



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2026 Session
HB0824

Criminal Procedure - Expungement - Conviction of Distribution of Controlled Dangerous Substance

Bill Summary

This bill amends § 10-110 of the Criminal Procedure Article to authorize a person to file a petition for expungement of a felony conviction under § 5-602(a) of the Criminal Law Article. Given existing statute, the effect of the bill is to authorize the expungement of a conviction under § 5-602(a)(1) of the Criminal Law Article for distributing or dispensing a controlled dangerous substance (CDS).

Racial Equity Impact Statement

Existing law allows individuals to petition a court to expunge felony convictions for possession with *intent* to distribute a CDS (excluding cannabis). The bill would add distributing or dispensing a CDS, which carries the same maximum penalties, as an expungement-eligible offense. State agency and court data show that Black offenders make up an overwhelming portion of those charged, arrested, convicted, and incarcerated for distribution of a CDS under current law. Specifically, Black offenders comprise 70% of those convicted in the circuit court, and 77% of those incarcerated for these offenses. Given the significant adverse consequences of having a criminal record, the bill may benefit individuals who have completed their sentences by making rehabilitation less difficult. Black offenders may benefit to the greatest extent, given their overrepresentation in this group. The actual impacts will depend greatly on the number of eligible individuals who petition the court for expungement and the extent to which expungements are granted for this offense.

Analysis

Section 5-602 of the Criminal Law Article contains the prohibitions listed below:

- § 5-602(a)(1): Distributing or dispensing a CDS (felony)
- § 5-602(a)(2): Possession with intent to distribute a CDS – not cannabis (felony)
- § 5-602(b)(1): Possession with intent to distribute cannabis (misdemeanor)

Convictions for some of these offenses are currently eligible for expungement. Under current law, a *felony* conviction for *possession with intent to distribute* a CDS under § 5-602 is eligible for expungement under § 10-110 (a)(2)(ii) of the Criminal Procedure Article. The only felony for possession with intent to distribute a CDS under § 5-602 is § 5-602(a)(2). Possession with intent to distribute cannabis is a *misdemeanor* that is eligible for expungement under § 10-110 (a)(1)(viii) of the Criminal Procedure Article, which is not amended by the bill. Distribution of a CDS is a felony under § 5-602(a)(1) and is not eligible for expungement.

Other than specified court-initiated expungements under § 10-105.1 of the Criminal Procedure Article, to begin the process of expungement, a petitioner must file a petition for expungement with the court under § 10-105 or § 10-110 of the Criminal Procedure Article, which establishes eligibility for the expungement of records pertaining to a criminal charge or conviction. With some exceptions, § 10-105 applies to dispositions other than a conviction, and § 10-110 applies to expungements of convictions.

Expungement of a court or police record means removal from public inspection:

- by obliteration;
- by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; or
- if access to a court record or police record can be obtained only by reference to another such record, by the expungement of that record, or the part of it that provides access.

