



Unitarian Universalist Legislative Ministry of Maryland

Testimony in Support of SB 211- Probation Before Judgment - Probation Agreements

To: Delegate Luke Clippinger, Chair, and Members of the Judiciary Committee
From: Jim Caldiero, Lead Advocate, Immigration Reform
Unitarian Universalist Legislative Ministry of Maryland
Date: March 30, 2023

Your Judiciary Committee is currently considering SB 211- Probation Before Judgment. Your committee previously favorably reported the companion bill, HB 193 which was passed by the full House of Delegates. As a member of the Judiciary Committee, I encourage you to vote in favor of SB 211, Probation Before Judgment.

Sometimes, as our wise Maryland legislature has recognized, it is in the best interests of the community to provide an outcome in a criminal matter that will not result in a conviction and has established “probation before judgment” (PBJ) where a judge will strike a conviction and impose probation instead. The statute works well for U.S. citizens. However, under federal immigration law, the current MD PBJ statute is still considered a conviction for non-U.S. citizens because during the PBJ plea agreement process, they have admitted guilt and a finding of guilt is sufficient to trigger severe consequences of the Immigration and Nationality Act.

The results can be not only severe but inhumane. A Maryland resident for whom PBJ is imposed, but who happens to be a lawfully admitted permanent resident or an undocumented immigrant, can face detention and deportation. Families can be separated – fathers, mothers, breadwinners, taken from their children – for minor offenses. We have the opportunity with SB 211 to correct this injustice by removing the admission of guilt.

Consider, for example, the story of Manuel, a legal DACA recipient, with a U.S. citizen spouse and a young son who has lived in Maryland for 17 years. A business owner who paid his taxes and had no criminal record except for one lapse of judgment resulting in a DUI arrest. Manuel received probation before judgment by a Maryland court, not a conviction. Federal law, however, views his PBJ as a conviction, threatening his DACA status and more. See the link below for Manuel’s full story.

As the University of Maryland’s Chacon Center for Immigrant Justice noted, Manuel is not alone. "They accept probation because everyone around the table recognizes this is not somebody who should have a criminal conviction. All of a sudden, they're in jail. They're separated from their families. They lose their jobs or lose their apartments. They've lost

their children. It's a horrible thing and it's not what anyone wanted, but by the time the Maryland system gets around to fixing it, the damage has already been done."

As retired U.S. Immigration Judge John F. Gossart Jr. commented in the *Baltimore Sun*, "Virginia and New York have similar statutes, which function so that their non-citizen residents do not suffer additional consequences from probation. To allow this inequity to exist from one jurisdiction to another, when the intent of PBJ statutes is the same or similar, is in my opinion unjust. Which side of the Potomac River the case is heard on should not determine whether a PBJ triggers federal consequences."

I share my faith with more than 4000 Unitarian Universalists in Maryland which calls me to promote and affirm justice, equity and compassion in human relations and surely, supporting the passage and enactment of HB 193/SB 211 Probation Before Judgment will redress the inequity that exists in Maryland's Probation Before Judgment statute.

I encourage you to vote in favor of HB 193/SB 211, Probation Before Judgment.

Thank you for your continued work to advance the rights of our immigrant neighbors.

Yours in faith and justice,
Jim Caldiero

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