



**Testimony for House Judiciary Committee  
March 10, 2020**

**HB 1445 Controlled Dangerous Substance Testing – Correctional  
Services and Medical Laboratories**

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PUBLIC POLICY INTERN

**FAVORABLE**

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The ACLU of Maryland urges a favorable report on HB 1445, which as amended, will prevent correctional officers and probation officers from relying on testing of non-criminalized, non-prescription drugs and marijuana if the individual has proof of a written certification from a provider registered with the Maryland Medical Cannabis Commission.

**Probationary violations are a frequent cause of recidivism**

Annually, 600,000 people return to jail nationally. At least 45% of whom are re-incarcerated for violations of their terms of parole. 1 in 4 people return to jail for technical violations; not for committing a crime.<sup>1</sup> In Maryland, nearly 60 percent of those sentenced to prison in 2014 were behind bars for breaking the rules of their community supervision. Technical violations, such as failing a drug test or missing a meeting accounted for more than 70 percent of parole and mandatory supervision returns to prison and over 40 percent of probation revocations.<sup>2</sup> With the decriminalization and legalization of medical use for certain substances such as marijuana, its use should not be grounds for reincarcerating individuals.

**A punitive response to substance use disorder is misguided**

Medical and decriminalized substance use is often associated with health needs—whether it be a means to cope with mental health challenges, such as trauma or other medical emergencies such as treating seizures.<sup>3</sup> Without the legal options, individuals may turn to more risky, illegal and harmful stress/pain relievers. The PEW Research Center suggests administrative intervention rather than re-incarceration is more effective and less costly as

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<sup>1</sup>Handelman, S., Theriault, M., & Crime and Justice News. (2020, March 6). Recidivism's Hidden Drivers: 'Technical Violations' of Probation or Parole. Retrieved March 9, 2020, from <https://thecrimereport.org/2020/03/05/the-hidden-driver-of-recidivism-technical-violations-of-probation-or-parole/>

<sup>2</sup> Maryland's 2016 Criminal Justice Reform. (2017). Retrieved 9 March 2020, from <http://gocep.maryland.gov/wp-content/uploads/justice-reinvestment-advisory-20180220-supplemental-materials.pdf>

<sup>3</sup> Hager, E. (2020, January 17). People on Probation and Parole Are Being Denied Perfectly Legal Medical Weed. Retrieved March 9, 2020, from <https://www.themarshallproject.org/2020/01/17/people-on-probation-and-parole-are-being-denied-perfectly-legal-medical-weed>



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they are solutions that would address the need reflected in drug use rather than creating more stressors, increasing medical risk, and increasing the financial burden on the state for incarceration.<sup>4</sup>

**Incarceration reinforces the cycle of poverty and impacts communities**

Children with parents who return to jail bear the burden as well. Parental incarceration increases the risk of child criminal involvement, psychological problems, reduces educational attainment, increases poverty, and attachment issues.<sup>5</sup> Moreover, disrupting lives and families to address substance use disorder is simply unethical.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on HB 1445.

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<sup>4</sup>To Safely Cut Incarceration, States Rethink Responses to Supervision Violations. (2019, July 16). Retrieved March 9, 2020, from <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2019/07/to-safely-cut-incarceration-states-rethink-responses-to-supervision-violations>

<sup>5</sup> Martin, E. (2017, March 1). Hidden Consequences: The Impact of Incarceration on Dependent Children. Retrieved March 9, 2020, from <https://nij.ojp.gov/topics/articles/hidden-consequences-impact-incarceration-dependent-children>