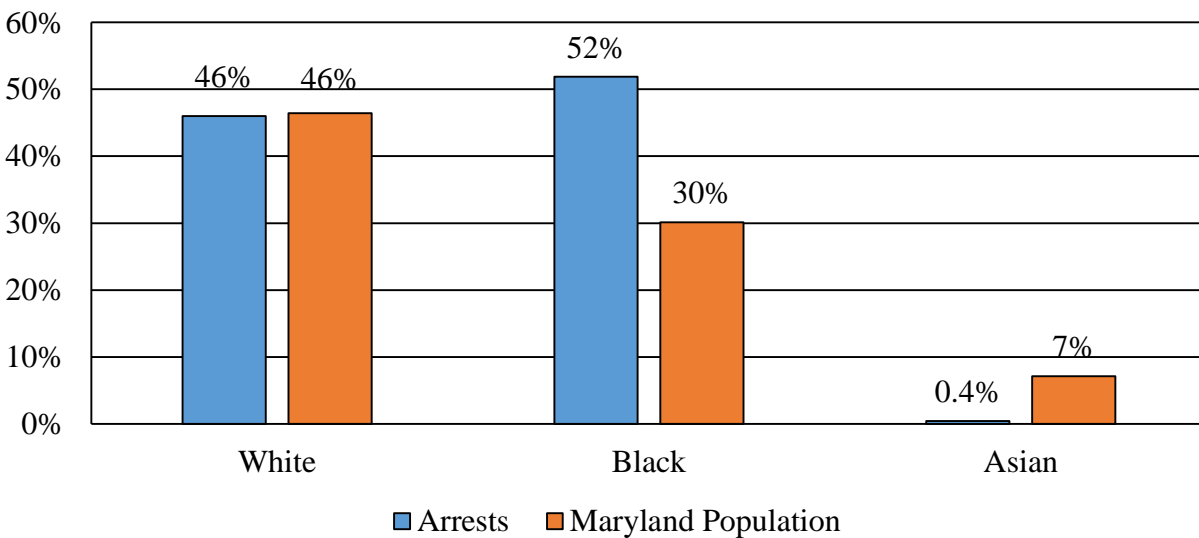
Expungement, in general, is intended to help mitigate the adverse consequences of having a criminal record, which can last beyond imprisonment, fines, and the legal process and can include the denial of civil opportunities and benefits available to a person due to their record. Specifically, having a criminal history can adversely affect employment prospects which can further influence an individual's level of income, housing opportunities, and access to quality health care. Employment is key to stable housing and homeownership and a variety of State and national data shows that higher incomes can lead to the stability and consistency necessary to accumulate the various upfront resources needed to buy a home. Monetary savings for down payments and good credit scores are necessary to achieve initial homeownership and are largely driven by an individual's employment status and level of income. Employment also often dictates one's access to health care. Certain jobs do not offer health insurance benefits and access to jobs with such benefits may be restricted by an attachment to a criminal record. A criminal record can therefore impose significant barriers to upward socioeconomic mobility.

Impacts of the Bill

The Department of State Police (DSP) uses the Federal Bureau of Investigation’s National Incident Based Reporting System (NIBRS) to collect and report detailed information about crime incidents, victims, offenders, and arrestees. NIBRS also captures information on the relationships between victims and offenders, as well as the use of weapons and the value of stolen or damaged property. In general, NIBRS classifies drug/narcotic offenses as those that pertain to the illegal production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. Specifically, drug/narcotic violations refer to the unlawful cultivation, manufacture, distribution, sale, purchase, possession, transportation, or importation of any controlled drug or narcotic substance of equipment.

The available DSP arrest data for drug/narcotic violations suggest disparities exist that impact Black individuals in the State. During 2024, NIBRS agencies reported 12,966 drug/narcotic violation incidents resulting in 6,395 arrests. The data includes arrests for drug/narcotic violations for both personal use and for the manufacture, sale, or distribution of CDS, and does not distinguish between the two purposes. As shown in **Exhibit 1**, Black and white arrestees comprised 52% and 46%, respectively, of total arrestees. Asian individuals represented 0.4% of the total arrestees and other racial groups not shown in the exhibit (*i.e.*, American Indian or Alaska Native, Native Hawaiian or Other Pacific Islander, and Multi-racial individuals) accounted for less than 2% of the total. Ethnicity data was not available.

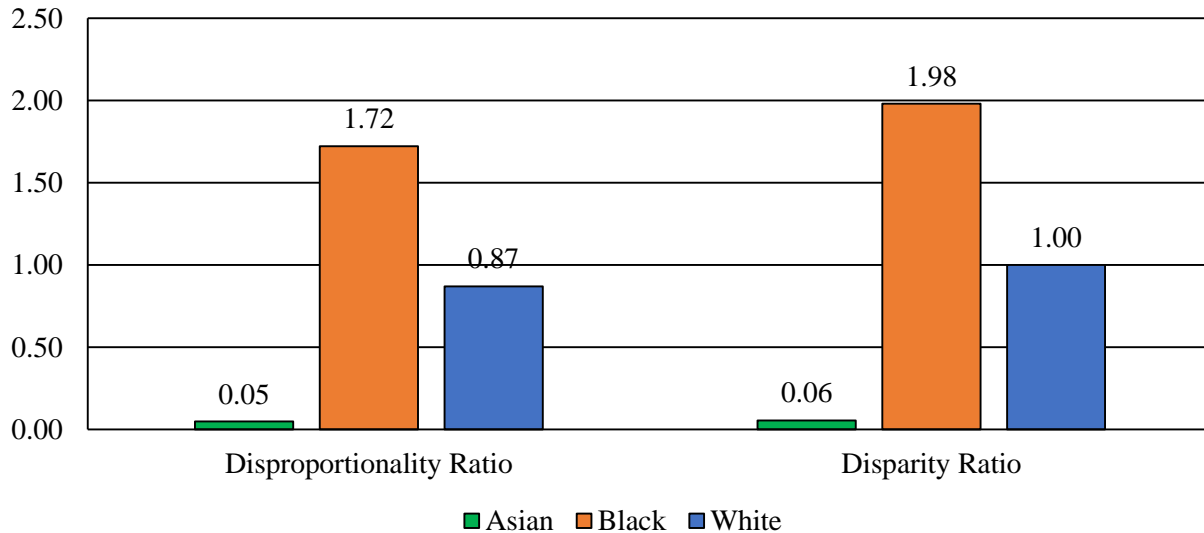
Exhibit 1
Drug/Narcotic Violation Arrests
2024



