



**Testimony for the House Judiciary Committee
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YANET AMANUEL
PUBLIC POLICY ADVOCATE

**HB 550 Criminal Law - Marijuana - Possession and Possession With
Intent to Distribute**

FAVORABLE

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

MAIN OFFICE
& MAILING ADDRESS
3600 CLIPPER MILL ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
or 240-274-5295
F/410-366-7838

FIELD OFFICE
6930 CARROLL AVENUE
SUITE 610
TAKOMA PARK, MD 20912
T/240-274-5295

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS
JOHN HENDERSON
PRESIDENT

DANA VICKERS SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland urges a favorable report on HB 550, which would raise from 10 grams to 1 ounce, the amount of marijuana for which possession is a civil offense and set a threshold that possession of 1 ounce or less of marijuana alone cannot be considered possession with intent to distribute.

While the Maryland General Assembly has begun to reform the laws related to marijuana possession, there is more work to do. We support this bill's efforts to further reverse the harmful effects of the failed war on drugs.

Possession with the Intent to Distribute (PWID) has been the top driver of prison sentences

In 2015, the Justice Reinvestment Coordinating Council unearthed troubling data about the impact of Maryland's drug laws on our prison population—at that time, simple possession of a controlled dangerous substance (CDS) was one of the top ten offenses at prison admission and 32% of all prison admissions were for drug offenses.¹ More recently, the 2015 Maryland Uniform Crime Report shows that in 2015, 21,971 arrests were made for marijuana possession.²

Additionally, there appears to have been an uptick—more pronounced in some jurisdictions—in marijuana distribution arrests since the 2014 decriminalization of marijuana possession of 10g or less. According to the 2015 Uniform Crime Report, as compared to 2014, arrests for possession of marijuana decreased 37% while marijuana distribution arrests increased 5% in 2015.³ This trend suggests that at least some portion of persons in possession of 10 grams or less are now being charged with a distribution offense, when the offense may in fact be more appropriately charged as possession. HB 550 is a reasonable response to this dynamic.

HB 550 has the potential to save precious taxpayer dollars and avoid the collateral consequences of convictions

¹ Justice Reinvestment Coordinating Council, Presentation—Maryland Prison Drivers (July 29, 2015).

² Crime in Maryland, 2015 Uniform Crime Report (p. 110)

³ Crime in Maryland, 2015 Uniform Crime Report (p. 110)

The threshold proposed in HB 550 can potentially divert some distribution charges toward simple possession charges, which can save precious taxpayer dollars. The average cost of incarcerating a person in a state facility is approximately \$870 per month. Operating costs of local detention facilities range from \$40 to \$170 per inmate. These are persons who engaged in consensual adult conduct and pose no real public safety threat.

Moreover, for those who are not actually incarcerated for criminal possession of marijuana, there nonetheless remain the costs of judicial resources expended adjudicating these cases. In 2010, Maryland spent approximately \$106 million enforcing marijuana possession laws.⁴ More importantly, raising the civil possession amount has the potential to reduce the negative collateral consequences of criminal convictions, including loss of wages, employment consequences, and household instability.

Therefore, HB 550 has the potential to reduce the incarcerated population, conserve judicial resources, save taxpayer dollars, and avoid the disruption in lives caused by unnecessary entanglement with the criminal legal system.

Maryland's simple possession law is among the most modest in the country

Under Maryland's law, possession of up to 10g of marijuana is a civil infraction. Twenty-six states have enacted laws with alternatives to the possibility of jail time for the possession of small amounts of marijuana. Of these states, Maryland's 10g is the smallest amount decriminalized. The majority of states have decriminalized 1 ounce, with several having higher amounts.⁵

HB 550 dovetails with the progress Maryland has already made toward reversing the failed war on drugs—from expunging civil possession of marijuana to reducing the jail penalty to a maximum 6 months. The bill is the next logical and reasonable step in the right direction.

Drug offenses disproportionately affect communities of color

Marijuana possession arrests disproportionately affect communities of color. Regardless of whether the county is majority White or majority Black, the racial disparity in the arrest rates is consistent.⁶ In 2013, Baltimore was 64% African American, but 91% of all minor marijuana arrests were of African Americans.⁷ In 2010, Montgomery County was 18% African American but 46% of all marijuana possession arrests were of African Americans.⁸

Finally, studies consistently show that people of all races use and possess marijuana at similar rates. In spite of this fact, African Americans in Maryland

⁴ ACLU of Maryland, *The Maryland War on Marijuana in Black and White* (2013).

⁵ Project, Marijuana Policy. "Decriminalization." *MPP*, www.mpp.org/issues/decriminalization/.

⁶ *Id.*

⁷ *Baltimore Mayor 'Appalled' at Disproportionate Marijuana Arrest rates for African Americans*, FOX45 (Feb. 21, 2014). Available at: <http://foxbaltimore.com/news/features/top-stories/stories/baltimore-mayor-appalled-at-disproportionate-marijuana-arrest-rates-african-americans-25690.shtml#.Uwn47aU7VBW>.

⁸ ACLU of Maryland, *The Maryland War on Marijuana in Black and White* (October 2013), http://www.aclu-md.org/marijuana_reform.

are 3 times more likely than their white counterparts to be arrested for marijuana possession.

HB 550 is a reasonable remedy to the uptick in distribution arrests since the decriminalization of simple possession. For the foregoing reasons, we urge a favorable report on HB 550.

