

HOUSE BILL 1506

E1, E4

0lr0629

By: **Delegate Moon**

Introduced and read first time: February 7, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Cannabis – Personal Use Amount – Legalization**

3 FOR the purpose of substituting the word “cannabis” for the word “marijuana” in various
4 provisions of law; providing that use or possession of a certain personal use amount
5 of cannabis by an individual who is under a certain age is a civil offense; providing
6 that use or possession of more than a certain personal use amount of cannabis, but
7 less than a certain amount of cannabis, by an individual who is at least a certain age
8 is a civil offense; providing that possession of a certain personal use amount of
9 cannabis by an individual who is at least a certain age is not a criminal or civil
10 offense; establishing certain penalties; repealing a certain provision of law relating
11 to an affirmative defense of medical necessity; defining certain terms; making
12 conforming changes; providing for a delayed effective date; and generally relating to
13 cannabis.

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 5–101
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2019 Supplement)
19 (As enacted by Chapter 228 of the Acts of the General Assembly of 2019)

20 BY repealing and reenacting, with amendments,
21 Article – Criminal Law
22 Section 5–601, 5–601.1, 5–612(a)(1), 5–614(a)(1)(i) and (b)(1), 5–619(c), and
23 5–620(d)(2)
24 Annotated Code of Maryland
25 (2012 Replacement Volume and 2019 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
27 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Criminal Law

5–101.

(a) In this title the following words have the meanings indicated.

(b) “Administer” means to introduce a substance into the system of a human or animal by injection, inhalation, ingestion, application to the skin, or any combination of those methods or by any other means.

(c) (1) “Agent” means an employee or other authorized person who acts for or at the direction of a manufacturer, distributor, or authorized provider.

(2) “Agent” does not include:

(i) a common carrier, contract carrier, or public warehouseman; or

(ii) an employee of a common carrier, contract carrier, or public warehouseman.

(d) (1) “Authorized provider” means:

(i) a person licensed, registered, or otherwise allowed to administer, distribute, dispense, or conduct research on a controlled dangerous substance in the State in the course of professional practice or research; or

(ii) a pharmacy, laboratory, hospital, or other institution licensed, registered, or otherwise allowed to administer, distribute, dispense, or conduct research on a controlled dangerous substance in the State in the course of professional practice or research.

(2) “Authorized provider” includes:

(i) a scientific investigator;

(ii) an individual authorized by the State to practice medicine, dentistry, or veterinary medicine; and

(iii) an animal control facility licensed under § 2–305 of the Agriculture Article.

(e) (1) “Cannabimimetic agents” means substances that are cannabinoid receptor type 1 (CB1 receptor) agonists as demonstrated by binding studies and functional assays within one of the following structural classes:

(i) 2–(3–hydroxycyclohexyl)phenol with substitution at the 5–position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the

1 cyclohexyl ring to any extent;

2 (ii) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by
3 substitution at the nitrogen atom of the indole ring, whether or not further substituted on
4 the indole ring to any extent and whether or not substituted on the naphthoyl or naphthyl
5 ring to any extent;

6 (iii) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of
7 the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent and
8 whether or not substituted on the naphthoyl ring to any extent;

9 (iv) 1-(1-naphthylmethylene)indene by substitution of the
10 3-position of the indene ring, whether or not further substituted in the indene ring to any
11 extent and whether or not substituted on the naphthyl ring to any extent; or

12 (v) 3-phenylacetylindole or 3-benzoylindole by substitution at the
13 nitrogen atom of the indole ring, whether or not further substituted in the indole ring to
14 any extent and whether or not substituted on the phenyl ring to any extent.

15 (2) "Cannabimimetic agents" includes:

16 (i) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-
17 phenol (CP-47,497);

18 (ii) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol
19 (cannabicyclohexanol or CP-47,497 C8-homolog);

20 (iii) 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678);

21 (iv) 1-butyl-3-(1-naphthoyl)indole (JWH-073);

22 (v) 1-hexyl-3-(1-naphthoyl)indole (JWH-019);

23 (vi) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);

24 (vii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);

25 (viii) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081);

26 (ix) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);

27 (x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);

28 (xi) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);

29 (xii) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);

(xiii) 1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR-19 and RCS-4);

(xiv) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and RCS-8); and

(xv) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203).

