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

Disability Rights Maryland (DRM) is the state-designated Protection and Advocacy agency authorized under the Protection and Advocacy for Individuals with Mental Illness Act and the regulations thereto to protect and advocate for the rights of individuals with disabilities. DRM is dedicated to advancing the civil rights of people with disabilities by advocating for changes to the law that reduce systemic barriers to all aspects of community life. We support policy initiatives that decriminalize disabilities by reducing unnecessary interactions between individuals with disabilities and the criminal justice system, which may become barriers to stable housing or employment. DRM has engaged with stakeholders on all sides of this issue, including community advocates, law enforcement, and behavioral health service providers. Our testimony is informed by what we have learned through this work and from those who are directly impacted.

Maryland Criminal Code 10-201(c)(3), Failure to Obey a Lawful Order (FOLO) is broadly written with vague language regarding what is an “order” and when failure to obey rises to a level that is actionable. Often the same officer that gives the “order” has the interpretive discretion to make these decisions, effectively allowing them to serve as the judge and jury of their own actions. The lack of oversight or accountability for these decisions is particularly troubling given that 63% of people charged with FOLO in Maryland since 2017 are Black, but only account for 31% of Maryland’s population.

An individual can be found guilty of FOLO even if they do not intend to disobey an “order.” Police officers may not recognize or consider that certain behaviors or limitations related to a disability may impact an individual’s capacity to comply with an “order.” Individuals with physical disabilities may not be able to comply with an “order” to the satisfaction of an officer due to mobility issues. Others may not be able to even understand an “order” due to cognitive or behavioral health limitations related to a disability.

We understand the need to protect police officers on the job. However, FOLO is a non-violent offense that does nothing to protect public safety. There are plenty of violent criminal charges such as assault, robbery, etc that may be applied in circumstances where there is a legitimate threat to public safety or the safety of an officer. We do not believe that any criminal penalties are appropriate in circumstances where FOLO is the only offense that can be charged.

DRM urges this committee to support House Bill 640 to address the inequities created by FOLO and the continued risk of harm to our communities.

Respectfully,

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