

# **SB0404\_Controlled\_Dangerous\_Substances\_And\_Firearm**

Uploaded by: Cecilia Plante

Position: FAV



**TESTIMONY FOR SB0404**  
**CRIMINAL LAW – CONTROLLED DANGEROUS SUBSTANCES AND FIREARMS**

**Bill Sponsor:** Senator Smith

**Committee:** Judicial Proceedings

**Organization Submitting:** Maryland Legislative Coalition

**Person Submitting:** Cecilia Plante, co-chair

**Position:** FAVORABLE WITH AMENDMENTS

I am submitting this testimony in favor of SB0404 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

Our members are in complete support of the intent of this bill to reduce the sentences of individuals who have been incarcerated for possession of what are now legal amounts of marijuana, and also to make possession or transfer of stolen firearms a felony.

Given the changing climate and the updated laws for possession of marijuana, it makes sense to update the statutes to allow for growing an amount of marijuana for personal use and sharing that with friends. It also makes sense to allow individuals who have been incarcerated for possessing less than 50 pounds of marijuana (the current statutory limit) and serving the mandatory minimum sentence to be able to request that their sentences be reduced.

We also agree that firearm charges should be dealt with more severely, due to the epidemic of shootings in our country. Possessing, selling, or transferring a stolen firearm, or trafficking a regulated firearm into the state should be a felony, as should selling or possessing a firearm that has had the serial numbers removed.

These are both regulations that fall squarely in the realm of 'common good'. However, we do not understand why possession or distribution of less than 448 grams of cocaine is included in this legislation. It has been well documented that marijuana is not as addictive as cocaine and we have not legalized cocaine possession in the state. We believe that portion of the legislation should be stricken.

We support this bill and recommend a **FAVORABLE WITH AMENDMENTS** report in committee

**2024021917155581.pdf**

Uploaded by: Harold Morris

Position: FAV

Hb 346 is a major step forward, to reform, rather than unnecessary punishment.

This bill ends 40 year sentencing, with mandatory minimum sentencing of 20 years without parole, for non violent marijuana offenses.

To give an individual 40 years in prison, with a mandatory minimum sentence of 20 years without parole, for anything non violent, is draconian.

Hb 346, still has effective sentencing, of up to 20 years, for non violent marijuana distribution, which is enough.

If passed , judges will have the ability to sentence individuals according to their crime, weather it was violent or non violent.

If not passed, sentences will remain a one size fits all mandatory minimum, classifying non violent, with violent as one.

My son Harold J Morris III, was sentenced to 20 years without parole, for a nonviolent marijuana offense.

He has been sent to a prison, in a population of mostly violent criminals, because classification is determined by time, not the nature of the crime.

My son waited 2 years for trial, and didn't count on getting a 20 year sentence, without parole.

From day one, he had served God, and had taken his family to church every Sunday, and prayed that he would be able to remain with his family.

Being said, the thought of doing 5 to 10 years, is enough to reform someone.

I have thousands of signatures, from people online and in person, who believes that no one should do 20 years in prison, for a nonviolent marijuana offense.

Through my years of advocacy, I'm convinced, that the majority of people agree with this bill.

To oppose this bill, would only keep nonviolent marijuana offenders in a cage, to serve just as much time as violent criminals, and remain classified as such, and to be re-entered into society institutionalized, as my son would be in his 50s and his children in their 30s, when released.

So, I ask this committee, please think about it, and do whats right, by voting in favor for house bill 346, crossed with Senate bill 404.

God bless you, and thank you.