When compared to their share of the overall State population, Black offenders are significantly overrepresented in arrests for drug/narcotic violations. **Exhibit 2** shows disproportionality and disparity ratios by race from the DSP data. The disproportionality ratio for the Black population is

1.72. This means that Black individuals are nearly two times more likely to be arrested for a drug/narcotic violation in Maryland given their share of the adult population in the State. The disproportionality ratios for the other racial and ethnic groups are less than 1.00, which means these individuals are less likely to be sentenced under the statute as compared to their share of the overall adult population.

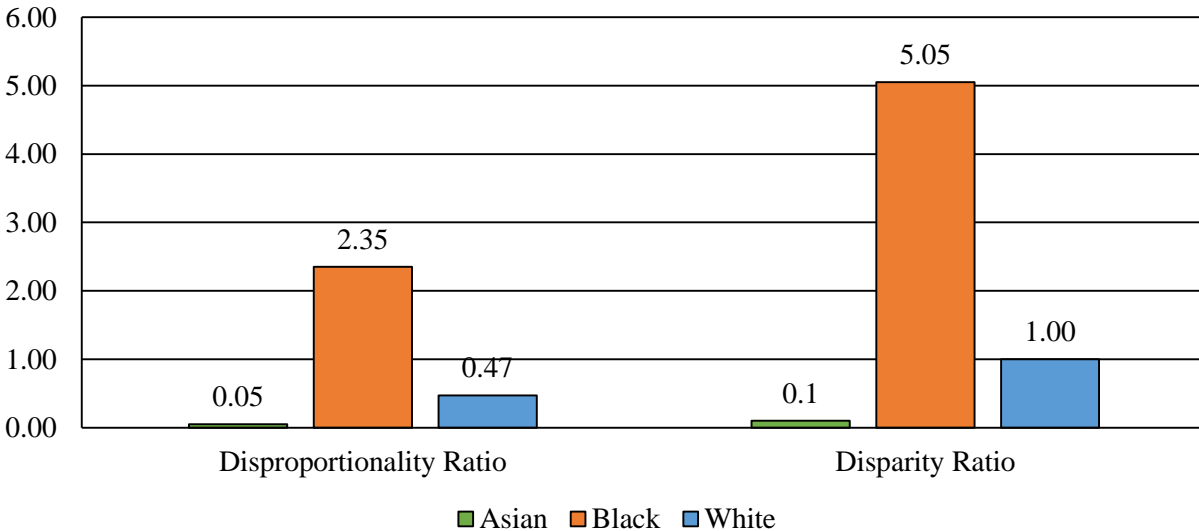
Exhibit 2
Disproportionality and Disparity Ratios for Drug/Narcotic Arrests
2024



The disparity ratio illustrates inequities in outcomes when comparing one or more racial or ethnic groups within a dataset to the white population within that same dataset. In this instance, the disparity ratio for Black arrested persons is 1.98. This means that Black individuals are almost twice as likely to be arrested for a drug/narcotic violation relative to their white peers.

