



# **RACIAL EQUITY IMPACT NOTE**

DEPARTMENT OF LEGISLATIVE SERVICES  
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2023 Session  
HB0980

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## **Criminal Procedure - Probation, Parole, and Pretrial Release Violations - Cannabis Use**

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### **Bill Summary**

This bill prohibits a court from revoking a defendant's pretrial release or finding a defendant has violated probation based solely on the defendant's use of cannabis or a positive test for cannabis unless the court makes a specific finding that the defendant's use of cannabis could create a danger to the defendant or others. The bill also prohibits the Maryland Parole Commission (MPC) from finding that a parolee has violated parole based solely on the parolee's use of cannabis or a positive test for cannabis unless MPC makes a specific finding that the use of cannabis could create a danger to the parolee or others.

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### **Racial Equity Impact Statement**

The bill's provisions prohibiting the revocation of pretrial release or post incarceration supervision solely for the use of or testing positive for cannabis will generally reduce the number of revocations and potential incarceration of individuals for this activity. The magnitude of the bill's impacts on specific demographic groups cannot be reliably estimated as no detailed data is available on those individuals whose parole, probation, or pretrial release has been revoked solely for the use of cannabis. There is data from the Department of Public Safety and Correctional Services (DPSCS), the Department of State Police, and the Administrative Office of the Courts to suggest that the bill could have a positive equity impact on Black or African American parolees and probationers.

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## Analysis

This bill will prohibit either a court or MPC from revoking a person's pretrial release, probation, or parole solely for the use of cannabis or a positive test for cannabis use, without a specific finding that such use endangers the defendant, the supervised individual, or others.

Currently, the possession of under 10 grams of cannabis is considered a civil offense, as is the use of cannabis in a public space. The possession of any amount greater than 10 grams, possession with intent to distribute, and driving under the influence are considered criminal offenses. However, beginning July 1, 2023, Chapters 26 and 45 of 2022 allow for the legalization of certain amounts of cannabis. An adult over 21 may possess up to 1.5 ounces of cannabis without penalty. Possession of more than 1.5 ounces but less than 2.5 ounces will be a civil offense, and possession of 2.5 ounces or more will remain a criminal offense.

As of June 1, 2022, existing law prohibits the revocation of mandatory supervision, parole, or probation based solely on the use or possession of medical cannabis.

### *Population Under Supervision*

DPSCS is currently responsible for nearly 40,000 individuals under criminal supervision and over 7,000 individuals under Drinking Driver Monitoring Program supervision. Criminal supervision includes individuals being supervised pre-sentence, post sentence, and post incarceration. Currently, drug use is prohibited by all individuals on supervised release. DPSCS reports that in 2022, Black or African American individuals comprised approximately 58% of the total number of persons under some form of supervision. Of the cases under supervision, 61% were closed satisfactorily. The remaining cases resulted in technical violations (5%), new offenses (14%), unsatisfactory outcomes (15%), or other violations (5%). According to DPSCS, the rate of technical violations has dropped since the Justice Reinvestment Act took effect in 2017. There is no data readily available on the number of individuals in violation of supervision due to cannabis use, so it is not possible to determine the bill's actual impact on the supervised population in Maryland.

### *Cannabis Arrests, Charges, and Convictions*

Black or African American individuals are overrepresented in the supervised population as well as in the population of individuals arrested and charged for cannabis use in Maryland. The aggregate supervision data shows that Black or African American individuals are twice as likely to be under supervision in Maryland compared to their proportion of the State's population and more than two times as likely to be under supervision compared to white individuals. With respect to arrests, Maryland's annual Uniform Crime Report indicates 10,256 total arrests in 2020 for possession of cannabis. Of this total, 59% were Black or African American, 41% were white, and 9% were Hispanic or Latino individuals. This makes Black or African American individuals over two times more likely to be arrested for cannabis possession than their white peers. In regard to cannabis possession charges, of the total 12,430 cannabis-related charges in 2020 for all jurisdictions in Maryland except Baltimore City and Prince George's County (for which data was not readily available), 6,973 (56%) of those charges encompassed Black or African American individuals. There were convictions for 23% of these charges, and Black or African American

individuals accounted for over 52% of those convictions, making them over 2.5 times more likely to be found guilty of a cannabis-related violation than white individuals.