(f) (1) **“CANNABIS” MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS, THE SEEDS OF THE PLANT, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING CANNABIS CONCENTRATE.**

(2) **“CANNABIS” INCLUDES ANYTHING DEFINED IN THE STATE LAWS AS “MARIJUANA” OR “HASHISH”.**

(3) **“CANNABIS” DOES NOT INCLUDE:**

(I) **HEMP, AS DEFINED IN § 14-101 OF THE AGRICULTURE ARTICLE, EXCEPT THAT AN EXTRACT OF CANNABINOIDS WITH PSYCHOPHARMACOLOGICAL PROPERTIES, INCLUDING CANNABIDIOL, IS INCLUDED IN THE DEFINITION OF CANNABIS; OR**

(II) **FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT THAT IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANOTHER INGREDIENT COMBINED WITH CANNABIS TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR ANY OTHER PRODUCT.**

(G) (1) **“Coca leaf” includes a leaf containing cocaine, the optical and geometric isomers of cocaine, and any compound, manufactured substance, salt, derivative, mixture, or preparation of a coca leaf.**

(2) **“Coca leaf” does not include a derivative of a coca leaf that does not contain cocaine, ecgonine, or a substance from which cocaine or ecgonine may be synthesized or made.**

[(g)] (H) (1) **“Controlled dangerous substance” means:**

(i) a drug or substance listed in Schedule I through Schedule V; or

(ii) an immediate precursor to a drug or substance listed in Schedule I through Schedule V that:

1. by regulation the Department designates as being the

principal compound commonly used or produced primarily for use to manufacture a drug or substance listed in Schedule I through Schedule V;

2. is an immediate chemical intermediary used or likely to be used to manufacture a drug or substance listed in Schedule I through Schedule V; and

3. must be controlled to prevent or limit the manufacture of a drug or substance listed in Schedule I through Schedule V.

(2) “Controlled dangerous substance” does not include distilled spirits, wine, malt beverages, or tobacco.

[(h)] (I) “Controlled paraphernalia” means:

(1) a hypodermic syringe, needle, or any other object or combination of objects adapted to administer a controlled dangerous substance by hypodermic injection;

(2) a gelatin capsule, glassine envelope, or other container suitable for packaging individual quantities of a controlled dangerous substance; or

(3) lactose, quinine, mannite, mannitol, dextrose, sucrose, procaine hydrochloride, or any other substance suitable as a diluent or adulterant.

[(i)] (J) “Deliver” means to make an actual, constructive, or attempted transfer or exchange from one person to another whether or not remuneration is paid or an agency relationship exists.

[(j)] (K) “Department” means the Maryland Department of Health.

[(k)] (L) “Depressant or stimulant drug” means a drug that contains any quantity of a substance that the Attorney General of the United States by regulation designates as having a potential for abuse because of:

(1) a depressant or stimulant effect on the central nervous system; or

(2) a hallucinogenic effect.

[(l)] (M) (1) “Dispense” means to deliver to the ultimate user or the human research subject by or in accordance with the lawful order of an authorized provider.

(2) “Dispense” includes to prescribe, administer, package, label, or compound a substance for delivery.

[(m)] (N) “Distribute” means, with respect to a controlled dangerous substance, to deliver other than by dispensing.

[(n)] (O) (1) “Drug” means:

(i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary;

(ii) a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

(iii) except for food, a substance intended to affect the structure or function of the body of humans or other animals; or

(iv) a substance intended for use as a component of any substance specified in item (i), (ii), or (iii) of this paragraph.

(2) “Drug” does not include a device or an accessory, part, or component of a device.

[(o)] (P) “Drug dependent person” means a person who:

(1) is using a controlled dangerous substance; and

(2) is in a state of psychological or physical dependence, or both, that:

(i) arises from administration of that controlled dangerous substance on a continuous basis; and

(ii) is characterized by behavioral and other responses that include a strong compulsion to take the substance on a continuous basis in order to experience its psychological effects or to avoid the discomfort of its absence.

