparity in Circuit Court Convictions for Violations of § 5-133 of the Public Safety Article*

**Exhibit 6** shows the disproportionality and disparity ratios by race for circuit court convictions under § 5-133. The disproportionality ratio for the Black population sentenced under this statute is 2.89. This means that Black defendants are nearly three times more likely to be sentenced for violating § 5-133 given their share of the adult population in the State. The disproportionality ratio of 0.22 for white defendants means that white individuals are far less likely to be sentenced under this statute when compared to their proportion of the State’s adult population.

**Exhibit 6**  
**Disproportionality and Disparity Ratios**  
**Circuit Court Convictions for Illegal Possession of a Firearm**  
**Fiscal 2021-2022**



Source: Maryland State Commission on Criminal Sentencing Policy; Department of Legislative Services

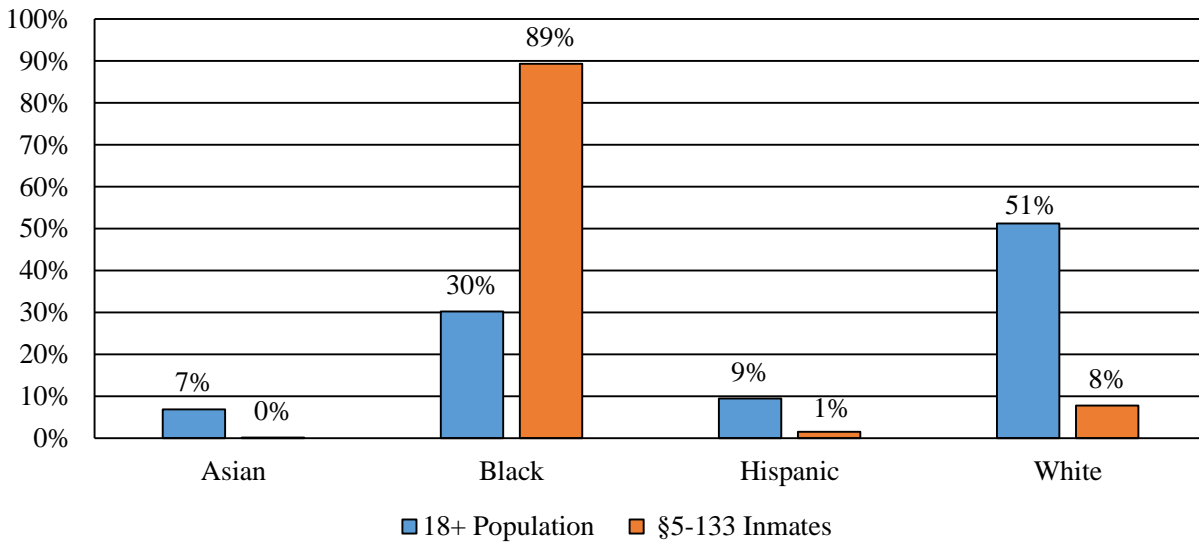
The disparity ratio for Black defendants is 12.90, which means that Black defendants are almost 13 times more likely to be sentenced in the circuit court for violating the prohibition on illegal possession of a firearm under § 5-133 relative to their white peers.

While the circuit court data illustrates significant disparities and disproportionalities in convictions, it does not represent the complete picture without additional charge, arrest, conviction, and enforcement data. It does, however, confirm the overall overrepresentation of Black offenders in the State’s criminal justice system.

According to DPSCS, as of January 2024, there were 2,331 inmates incarcerated for violating § 5-133. Of these inmates, 89% are Black, 8% are white, and 1% are Hispanic. Inmates who are Asian, Native American or Alaskan Native, Native Hawaiian or Pacific Islander, or of other or unknown races account for the remaining 2% of the total. **Exhibit 7** shows these percentages in relation to each group’s share of the State’s adult population.



