



Testimony for the Senate Judicial Proceedings Committee
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SB 860 Criminal Procedure - Postconviction Review - State's Motion
to Vacate

FAVORABLE

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The ACLU of Maryland urges a favorable report on SB 860, which would allow the State, the defendant and as amended—the Office of the Public Defender the authority to file a motion to vacate a probation before judgement or conviction for possession of marijuana and drug paraphernalia for marijuana.

A criminal record severely undermines an individual's employability in the job market, which bars reentry into society and thereby predisposes that individual to further criminal justice entanglement. The collateral consequences reach far beyond employment—a criminal record may compromise one's eligibility for tuition assistance and stable housing. Moreover, these collateral consequences are particularly stark for communities of color.

Criminal records for non-violent offenses excludes individuals from employment, educational opportunities, public benefits, and stable housing

The existence of a criminal record can and does create a barrier to employment for many Marylanders. Under current regulations, a misdemeanor conviction in Maryland may result in the denial, suspension, or revocation of myriad business licenses, including: a barber license,¹ a cosmetology license,² an electrician license,³ professional engineer license,⁴ a landscape architect license,⁵ an interior designer certificate,⁶ and countless others.

Misdemeanor convictions also serve to exclude persons from educational opportunities. A recent study found that a majority (66%) of colleges collect criminal justice information as part of the admissions process.⁷ A

¹ Md. Business Occupations and Professions, Code Ann. § 4-314

² Md. Business Occupations and Professions, Code Ann. § 5-314

³ Md. Business Occupations and Professions, Code Ann. § 6-316.

⁴ Md. Business Occupations and Professions, Code Ann. § 14-317.

⁵ Md. Business Occupations and Professions, Code Ann. § 9-310.

⁶ Md. Business Occupations and Professions, Code Ann. § 8-310.

⁷ Center for Community Alternatives—Innovative Solutions for Justice, *The Use of Criminal Records in College Admissions, Reconsidered* (available at

misdemeanor conviction also hinders an individual's access to stable housing and a range of public benefits. A misdemeanor conviction record may bar individuals from residing at certain homes,⁸ and exclude individuals from low-income utility payment plans⁹ as well as food stamps.¹⁰

SB 860 will allow for individuals with certain convictions to access a broader range of services and opportunities, including but not limited to, employment, schooling, public benefits, and housing, and thereby contribute productively to the state's economy. By increasing access to this broad range of services, SB 860 can be expected to generate greater socioeconomic stability and productivity in Maryland's communities.

Maryland had one of the highest rates of arrests for marijuana possession in the nation.

Even though Black and white people use marijuana at virtually the same rates, police arrested Black people at higher rates than white people in every county in Maryland in 2014. During 2001 to 2010, the arrests of Black people increased by 5,614, and the arrests for white people only increased by 371.¹¹

Misdemeanor convictions disparately disadvantage individuals, families, and communities of color

A startling one in three Black men born today can expect to go to prison in their lifetime, compared with one in six Latino men, and one in seventeen White men.¹² In addition to facing higher imprisonment rates, persons of color, once arrested, are more likely to be convicted, and once convicted, are more likely to face longer sentences than their White counterparts.¹³ With higher conviction rates, persons of color necessarily bear the brunt of collateral consequences stemming from misdemeanor convictions.

Although Maryland is moving towards legalizing adult recreational marijuana, thousands of Marylanders are still suffering the collateral consequences of marijuana possession charges and convictions. It's time address this issue.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 860.

<http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>.

⁸ See for example, COMAR 35.04.01.04.

⁹ COMAR 20.31.01.08.

¹⁰ Md. Human Services Code Ann. § 5-601.

¹¹ American Civil Liberties Union. (2020). *Marijuana Arrests by the Numbers*. [online] Available at: <https://www.aclu.org/gallery/marijuana-arrests-numbers>

¹² Saki Knafo, 1 In 3 Black Males Will Go To Prison In Their Lifetime, Report Warns (HUFFINGTON POST, Oct. 4, 2013).

¹³ *Id.*