



## POSITION ON PROPOSED LEGISLATION

**BILL:** HB 640- Criminal Law - Failure to Obey a Reasonable and Lawful Order - Repeal

**POSITION:** SUPPORT

**DATE:** February 10, 2021

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 640.

Failure to obey a lawful order is ambiguously defined criminal statute that does not contribute to public safety. Instead, this ambiguous statute has a disproportionate racial impact. Since 2017 63% of individuals charged with failure to obey since 2017 are black despite the fact that African Americans are only 31% of Maryland's population.

Because the law is so vague, lawyers in our office often see failure to obey charged in incidents where no criminal conduct occurred. If an individual commits a crime in an officer's presence, then an officer has probable cause to arrest an individual. But if officers don't have probable cause a crime was committed, then they do not have the ability to make an arrest. But in those circumstances, we often represent clients charged with failure to obey, even though officers didn't have probable cause to arrest or detain our clients. Even when we successfully resolve those charges, our clients may have spent time incarcerated. Or they've faced collateral consequences such as losing housing or a job because they were charged with a crime.

Lastly, repealing this statute won't impact police officer's ability to protect the public safety. Officers will still have the ability to make arrests when actual crimes occur. And residents will have their quality of life increased by not facing collateral consequences from this ambiguous criminal charge.

For these reasons, the Office of the Public Defender endorses this bill and urges a favorable report.