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) reports information on defendants sentenced in the State's circuit courts. When compared to their share of the overall State population, Black defendants are significantly overrepresented in convictions for § 5-602 violations as they comprise 70% of this population. **Exhibit 3** shows the disproportionality and disparity ratios by race and ethnicity from the MSCCSP data. The disproportionality ratio for the Black population is 2.35. This means that Black individuals are more than twice as likely to be sentenced in the circuit court for violating this statute given their share of the population in the State. The disproportionality ratios for the other racial and ethnic groups are significantly less than 1.00, which means these individuals are considerably less likely to be sentenced under the statute as compared to their share of the overall population.

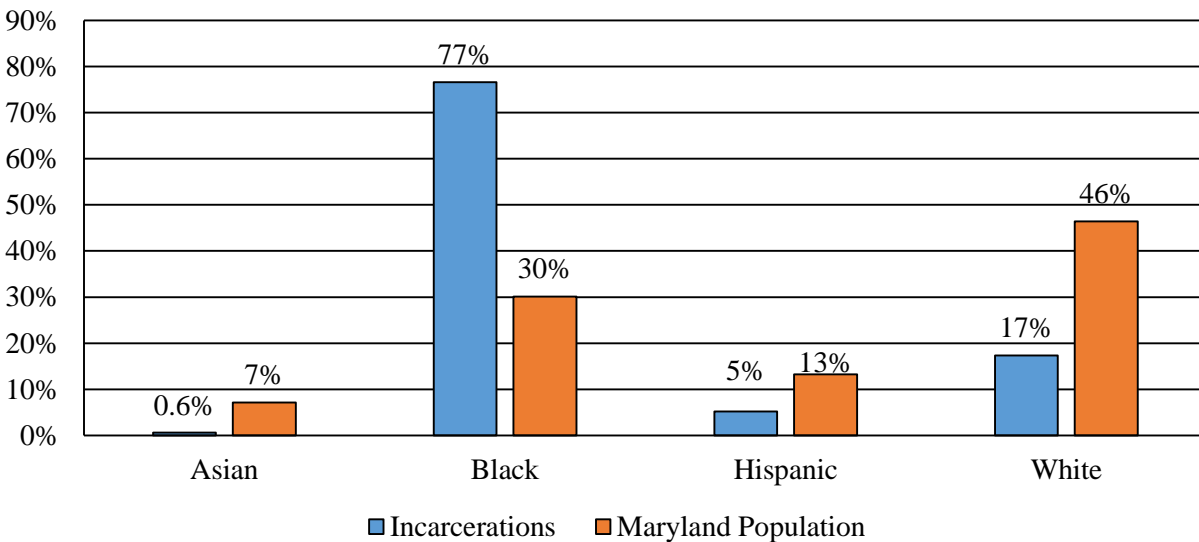
Exhibit 3
Disproportionality and Disparity Ratios for
Sentencing Guidelines-eligible Circuit Court Convictions for
Criminal Law Article § 5-602
2025



In this instance, the disparity ratio for Black defendants is 5.05, meaning they are just over five times more likely to be convicted in the circuit court for violating this statute relative to their white peers.

According to data from the Department of Public Safety and Correctional Services (DPSCS), there are 329 incarcerated people currently in DPSCS custody for violating § 5-602 of the Criminal Law Article. The data shows that Black individuals are significantly overrepresented in these incarcerations, as they comprise 77% of the total. **Exhibit 4** shows the demographic breakdown by each group's share of the State's overall population. Other racial groups not shown in the exhibit (*i.e.*, American Indian or Alaska Native, Native Hawaiian or Other Pacific Islander, and Multi-racial individuals) accounted for less than 1% of total incarcerations under this statute.

Exhibit 4
Incarcerations for Violating § 5-602 of the Criminal Law Article
2025



As noted above, possession with intent to distribute a CDS (excluding cannabis) is eligible for expungement under existing law, but *actual* distribution of CDS is not. This means that the possibility of rehabilitation is prohibitively less possible for individuals convicted of the latter offense, despite the similarities between possession with intent to distribute CDS and actual distribution. Both offenses are felonies and have identical penalties of imprisonment not exceeding 20 years or a fine not exceeding \$15,000 or both. Given that previously incarcerated individuals are ineligible for expungement if they have been convicted of a new crime or if charges are pending against them, the bill would allow offenders who have successfully reintegrated into the community to pursue rehabilitation. Expungement is key to this process, as it opens up employment opportunities that help provide a stable income for an individual, which can be essential to avoiding recidivism.