# **Testimony in support of SB0404.pdf**

Uploaded by: Richard KAP Kaplowitz

Position: FAV

SB0404\_RichardKaplowitz\_FAV  
2/22/2022

Richard Keith Kaplowitz  
Frederick, MD 21703-7134

**TESTIMONY ON SB#0404 - POSITION: FAVORABLE**  
**Criminal Law - Controlled Dangerous Substances and Firearms**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Richard Keith Kaplowitz

**My name is Richard Kaplowitz. I am a resident of District 3. I am submitting this testimony in support of SB#0404, Criminal Law - Controlled Dangerous Substances and Firearms**

This bill is an attempt to continue decriminalization of cannabis for adults twenty-one years or older within specified limits. It establishes for other more dangerous drugs limits on the amount of the drugs and classifies exceeding those limits or dealing in those drugs, especially more than the limits penalizing a person as a volume dealer or drug kingpin, as a felony under Maryland law.

It protects a person over age 21 in a private residence from penalty if the amount of cannabis products is less than the limit established and said cannabis products or concentrated cannabis is for personal use or sharing with other adults.

This continues Maryland's reclassification of cannabis such that penalties applied in the past are no longer needed for that class of drugs below a certain limit. Police and judicial resources are no longer involved when a person follows the requirements this bill will establish.

**I respectfully urge this committee to return a favorable report on SB0404.**

# **Copy of Copy of SB404 Controlled Dangerous Substan**

Uploaded by: Natasha Khalfani

Position: FWA



**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: SB404 Controlled Dangerous Substances and Firearms**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable with Amendments**

**DATE: February 20, 2024**

**The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report only after amendments on Senate Bill 404.** The Office of the Public Defender supports the portion of SB 404 dealing with provisions involving the adult sharing of cannabis and reducing the maximum penalties for crimes involving certain amounts of cannabis. The Office of the Public Defender does not support the provisions of this bill, or any other bill, that increase the classification of handgun offenses from a misdemeanor to a felony or raise carceral penalties, we respectfully request the handgun provisions be removed from the bill.

This bill allows adults to manufacture and share personal use amounts of cannabis in a private residence. This bill also limits the maximum criminal penalties for those who sell large amounts of cannabis. It removes the mandatory minimum penalty for manufacturing, distributing, dispensing, or possessing greater than 50 pounds of cannabis and reduces the current felony conviction to a misdemeanor conviction and permits a maximum penalty of 10 years. For those “drug kingpins” who organize the manufacturing, distribution, dispensing, or importing of cannabis, it reduces the penalties from a mandatory minimum sentence of 20 years and a maximum of 40 years, to a felony conviction with a maximum penalty of 20 years.

These changes acknowledge that cannabis is now part of the legal economic market in Maryland, and that accordingly cannabis is not the same as the other enumerated substances in the statute and should not be treated in the same manner. It would be contradictory for the State to benefit from the large financial gains of the legal cannabis market while sentencing individuals for the unlicensed sale of large amounts of cannabis commensurate with cocaine, fentanyl, methamphetamine, and other illegal and dangerous substances. This bill appropriately balances



holding those accountable who sell cannabis outside of the regulated market, while not over-penalizing those engaged in conduct that is now lawful.

While we support the changes in the statute relating to cannabis. The Office of the Public Defender requests the committee amend SB404 by removing all the provisions of the bill that change the classification of certain gun crimes from misdemeanors to felonies.

According to the U.S. Department of Justice, increasing the severity of penalties does not deter crime. People who commit crime are often not aware of the penalties attached to their offense. Also, when crimes are committed out of issues of necessity or insecurity, an increase in penalty does not address the underlying root cause of the crime. While there are many causes for gun possession, the most common reason that people carry guns are because they do not feel safe and want to protect themselves. Turning a misdemeanor gun offense into a felony does nothing to address the underlying issue of safety and will not prevent people from carrying guns.

Changing the classification of crimes from misdemeanors to felonies does not prevent crime and does not improve public safety.<sup>1</sup> Creating more felonies only increases the collateral consequences of convicted people, which results in increasing the possibility of recidivism and further diminishing public safety in the communities.

Collateral consequences are legal restrictions that disqualify people convicted of crimes from accessing certain needs and benefits available to other citizens.<sup>2</sup> Many of the collateral consequences experienced by people with felony convictions involve their very basic needs including employment, housing and public food benefits.<sup>3</sup> Without the possibility of stable housing and income to provide for food and other necessities, people are not safe and communities are not safe. When people do not have what they need the possibility of crime dramatically increases.

