



Testimony to the Senate Judicial Proceedings Committee

HB 1071 - Criminal Procedure - Reasonable Suspicion and Probable Cause - Cannabis

Position- Support

By: Nancy Soreng

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The League of Women Voters is a nonpartisan organization that works to influence public policy through education and advocacy. The League advocates against systemic racism in the justice system and, at a minimum, for preventing excessive force and brutality by law enforcement. The League supports a criminal justice system that is just, effective, equitable, transparent, and that fosters public trust at all stages.

While Marylanders overwhelmingly voted to legalize recreational marijuana use, the law continues to allow police to stop individuals or search vehicles based on the suspected odor of marijuana alone. These interactions undermine the right to privacy and enable racial profiling. The Criminal Procedure - Reasonable Suspicion and Probable Cause - Cannabis bill will close a major gateway to criminalization and unnecessary interactions with police.

In Maryland, police are two times more likely to search Black drivers and their vehicles during traffic stops than white drivers. For incidents involving Black drivers, probable cause was used to justify 67% of searches. In cases involving white drivers, probable cause was only used to justify a search in 46.1% of incidents.¹

A lawsuit brought by a Black family who were beaten by police officers in Baltimore County based on an odor search illustrates this problem.² During the incident the family was racially profiled, searched based on the odor of marijuana, and brutally beaten by the police. The five family members were arrested and charged with crimes that were subsequently dropped or not pursued.

Stops and searches based on the odor of marijuana are problematic because there is no way to know the amount of time the odor has been present, where the odor came

¹ <http://goccp.maryland.gov/data-dashboards/traffic-stop-data-dashboard/>

² <https://thedailyrecord.com/2023/01/25/lawsuit-baltimore-co-police-beat-5-family-members-after-claiming-to-smell-pot/>

from, or if the odor is a result of unburnt or burnt marijuana. There is no way to confirm or deny the presence of the odor after a search, which allows officers' claims to go virtually unchecked, and claims of marijuana odor have become commonplace, with some judges even determining many are highly suspect.³

The League also believes the bill must codify an exclusionary rule that would bar evidence obtained in violation of the statute from being used in criminal proceedings. This rule is needed to deter violations of the statute and provide some form of redress for victims of illegal searches.

The League is committed to the elimination of systemic bias, including disproportionate policing and incarceration of marginalized communities. This bill will ensure that the odor of marijuana no longer provides probable cause to search a vehicle or reasonable suspicion to stop a person.

The League of Women Voters, Maryland, representing 1500+ concerned citizens throughout Maryland, strongly urges a favorable report.

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<https://www.startribune.com/federal-judge-rules-minneapolis-police-illegally-searched-frey-staffers-car/600159885/>; <https://casetext.com/case/united-states-v-gray-366>;
<https://www.nytimes.com/2018/03/18/nyregion/testilying-police-perjury-new-york.html>