Conclusion

In Maryland and nationwide, racial and ethnic disparities exist throughout the criminal justice system. The bill's provisions that authorize a person to file a petition for expungement of a felony conviction for distribution of a CDS may provide more rehabilitative opportunities for offenders who have completed their sentence and are seeking to successfully reintegrate into the community. Data from the State's criminal justice agencies show that Black Marylanders are disproportionately overrepresented in arrests, convictions, sentencing, and incarcerations for drug/narcotic offenses specified under the bill. Accordingly, the bill may promote post-conviction rehabilitation to the extent that eligible individuals petition for and obtain expungement. The bill's equity impacts

cannot be fully estimated, as no detailed demographic data are available on expungement outcomes for the drug and narcotic offenses currently eligible for expungement.

Information Sources: Department of State Police; Department of Public Safety and Correctional Services; Administrative Office of the Courts; Maryland State Commission on Criminal Sentencing Policy; Department of Legislative Services

Analysis by: Dr. Jasmón Bailey

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Appendix – Maryland Demographics

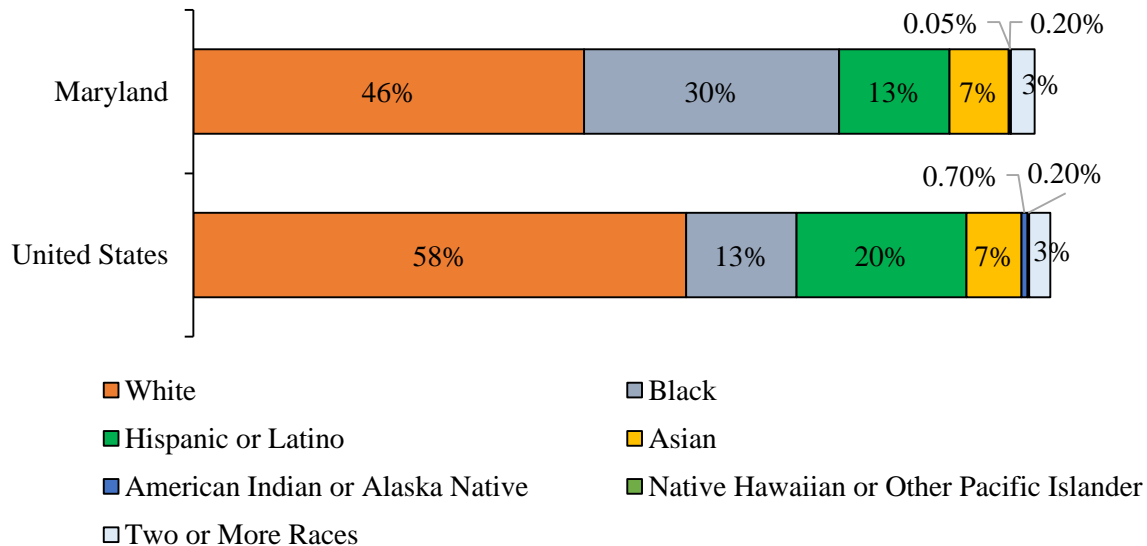
Race and Ethnicity of the Maryland Population

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. Maryland remains one of the most racially and ethnically diverse states in the nation and is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). While no single racial or ethnic group constitutes a majority, racial minorities as a group constitute a majority of the State’s population. This diversity underpins the analytical framework used in racial equity impact notes (REIN), which seek to identify potential disparities that may be exacerbated or created by proposed criminal justice legislation.

Methodology Update

Beginning in 2025, REIN will use annual population estimates from the U.S. Census Bureau’s Population Estimates Program (PEP) as the basis for disparity and disproportionality calculations. This methodological update reflects best practices in demographic analysis, as PEP data incorporate births, deaths, and migration to provide the most current population counts between censuses. Although the estimates are more temporally responsive, they do not materially change the proportionate racial and ethnic breakdown observed in the 2020 census. Instead, they conservatively reflect population changes since 2020 while preserving the overall demographic composition of the State.

**U.S. and Maryland Population by Race and Ethnicity
2024 Population Estimates**



Note: Percentages do not total 100% due to rounding.

Source: U.S. Census Bureau