Felonies are the highest level of crime. As such, people with felony convictions face increased challenges in gaining employment. Eighty-seven percent of employers conduct background

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<sup>1</sup> <https://www.ojp.gov/pdffiles1/nij/247350.pdf>

<sup>2</sup> <https://niccc.nationalreentryresourcecenter.org/>

<sup>3</sup> Other collateral consequences specific to Maryland are prohibitions of professional licensing, ineligibility for some civil legal assistance, prohibition from state retirement benefits, no voting rights and disqualification of jury to name a few.

checks. Most employers do not hire people with felony convictions and/ or who have served time in prison. Sixty percent of incarcerated people remain unemployed one year after their release. This inability to gain employment desperately impacts a person's quality of life and ability to establish a livelihood without committing crime.

Similarly, without employment, a person re-entering society cannot provide him or herself housing if they have no income to pay for it. At the same time, people with felony convictions are unable to access public housing and housing voucher programs. Most, if not all, government housing disqualifies applicants with felony convictions. Furthermore, families that live in public housing or have housing through a government voucher, are often not allowed to have family members with felony convictions live with them. Additionally, most landlords often do background checks and do not rent to people with criminal backgrounds and specifically felony charges. This means that a person with a felony conviction not only faces significant barriers accessing housing but is most likely unable to access affordable housing because of their conviction. They could also be prohibited from reunifying with their families if their family lives in any form of public housing.

Lastly, people with felony convictions are excluded from participating in food supplement programs in Maryland. With the prices of food on the rise, limited income and no access to food supplement programs, the options for a convicted felon to survive and meet their basic needs without reoffending are little to none.

Often people who carry guns illegally are from communities that are impoverished, underserved, over-policed and made up of citizens who have experienced high instances of trauma. Guns are often being carried as a means to safety. When gun crimes involving purchasing, possessing, distributing and manufacturing guns are made to be felonies, these reclassification only creates, maintains and perpetuates conditions that create crimes and violence. If the Maryland General Assembly is serious about public safety, instead of reclassifying gun crimes as more serious felony offenses, it will invest in reentry programs for people being released from incarceration that will assist in accessing employment, housing and other necessities while at the same time investing in the communities that are unsafe and creating a need for guns in the first place.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report only after amending Senate Bill 404.**

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

**sb404.pdf**

Uploaded by: Linda Miller

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:** Senate Bill 404  
Criminal Law – Controlled Dangerous Substances and Firearms  
**DATE:** January 24, 2024  
(2/21)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill in its current iteration. Specifically, the Judiciary objects to the mandatory language requiring a hearing as interfering with the Court’s ability to set its own dockets. Holding such a hearing should be discretionary. Additionally, the Petitioner should certify that a copy of the request is sent to the State’s Attorney’s Office rather than the Court. Finally, it is unclear what “substantial injustice to the defendant” means on page 5, line 31 and page 7 line 27, and how the Court should apply that standard.

cc. Hon. William Smith  
Judicial Council  
Legislative Committee  
Kelley O’Connor

# **MCPA-MSA\_SB 404 Controlled Dangerous Substances an**

Uploaded by: Natasha Mehu

Position: UNF



# Maryland Chiefs of Police Association

## Maryland Sheriffs' Association



### MEMORANDUM

TO: The Honorable William C. Smith, Jr., Chair and  
Members of the Judicial Proceedings Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee  
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee  
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 21, 2024

RE: **SB 404 Criminal Law – Controlled Dangerous Substances and Firearms**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 404**. This bill reduces penalties for cannabis volume dealers and drug kingpins from a felony to a misdemeanor; allows individuals who have been incarcerated as a volume dealer or drug kingpin or certain amounts of cocaine or cannabis to petition for a reduction or modification of their sentence; alters the penalties and classification for certain firearm offenses, and allows a person 21 years of age or older to manufacture personal amounts of cannabis so long as it's done without a "volatile solvent."

