

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 980
Criminal Procedure – Probation, Parole, and Pretrial Release
Violations – Cannabis Use
DATE: March 22, 2023
(3/30)
POSITION: Oppose, as drafted

The Maryland Judiciary continues to oppose the amended House Bill 980 as drafted.

The bill continues to restrict judicial discretion to revoke a defendant’s pretrial release or find a defendant has violated probation based solely on the use of cannabis or a positive test for cannabis, by requiring that the court make a specific finding that the defendant’s use of cannabis could create a danger to the defendant or others and requiring that the specific finding be made when determining the conditions of pretrial release or probation.

The Judiciary has several concerns with this bill. Most importantly, its impact and applicability to problem solving courts such as drug treatment courts and mental health courts. These courts typically provide individualized, but intensive and structured, treatment programs. This bill could hinder the progress of individuals in these programs by precluding judges from addressing the use and potential abuse of cannabis by a defendant enrolled in a problem-solving court. There may be a reason a judge would like an individual to refrain from marijuana such as it could impede the effectiveness of a psychotropic drug that has been prescribed to an individual enrolled in mental health court. Further, some treatment providers have a zero-tolerance policy so this bill would limit the programs a judge could refer an individual to for treatment. The bill as drafted also imposes functional limitations as individuals are referred to problem-solving courts after the initial pretrial considerations are assigned. In addition, this bill does not have a carve out for those individuals currently enrolled in programs where this determination was not made “at the time of ordering pretrial release.”

Further, the Judiciary believes the language requiring that judges make a finding regarding dangerousness of cannabis use to defendant or others and ordering that defendant refrain from using cannabis, at the time of ordering pretrial release or probation supervision, further restricts the judicial discretion to determine whether there should be a

consequence for violating release conditions or terms of probation supervision for use of cannabis.

cc. Hon. Caylin Young
Judicial Council
Legislative Committee
Kelley O'Connor