

HOUSE BILL 980

E2, E5

3lr2037

By: **Delegates Young, Addison, Amprey, Attar, Boafo, Bridges, Conaway, Davis, Embry, J. Long, Mireku–North, Stewart, Toles, Vogel, Wilkins, and Williams**

Introduced and read first time: February 10, 2023

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2023

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Probation, Parole, and Pretrial Release Violations**
3 **– Cannabis Use**

4 FOR the purpose of prohibiting a court from revoking a defendant’s pretrial release or
5 finding that a defendant has violated probation, and the Maryland Parole
6 Commission from finding that a parolee has violated parole, based solely on the use
7 of cannabis or a positive test for cannabis unless the court or Commission, at a
8 certain time, makes a finding that the use of cannabis could create a certain danger
9 and includes as a condition of the pretrial release, probation, or parole that the
10 defendant or parolee may not use cannabis; and generally relating to probation,
11 parole, and pretrial release violations.

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Procedure
14 Section 5–213 and 6–231
15 Annotated Code of Maryland
16 (2018 Replacement Volume and 2022 Supplement)

17 BY adding to
18 Article – Correctional Services
19 Section 7–401.1
20 Annotated Code of Maryland
21 (2017 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

Article – Criminal Procedure

5–213.

(a) A court may issue a bench warrant for the arrest of a defendant who violates a condition of pretrial release.

(b) After a defendant is presented before a court, the court may:

(1) revoke the defendant's pretrial release; or

(2) continue the defendant's pretrial release with or without conditions.

(C) (1) IN THIS SUBSECTION, "CANNABIS" HAS THE MEANING STATED IN § 5–101 OF THE CRIMINAL LAW ARTICLE.

(2) NOTWITHSTANDING ANY OTHER LAW, A COURT MAY NOT REVOKE A DEFENDANT'S PRETRIAL RELEASE BASED SOLELY ON THE USE OF CANNABIS OR A POSITIVE TEST FOR CANNABIS UNLESS THE COURT, AT THE TIME OF ORDERING PRETRIAL RELEASE:

(I) MAKES A SPECIFIC FINDING THAT THE DEFENDANT'S USE OF CANNABIS COULD CREATE A DANGER TO THE DEFENDANT OR OTHERS; AND

(II) INCLUDES AS A CONDITION OF THE PRETRIAL RELEASE THAT THE DEFENDANT MAY NOT USE CANNABIS.

6–231.

(A) Before the revocation of any probation ordered under this title, and in addition to any other factors the court considers in connection with the determination of an appropriate sentence, the court shall:

(1) consider any evaluation or recommendation of any health professional licensed under the Health Occupations Article;

(2) consider relevant information about the defendant's drug or alcohol abuse; and

(3) make a finding on the record as to the defendant's amenability to treatment and the interest of justice.

(B) (1) IN THIS SUBSECTION, “CANNABIS” HAS THE MEANING STATED IN § 5–101 OF THE CRIMINAL LAW ARTICLE.

(2) NOTWITHSTANDING ANY OTHER LAW, A COURT MAY NOT FIND THAT A DEFENDANT HAS VIOLATED PROBATION BASED SOLELY ON THE USE OF CANNABIS OR A POSITIVE TEST FOR CANNABIS UNLESS THE COURT, AT THE TIME OF ORDERING PROBATION:

(I) MAKES A SPECIFIC FINDING THAT THE DEFENDANT’S USE OF CANNABIS COULD CREATE A DANGER TO THE DEFENDANT OR OTHERS; AND

(II) INCLUDES AS A CONDITION OF THE PROBATION THAT THE DEFENDANT MAY NOT USE CANNABIS.

Article – Correctional Services

7–401.1.

(A) IN THIS SECTION, “CANNABIS” HAS THE MEANING STATED IN § 5–101 OF THE CRIMINAL LAW ARTICLE.

(B) NOTWITHSTANDING ANY OTHER LAW, THE COMMISSION MAY NOT FIND THAT A PAROLEE HAS VIOLATED PAROLE BASED SOLELY ON THE USE OF CANNABIS OR A POSITIVE TEST FOR CANNABIS UNLESS THE COMMISSION, AT THE TIME OF ORDERING PAROLE:

(I) MAKES A SPECIFIC FINDING THAT THE PAROLEE’S USE OF CANNABIS COULD CREATE A DANGER TO THE PAROLEE OR OTHERS; AND

(II) INCLUDES AS A CONDITION OF THE PAROLE THAT THE PAROLEE MAY NOT USE CANNABIS.

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