[(p)] (Q) (1) “Drug paraphernalia” means equipment, a product, or material that is used, intended for use, or designed for use, in:

(i) planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, packaging, repackaging, storing, containing, or concealing a controlled dangerous substance in violation of this title; or

(ii) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled dangerous substance in violation of this title.

(2) “Drug paraphernalia” includes:

(i) a kit used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled dangerous substance or from which a controlled dangerous substance can be derived;

(ii) a kit used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing a controlled dangerous substance;

(iii) an isomerization device used, intended for use, or designed for use in increasing the potency of any species of plant that is a controlled dangerous substance;

(iv) testing equipment used, intended for use, or designed for use in analyzing the strength, effectiveness, or purity of a controlled dangerous substance;

(v) a scale or balance used, intended for use, or designed for use in weighing or measuring a controlled dangerous substance;

(vi) a diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, used, intended for use, or designed for use in cutting a controlled dangerous substance;

(vii) a separation gin or sifter used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(viii) a blender, bowl, container, spoon, or mixing device used, intended for use, or designed for use in compounding a controlled dangerous substance;

(ix) a capsule, balloon, envelope, or other container used, intended for use, or designed for use in packaging small quantities of a controlled dangerous substance;

(x) a container or other object used, intended for use, or designed for use in storing or concealing a controlled dangerous substance;

(xi) a hypodermic syringe, needle, or other object used, intended for use, or designed for use in parenterally injecting a controlled dangerous substance into the human body; and

(xii) an object used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body such as:

1. a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without screen, permanent screen, hashish head, or punctured metal bowl;

2. a water pipe;

3. a carburetion tube or device;

4. a smoking or carburetion mask;

5. an object known as a roach clip used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;

6. a miniature spoon used for cocaine and cocaine vials;

7. a chamber pipe;

8. a carburetor pipe;

9. an electric pipe;

10. an air-driven pipe;

11. a chillum;

12. a bong; and

13. an ice pipe or chiller.

[(q)] (R) (1) “Manufacture”, with respect to a controlled dangerous substance, means to produce, prepare, propagate, compound, convert, or process a controlled dangerous substance:

(i) directly or indirectly by extraction from substances of natural origin;

(ii) independently by chemical synthesis; or

(iii) by a combination of extraction and chemical synthesis.

(2) “Manufacture” includes to package and repackage a controlled dangerous substance and label and relabel its containers.

(3) “Manufacture” does not include:

(i) to prepare or compound a controlled dangerous substance by an individual for the individual’s own use; or

(ii) to prepare, compound, package, or label a controlled dangerous substance:

1. by an authorized provider incidental to administering or dispensing a controlled dangerous substance in the course of professional practice; or

2. if the controlled dangerous substance is not for sale by an authorized provider, or by the authorized provider's agent under the authorized provider's supervision, for or incidental to research, teaching, or chemical analysis.

[(r) (1) "Marijuana" means:

(i) all parts of any plant of the genus *Cannabis*, whether or not the plant is growing;

(ii) the seeds of the plant;

(iii) the resin extracted from the plant; and

(iv) each compound, manufactured product, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.

(2) "Marijuana" does not include:

(i) the mature stalks of the plant;

(ii) fiber produced from the mature stalks;

(iii) oil or cake made from the seeds of the plant;

(iv) except for resin, any other compound, manufactured product, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(v) the sterilized seed of the plant that is incapable of germination; or

(vi) hemp as defined in § 14–101 of the Agriculture Article.]

(s) (1) "Narcotic drug" means a substance:

(i) that has been found to present an extreme danger to the health and welfare of the community because of addiction-forming and addiction-sustaining qualities;

(ii) that is:

1. an opiate;

2. a compound, manufactured substance, salt, derivative, or preparation of opium, coca leaf, or an opiate; or

3. a substance and any compound, manufactured substance, salt, derivative, or preparation that is chemically identical with a substance listed in items

1 1 and 2 of this item; and

2 (iii) that is produced:

- 3 1. directly or indirectly by extraction from substances of
4 vegetable origin;
- 5 2. independently by chemical synthesis; or
- 6 3. by a combination of extraction and chemical synthesis.

