

Remove Criminal Penalties for Marijuana

BILLS SB 73 & HB TBD

Amid a growing understanding of the harm caused to Black and Brown communities by the racist enforcement of the "war on drugs" Maryland voters have decided that the recreational use of marijuana should be legal. However, criminal penalties for marijuana-related offenses are still on the books. Under the current law, possession over the personal use limit and possession with intent to distribute (PWID) are misdemeanor offenses.

If these criminal penalties are not removed, marijuana will only be partially legalized. Black and Brown people will continue to be disproportionately impacted by targeted enforcement of these laws and saddled with the collateral consequences that accompany entanglement in the criminal legal system and unnecessary police interactions.

"WAR ON DRUGS" RHETORIC IS RACIST AND ENFORCEMENT HAS HAD CATASTROPHIC EFFECTS

The criminalization of marijuana has been an excuse to over-police Black and Brown people for decades. The catastrophic

rhetoric of the dangerous "war on drugs" and the campaigns to criminalize marijuana have perpetuated the racist notion that marijuana use and possession among Black and Brown people is indicative of criminal activity. In contrast, use of marijuana by white people is seen as recreational or medicinal. As a result, Black and brown people continue to face the brunt of the enforcement of Maryland's marijuana laws, despite decriminalization and similar rates of use among white and Black people.

From 2018 to 2019, of those arrested for possession in Maryland, 75% were Black. Black people were more than three times as likely to be arrested for marijuana possession than white people in the state.¹



Moreover, Black people were sentenced to incarceration more often and for longer periods of time for both felony and misdemeanor marijuana offenses.²

A misdemeanor conviction hinders an individual's access to employment, stable housing, and a range of public benefits. Misdemeanor conviction records can also bar individuals from residing at certain homes and exclude individuals with low-income from utility payment plans and food stamps. With higher conviction rates, Black and Brown people bear the brunt of collateral consequences stemming from misdemeanor convictions. Exclusion from the job market, stable housing, and countless other crucial services, perpetuate the cycle of racialized imprisonment. Without gainful employment and stable housing, individuals are forced into livelihoods of criminality.

The vast majority of those currently selling marijuana are subsistence dealers selling to survive. They do not make substantial profit and will not have access to a license to distribute marijuana lawfully. It is unfair to continue to levy any kind of punishment against them when wealthy, mostly white Marylanders will be able to engage in the same conduct legally and for profit.

LEGALIZATION WILL NOT BE ENOUGH TO REDUCE RACIAL DISPARITIES IN MARYLAND

Decriminalization was never enough. As seen in many states, legalization of possession without legalization of other marijuana-related offenses, will not be enough either. Disparate arrest rates between Black and white people exist in all states, regardless of whether marijuana has been legalized, decriminalized, or remained illegal.

Disturbingly, while in states that legalized marijuana, arrest rates decreased after legalization, the racial disparities remained and sometimes even got worse.³

VIRGINIA

In Virginia, despite legalization of recreational marijuana last year, Black adults still accounted for nearly 60% of marijuana-related cases, even though they are only about 20% of the state's population.⁴

WASHINGTON, D.C.

In Washington, D.C., despite legalizing marijuana almost seven years ago, almost everyone arrested on marijuana-related charges in 2020 was Black, despite making up only 45% of the city's population.⁵

SOURCES:

¹ 2020 Statistics and Data Request for Possession of Marijuana over 10 Grams by Delegate Nick Mosby

² https://msccsp.org/Files/Sentencing_Snapshot/Issue7.pdf

³ American Civil Liberties Union. (2020). A Tale of Two Countries Racially Targeted Arrests in the Era of Marijuana Reform. American Civil Liberties Union. Retrieved November 30, 2022, from <https://www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform>

⁴ Elwood, K., & Harden, J. D. (2022, October 16). After Virginia legalized pot, majority of defendants are still black. The Washington Post. Retrieved November 30, 2022, from <https://www.washingtonpost.com/dc-md-va/2022/10/16/virginia-marijuana-enforcement-disparities/>

⁵ Elwood, K., & Harden, J. D. (2022, October 16). After Virginia legalized pot, majority of defendants are still black. The Washington Post. Retrieved November 30, 2022, from <https://www.washingtonpost.com/dc-md-va/2022/10/16/virginia-marijuana-enforcement-disparities/>