

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 269  
Judiciary

(Delegate Moon, *et al.*)

---

Pretrial Release, Parole, and Probation - Marijuana - Urinalyses

---

This bill prohibits the Division of Pretrial Detention and Services and the Division of Parole and Probation (DPP) within the Department of Public Safety and Correctional Services from considering the submission of a urine sample that is positive for marijuana as a violation of a condition of pretrial release, parole, or probation. This prohibition does not apply to an inmate, an offender, or a probationer who has been expressly prohibited from using or possessing marijuana, as opposed to controlled dangerous substances generally, as a condition of pretrial release, parole, or probation.

---

Fiscal Summary

**State Effect:** Although the bill may have some operational impacts, as discussed below, the bill is not anticipated to materially affect State finances.

**Local Effect:** Minimal. The bill is not expected to significantly affect the operations or finances of the circuit courts.

**Small Business Effect:** None.

---

Analysis

**Current Law/Background:** Chapter 158 of 2014 made the possession of less than 10 grams of marijuana a civil offense punishable by a fine of up to \$100 for a first offense and \$250 for a second offense. The maximum fine for a third or subsequent offense is \$500. If a person commits a third or subsequent violation, or is younger than age 21, the court must summon the person for trial upon issuance of a citation. Additionally, the court must order a person who (1) commits a third or subsequent violation or (2) is younger than

age 21 and commits a violation, to attend an approved drug education program and refer the person to an assessment for a substance abuse disorder. After the assessment, the court must refer the person to substance abuse treatment, if necessary.

The general conditions for every probation and parole includes a statement that the person obey all laws and not illegally possess, use, or sell any narcotic drug, controlled dangerous substance, or related paraphernalia. In addition to the general conditions, the court or the Maryland Parole Commission (MPC), in its discretion, may impose special conditions as deemed appropriate to the individual. MPC may, from time to time, in its discretion, and upon good cause shown, change or modify the conditions of an individual's parole. In case of modification, the parolee must be given opportunity to show cause why a condition should not be changed, added, or modified. The person may request a hearing before not less than two commissioners before the modification, change, or addition.

Current regulations give parole agents discretion in applying for a retake warrant. Agents may submit a report providing a summary of the offender's background, supervision adjustment, and the facts about the violation, supplemented by police and court records where applicable, together with a recommendation regarding the action to be taken by MPC. MPC reviews the report and in its discretion takes the appropriate action, which may include a revocation.

MPC advises that it typically applies the least punitive sanction to encourage compliance.

**State Fiscal Effect:** The bill may result in fewer violations of pretrial release, parole, and probation. However, the impact is not anticipated to materially affect the incarcerated population. The bill also likely results in a reduction in caseloads and revocation hearings for MPC and the courts. However, the overall impact is expected to be negligible.

DPP advises that the court or MPC must order substance abuse testing as a condition of pretrial release, probation, or parole in order for DPP to conduct a urinalysis.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2016  
md/lgc

---

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510