



# RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES  
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2024 Session  
HB0474

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## Criminal Procedure - Probation, Parole, and Pretrial Release

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### Bill Summary

This bill prohibits a court or the Maryland Parole Commission (MPC) from revoking a defendant's pretrial release or finding that a defendant has violated probation or parole based solely on the use of cannabis or a positive test for cannabis unless the court or MPC, at the time of ordering pretrial release, probation, or parole, makes a specific finding that the defendant's use of cannabis could create a danger to the defendant or others and includes as a condition of the pretrial release, probation, or parole that the defendant may not use cannabis.

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### Racial Equity Impact Statement

The bill's provisions prohibiting the revocation of pretrial release or post incarceration supervision solely for the use of or testing positive for cannabis will generally reduce the number of revocations and potential incarceration of individuals for this activity. The magnitude of the bill's impacts on specific demographic groups cannot be reliably estimated as no detailed data is available on those individuals whose parole, probation, or pretrial release has been revoked solely for the use of cannabis. There is data from the Department of Public Safety and Correctional Services (DPSCS) and the Department of State Police, however, to suggest that the bill could have a positive equity impact on Black defendants, parolees, and probationers.

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### Analysis

Existing law prohibits the revocation of mandatory supervision, parole, or probation based solely on the use or possession of medical cannabis, and this bill would extend that consideration to the recreational use of cannabis, with restrictions. Specifically, this bill will prohibit either a court or MPC from revoking a person's pretrial release, probation, or parole solely for the use of cannabis or a positive test for cannabis unless the use of cannabis is prohibited as a condition of the pretrial

release or there is a specific finding that such use endangers the defendant, the supervised individual, or others.

Chapters 26 and 45 of 2022 allow for the legalization of certain amounts of cannabis. An adult age 21 and older may possess up to 1.5 ounces of cannabis without penalty. Possession of more than 1.5 ounces but less than 2.5 ounces is now a civil offense, and possession of 2.5 ounces or more remains a criminal offense. Cannabis use continues to be a criminal offense in certain public spaces and while operating specified vehicles.

### *Population Under Supervision*

Black individuals are overrepresented in the supervised population as well as in the population of individuals arrested and charged for cannabis use in Maryland. The aggregate supervision data shows that Black individuals are twice as likely to be under supervision in Maryland compared to their proportion of the State's population and more than two times as likely to be under supervision compared to white individuals.

DPSCS is currently responsible for nearly 43,000 individuals under supervision. Criminal supervision includes individuals being supervised pre-sentence, post sentence, and post incarceration. Currently, drug use is prohibited by all individuals on supervised release. DPSCS reports that in 2023, Black individuals comprised approximately 59% of the total number of persons under some form of criminal supervision. Of the cases under criminal supervision, 59% were closed satisfactorily. The remaining cases resulted in new offenses (16%), unsatisfactory outcomes (14%), technical violations (6%), or other violations (5%). According to DPSCS, the rate of technical violations has dropped since the Justice Reinvestment Act took effect in 2017. There is no data readily available on the number of individuals in violation of supervision due to cannabis use, so it is not possible to determine the bill's specific impacts on the supervised population in Maryland.

### *Cannabis Arrests*

With respect to pre-decriminalization arrests, Maryland's annual Uniform Crime Report indicates 10,256 total arrests in 2020 for possession of cannabis. Of these total arrests, 59% were Black individuals, 41% were white individuals, and 9% were Hispanic individuals. This means that Black individuals were over two times more likely to be arrested for cannabis possession than their white peers prior to cannabis legalization.

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## **Conclusion**

The interaction of the bill with the existing legalization of certain amounts of cannabis will likely lead to an overall decrease in supervision revocations. There is no data readily available that indicate the demographics of those individuals that have had their supervision revoked solely because of cannabis usage. Demographic data regarding historical and prospective violation and revocation activity by the courts and DPSCS could provide some insight into the exact nature and magnitude of the bill's impacts on various racial and ethnic groups. Despite the data limitations, it is reasonable to expect that Black individuals under DPSCS supervision would experience the

most significant impacts given their overrepresentation both in the State's supervised population and of those arrested, charged, and convicted of cannabis possession in the past.

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**Information Sources:** Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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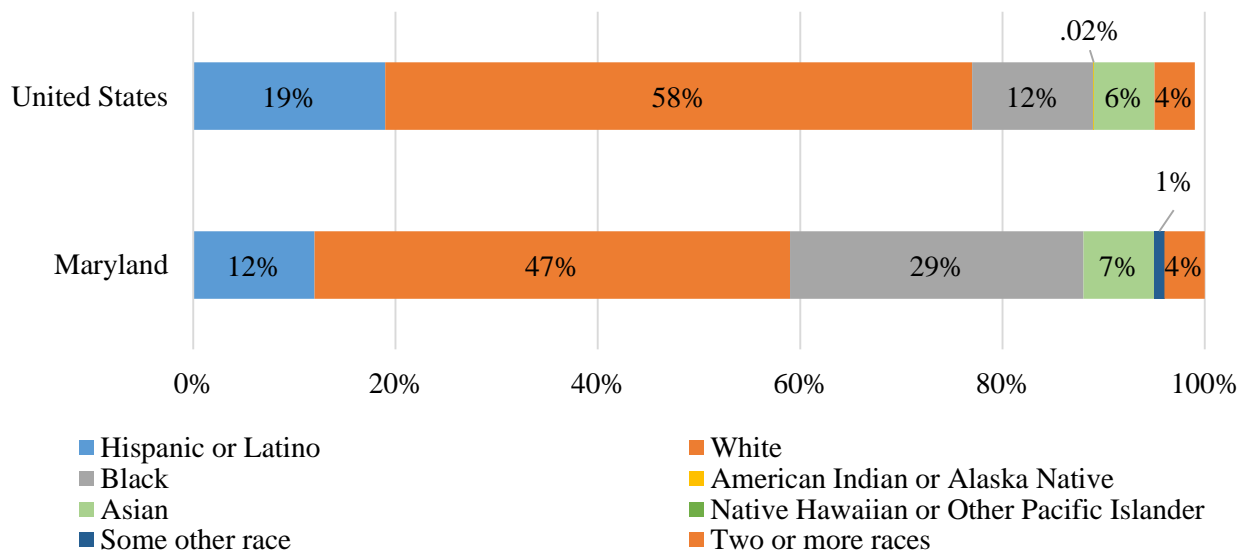
## Appendix – Maryland Demographics

### *Race and Ethnicity of the Maryland Population*

Maryland’s 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland’s racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as “other” and “multiracial” (*i.e.*, two or more racial identities), which total 5% of the State’s population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report “white” as their racial group. Despite this decrease, non-Hispanic whites remain the largest race demographic group in the State at 47% of the State’s population.

Compared to the U.S. population overall, Maryland’s population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% of the national population. In both the State and national populations, the largest shares of the non-white population are individuals who are Black, with 29% of the State population identifying only as Black and another 2.5% identifying as Black in combination with some other race. Maryland’s Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State’s overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State’s population identified as Hispanic or Latino compared to 19% of the U.S. population.

**Exhibit 1**  
**U.S. and Maryland Population by Race and Ethnicity**  
**2020**



Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.