

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 927
Criminal Law – Use or Possession of a Controlled Dangerous
Substance – De Minimis Quantity
DATE: February 22, 2023
(2/28)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 927. This bill adds “a de minimis quantity of a control dangerous substance” in various provisions in Criminal Law §§ 5-601 and 5-601.1. This legislation, under Criminal Law § 5-601, as amended, defines “de minimis quantity of a controlled dangerous substance” to mean less than (1) 100 milligrams of cocaine; (2) 65 milligrams of cocaine base; (3) 60 milligrams of heroin; (4) 200 milligrams or two tablets of methylenedioxymethamphetamine (MDMA); (5) two user units of lysergic acid diethylamide (LSD);(6) two units of psilocybin, commonly known as mushrooms; (7) two units of methadone; (8) 60 milligrams of methamphetamine; or (9) two tablets of oxycodone or hydrocodone. Since Maryland, as is the rest of the country, is still in the grips of an opioid epidemic where drug overdose deaths have continued to rise after the start of the COVID-19 pandemic, this portion of the bill does not seem to address the crisis of addiction.

This bill makes certain violations relating to the use or possession of de minimis quantities of controlled dangerous substances civil offenses, rather than a misdemeanor. It establishes that, in addition to a fine, a court may order a person under the age of 21 to undergo an assessment for substance use disorder or a mental health assessment. As these are civil matters, there is no mechanism for enforcement of a court order to undergo substance use disorder assessment, mental health assessment and/or treatment.

Finally, the bill requires cases to precede in a District Drug Court if the jurisdiction has one. This directly contradicts Maryland Rule 16-207 which makes all problem-solving courts voluntary. In addition, the bill does not allow each District Drug Court the ability to properly screen for legal and clinical appropriateness to participate in the program and does not consider how an active participant would be sanctioned under a civil offense rather than a misdemeanor for noncompliance within the rules of drug court.

cc. Hon. Sheila Ruth
Judicial Council
Legislative Committee
Kelley O'Connor