

**2024.02.15 SB 619 CCJR FAV.pdf**

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Position: FAV



## **TESTIMONY IN SUPPORT OF SENATE BILL 619**

**TO:** Members of the Senate Judicial Proceedings Committee

**FROM:** Center for Criminal Justice Reform, University of Baltimore School of Law

**DATE:** February 15, 2024

The University of Baltimore School of Law’s Center for Criminal Justice Reform (“the Center”) is dedicated to supporting community-driven efforts to improve public safety and address the harm and inequities caused by the criminal legal system. The Center supports Senate Bill 619.

Despite the fact that Maryland voters overwhelmingly approved a 2022 referendum to legalize cannabis for adult use, under current law, cannabis-related offenses, including possession with intent to distribute and possession of any amount more than the civil use amount, still result in criminal convictions and the many collateral consequences that accompany them. By moving certain offenses from the criminal to civil justice systems, Senate Bill 619 will further the work of addressing the harms of the War on Drugs and mitigate the disproportionate impact of the criminal legal system on Black and brown communities. As a matter of fundamental fairness, Maryland should not criminalize those who participate in the cannabis market, even when operating outside of the regulatory scheme, while privileged entrepreneurs simultaneously start to build wealth through the emerging legal market.

Recent changes in law in other jurisdictions make clear that the legalization of cannabis for personal use, without additional proactive measures, is not enough to reduce the disproportionate racial impact of the War on Drugs. In Virginia, despite legalization of recreational use, Black adults accounted for 60% of all marijuana related charges (and only 20% of the state’s population).<sup>1</sup> In Washington D.C., in the years both before and after legalization of cannabis, 89% of those arrested for marijuana related charges were Black (despite accounting for only 45% of the population).<sup>2</sup>

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<sup>1</sup> Elwood, K., & Harden, J. G. (2022, October 16). After Virginia Legalized Pot, Majority of Defendants are Still Black. *The Washington Post*. Retrieved from <https://www.washingtonpost.com/dc-md-va/2022/10/16/virginia-marijuana-enforcement-disparities/>.

<sup>2</sup> Schwartzman, P., & Harden, J. G. (2020, September 15). D.C. Legalized Marijuana, but One Thing Didn’t Change: Almost Everyone Arrested on Pot Charges is Black. *The Washington Post*. Retrieved from [https://www.washingtonpost.com/local/legal-issues/dc-marijuana-arrest-legal/2020/09/15/65c20348-d01b-11ea-9038-af089b63ac21\\_story.html](https://www.washingtonpost.com/local/legal-issues/dc-marijuana-arrest-legal/2020/09/15/65c20348-d01b-11ea-9038-af089b63ac21_story.html).

The impacts of an arrest or conviction record, even for misdemeanor charges, on individuals, families and communities are staggering, including the extensive list of collateral consequences that can follow a justice-involved individual for years, well after a case or period of incarceration concludes. These impacts span numerous areas central to a person's ability to survive and thrive, impeding access to stable housing, education, healthcare, voting, occupational licensing, rights related to the parent-child relationship and more.

For these reasons, we urge a favorable report on Senate Bill 619

# **SB619 Favorable.pdf**

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## Testimony for the Judiciary Proceedings Committee

February 16, 2024

### SB619- Criminal Law - Cannabis-Related Offenses - Civil Penalties

#### Favorable

GREGORY BROWN  
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GENERAL COUNSEL

The ACLU of Maryland supports SB619, which would substitute civil penalties in place of criminal penalties for certain cannabis-related offenses such as possession over the civil use limit, possession with the intent to distribute cannabis, and cultivating cannabis.

Amid a growing understanding of the harm caused to Black and Brown communities by the racist enforcement of the "war on drugs," Maryland voters have decided that the recreational use of cannabis should be legal. However, criminal penalties for marijuana-related offenses are still on the books. Under the current law, cannabis-related offenses such as possession over the civil use limit and possession with intent to distribute (PWID) are misdemeanor offenses. If these criminal penalties are not removed, cannabis will only be partially legalized. Black and Brown people will continue to be disproportionately impacted by targeted enforcement of these laws and saddled with the collateral consequences accompanying entanglement in the criminal legal system and unnecessary police interactions.

