



**Testimony for the House Judiciary Committee
January 30, 2018**

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**HB 325 Criminal Law - Use or Possession of a Controlled Dangerous Substance
- De Minimis Quantity**

SUPPORT

The ACLU of Maryland supports HB 325, which removes criminal penalties for the personal possession of de minimis quantities of controlled dangerous substances (CDS), and replaces them with a civil fine, education and an assessment for substance abuse disorder.

The war on drugs has failed. Decades of prohibition and drug policies centered on criminalization and stigmatization have failed to reduce the use and possession of drugs. The enforcement of drug possession laws has been a leading factor in swelling jail and prison populations, and contributed to mass incarceration in our state. Individuals struggling with substance use disorder have failed to receive the care and treatment they need to overcome their substance abuse and return to a life as contributing members of society. HB 325 proposes an effective, sensible drug policy approach rooted in compassion and supported by evidence.

Drug possession laws are disproportionately enforced against people of color

In 2014, the General Assembly decriminalized the use or possession of less than 10 grams of marijuana. This decision was based largely on the racially disparate enforcement of marijuana laws.¹ African-Americans in Maryland were nearly three times as likely to be arrested for the possession of marijuana as their White neighbors, despite comparable rates of use across all races.² In 2010, Black Marylanders made up 30% of Maryland's population, but 58% of all marijuana arrests.³ Similarly, in 2010, Black Marylanders made up 62% of all drug violations.⁴

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¹ John Wagner and Fred Kunkle, *Md. delegates try to revive bill to decriminalize marijuana; close vote expected Saturday*, The Washington Post (April 4, 2014), available at: https://www.washingtonpost.com/local/md-politics/maryland-delegates-plan-to-try-reviving-marijuana-decriminalization-bill/2014/04/04/09e608de-bbe7-11e3-9a05-c739f29ccb08_story.html.

² The ACLU of Maryland, *The Maryland War on Marijuana in Black and White* (2013), available at: http://www.aclu-md.org/uploaded_files/0000/0470/aclu_marijuana_in_md_report_whitecover.pdf.

³ *Id.*

⁴ Maryland State Police, *Crime in Maryland: 2010 Uniform Crime Report* (2010), available at: <http://mdsp.maryland.gov/Document%20Downloads/Crime%20in%20Maryland%202010%20UCR%20Report.pdf>

At a time when significant efforts are being made to mend the relationship between law enforcement and the communities they serve, the continued reliance of police officers on drug possession laws as a tool for searching and harassing individuals has only contributed to widening the rift.

The vast majority of drug arrests are for simple possession

Arresting people for the possession of minor amounts of drugs has done nothing but subject otherwise law-abiding citizens to arrest, prosecution, and imprisonment – potentially their first exposure to the criminal justice system – all for a private, personal activity that can be performed safely and without harm to others. In 2015, there were 24,427 arrests for simple drug possession.⁵

The war on drugs is expensive and ineffective

Criminal prohibition, the centerpiece of U.S. drug policy, has failed miserably. In order to effectively reduce problematic drug use, our drug policies should focus on methods such as prevention, research, education, and the development of comprehensive social programs to address issues that contribute to problematic drug use, such as permanent poverty, and long-term unemployment. Substance abuse disorder must be treated as a mental health issue and a public health issue, not a criminal justice issue.

For these reasons, we urge a favorable report on HB 325.

⁵ Crime in Maryland—Uniform Crime Report (2015).