

HB0980 Sponsor Testimony (2).pdf

Uploaded by: Caylin Young

Position: FAV

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Judiciary Committee



The Maryland House of Delegates
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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Judicial Proceedings Committee

Thursday, March 30, 2023

**House Bill 980- Criminal Procedure - Probation, Parole, and Pretrial Release
Violations - Cannabis Use**

Good afternoon esteemed colleagues,

I am here today to seeking your support for House Bill 980 Criminal Procedure - Probation, Parole, and Pretrial Release Violations - Cannabis Use, which seeks to prevent individuals on probation or parole from being punished for cannabis use, a behavior that will now be legal come July 1, 2023 under Maryland state law. As we move towards legalizing recreational cannabis use in Maryland, it is important that we reconsider all of the derivative crimes, penalties, and violations in our code that remain on the books. It is unfair and unjust to continue punishing individuals for behavior that we have deemed will no longer be a crime.

Maryland has come a long way in our understanding of cannabis, its uses, and its potential benefits. The legalization of recreational cannabis in Maryland is a reflection of this progress. We have also recognized that the so-called war on drugs was a complete failure. House Bill 980 recognizes that using cannabis alone does not inherently create danger and calls for a more nuanced approach to pretrial release, probation, and parole violations. The bill requires judges and the parole commission to make a specific finding that the use of cannabis poses a danger before revoking pretrial release or finding violations. This ensures that individuals are not penalized for cannabis use, and that their loved ones are not unnecessarily separated from them.

It is important to note that the bill does not condone using cannabis while driving or any other violation. Rather, it acknowledges that cannabis use alone does not pose a danger to society and calls for a more equitable and evidence-based approach to criminal justice policies.

Passing this bill would mark a progressive shift in Maryland's approach to cannabis use by defendants and parolees, and would serve as a model for other states grappling with the complexities of cannabis legalization and its implications for criminal justice. In conclusion, I urge the committee to support HB 980 and take a step towards a more equitable and evidence-based approach to criminal justice policies.

I have accepted a friendly amendment from the Office of the Public Defender to clean up the draft language. I urge a FAVORABLE report with the amendments.



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Here are some ways that preventing individuals on probation or parole from being punished for cannabis use is good policy:

- Reducing unnecessary incarceration: By not punishing individuals on probation or parole for cannabis use, fewer people will be incarcerated for non-violent offenses, reducing the burden on the criminal justice system and increasing resources for addressing more serious crimes.
- Focusing resources on violent offenders: By not punishing individuals for cannabis use, probation and parole officers can focus their resources on monitoring and supervising individuals who pose a greater threat to public safety, such as those with a history of violent offenses.
- Promoting trust in the criminal justice system: When individuals on probation or parole are not punished for cannabis use, it can increase their trust in the criminal justice system and improve their willingness to comply with the terms of their supervision.
- Encouraging honesty and transparency: When individuals are not punished for cannabis use, they may be more likely to be honest and transparent with their probation or parole officers about their drug use. This can enable officers to provide more effective support and resources to help individuals address any issues related to drug use.
- Reducing racial disparities: Cannabis prohibition and its enforcement have historically led to racial disparities in arrests and incarceration rates. Stopping individuals on probation or parole from being punished for cannabis use can help reduce these disparities and promote greater equity in the criminal justice system.
- Reducing the collateral consequences of cannabis prohibition: Cannabis prohibition and its enforcement can lead to collateral consequences, such as loss of employment, housing, and other opportunities. By not punishing individuals for cannabis use, these collateral consequences can be mitigated, promoting greater economic stability and reducing the likelihood of engaging in criminal activities.

HB980 Legislative Black Caucus of MD

Uploaded by: Legislative Black Caucus

Position: FAV



March 28, 2023

Senator Willam C. Smith, Chair
Judicial Proceedings Committee
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Dear Chairman Smith and Members of The Committee:

The Legislative Black Caucus of Maryland offers strong **favorable** support for House Bill 980 – Criminal Procedure - Probation, Parole, and Pretrial Release Violations - Cannabis Use. **This bill is on the 2023 legislative priority agenda of the Black Caucus.**

In effect, this legislation will prohibit a court from revoking a defendant's pretrial release or finding that a defendant has violated probation, and the Maryland Parole Commission from finding that a parolee has violated parole, based solely on the use of cannabis or a positive test for cannabis unless the court or Commission makes a finding that the use of cannabis could create a danger to the defendant or others.

