



State of Maryland
Office of the Attorney General

March 5, 2020

TO: The Honorable William C. Smith, Jr., Chair, Judicial Proceedings
Committee

FROM: Carrie J. Williams, Assistant Attorney General

RE: Attorney General's Opposition to SB 860

The Attorney General urges the Judicial Proceedings Committee to report unfavorably on Senate Bill 860. Senate Bill 860 would allow every defendant that has ever been convicted of (or received a probation before judgment for) possession of marijuana, possession with intent to distribute marijuana, or possession of marijuana-related paraphernalia to petition the court to vacate his or her conviction or probation before judgment. To be entitled to a hearing, a defendant need only file a written motion alleging that vacating the conviction or PBJ is in the "interest of justice." If the motion is denied, the bill gives every defendant the right to an appeal. If the motion is granted, the State has the right to appeal.

Additionally, this bill would allow any defendant ever convicted of any crime to move to vacate the conviction if he or she alleges newly discovered evidence that would have changed the result. Unlike Criminal Procedure Article, Section 8-301, this bill does not limit its applicability to charges filed in the circuit court and does not differentiate between convictions after a trial and guilty pleas. Here too, both the State and the defendant have an automatic right to appeal. There is no limit on the number of motions a defendant can file.

Every appeal from every motion to vacate filed in the Circuit Court will be handled by the Criminal Appeals Division of the Office of the Attorney General. Given the number of eligible defendants, the Criminal Appeals Division estimates it would require no less than four full-time attorneys to handle the appeals from these motions.

The Attorney General's Office cannot handle the appellate workload this bill would create with its current resources. The Attorney General urges an unfavorable report for SB 860.

cc: Members of the Committee