#### **"War on Drugs" Rhetoric is Racist, and Enforcement Has Had Catastrophic Effects**

The criminalization of cannabis has been an excuse to over-police Black and Brown people for decades. The catastrophic rhetoric of the dangerous "war on drugs" and the campaigns to criminalize cannabis have perpetuated the racist notion that cannabis use and possession among Black and Brown people is indicative of criminal activity. In contrast, the use of cannabis by white people is seen as recreational or medicinal. As a result, Black and brown people continue to face the brunt of the enforcement of Maryland's cannabis laws, despite decriminalization and similar rates of use among white and Black people. In Queen Anne's County, Black people are eight times more likely to be arrested for marijuana. In Carroll County, Cecil, and Frederick, Black people are six times more likely to be arrested for marijuana and five times

more likely in Allegany County.<sup>1</sup> Between 2018- 2019, 76% of Marylanders arrested for possessing more than 10 grams of marijuana were Black, despite Black people only making up 30% of the state's population. From 2018 to 2019, of those arrested for possession in Maryland, 75% were Black. Black people were more than three times as likely to be arrested for cannabis.<sup>2</sup>

Moreover, Black people are sentenced to incarceration more often and for more extended periods for felony and misdemeanor cannabis.<sup>3</sup> A misdemeanor conviction hinders an individual's access to employment, stable housing, and a range of public benefits. Misdemeanor conviction records can also bar individuals from residing at certain homes and exclude individuals with low income from utility payment plans and food stamps. With higher conviction rates, Black and Brown people bear the brunt of collateral consequences stemming from misdemeanor convictions. Exclusion from the job market, stable housing, and countless other crucial services perpetuate the cycle of racialized imprisonment. Without gainful employment and stable housing, individuals are forced into livelihoods of criminality.

Furthermore, the vast majority of those currently selling marijuana are subsistence dealers selling to survive. They do not make a substantial profit and will not have access to a license to distribute marijuana lawfully. It is unfair to continue to levy any punishment against them when wealthy, mostly white Marylanders will be able to engage in the same conduct legally and for profit.

## **Legalization Will Not Be Enough to Reduce Racial Disparities in Maryland**

Decriminalization was never enough. As seen in many states, the legalization of recreational cannabis uses without eliminating criminal penalties for other cannabis-related offenses will not be enough either. Disparate arrest rates between Black and white people exist in all states, regardless of whether cannabis has been legalized, decriminalized, or remained illegal. Disturbingly, while in states that legalized cannabis, arrest rates decreased after legalization, racial disparities sometimes worsened. For example, in Washington, D.C., despite legalizing cannabis.<sup>4</sup> Therefore, eliminating the

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<sup>1</sup> American Civil Liberties Union. (2020). A Tale of Two Countries Racially Targeted Arrests in the Era of Marijuana Reform. American Civil Liberties Union. Retrieved November 30, 2022, from <https://www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform>

<sup>2</sup> 2020 Statistics and Data Request for Possession of Marijuana over 10 Grams by Delegate Nick Mosby

<sup>3</sup> [https://msccsp.org/Files/Sentencing\\_Snapshot/Issue7.pdf](https://msccsp.org/Files/Sentencing_Snapshot/Issue7.pdf)

<sup>4</sup> Elwood, K., & Harden, J. D. (2022, October 16). After Virginia legalized pot, majority of defendants are still black. The

criminal penalties for cannabis-related offenses is highly critical to undoing the harms caused by the failed war on cannabis.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB619.

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FOUNDATION OF  
MARYLAND

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**SB00619 Testimony -.pdf**

Uploaded by: Jill Carter

Position: FAV



THE SENATE OF MARYLAND  
Annapolis, Maryland 21401

**Testimony of Senator Jill P. Carter**  
**In Favor of SB0619 – Criminal Law - Cannabis-Related Offenses - Civil Penalties**  
**Before the Judicial Proceedings Committee**  
**On February 16<sup>th</sup> 2024**

**Mr. Chairman, Vice Chair, and Members of the Committee:**

**SB0619 seeks to substitute civil penalties in place of criminal penalties for certain cannabis-related offenses such as possession over the civil use limit, possession with the intent to distribute cannabis, and cultivating cannabis. This bill was introduced last session, however never made it out of committee.**

**According to an opinion from the Attorney General last year, despite the fact that Maryland voters decided to legalize cannabis, it is only partially legalized due to the fact that certain offenses such as possession over the legal use amount and possession with intent to distribute still carry criminal penalties. As seen in many states, the legalization of recreational cannabis uses without eliminating criminal penalties for other cannabis-related offenses will not be enough to reduce racial disparities. According to a 2020 national ACLU report, disparate arrest rates between Black and white people exist in all states, regardless of whether cannabis has been legalized,**