**Exhibit 7**  
**Inmates Incarcerated for Illegal Possession of a Firearm as**  
**Compared to Maryland’s Adult Population**  
**January 2024**



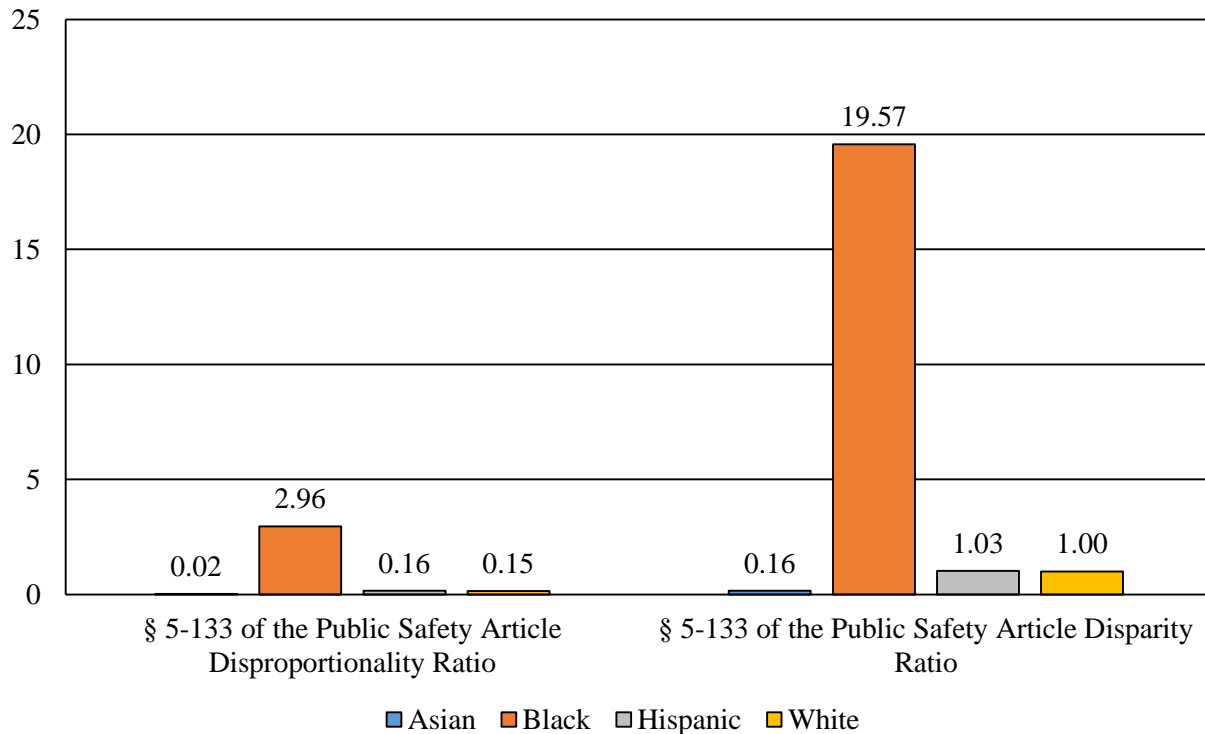
Note: The 18+ population is based on the U.S. Census Bureau’s 2021 population estimates.

Source: U.S. Census Bureau; Department of Public Safety and Correctional Services; Department of Legislative Services

*Racial Disproportionality and Disparity for Inmates Incarcerated for Violating § 5-133 of the Public Safety Article*

When compared to their share of the overall State population, Black offenders are significantly overrepresented in the inmate population of offenders convicted of violating § 5-133. **Exhibit 8** shows the disproportionality ratios by race and ethnicity for incarceration data. The disproportionality ratio for the Black population is 2.96. This means that Black individuals are nearly three times more likely to be incarcerated for this offense given their share of the adult population in the State. The disproportionality ratio for the white population is 0.15, which means that white individuals are significantly less likely to be incarcerated for this offense as compared to their share of the overall adult population.

**Exhibit 8**  
**Disproportionality and Disparity Ratios**  
**Inmates Incarcerated for Illegal Possession of a Firearm**  
**January 2024**



Source: Department of Public Safety and Correctional Services; Department of Legislative Services

In this instance, the disparity ratio for Black inmates is 19.57. This means that Black offenders are almost 20 times more likely to be incarcerated for violations of § 5-133 relative to their white peers.

