

SENATE BILL 288

E1

2lr1083

By: **Senator Simonaire**

Introduced and read first time: January 26, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Drug-Free Zones – Public Parks and Recreation Areas**

3 FOR the purpose of prohibiting a person from using or possessing with intent to use
4 drug paraphernalia in certain public parks and recreation areas for a certain
5 purpose; allowing a defendant in a certain prosecution involving drug
6 paraphernalia relating to marijuana to introduce, and requiring the court to
7 consider as a mitigating factor, certain evidence related to medical necessity;
8 establishing certain penalties for a violation of this Act; authorizing a certain
9 unit of government to post certain signs; defining a certain term; and generally
10 relating to drug-free zones.

11 BY adding to
12 Article – Criminal Law
13 Section 5–629
14 Annotated Code of Maryland
15 (2002 Volume and 2011 Supplement)

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

18 **Article – Criminal Law**

19 **5–629.**

20 **(A) IN THIS SECTION, “PUBLIC PARK OR RECREATION AREA” MEANS**
21 **ANY PARK OR ATHLETIC FACILITY THAT IS UNDER THE JURISDICTION OF A**
22 **STATE OR LOCAL UNIT OF GOVERNMENT THAT OVERSEES RECREATION**
23 **ACTIVITIES AND PARK FACILITIES.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) A PERSON MAY NOT USE OR POSSESS WITH INTENT TO USE DRUG**
2 **PARAPHERNALIA IN A PUBLIC PARK OR RECREATION AREA TO:**

3 **(1) PLANT, PROPAGATE, CULTIVATE, GROW, HARVEST,**
4 **MANUFACTURE, COMPOUND, CONVERT, PRODUCE, PROCESS, PREPARE, TEST,**
5 **ANALYZE, PACK, REPACK, STORE, CONTAIN, OR CONCEAL A CONTROLLED**
6 **DANGEROUS SUBSTANCE; OR**

7 **(2) INJECT, INGEST, INHALE, OR OTHERWISE INTRODUCE INTO**
8 **THE HUMAN BODY A CONTROLLED DANGEROUS SUBSTANCE.**

9 **(C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A PERSON WHO**
10 **VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS**
11 **SUBJECT TO:**

12 **(1) FOR A FIRST VIOLATION, A FINE NOT EXCEEDING \$1,000; AND**

13 **(2) FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT NOT**
14 **EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING \$4,000 OR BOTH.**

15 **(D) A PERSON WHO IS CONVICTED OF VIOLATING THIS SECTION FOR**
16 **THE FIRST TIME AND WHO PREVIOUSLY HAS BEEN CONVICTED OF VIOLATING §**
17 **5-619(D)(4) OF THIS SUBTITLE IS SUBJECT TO THE PENALTY SPECIFIED UNDER**
18 **SUBSECTION (C)(2) OF THIS SECTION.**

19 **(E) (1) IN A PROSECUTION UNDER THIS SECTION INVOLVING DRUG**
20 **PARAPHERNALIA RELATED TO MARIJUANA, THE DEFENDANT MAY INTRODUCE,**
21 **AND THE COURT SHALL CONSIDER AS A MITIGATING FACTOR, ANY EVIDENCE OF**
22 **MEDICAL NECESSITY.**

23 **(2) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION, IF**
24 **THE COURT FINDS THAT THE PERSON USED OR POSSESSED DRUG**
25 **PARAPHERNALIA RELATED TO MARIJUANA BECAUSE OF MEDICAL NECESSITY,**
26 **ON CONVICTION OF A VIOLATION OF THIS SECTION, THE MAXIMUM PENALTY**
27 **THAT THE COURT MAY IMPOSE ON THE PERSON IS A FINE NOT EXCEEDING \$100.**

28 **(F) (1) THE STATE OR LOCAL UNIT OF GOVERNMENT WITH**
29 **JURISDICTION OVER A PUBLIC PARK OR RECREATION AREA MAY POST SIGNS**
30 **DESIGNATING A PUBLIC PARK OR RECREATION AREA TO BE A “DRUG-FREE**
31 **ZONE”.**

32 **(2) THE SIGNS SHALL BE DESIGNED TO PROVIDE NOTICE OF THE**
33 **PROVISIONS OF THIS SECTION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2012.