

The People's Commission to Decriminalize Maryland

Maryland House Judiciary Committee – Bill Hearing
Friday, February 12, 2021 1:30 PM
Written Testimony in Support of House Bill 640

The People's Commission to Decriminalize Maryland (Commission) was formed in 2020 with the purpose of reducing the disparate impact of the justice system on historically marginalized communities, including the homeless community. We believe that we must dramatically reduce unnecessary contact with the criminal justice system, which includes but is not limited to; unjust arrests, prosecutions, convictions, incarceration, and collateral consequences that may be based on factors such as socio-economic status. The core work of the Commission is to examine Maryland's legal codes to understand the ways in which Maryland's criminal laws reinforce structural racism and inequality. Specifically, the Homelessness Workgroup (Workgroup) of the Commission engaged advocates, service providers, and people with lived experience to identify provisions of Maryland law that criminalize individuals experiencing homelessness on the basis that they are experiencing homelessness. The Workgroup's top recommendation is to repeal Maryland Criminal Code 10-201(c)(3), Failure to Repeal a Lawful Order (FOLO) and the Commission submits this testimony in support of House Bill 640 and in solidarity with our colleagues.

FOLO is a broadly written law that gives discretion to police officers to criminalize inaction even if there is no other underlying crime. For example, someone experiencing homelessness can be ordered to move off of a public bench or put out a cigarette in a public space and face criminal penalties for failing to obey. Those criminal penalties can then represent significant barriers to stable housing or employment. Black people are disproportionately harmed by these barriers as 63% of people charged with FOLO in Maryland since 2017 are Black relative to 31% of Maryland's overall population that identify as Black. FOLO is a manifestation of how vague and discretionary criminal laws feed into the structural racism that permeates the justice system.

FOLO is a non-violent offense that does not protect public safety. Violent crimes may be charged in circumstances where there is a legitimate threat to the safety of another person. Applying criminal penalties when no other crime can be charged is cruel and harms real people and families in our communities.

For the foregoing reasons, the Commission asks this Committee for a favorable report on House Bill 640.

Respectfully,

The People's Commission to Decriminalize Maryland

- Advocates for Children and Youth
- Baltimore Action Legal Team
- Baltimore Harm Reduction Coalition
- Baltimore Safe Haven

- Baltimore Youth Arts
- Cause Engagement Associates
- Center for Children's Law and Policy
- CLIA
- Disability Rights Maryland
- FreeState Justice
- Health Care for the Homeless
- Homeless Persons Representation Project
- Job Opportunity Task Force
- Justice Policy Institute
- Maryland Justice Project
- NARAL Pro-Choice Maryland
- National Alliance on Mental Illness - Maryland
- OSI - Baltimore
- Out for Justice
- Power Inside
- Public Justice Center
- Rebuild, Overcome, and Rise (ROAR) Center at University of Maryland, Baltimore (UMB)
- School of Law - University of Baltimore
- Sex Workers Outreach Project - Baltimore
- University of Maryland School of Law
- Women's Law Center of Maryland
- Youth as Resources
- Youth Empowered Society