7 (2) “Narcotic drug” includes decocainized coca leaf or an extract of coca leaf
8 that does not contain cocaine or ecgonine.

9 (t) “Noncontrolled substance” means a substance that is not classified as a
10 controlled dangerous substance under Subtitle 4 of this title.

11 (u) (1) “Opiate” means a substance that has an addiction-forming or
12 addiction-sustaining quality similar to morphine or that can be converted into a drug that
13 has this addiction-forming or addiction-sustaining quality.

14 (2) “Opiate” includes:

- 15 (i) the racemic and levorotatory forms of an opiate;
- 16 (ii) except for seeds, the opium poppy, the plant of the species
17 *Papaver somniferum* L.;
- 18 (iii) the poppy straw consisting of the opium poppy after mowing
19 except the seeds; and
- 20 (iv) coca leaf.

21 (3) “Opiate” does not include, unless specifically designated as controlled
22 under § 5–202 of this title, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan
23 and its salts (dextromethorphan).

24 (v) **“PERSONAL USE AMOUNT OF CANNABIS” MEANS 1 OUNCE OR LESS OF**
25 **CANNABIS.**

26 (w) “Possess” means to exercise actual or constructive dominion or control over a
27 thing by one or more persons.

28 [(w)] (x) (1) “Prescription drug” means a drug that:

- 29 (i) is intended to be used by an individual; and

(ii) because of its toxicity, other potentiality for harmful effect, method of use, or collateral measures necessary for its use:

1. bears a cautionary label warning a person that under federal law the drug may not be dispensed without a prescription; or

2. is designated by the Department as not safe for use except under the supervision of a person licensed by the State to administer a prescription drug.

(2) “Prescription drug” does not include a controlled dangerous substance.

[(x)] (Y) “Produce”, with respect to a controlled dangerous substance, includes to manufacture, plant, cultivate, grow, and harvest.

[(y)] (Z) “Registrant” means a person who is registered by the Department to manufacture, distribute, or dispense a controlled dangerous substance in the State.

[(z)] (AA) “Schedule I” means a list of controlled dangerous substances that appears in § 5–402 of this title.

[(aa)] (BB) “Schedule II” means a list of controlled dangerous substances that appears in § 5–403 of this title.

[(bb)] (CC) “Schedule III” means a list of controlled dangerous substances that appears in § 5–404 of this title.

[(cc)] (DD) “Schedule IV” means a list of controlled dangerous substances that appears in § 5–405 of this title.

[(dd)] (EE) “Schedule V” means a list of controlled dangerous substances that appears in § 5–406 of this title.

[(ee)] (FF) “Secretary” means the Secretary of the Department.

[(ff)] (GG) “Ultimate user” means a person who lawfully possesses a controlled dangerous substance for the person’s own use, for the use of a member of the person’s household, or for administration to an animal owned by the person or by a member of the person’s household.

5–601.

(a) Except as otherwise provided in this title, a person may not:

(1) possess or administer to another a controlled dangerous substance, unless obtained directly or by prescription or order from an authorized provider acting in the course of professional practice; or

1 (2) obtain or attempt to obtain a controlled dangerous substance, or
2 procure or attempt to procure the administration of a controlled dangerous substance by:

3 (i) fraud, deceit, misrepresentation, or subterfuge;

4 (ii) the counterfeiting or alteration of a prescription or a written
5 order;

6 (iii) the concealment of a material fact;

7 (iv) the use of a false name or address;

8 (v) falsely assuming the title of or representing to be a
9 manufacturer, distributor, or authorized provider; or

10 (vi) making, issuing, or presenting a false or counterfeit prescription
11 or written order.

12 (b) Information that is communicated to a physician in an effort to obtain a
13 controlled dangerous substance in violation of this section is not a privileged
14 communication.

