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**SB 692: Cannabis – Legalization and Regulation
(Cannabis Legalization and Reparations for the War on Drugs Act)**

**Hearing before the Senate Finance Committee
March 3, 2022**

Position: FAVORABLE

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization that advances social justice, economic and racial equity, and fundamental human rights in Maryland. The PJC **supports SB 692** for its implementation of cannabis reform while genuinely and proactively prioritizing race equity.

Several states have reformed their cannabis laws with good intentions. Many of those states specifically intended to repair longstanding racial disparities in the harms caused by criminalization. Nevertheless, in many states with legalized cannabis, racial disparities persist in enforcement outcomes, and new disparities have taken shape in the legalized private sector.

In D.C., where the legalization campaign focused on racist outcomes, Black residents “still account for just under 90 percent of those arrested on all pot-related charges.” For example, in the four years after possession was legalized, 84 percent of those arrested for public consumption were Black.¹ In Colorado, where legalization has had the longest runway, the State recently found that Black residents remain twice as likely to be arrested on cannabis-related charges as their white neighbors.² In some states, including Maine, Vermont, and Washington, disparities have even *increased* post-legalization.³

Similar results have played out in the legalized cannabis market. A 2017 survey found that, across all states with some form of legalized cannabis distribution, 81 percent of people with some amount of ownership in a cannabis business were white, with only 5.7 percent being Latine and 4.3 percent Black.⁴

¹ Paul Schwartzman & John Harden, *D.C. Legalized Marijuana, but One Thing Didn't Change*, Wash. Post (Sept. 15, 2020), https://www.washingtonpost.com/local/legal-issues/dc-marijuana-arrest-legal/2020/09/15/65c20348-d01b-11ea-9038-af089b63ac21_story.html.

² Colorado Dep't of Pub. Safety, *Impacts of Marijuana Legalization in Colorado* (July 2021), https://cdpsdocs.state.co.us/ors/docs/reports/2021-SB13-283_Rpt.pdf.

³ ACLU, *A Tale of Two Countries* 34–36 (2020), https://www.aclu.org/sites/default/files/field_document/marijuanareport_03232021.pdf.

⁴ Katherine Harris & William Martin, *Persistent Inequities in Cannabis Policy*, Judges J., Winter 2021, at 9–13, <https://www.bakerinstitute.org/media/files/files/Od04dbdb/inequities-in-cannabis-policy-2021.pdf>.

As it stands in Maryland, even after decriminalization, Black people remain twice as likely to be arrested for cannabis possession compared to white people, despite virtually equal usage rates.⁵ In 2018, three Maryland counties were in the Top 10 *nationwide* for highest cannabis arrest rates.⁶

Without the provisions of SB 692, Maryland would be another “good intentions” state. While legalization in any form is a step in the right direction, “the expectation that legislation will improve racial equity [should not be] treated as a foregone conclusion, one requiring no additional action beyond legalization itself.”⁷ To avoid the inequity that persists in other states, Maryland must not only follow their lead but learn from their mistakes and innovate better solutions.

SB 692 anticipates future inequitable outcomes and implements proactive solutions by:

- affirmatively legalizing possession of up to four ounces of cannabis and allowing home cultivation of up to six plants, while violations beyond those limits face only capped civil fines;
- preventing continued cannabis-based criminal legal consequences by legalizing paraphernalia, providing that legal possession is presumptively not evidence of intent to distribute, and addressing the use of odor as a basis for probable cause;
- recognizing that some charged with civil offenses will be unable to pay fines, and allowing community service instead to prevent collateral consequences predicated on cannabis alone;
- providing for vacatur of past convictions, not merely expungement, to end disproportionate punishment and stigmatization of Black and Latine Marylanders for now legal conduct;
- allocating 60% of cannabis tax revenue to communities most harmed by the inequitable enforcement of cannabis crimes, and 30% of business licenses to minority-owned companies.

It is one thing to legalize cannabis. It is another thing to end the war on drugs. SB 692 is the only legislation that focuses on the latter instead of treating legal cannabis as an end in itself. It would begin to repair the disproportionate harm the drug war inflicts on communities across Maryland.

Legalizing cannabis without SB 692’s proactive approach will mean continued interactions between law enforcement and the community, and entanglement of low-income people with legal systems, based solely on cannabis. It will be no surprise when those affected are disproportionately Black and Latine.

The General Assembly will take a vital step towards greater racial equity in Maryland when it implements cannabis reform. It should take this opportunity deliberately and proactively to repair the ongoing harms of cannabis prohibition and prevent racial disparities in the legal landscape results from its action. **The PJC strongly urges a favorable report on SB 692.**

For more information contact Michael Abrams, 410-625-9409 ext. 222, abramsm@publicjustice.org.

⁵ ACLU, *supra*, at 32.

⁶ *Id.* at 23.

⁷ Harris & Martin, *supra*, at 9–13.