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POSITION ON PROPOSED LEGISLATION

BILL: HB1144 State Public Transit Service and Stations - Exclusion for Assault and Bodily Injury

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 03/25/25

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 1144. The amended version of this bill seeks to prohibit the use of public transit based solely on a single allegation of assault or other intentional act causing bodily injury while utilizing public transit services, and to create a working group to establish the process for doing so. While removing the criminal penalties, it still seeks to infringe on access to services in ways that violate basic rights of fundamental fairness and will unduly harm the most vulnerable members of society.

House Bill 1144, if passed, will disproportionately impact children, people with disabilities, and low-income families. People with disabilities who are unable to drive often rely upon public transportation to maintain their independence. The workgroup that would be established by Section 2 is tasked with creating a disability exception, but exception is not in the statutory prohibition in Section 1. Moreover, it is limited to a finding that the assault was directly related to the disability and would require the person to be accompanied by a direct support professional or another caregiver. There is no guidance on who would be making this finding, under what standard of proof, and the nexus required between the disability and assault, something potentially impossible to prove. For example, if a person with a physical disability is taunted, feels threatened, and fights back resulting in an allegation of assault, it is unclear if that

allegation would be considered directly related to the person's disability. Moreover, requiring this person to be accompanied by a direct support professional or another caregiver to ride public transportation would be overly onerous, further degrading, and serve no clear purpose.

Young people and their families will also be overwhelmingly harmed. In some jurisdictions, public transit is the only option for children to get to school. For example, the Baltimore City Public School System relies on the public bus system as its school busing. If two children get into a fight, or even one student accuses another of hitting them, the accused student or students will no longer be able to get to school. The bill also provides no time limit for the ban, potentially causing a lifelong ban from public transit for a youthful indiscretion.

The collateral impacts are far reaching. For people who cannot afford a car or are otherwise unable to drive, public transportation is their only way to travel and navigate their communities. Barring people from public transportation prevents them from getting to work, accessing healthcare, and engaging with other resources and services. Rideshares and taxicabs, in addition to being unaffordable to most people who rely on public transportation, do not exist in many rural areas of the state.

House Bill 1144 imposes a tremendous penalty – barring access to needed transportation based on a single allegation regardless of subsequent findings. It provides no probable cause standard for the accusation, no notice to the accused, no opportunity to refute or respond to the allegations, and no finding of guilt. While it calls for the Maryland Transit Administration (MTA) to establish an appeals process, there is no guidance for what that process must require nor is it clear whether the lack of an appellate process would preclude enforcement. The bill calls for this ban to go into effect June 1, 2025, earlier than the MTA will feasibly be able to develop a robust process. The workgroup intended to establish the code of conduct and protocols would first convene at the same time.

While the General Assembly often convenes workgroups to examine an issue and develop and implement recommendations, the workgroup created under House Bill 1144 Section 2 requires no such analysis, data collection, consideration of best practices, or protections for impacted individuals. Rather, by authorizing the creation of a code of conduct without external involvement or development of regulations that would require public comment and oversight,

concerns related to due process, equal protection, and other basic rights will only be addressed through subsequent costly litigation.

If an individual commits an assault on public transit, they already face serious penalties with a sentence of up to 10 years' incarceration. Creating a ban on public transit, particularly one explicitly intended to apply when the criminal standard is not met, will serve no public safety benefit, will violate the rights of individuals subject to this harsh punishment, and will have the unintended consequences of greater economic instability for poor individuals and families, less independence for people with disabilities, and denial of education for school-aged children.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on House Bill 1144.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

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