15 (c) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a
16 person who violates this section is guilty of a misdemeanor and on conviction is subject to:

17 (i) for a first conviction, imprisonment not exceeding 1 year or a fine
18 not exceeding \$5,000 or both;

19 (ii) for a second or third conviction, imprisonment not exceeding 18
20 months or a fine not exceeding \$5,000 or both; or

21 (iii) for a fourth or subsequent conviction, imprisonment not
22 exceeding 2 years or a fine not exceeding \$5,000 or both.

23 (2) (i) Except as provided in [subparagraph (ii)] **SUBPARAGRAPHS**
24 **(II), (III), AND (IV)** of this paragraph, a person whose violation of this section involves the
25 use or possession of [marijuana] **CANNABIS** is guilty of a misdemeanor of possession of
26 [marijuana] **CANNABIS** and is subject to imprisonment not exceeding 6 months or a fine
27 not exceeding \$1,000 or both.

28 (ii) 1. A first finding of guilt under this section involving the use
29 or possession of [less than 10 grams of marijuana] **THE PERSONAL USE AMOUNT OF**
30 **CANNABIS BY AN INDIVIDUAL UNDER THE AGE OF 21 YEARS** is a civil offense
31 punishable by a fine not exceeding \$100.

2. A second finding of guilt under this section involving the use or possession of [less than 10 grams of marijuana] **THE PERSONAL USE AMOUNT OF CANNABIS BY AN INDIVIDUAL UNDER THE AGE OF 21 YEARS** is a civil offense punishable by a fine not exceeding \$250.

3. A third or subsequent finding of guilt under this section involving the use or possession of [less than 10 grams of marijuana] **THE PERSONAL USE AMOUNT OF CANNABIS BY AN INDIVIDUAL UNDER THE AGE OF 21 YEARS** is a civil offense punishable by a fine not exceeding \$500.

4. A. In addition to a fine, a court shall order a person under the age of 21 years who commits a violation punishable under subparagraph 1, 2, or 3 of this subparagraph to attend a drug education program approved by the Maryland Department of Health, refer the person to an assessment for substance abuse disorder, and refer the person to substance abuse treatment, if necessary.

B. [In addition to a fine, a court shall order a person at least 21 years old who commits a violation punishable under subparagraph 3 of this subparagraph to attend a drug education program approved by the Maryland Department of Health, refer the person to an assessment for substance abuse disorder, and refer the person to substance abuse treatment, if necessary.

C.] A court that orders a person to a drug education program or substance abuse assessment or treatment under this subparagraph may hold the case sub curia pending receipt of proof of completion of the program, assessment, or treatment.

(III) A VIOLATION OF THIS SECTION INVOLVING A PERSON AT LEAST 21 YEARS OLD USING OR POSSESSING AN AMOUNT OF CANNABIS THAT EXCEEDS THE PERSONAL USE AMOUNT OF CANNABIS BUT DOES NOT EXCEED DOUBLE THE PERSONAL USE AMOUNT OF CANNABIS IS A CIVIL OFFENSE PUNISHABLE BY A FINE NOT EXCEEDING \$250 AND THE PERFORMANCE OF COMMUNITY SERVICE NOT EXCEEDING 20 HOURS.

(IV) POSSESSION OF THE PERSONAL USE AMOUNT OF CANNABIS BY A PERSON AT LEAST 21 YEARS OLD IS NOT A CRIMINAL OR CIVIL OFFENSE.

(3) [(i) 1. In this paragraph the following words have the meanings indicated.

2. “Bona fide physician–patient relationship” means a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a patient’s medical condition.

