

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 860:

Criminal Procedure - Postconviction Review - Motion to Vacate

TO: Chairman. William C. Smith, and Members of the Senate Judicial Proceedings Committee

FROM: Caryn York, Chief Executive Officer

DATE: March 5, 2020

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates for policies and programs to increase the skills, job opportunities, and incomes of low-wage workers and job seekers in Maryland. JOTF supports Senate Bill 860 as a means to ensure that past charges and probations before judgement (PBJs) no longer deemed criminal does not limit employment or educational opportunities.

In 2014, after years of intense debate, the State of Maryland took a strong stand to decriminalize marijuana. This effectively meant that jail time was off the table for certain amounts of the substance. In January 2019, the State's Attorney for Baltimore City announced that the office would cease prosecutions for possession of marijuana. She also filed motions to vacate convictions (using other types of motions) in approximately 5,000 marijuana possession cases. She cited the social and economic collateral consequences of these convictions and the disproportionate enforcement of marijuana possession laws on minorities as reasons behind her decision.

Section 8-301.1 of the Criminal Procedure Article authorizes a court with jurisdiction over the case, on motion of the State, to vacate a PBJ or conviction when (1) there is newly discovered evidence that could not have been discovered by due diligence in time for a new trial and creates a substantial or significant probability that the result would have been different or (2) the State received new information after the entry of a PBJ or conviction that calls into question the integrity of the PBJ or conviction. The interest of justice and fairness must also justify vacating the PBJ or conviction.

As Mosby addressed, there are still thousands of Maryland residents who have marijuana-related records and something needs to be done to correct past prosecutions that have disrupted the lives of mostly African Americans but have done nothing to stop crime and violence. The injustice is particularly acute as others are now profiting off the medical marijuana business in Maryland and in other states that have legalized the drug for recreational use. Maryland decriminalized possession of up to 10 grams of marijuana in 2014. Why must thousands suffer the consequences of convictions for something we no longer consider a crime?

Senate Bill 860 seeks to address this by allowing those with former PBJs convictions for Marijuana to file a motion to vacate their former sentence as well as any other charges no longer considered a crime by Maryland law. This will wipe the slate clean for a variety of Maryland residents and allow great access to employment opportunities and social benefits. For these reasons, we urge a favorable report.