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POSITION ON PROPOSED LEGISLATION

BILL: House Bill 963 – – Sexual Solicitation of a Minor, Human Trafficking, and Drug Distribution – Sensitive Locations

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 16, 2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 963.

House Bill 963 makes it illegal to commit certain sex crimes within five miles of a public or private elementary, secondary or vocational school; college or universities; school activities; youth centers; as well as public housing, parks, swimming pools, playgrounds and arcades. This bill also changes the distance upon which a person is prohibited from distributing a controlled dangerous substance (CDS) from 1000 feet to 5 miles from a school.

This bill poses a number of problems. First, each of the acts proposed in HB 963 are already crimes. If violated, a person can already be charged with a felony and incarcerated between but not exceeding five to twenty years depending on the offense. Passing this bill would only allow for increased and harsher penalties for acts that are already crimes with penalties of incarceration.

Second, this bill makes no reference to the intent of the person being charged with a crime. Five miles is a significant distance. Where it relates to the change in the distance from which a person cannot distribute CDS from 1000 feet to 5 miles from a school, a person can easily identify a school 1000 feet away. A person is unlikely to know his or her location in relation to a school that is five miles away, or the number of schools that may be within the five mile radius and yet can still be prosecuted under this law.

As it relates to sex crimes, the five mile distance to schools, universities, youth centers, public housing, parks, swimming pools, playgrounds and arcades are equally problematic. Within urban areas there is no place a person can be or reside that is not within five miles of one of the locations listed in HB963. Similarly, in rural jurisdictions there isn't much ground that isn't covered by the current distance requirements for "school zones" given the definition of a school

in the statute. This again means that the only significance of this bill is to make it easier to expose people in violation of sex and drug provisions to harsher and increased penalties whether or not they intended the commission of the act to be within the prohibited five mile radius.

This bill is further problematic in that there is no effort to connect the crimes listed in HB 963 committed within the five mile radius to some increased danger to children at or on those properties. As written, this bill will allow offenses committed within someone's home, and especially those that live in public housing to be subject to an additional penalty. Since the language of the bill specifically includes public housing, it absolutely makes the penalty higher for anyone poor that lives in subsidized housing, with no actual aggravating circumstances required. This bill makes intentional the targeting of and disproportionately increased criminalization of poor marginalized people of color that the Office of the Public Defender works so tirelessly to prevent.

Lastly, HB 963 would allow the State the discretion of charging this for a solicitation that occurs solely online just because the person either sending or receiving the message is within the five mile area, again with no increase of harm or danger, Many sexual solicitation cases are centered around text messages or internet chats and emails. Clearly the location has no significance to the crime, but yet the person could be subject to an enhanced penalty.

For the above reasons, the Maryland Office of the Public Defender urges the committee to issue an unfavorable report on House Bill 963.