3. “Caregiver” means an individual designated by a patient with a debilitating medical condition to provide physical or medical assistance to the

1 patient, including assisting with the medical use of marijuana, who:

2 A. is a resident of the State;

3 B. is at least 21 years old;

4 C. is an immediate family member, a spouse, or a domestic
5 partner of the patient;

6 D. has not been convicted of a crime of violence as defined in
7 § 14–101 of this article;

8 E. has not been convicted of a violation of a State or federal
9 controlled dangerous substances law;

10 F. has not been convicted of a crime of moral turpitude;

11 G. has been designated as caregiver by the patient in writing
12 that has been placed in the patient’s medical record prior to arrest;

13 H. is the only individual designated by the patient to serve as
14 caregiver; and

15 I. is not serving as caregiver for any other patient.

16 4. “Debilitating medical condition” means a chronic or
17 debilitating disease or medical condition or the treatment of a chronic or debilitating
18 disease or medical condition that produces one or more of the following, as documented by
19 a physician with whom the patient has a bona fide physician–patient relationship:

20 A. cachexia or wasting syndrome;

21 B. severe or chronic pain;

22 C. severe nausea;

23 D. seizures;

24 E. severe and persistent muscle spasms; or

25 F. any other condition that is severe and resistant to
26 conventional medicine.

27 (ii) 1. In a prosecution for the use or possession of marijuana, the
28 defendant may introduce and the court shall consider as a mitigating factor any evidence
29 of medical necessity.

1 2. Notwithstanding paragraph (2) of this subsection, if the
2 court finds that the person used or possessed marijuana because of medical necessity, the
3 court shall dismiss the charge.

4 (iii) 1. In a prosecution for the use or possession of marijuana
5 under this section, it is an affirmative defense that the defendant used or possessed
6 marijuana because:

7 A. the defendant has a debilitating medical condition that
8 has been diagnosed by a physician with whom the defendant has a bona fide
9 physician–patient relationship;

10 B. the debilitating medical condition is severe and resistant
11 to conventional medicine; and

12 C. marijuana is likely to provide the defendant with
13 therapeutic or palliative relief from the debilitating medical condition.

14 2. A. In a prosecution for the possession of marijuana
15 under this section, it is an affirmative defense that the defendant possessed marijuana
16 because the marijuana was intended for medical use by an individual with a debilitating
17 medical condition for whom the defendant is a caregiver.

18 B. A defendant may not assert the affirmative defense under
19 this subsubparagraph unless the defendant notifies the State’s Attorney of the defendant’s
20 intention to assert the affirmative defense and provides the State’s Attorney with all
21 documentation in support of the affirmative defense in accordance with the rules of
22 discovery provided in Maryland Rules 4–262 and 4–263.

23 3. An affirmative defense under this subparagraph may not
24 be used if the defendant was:

25 A. using marijuana in a public place or assisting the
26 individual for whom the defendant is a caregiver in using the marijuana in a public place;
27 or

28 B. in possession of more than 1 ounce of marijuana.

29 (4)] A violation of this section involving the smoking of [marijuana]
30 CANNABIS in a public place is a civil offense punishable by a fine not exceeding \$500.

31 (d) The provisions of subsection (c)(2)(ii), **(III), AND (IV)** of this section [making]
32 **DECRIMINALIZING** the possession of [marijuana a civil offense] CANNABIS may not be
33 construed to affect the laws relating to:

34 (1) operating a vehicle or vessel while under the influence of or while
35 impaired by a controlled dangerous substance; or

(2) seizure and forfeiture.

(e) (1) (i) Before imposing a sentence under subsection (c) of this section, the court may order the Maryland Department of Health or a certified and licensed designee to conduct an assessment of the defendant for substance use disorder and determine whether the defendant is in need of and may benefit from drug treatment.

(ii) If an assessment for substance use disorder is requested by the defendant and the court denies the request, the court shall state on the record the basis for the denial.

(2) On receiving an order under paragraph (1) of this subsection, the Maryland Department of Health, or the designee, shall conduct an assessment of the defendant for substance use disorder and provide the results to the court, the defendant or the defendant's attorney, and the State identifying the defendant's drug treatment needs.

(3) The court shall consider the results of an assessment performed under paragraph (2) of this subsection when imposing the defendant's sentence and:

(i) except as provided in subparagraph (ii) of this paragraph, the court shall suspend the execution of the sentence and order probation and, if the assessment shows that the defendant is in need of substance abuse treatment, require the Maryland Department of Health or the designee to provide the medically appropriate level of treatment as identified in the assessment; or

(ii) the court may impose a term of imprisonment under subsection (c) of this section and order the Division of Correction or local correctional facility to facilitate the medically appropriate level of treatment for the defendant as identified in the assessment.

