



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2024 Session
HB1057

Task Force to Study the Use and Possession of De Minimis Quantities of Controlled Dangerous Substances

Bill Summary

The bill establishes the Task Force to Study the Use and Possession of De Minimis Quantities of Controlled Dangerous Substances, staffed by the Maryland Department of Health. By October 1, 2025, the task force must report its findings and recommendations to the Governor and the General Assembly.

Racial Equity Impact Statement

The bill creates a task force to study the establishment of a *de minimis* quantity of controlled dangerous substance (CDS) law. While the bill's provisions have no direct impact on any population, the policies the task force will be researching could benefit habitual drug offenders should they be implemented. The issues the task force must study will provide greater insight into the various impacts a *de minimis* law may have on various racial groups, particularly Black and Hispanic individuals, as there is some evidence that these groups would be impacted to a greater extent by such laws.

Analysis

A *de minimis* quantity CDS law generally substitutes civil fines and penalties for criminal penalties for use or possession of a small amount of a CDS. The task force generally must study the implementation of a *de minimis* law on a statewide basis including:

- exploring the relationship between drug use and crime;

- recommending what *de minimis* amounts of CDS should be decriminalized;
- studying the efficacy of and best practices for dedicated drug courts in other states with *de minimis* quantity laws;
- identifying alternatives to criminal penalties for use or possession of CDS above a *de minimis* amount;
- studying specified low barrier substance use disorder treatments, peer support and recovery, harm reduction prevention, and transitional, supportive, and permanent housing; and
- identifying a penalty framework for first-time and subsequent civil offenses under a *de minimis* quantity law.

The task force would consider the role of drug courts in a *de minimis* law environment. According to the Government Accountability Office (GAO), drug courts are specialized court programs that aim to serve offenders with substance use disorders. A 2023 study by GAO states that, as of December 2019, there were nearly 1,700 drug courts focused on adults with substance use disorders in the United States. These courts are designed to be non-adversarial with the goal of restoring the defendant as a productive member of society. This is accomplished by providing individualized, but intensive and structured, treatment programs and monitoring a defendant's progress while in treatment. The Judiciary advises that there are 32 drug courts operating in the State across 21 counties and Baltimore City.

In 2020, Oregon became the first state in the nation to decriminalize the possession of small amounts of illicit drugs.

Available Controlled Dangerous Substance Abuse and Arrest Data

National data from the Substance Abuse and Mental Health Services Administration for 2015 through 2019 suggest that those aged 12 years or older identifying as multiracial or Hispanic had higher rates of illicit drug use than Black or white individuals.

Maryland's Opioid Operational Command Center reported preliminary data showing that Black individuals accounted for 48% of all overdose deaths in the State in 2022. Data also shows that the number of annual overdose deaths among Black individuals has been rising in recent years, while the number of annual overdose deaths among white Marylanders has remained relatively constant.

In 2020, the Department of State Police reported 6,088 arrests for possession of opium, cocaine, synthetic drugs, and other CDS excluding marijuana. Opium/cocaine accounted for 65% of the total. Under a *de minimis* law, a portion of these individuals would receive civil citations and may be offered drug treatment.

Conclusion

Identifying the benefits of adult drug diversion programs in combination with *de minimis* laws across the United States may help to predict the effects of similar efforts in Maryland. While the bill's provisions only require a task force to study of *de minimis* quantity laws and how they could be implemented, the results and findings of the task force may confirm the beneficial impacts to habitual drug offenders, especially Black offenders that are often overrepresented in this subpopulation. The task force is mandated to report its findings and resulting recommendations to the Governor and the General Assembly in October 2025, so this report may aid in any future racial equity impact analyses.

Information Sources: Government Accountability Office; Department of Justice; Department of State Police; Department of Legislative Services

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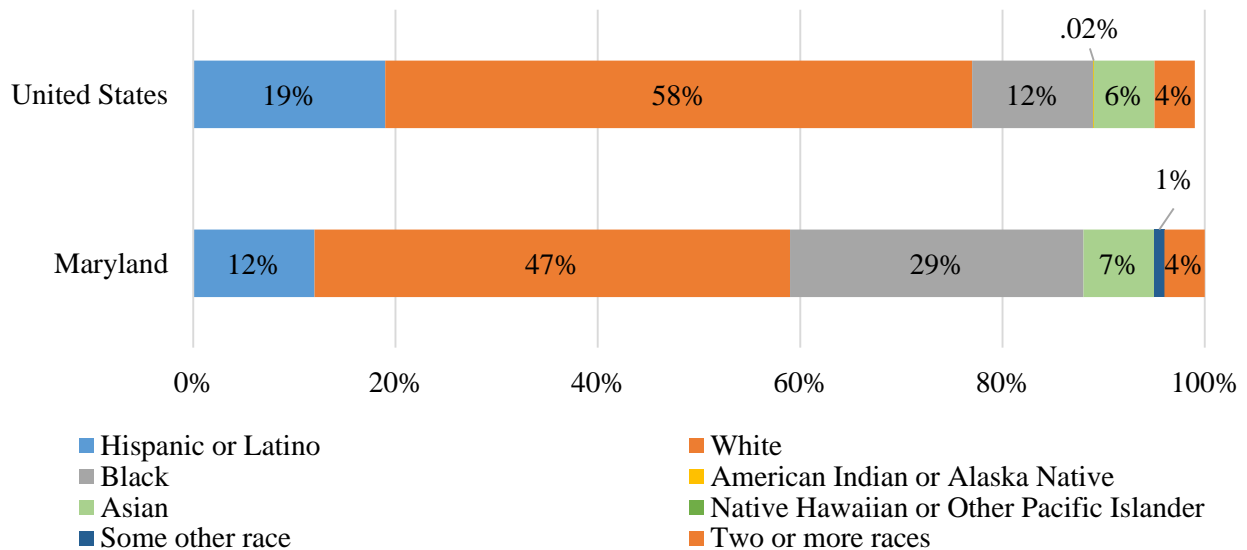
Appendix – Maryland Demographics

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.