Insufficient data prevented the analysis of disproportionality and disparity ratios related to other racial groups as the sizes of these groups were too small to accurately depict disproportionality and disparity. Similarly, there is no data readily available to determine how many incarcerated offenders are repeat offenders. Accordingly, the magnitude of the bill’s impacts cannot be fully measured.

**Conclusion**

The bill’s procedural and offense-related provisions generally establish additional pathways to incarceration for individuals who commit certain firearm-related offenses. The bill’s expansion of

restrictions on the pretrial release of these offenders will likely increase pretrial incarcerations for a population of arrestees that are comprised overwhelmingly of Black individuals. Data from MSCCSP and DPSCS suggests that significant disproportionate and disparate impacts exist for the Black offender population convicted, sentenced, and incarcerated for use of a firearm in the commission of a crime of violence or felony and for the illegal possession of a firearm. The bill will likely increase incarceration lengths as well, as it makes the five-year mandatory minimum sentence for a first offense under § 4-204 of the Criminal Law Article nonsuspendable, nonparolable, and consecutive.

While the data discussed in this analysis does not explain the actual causes of the overrepresentation of convicted and incarcerated Black offenders, it is indicative of systemic inequities observed generally in statewide criminal justice data. Additional reliable data on arrests, charges, convictions, parole violations, and enforcement activities would provide a clearer picture of the specific equity impacts.

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**Information Sources:** Maryland State Commission on Criminal Sentencing Policy; Department of Public Safety and Correctional Services; U.S. Census Bureau; Department of Legislative Services

**Analysis by:** Dr. Jasmón Bailey

**Published:** 03/28/2024

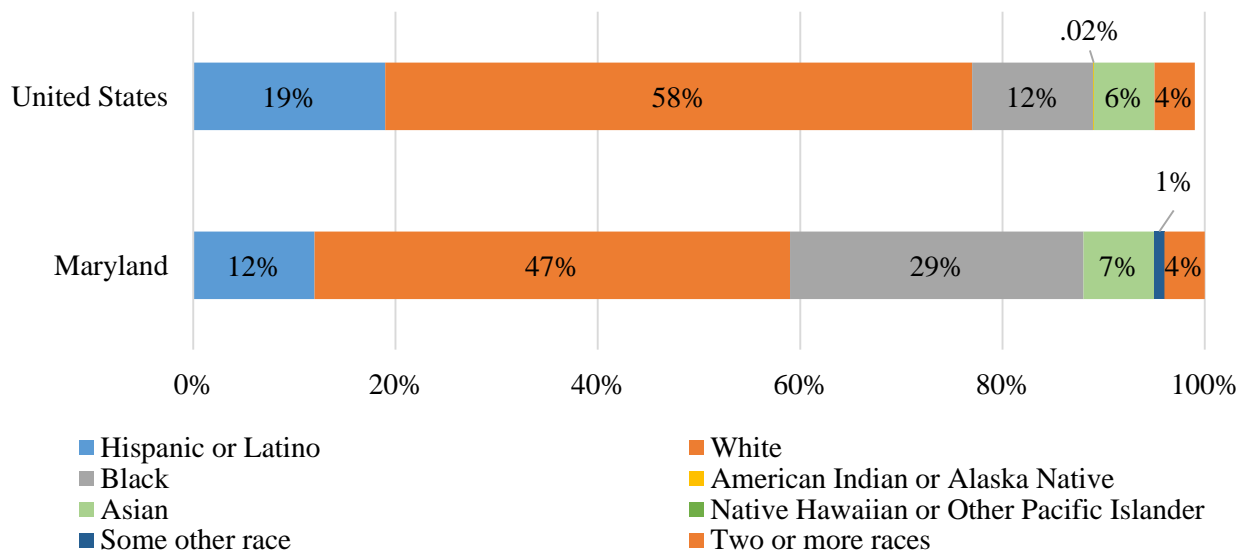
## Appendix – Maryland Demographics

### *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 race demographic group in the State at 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 populations, the largest shares of the non-white population are individuals who are Black, with 29% of the State population identifying only as Black 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 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.