5-601.1.

(a) A police officer shall issue a citation to a person who the police officer has probable cause to believe has committed a [violation of] **CIVIL OFFENSE UNDER § 5-601** of this part [involving the use or possession of less than 10 grams of marijuana].

(b) (1) A violation of § 5-601 of this part involving the use or possession of [less than 10 grams of marijuana] **THE PERSONAL USE AMOUNT OF CANNABIS BY AN INDIVIDUAL UNDER THE AGE OF 21 YEARS, OR THE USE OR POSSESSION OF AN AMOUNT OF CANNABIS THAT EXCEEDS THE PERSONAL USE AMOUNT OF CANNABIS BUT DOES NOT EXCEED DOUBLE THE PERSONAL USE AMOUNT OF CANNABIS BY AN INDIVIDUAL AT LEAST 21 YEARS OLD**, is a civil offense.

(2) Adjudication of a [violation] **CIVIL OFFENSE** under § 5-601 of this part [involving the use or possession of less than 10 grams of marijuana]:

1 (i) is not a criminal conviction for any purpose; and

2 (ii) does not impose any of the civil disabilities that may result from
3 a criminal conviction.

4 (c) (1) A citation issued for a [violation of] **CIVIL OFFENSE UNDER § 5–601** of
5 this part [involving the use or possession of less than 10 grams of marijuana] shall be
6 signed by the police officer who issues the citation and shall contain:

7 (i) the name, address, and date of birth of the person charged;

8 (ii) the date and time that the violation occurred;

9 (iii) the location at which the violation occurred;

10 (iv) the fine that may be imposed;

11 (v) a notice stating that prepayment of the fine is allowed, except as
12 provided in paragraph (2) of this subsection; and

13 (vi) a notice in boldface type that states that the person shall:

14 1. pay the full amount of the preset fine; or

15 2. request a trial date at the date, time, and place established
16 by the District Court by writ or trial notice.

17 (2) (i) If a citation for a [violation of] **CIVIL OFFENSE UNDER § 5–601**
18 of this part [involving the use or possession of less than 10 grams of marijuana] is issued
19 to a person under the age of 21 years, the court shall summon the person for trial.

20 (ii) If the court finds that a person at least 21 years old who has been
21 issued a citation under this section has at least twice previously been found guilty **OF A**
22 **CIVIL OFFENSE** under § 5–601 of this part [involving the use or possession of less than 10
23 grams of marijuana], the court shall summon the person for trial.

24 (d) The form of the citation shall be uniform throughout the State and shall be
25 prescribed by the District Court.

26 (e) (1) The Chief Judge of the District Court shall establish a schedule for the
27 prepayment of the fine.

28 (2) Prepayment of a fine shall be considered a plea of guilty to a Code
29 violation.

(3) A person described in subsection (c)(2) of this section may not prepay the fine.

(f) (1) A person may request a trial by sending a request for trial to the District Court in the jurisdiction where the citation was issued within 30 days of the issuance of the citation.

(2) If a person other than a person described in subsection (c)(2) of this section does not request a trial or prepay the fine within 30 days of the issuance of the citation, the court may impose the maximum fine and costs against the person and find the person is guilty of a Code violation for purposes of subsection (c)(2)(ii) of this section.

(g) The issuing jurisdiction shall forward a copy of the citation and a request for trial to the District Court in the district having venue.

(h) (1) The failure of a defendant to respond to a summons described in subsection (c)(2) of this section shall be governed by § 5–212 of the Criminal Procedure Article.

(2) If a person at least 21 years old fails to appear after having requested a trial, the court may impose the maximum fine and costs against the person and find the person is guilty of a Code violation for purposes of subsection (c)(2)(ii) of this section.

