Critics Argue Maryland's Cannabis Pardons Fall Short

On Monday, Maryland Governor *Wes Moore* announced a significant move in criminal justice reform: the pardoning of 175,000 individuals with low-level marijuana convictions. This initiative is one of the most expansive state-level absolutions for such offenses in the United States.

"The barriers to everything from employment to education to the ability to buy a home and to be able to start gaining wealth for your family, all of these things are being blocked," Moore told NPR. "By doing what is the largest state misdemeanor cannabis pardon in the history of this country, essentially what it's doing is, we want to make second chances actually mean something."

The Context of Cannabis Legalization

Twenty-four states, including Maryland, have legalized the recreational use of marijuana for adults. However, legalization does not erase past convictions. Many individuals still carry criminal records from the era when marijuana was illegal, records that disproportionately affect people of color. Black people, for instance, are three times more likely than white people to be arrested for marijuana possession despite similar consumption rates.

The Push for Cannabis Conviction Pardons

Alongside the legalization movement, there has been a growing effort to pardon those convicted of low-level marijuana offenses. Besides Maryland, at least eight other state governors and President Biden have pardoned tens of thousands for similar crimes.

The Limits of Pardons

Despite the positive impact of pardons, some criminal justice reform advocates argue that these actions might not be enough to remove the barriers that people with criminal records face, such as in finding employment or housing.

What Does a Pardon Do — And What Doesn't It Do?

Pardons are essentially a forgiveness stamp on past crimes, providing meaningful benefits to recipients. They can ease stigma and offer peace of mind. For immigrants, pardons can reduce the risk of deportation. However, in many states, including Maryland, a pardon does not erase a conviction from a person's record. It means that a landlord or employer performing a background check will still see the conviction, though it has been forgiven.

Colleen Chien, a professor at the University of California, Berkeley School of Law, notes that research shows having an arrest on record can deter employers from calling a job candidate for an interview, even if the

arrest did not lead to a conviction. "A record, whether or not it's been pardoned, whether or not it's been convicted, is often enough," Chien says. To fully support individuals, governors might need to work with legislatures to convert pardons into record shielding, sealing, or expungement.

The Challenge of Expunging Records

Expunging records, which can mean hiding them from public view or completely removing them from databases, is more complex than issuing pardons. Pardons can be executed through an executive order, bypassing the need for legislative approval. In contrast, expungement often requires a legislative framework and individual applications, making the process lengthy and confusing.

Maryland offers expungement for certain marijuana convictions, but the process is petition-based, requiring eligible individuals to apply. The Clean Slate Initiative estimates that around 300,000 people in Maryland have records eligible for expungement that remain uncleared.

The Case for Automated Record Clearance

Advocates argue that automatic record clearance is the most effective way to ensure past mistakes do not hinder access to employment, housing, education, and other opportunities. States like Utah and Pennsylvania have enacted laws to automate record clearance, though they have faced technological and logistical challenges.

Despite these challenges, automation has significant advantages, it shifts the burden from individuals to the state and allows for bulk processing of records. In Pennsylvania, over 1 million people have seen some or all of their records cleared due to automation efforts, demonstrating its potential despite initial setbacks.

Governor Wes Moore's mass pardon is a significant step toward justice for those with low-level marijuana convictions. However, to fully remove the barriers faced by individuals with criminal records, further actions such as record shielding, sealing, or expungement may be necessary. Automated record clearance could provide a comprehensive solution, ensuring that past mistakes do not impede future opportunities.