§5-612 of the Criminal Law Article, currently provides penalties for those who possess controlled dangerous substances in a large amount; the possession of these large amounts is often referred to as "volume dealer." The amount that triggers an enhanced penalty varies depending on the substance. §5-612 reflects an assessment of the perceived dangers associated with each substance. For example, a person is a volume dealer with 448 grams of phencyclidine, but only needs 28 grams for morphine.

§5-612 sets a level of fifty (50) pounds for cannabis. By way of comparison, 448 grams is roughly 0.98 pounds. In other words, one must have fifty times more cannabis than phencyclidine to be receive the same punishment. This 50:1 ratio is already a fair balance between the perceived lesser impact of cannabis and other controlled dangerous substances.

MCPA and MSA do not typically take a position on sentencing matters. In this instance, however, reducing the penalty for cannabis under certain situations is unwise. The current penalties are intended to respond to not only the dangerousness of the particular substance but also the dangers that are part and parcel of the illegal drug trade. In Maryland, the illegal cannabis trade is far more

dangerous than the trade for other substances. Every day in this State, homicides, armed robberies, shootings, and illegal firearm possessions occur during or because of the illegal *cannabis* market. Reducing the penalties for cannabis might be sensible if cannabis dealing was less dangerous than dealing other substances. Unfortunately, the opposite is true.

For these reasons, MCPA and MSA **OPPOSE SB 404** and request an **UNFAVORABLE** Committee report.



**SB 404\_UNFAV\_Amanuel .pdf**

Uploaded by: Yanet Amanuel

Position: UNF



**Testimony for the Senate Judicial Proceedings Committee  
February 21, 2024**

**SB 404 Criminal Law – Controlled Dangerous Substances and Firearms**

**OPPOSE UNLESS AMENDED**

YANET AMANUEL  
PUBLIC POLICY  
DIRECTOR

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ANDREW FREEMAN  
GENERAL COUNSEL

The ACLU of Maryland opposes SB 404. Although we support the initial intent and spirit of the bill, we strongly oppose the amendments to reclassify certain firearm offenses from misdemeanors to felonies.

In particular, we support the provisions in the bill to limit the maximum criminal penalties for manufacturing, distributing, dispensing, or possessing large amounts of marijuana and allowing individuals to petition to modify or reduce their sentences for a violation of §5-612 or §5-613 involving marijuana or less than 448 grams of cocaine base. Punitive sentencing policies in Maryland have already resulted in a deeply racially disproportionate criminal justice system.<sup>1</sup> Research shows Black people are vulnerable to serving longer sentences and that increasing criminal penalties does little to deter crime. Limiting the maximum criminal penalties for some crimes will work against the already-present racial disparities in sentencing in the state.

However, SB 404 also seeks to implement harsher penalties despite overwhelming research showing that “tough on crime” initiatives have been ineffective in reducing violent crime or recidivism and have only resulted in increased distrust in the police and the mass incarceration of people of color.

**We specifically oppose the increase of firearm crime penalties from misdemeanors to felonies.**

SB 404 seeks to reclassify the penalty for possessing, selling, transferring, or otherwise disposing of a stolen regulated firearm, manufacturing a non-registered firearm or a firearm that has manufacturer identification marks removed, or selling or offering to sell a handgun without proper manufacturer identification markings or is unregistered to a felony.

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<sup>1</sup> Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland (Nov. 6, 2019), Justice Policy Institute, <https://justicepolicy.org/research/policy-briefs-2019-rethinking-approaches-to-over-incarceration-of-black-young-adults-in-maryland/>.