(i) In any proceeding for a Code violation under § 5–601 of this part [involving the use or possession of less than 10 grams of marijuana]:

(1) the State has the burden to prove the guilt of the defendant by a preponderance of the evidence;

(2) the court shall apply the evidentiary standards as prescribed by law or rule for the trial of a criminal case;

(3) the court shall ensure that the defendant has received a copy of the charges against the defendant and that the defendant understands those charges;

(4) the defendant is entitled to cross-examine all witnesses who appear against the defendant, to produce evidence or witnesses on behalf of the defendant, and to testify on the defendant's own behalf, if the defendant chooses to do so;

(5) the defendant is entitled to be represented by counsel of the defendant's choice and at the expense of the defendant; and

(6) the defendant may enter a plea of guilty or not guilty, and the verdict of the court in the case shall be:

(i) guilty of a Code violation;

(ii) not guilty of a Code violation; or

(iii) probation before judgment, imposed by the court in the same manner and to the same extent as is allowed by law in the trial of a criminal case.

(j) (1) The defendant is liable for the costs of the proceedings in the District Court.

(2) The court costs in a Code violation case under § 5–601 of this part [involving the use or possession of less than 10 grams of marijuana] in which costs are imposed are \$5.

(k) (1) The State's Attorney for any county may prosecute a Code violation under § 5–601 of this part [involving the use or possession of less than 10 grams of marijuana] in the same manner as prosecution of a violation of the criminal laws of the State.

(2) In a Code violation case under § 5–601 of this part [involving the use or possession of less than 10 grams of marijuana], the State's Attorney may:

(i) enter a nolle prosequi or move to place the case on the stet docket; and

(ii) exercise authority in the same manner as prescribed by law for violation of the criminal laws of the State.

(l) A person issued a citation for a [violation of] **CIVIL OFFENSE UNDER § 5–601** of this part [involving the use or possession of less than 10 grams of marijuana] who is under the age of 18 years shall be subject to the procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article.

(m) A citation for a [violation of] **CIVIL OFFENSE UNDER § 5–601** of this part [involving the use or possession of less than 10 grams of marijuana] and the official record of a court regarding the citation are not subject to public inspection and may not be included on the public Web site maintained by the Maryland Judiciary if:

(1) the defendant has prepaid the fine;

(2) the defendant has pled guilty to or been found guilty of the Code violation and has fully paid the fine and costs imposed for the violation;

(3) the defendant has received a probation before judgment and has fully paid the fine and completed any terms imposed by the court;

(4) the case has been removed from the stet docket after the defendant fully paid the fine and completed any terms imposed by the court;

(5) the State has entered a nolle prosequi;

(6) the defendant has been found not guilty of the charge; or

(7) the charge has been dismissed.

5–612.

(a) A person may not manufacture, distribute, dispense, or possess:

(1) 50 pounds or more of [marijuana] CANNABIS;

5–614.

(a) (1) Unless authorized by law to possess the substance, a person may not bring into the State:

(i) 45 kilograms or more of [marijuana] CANNABIS;

(b) (1) Unless authorized by law to possess the [marijuana] CANNABIS, a person may not bring into the State more than 5 kilograms but less than 45 kilograms of [marijuana] CANNABIS.

5–619.

(c) (1) This subsection does not apply to the use or possession of drug paraphernalia involving the use or possession of [marijuana] CANNABIS.

(2) Unless authorized under this title, a person may not use or possess with intent to use drug paraphernalia to:

(i) plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, pack, repack, store, contain, or conceal a controlled dangerous substance; or

(ii) inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance.

(3) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) for a first violation, a fine not exceeding \$500; and

(ii) for each subsequent violation, imprisonment not exceeding 2 years or a fine not exceeding \$2,000 or both.

1 (4) A person who is convicted of violating this subsection for the first time
2 and who previously has been convicted of violating subsection (d)(4) of this section is subject
3 to the penalty specified under paragraph (3)(ii) of this subsection.

4 5–620.

5 (d) (2) A person who violates this section involving the use or possession of
6 [marijuana] **CANNABIS** is subject to imprisonment not exceeding 1 year or a fine not
7 exceeding \$1,000 or both.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 January 1, 2023.