



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

HANNIBAL KEMERER
CHIEF OF STAFF

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB 406 - Criminal Law - Drug Trafficking Crime - Definition

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 11, 2026

The Maryland Office of the Public Defender urges an unfavorable report on Senate Bill 406.

Senate Bill 406 expands the definition of a “drug trafficking crime” to include **misdemeanor** cannabis violations. Under current law, neither misdemeanor nor conspiracies to dispense marijuana are eligible for sentencing enhancements as “drug trafficking” crimes. This bill specifically seeks to include the misdemeanor §5-602(B)(1) or the conspiracy to commit §5-602(B)(1), possession with intent to distribute, and the misdemeanor §5-602(B)(3) cultivating or growing cannabis, as predicate offenses for “drug trafficking crime.” During and in relation to a drug trafficking crime, a person may not (1) possess a firearm under sufficient circumstances to constitute a nexus to the drug trafficking crime or (2) use, wear, carry, or transport a firearm. Violators are guilty of a felony and, in addition to the sentence provided for the drug trafficking crime, are subject to:

- for a first violation, imprisonment for up to 20 years with a mandatory minimum, nonsuspendable sentence of 5 years; and
- for each subsequent violation, imprisonment for up to 20 years with a mandatory minimum, nonsuspendable sentence of 10 years.

Except for an incarcerated individual at the Patuxent Institution, the entire sentence is nonparolable. A sentence imposed for a subsequent violation of § 5-621 must be consecutive to and not concurrent with any other sentence imposed by virtue of the commission of the drug trafficking crime.

This bill would be a step backward for Maryland. Maryland voters overwhelmingly chose to legalize recreational marijuana and it was a great first step towards ending the five-decades-long “war on drugs.” We were so excited to see Maryland move away from the criminalization of cannabis, in part because we know substance use is a health concern and should be treated as such and in part because we know that the criminalization of cannabis has *always* disproportionately impacted Black and Brown Marylanders. From 2015 to 2017, 96% of arrestees for marijuana in Baltimore were Black. That is an overwhelmingly large number when considering that the city's population is 62% Black. Source: [Baltimore Banner Article](#).

[In 2020, according to the REIN from HB0001 \(2022\)](#), the disproportionality ratio of arrests for marijuana possession for African Americans, or people identified as Black, in Maryland is 2.02. This means

that people identified as Black, are twice as likely to be arrested for marijuana possession as compared to their proportion of the State’s population. Whites and other non-Black racial groups have disproportionality ratios of less than 1.00, with Whites at 0.84 and Asians or Asian Americans at 0.31. Thus, individuals in these groups are less likely to be arrested for marijuana possession as compared to their overall proportion of the State population.

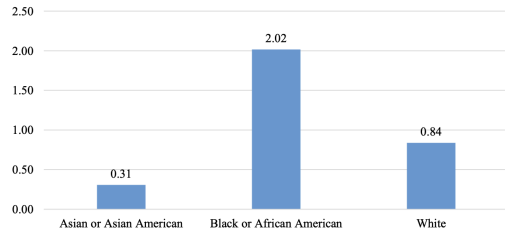
The accumulation of prior convictions disproportionately impacts communities of color. These

convictions generally drive further and deeper involvement in the criminal legal system. We have made progress and urge the General Assembly not to undo that progress.

For the foregoing reasons, the Office of the Public Defender urges an unfavorable report on Senate Bill 406.

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

**Exhibit 5
Disproportionality Ratios
Arrests for Marijuana Possession in Maryland
2020**



Source: Department of Legislative Services