The Legislative Black Caucus recognizes that Black Marylanders make up the highest percentage of those incarcerated. This bill will reduce racial disparities and protect defendants and parolees from excessive restriction—making a modification in alignment with recent cannabis-related policy changes. By removing blanket cannabis-related prohibitions and penalties for individuals on probation or parole, the Legislature will help reduce racial disparities in our criminal justice system and modify practices to mirror recent policy changes in our State. For these reasons, the Legislative Black Caucus of Maryland supports House Bill 980.

Legislative Black Caucus of Maryland

HB 980 Cannabis Probation Parole Senate Testimony.

Uploaded by: Michele Hall

Position: FAV



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

**BILL: HB 980 Criminal Procedure—Probation, Parole, Pretrial Release Violations—
Cannabis Use**

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: March 30, 2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 980. With the legalization of cannabis, there must be a fundamental reworking of the structure of our criminal legal system. One of those structures are conditions of release, probation, and parole. This bill recognizes that now that cannabis is legal, it is no longer appropriate for its consumption to be a blanket violation of conditions of release, probation, or parole. Whereas before use of cannabis was a crime and clearly a violation for prohibited persons, now its consumption is no different than alcohol or tobacco. As such, it should no longer be the basis for individuals to lose their liberty. Importantly, this bill makes clear that a limitation on cannabis use must be made at the time of ordering pretrial release, probation, or parole, so that the defendant has notice that use of cannabis could result in a revocation of their liberty.

This bill ensures that the individual is on notice that they cannot use cannabis or risk revocation of their release status, and also narrowly tailors any prohibition on cannabis use to instances where the court finds it would be a danger to allow the individual to use cannabis.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on HB 980.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Michele D. Hall, Assistant Public Defender | michele.hall@maryland.gov

hb980amend.pdf

Uploaded by: Matthew Pipkin

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 980
Criminal Procedure – Probation, Parole, and Pretrial Release
Violations – Cannabis Use
DATE: March 22, 2023
(3/30)
POSITION: Oppose, as drafted

The Maryland Judiciary continues to oppose the amended House Bill 980 as drafted.

The bill continues to restrict judicial discretion to revoke a defendant’s pretrial release or find a defendant has violated probation based solely on the use of cannabis or a positive test for cannabis, by requiring that the court make a specific finding that the defendant’s use of cannabis could create a danger to the defendant or others and requiring that the specific finding be made when determining the conditions of pretrial release or probation.

The Judiciary has several concerns with this bill. Most importantly, its impact and applicability to problem solving courts such as drug treatment courts and mental health courts. These courts typically provide individualized, but intensive and structured, treatment programs. This bill could hinder the progress of individuals in these programs by precluding judges from addressing the use and potential abuse of cannabis by a defendant enrolled in a problem-solving court. There may be a reason a judge would like an individual to refrain from marijuana such as it could impede the effectiveness of a psychotropic drug that has been prescribed to an individual enrolled in mental health court. Further, some treatment providers have a zero-tolerance policy so this bill would limit the programs a judge could refer an individual to for treatment. The bill as drafted also imposes functional limitations as individuals are referred to problem-solving courts after the initial pretrial considerations are assigned. In addition, this bill does not have a carve out for those individuals currently enrolled in programs where this determination was not made “at the time of ordering pretrial release.”

Further, the Judiciary believes the language requiring that judges make a finding regarding dangerousness of cannabis use to defendant or others and ordering that defendant refrain from using cannabis, at the time of ordering pretrial release or probation supervision, further restricts the judicial discretion to determine whether there should be a

consequence for violating release conditions or terms of probation supervision for use of cannabis.

cc. Hon. Caylin Young
Judicial Council
Legislative Committee
Kelley O'Connor