

SAMUEL I. "SANDY" ROSENBERG
Legislative District 41
Baltimore City

Health and Government Operations
Committee

Chair

Health Occupations and
Long-Term Care Subcommittee

House Chair

Joint Committee on Administrative,
Executive, and Legislative Review



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Respond to Office Indicated

□ *Annapolis Office*
The Maryland House of Delegates
6 Bladen Street, Room 365
Annapolis, Maryland 21401
410-841-3297 · 301-858-3297
800-492-7122 Ext. 3297
Samuel.Rosenberg@house.state.md.us

□ *District Office*
4811 Liberty Heights Avenue
Baltimore, Maryland 21207
410-664-2646

Testimony of Delegate Samuel I. Rosenberg

Before the House Judiciary Committee

In Support of

House Bill 941

Criminal Law - Threats and Stalking – Recklessness

Mr. Chairman and Members of the Committee:

The First Amendment of the United States Constitution safeguards the fundamental right to free expression. It is important to recognize that, while the First Amendment protects the right to speak one's mind, it does not give individuals carte blanche to say whatever they want without consequences.

The Supreme Court has established that certain types of speech, such as obscenity, defamation, and incitement to violence, are not protected by the First Amendment. Thus, it is crucial to strike a balance between protecting freedom of speech and maintaining public order and safety.

A comment that would make a reasonable person fear physical danger is considered a "true threat." The Supreme Court has held that true threats are not protected speech under the First Amendment and are thus subject to criminal prosecution.

In a true threats case, the prosecution must demonstrate that the defendant was cognizant of the menacing nature of the communication. In *Counterman v. Colorado*, 600 U.S. 66 (2023), the court determined that "recklessness" is the appropriate criterion.

HB 941 seeks to adopt the holding of *Counterman* by adding "recklessly" to several sections of the Criminal Law article, sections 3-708, 3-802, 3-1001(b), and 10-304. The Attorney General's Office has advised that the bill is consistent with the standard of recklessness in *Counterman*.

Thus, the changes provided by HB 941 allow for protected speech while protecting individuals against actual threats.

For all these reasons, I ask for a FAVORABLE report for HB 941

February 22, 2024