



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Sponsor Testimony in Support of HB0640

Criminal Law - Failure to Obey a Reasonable and Lawful Order - Repeal

Delegate Sheila Ruth

February 12, 2021

HB640 repeals Criminal Code section 10–201(c)(3) “A person may not willfully fail to obey a reasonable and lawful order that a law enforcement officer makes to prevent a disturbance to the public peace.” This law is vague and gives the police broad discretion. It can be used to justify a search when no probable cause exists, thus acting as a loophole to get around Fourth Amendment protections.

Because of implicit bias, one might expect that this law disproportionately harms Black people and people of color, and indeed, the data bears that out. Since 2017, 63% of people charged with Failure to Obey were Black. That’s more than double the 31% of the population of Maryland who are Black. We were unable to get data on how many Latino people have been charged, due to the way the state tracks ethnicity.

Failure to Obey also impacts homeless people and people with developmental disabilities who may not be able to comply with an order.

The opposition might say that removing this “tool” will make it harder for police to protect public safety. But the truth is that this law adds little benefit while causing great harm. If someone’s actions are criminal, then they can already be charged with a criminal violation. And if there is no criminal behavior, then why should someone be charged with a crime? The consequences of such charges can be devastating, including loss of a job, a home, or custody of a child.

It may be hard for some of us to wrap our minds around the fact that this law is unnecessary and potentially harmful. We’re conditioned to think that obeying the orders of the police is essential to public safety. But we’ve seen time and again that the actions of some police officers are not always reasonable or just. Giving them this broad, discretionary power opens up a potential for abuse. Any genuine public safety concern can be addressed with other sections of the law.

If we are serious about ending an unjust system that destroys Black lives, then we must repeal this law which gives police too much discretion and power, and disproportionately impacts Black, Brown and disable people. I ask for a favorable report for HB640.