In passing the Justice Reinvestment Act of 2016, legislators expressed concern for Maryland's bloated prison population and racial disparities in sentencing while addressing public safety. Instead of reducing Maryland's prison population, SB 404 would further existing racial disparities in sentencing. The war on guns will have the same impact as the war on drugs with little benefit to public safety, as seen recently in Chicago. A Marshall Project analysis found that from 2010 to 2022, Chicago police made more than 38,000 arrests for illegal gun possession.<sup>2</sup> These arrests almost always resulted in felonies and bore misleading names that implied violence. Chicago police justified their focus on confiscating guns as a way of curtailing violence, but these tactics have not substantially reduced shootings. Studies showed those convicted of felony gun possession did not go on to commit a violent crime, and the majority of those sentenced to prison for gun possession did not have past convictions for violence. This rings true in Maryland as well. In 2019, 52% of the people charged with a firearm offense in 2019 were solely carrying a firearm and were not convicted of any other crime. As amended, SB 404, would directly counter to the initial goals of reducing the bloated prison population if every one of these offenders was saddled with the burden of additional jail time and a felony conviction.

**Enhanced sentences yield little to no public safety benefits. Evidence shows that longer sentences do not deter crime more effectively than shorter sentences.**

There is no evidence that there is a public safety benefit to increasing sentencing lengths. Research consistently shows that higher incarceration rates are not associated with lower violent crime rates. The weak association between higher incarceration rates and lower crime rates applies almost entirely to property crime.<sup>3</sup> There is also growing evidence that, for many offenders, adding days, months, or years to prison sentences has no impact on recidivism.

Furthermore, according to the National Institute of Justice, it is the certainty of being caught that deters a person from committing a crime, not the fear of being punished or the severity of the punishment.<sup>4</sup> Focusing on minor or low-level offenses like illegal gun possession instead of the actual violent crime or gun traffickers has repeatedly proven ineffective in reducing violent crime. For example, comparing Baltimore City numbers from 2019, the year with the most homicides over the past 30 years, with 2011, the year with the least murders during the same time period, proves this. In 2019 in Baltimore City, there were

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<sup>2</sup> Lakeidra Chavis & Geoff Hing, The War on Gun Violence Has Failed. And Black Men Are Paying the Price, Mar. 23, 2023, [https://www.themarshallproject.org/2023/03/23/gun-violence-possession-police-chicago?utm\\_campaign=share-tools&utm\\_content=post-top&utm\\_medium=email&utm\\_source=email](https://www.themarshallproject.org/2023/03/23/gun-violence-possession-police-chicago?utm_campaign=share-tools&utm_content=post-top&utm_medium=email&utm_source=email).

<sup>3</sup> Don Stemen. The Prison Paradox: More Incarceration Will Not Make Us Safer. New York: Vera Institute of Justice, 2017, [https://www.vera.org/downloads/publications/for-the-record-prison-paradox\\_02.pdf](https://www.vera.org/downloads/publications/for-the-record-prison-paradox_02.pdf).

<sup>4</sup> National Institute of Justice, "Five Things About Deterrence," June 5, 2016, [nij.ojp.gov: https://nij.ojp.gov/topics/articles/five-things-about-deterrence](https://nij.ojp.gov/topics/articles/five-things-about-deterrence)

348 murders, 2,203 gun seizures, and 1,161 weapons possession arrests. In 2011, there were 196 murders, 2,178 gun seizures, and 1,224 weapons possession arrests.<sup>5</sup>

**Enhanced sentences are an expensive way to achieve little public safety.**

Increasing criminal penalties is not necessary to make communities safer and is not an effective use of resources. Growing evidence that responses from outside the criminal legal system, like funding for community and hospital-based violence intervention programs, will make communities safer. Additionally, costs of high incarceration are not just felt by the government. Incarceration reduces economic mobility and has a lasting impact on families and communities.

AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION OF  
MARYLAND

For the foregoing reasons, the ACLU of Maryland urges an unfavorable report on SB 404 unless amended.

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<sup>5</sup> Soderberg, B. (2022, February 18). 30 years of gun seizures in Baltimore haven't kept the city safe. The Real News Network. Retrieved March 28, 2023, from <https://therealnews.com/30-years-of-gun-seizures-baltimore-havent-kept-the-city-safe>.

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