

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1071
Criminal Procedure – Reasonable Suspicion and Probable Cause -
Cannabis
DATE: March 1, 2023
(3/9)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 1071. This bill provides that a finding of reasonable suspicion or probable cause may not be based solely on the odor of raw or burnt cannabis, the presence of money in proximity to cannabis, or possession of cannabis. However, the language on page 2, lines 1-3 appears to broaden the applicability to cases “relating to possession of contraband or other criminal activity.” That language is very broad and it is unclear whether that broad application is intentional.

Further, without exception, the bill provides that evidence discovered or obtained in violation of this bill, including evidence discovered or obtained with consent, is not admissible. This section conflicts with Fourth Amendment jurisprudence regarding consent searches. It is also hard to read this section in conjunction with the earlier provision. If a search is done with the consent of the party, it is necessarily not based on a finding of probable cause and thus the earlier section would not apply.

cc. Hon. Charlotte Crutchfield
Judicial Council
Legislative Committee
Kelley O’Connor