

HOUSE BILL 474

E2
HB 980/23 – JUD

4lr2542

By: **Delegates Young, Phillips, Acevero, Addison, Amprey, Conaway, Davis, Embry, Ivey, J. Long, Martinez, Mireku–North, Roberson, Ruff, Ruth, Simpson, Smith, Taylor, Vogel, Wilkins, Williams, and Wims**

Introduced and read first time: January 22, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Probation, Parole, and Pretrial Release**

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

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 5–213 and 6–231
14 Annotated Code of Maryland
15 (2018 Replacement Volume and 2023 Supplement)

16 BY adding to
17 Article – Correctional Services
18 Section 7–401.1
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2023 Supplement)

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

23 **Article – Criminal Procedure**

24 5–213.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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:

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

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

5 **Article – Correctional Services**

6 **7-401.1.**

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

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

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

15 **(2) INCLUDES AS A CONDITION OF THE PAROLE THAT THE PAROLEE**
16 **MAY NOT USE CANNABIS.**

17 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
18 **October 1, 2024.**