**decriminalized, or remained illegal.<sup>1</sup> Disturbingly, while in states that legalized cannabis, arrest rates decreased after legalization, racial disparities sometimes worsened. For example, in Virginia, despite legalization of recreational marijuana in 2021, Black adults still accounted for nearly 60 percent of marijuana-related cases even though they are only about 20 percent of the state's population.<sup>2</sup> In Washington, D.C., despite legalizing marijuana almost eight years ago, almost everyone arrested on marijuana related charges in 2020 was Black despite making up only 45 percent of the city's population.<sup>3</sup>**

**In Maryland, Black people are more than three times as likely to be arrested for cannabis. However, in Queen Anne's County, Black people are eight times more likely to be arrested for cannabis. In Carroll County, Cecil, and Frederick, Black people are six times more likely to be arrested for cannabis and five times more likely in Allegany County.<sup>4</sup> Between 2018- 2019, 76% of Marylanders arrested for possessing more than 10 grams of marijuana were Black, despite Black people only making up 30% of the state's population.<sup>5</sup> Moreover, Black people are sentenced to incarceration more often and for more extended periods for cannabis related offenses.<sup>6</sup>**

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<sup>1</sup> American Civil Liberties Union. (2020). A Tale of Two Countries Racially Targeted Arrests in the Era of Marijuana Reform. American Civil Liberties Union. Retrieved November 30, 2022, from <https://www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform>

<sup>2</sup> Elwood, K., & Harden, J. D. (2022, October 16). After Virginia legalized pot, majority of defendants are still black. The Washington Post. Retrieved November 30, 2022, from <https://www.washingtonpost.com/dc-md-va/2022/10/16/virginia-marijuana-enforcement-disparities/>

<sup>3</sup> <https://www.washingtonpost.com/dc-md-va/2022/10/16/virginia-marijuana-enforcement-disparities/>

<sup>4</sup> American Civil Liberties Union. (2020). A Tale of Two Countries Racially Targeted Arrests in the Era of Marijuana Reform. American Civil Liberties Union. Retrieved November 30, 2022, from <https://www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform>

<sup>5</sup> 2020 Statistics and Data Request for Possession of Marijuana over 10 Grams by Delegate Nick Mosby

<sup>6</sup> [https://msccsp.org/Files/Sentencing\\_Snapshot/Issue7.pdf](https://msccsp.org/Files/Sentencing_Snapshot/Issue7.pdf)

**Therefore, with no changes made, cannabis laws will continue to affect the lives of many Marylanders, especially Black Marylanders. A misdemeanor conviction record can bar individuals from residing at certain homes and exclude individuals with low income from utility payment plans and food stamps. With higher conviction rates, Black and Brown people bear the brunt of collateral consequences stemming from misdemeanor convictions. Exclusion from the job market, stable housing, and countless other crucial services perpetuate the cycle of racialized imprisonment.**

**This bill seeks to eliminate criminal penalties and instead substitute them for civil penalties, and community service efforts. Over the years, Maryland has used millions of dollars to enforce the marijuana possession laws that continue to target Black Marylanders at alarming rates. This practice is not only counterproductive but a waste of limited resources for the state of Maryland, that further widens the distrust between communities of color and law enforcement.**

**As such I urge this committee to issue a favorable report on SB0619.  
Thank you for your time.**

**Sincerely,**

**Senator Jill P. Carter**

**sb619.pdf**

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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 619  
Criminal Law – Cannabis – Related Offenses – Civil Penalties  
**DATE:** January 31, 2024  
(2/16)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill 619. This bill removes “civil use amount” definition from the Criminal Law Article (CR) §5-101. It also alters the civil penalties for cannabis related offenses under CR §5-101 to state a finding of guilt involving the use of possession of an amount of cannabis exceeding the personal use amount is a civil offense punishable by a fine not exceeding \$250.00 and a person who is found guilty of a civil offense involving the use or possession of an amount of cannabis exceeding the person use amount may request, and shall be granted, a penalty of up to 75 hours of community service in lieu of a fine. This legislation also removes the penalty provision under CR §5-101 for possession of civil use amount of cannabis (currently a civil offense punishable by a fine not exceeding \$250.00).

The Judiciary opposes this bill because portions of the bill—such as at Criminal Law §§ 5-601(c)(2)(i) and 5-607(a)(2)(ii)—mandate the penalties that courts must issue for certain violations under certain circumstances. This would remove Judicial discretion to assign appropriate penalties for those situations. The Judiciary believes it is important for judges to have discretion to craft judgments or sentences based on the particular circumstances of a case.

cc. Hon. Jill Carter  
Judicial Council  
Legislative Committee  
Kelley O’Connor