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## Conclusion

The interaction of the bill with the upcoming partial legalization of cannabis will likely lead to an overall decrease in supervision revocations. There is no data readily available that indicate the demographics of those individuals that have had their supervision revoked solely because of the use of or testing positive for cannabis. Demographic data regarding historical and prospective violation and revocation activity by the courts and DPSCS could provide some insight into the exact nature and magnitude of the bill's impact on various racial and ethnic groups. Despite the data limitations, it is reasonable to expect that the Black or African American population of individuals under DPSCS supervision would experience the most significant impact given their overrepresentation both in the State's supervised population and of those arrested, charged, and convicted of cannabis possession in the past.

### *Methodologies, Assumptions, and Uncertainties*

Although some reports use disparity and disproportionality interchangeably, this racial equity impact note distinguishes them. Disproportionality is the state of being out of proportion. It compares the proportion of one racial or ethnic group of a target population to the proportion of the same racial or ethnic demographic group in the general population. Disparity, however, refers to a state of being unequal. A disparity describes an unequal outcome experienced by one racial or ethnic group of the target population as contrast against a different racial or ethnic group in the target population.

The information provided in this note is drawn from quantitative data analysis of available statistical datasets on crime and criminal justice collected by entities at the national and state level. Moreover, the information includes scholarly literature on racial and ethnic disparities in the U.S. criminal justice system.

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**Information Sources:** Department of Public Safety and Correctional Services; Department of State Police; Administrative Office of the Courts; Department of Legislative Services

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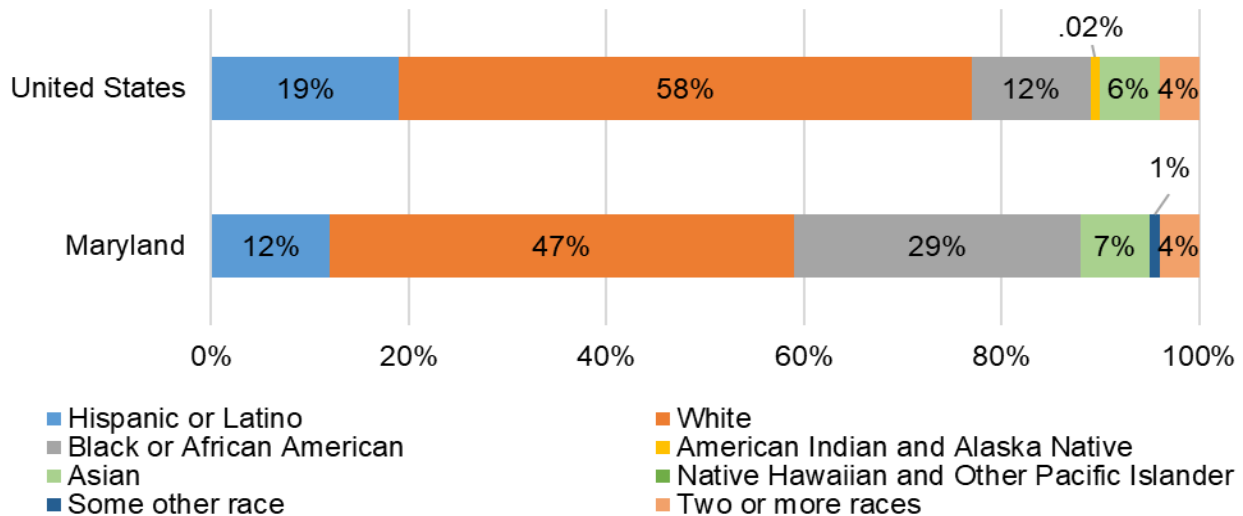
## Appendix – Maryland Demographics

### *Race and Ethnicity of the Maryland Population*

Maryland’s 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland’s racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as “other” and “multiracial” (*i.e.*, two or more racial identities), which total 5% of the State’s population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report “white” as their racial group. Despite this decrease, non-Hispanic whites remain the largest single race demographic group in the State of Maryland comprising 47% of the State’s population.

Compared to the U.S. population overall, Maryland’s population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% of the national population. In both the State and national population, the largest shares of the non-white population are individuals who are Black or African American, with 29% of the State population identifying only as Black or African American and another 2.5% identifying as Black in combination with some other race. Maryland’s Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State’s overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State’s population identified as Hispanic or Latino compared to 19% of the U.S. population.

**Exhibit 1**  
**U.S. and Maryland Population by Race and Ethnicity**  
**2020**



Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.