

John Giannetti _FAV_SB921

Uploaded by: GIANNETTI, JOHN

Position: FAV

Maryland Criminal Defense Attorney's Association



MD Senate -Judicial Proceedings Committee

March 4, 2020 1 pm

Hearing on SB 921

Juror - Disqualification Juror Enfranchisement

MCDAA POSITION: SUPPORT

Brief bill explanation: This bill reverses the disenfranchisement of individuals convicted of crimes by tracking and adopting the standards used in recent years in Maryland's voter enfranchisement legislation, which are now law.

All Marylanders who have completed their criminal sentence may vote in elections. Under this legislation, those same individuals will have their rights to serve on juries restored also.

This bill alters the circumstances under which an individual may be disqualified for jury service by repealing provisions that disqualify individuals who received a sentence of imprisonment for more than one year or have pending charges for crimes punishable by imprisonment for more than one year. Instead, an individual is not qualified for jury service if the individual has been convicted of a felony and is currently serving the sentence imposed for the conviction, including any term of probation.

For additional information or questions regarding this legislation, please contact MCDAA legislative chair: Andrew Jezic, 301.742.7470 avjezic@aol.com or our Government Relations Contacts: Alan Drew 240.856.2607 da4617@gmail.com and John Giannetti 410.300.6393, JohnGiannetti.mcdaa@gmail.com

JPI Support_FAV_SB921

Uploaded by: GIANNETTI, JOHN

Position: FAV

March 4, 2020

The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
Maryland State Senate

The Honorable Jeffrey D. Waldstreicher
Vice-Chair, Senate Judicial Proceedings Committee
Maryland State Senate

Re: Senate Bill 921

Dear Senator Smith and Senator Waldstreicher:

The undersigned organizations write to express support for SB 921, a bill to eliminate current restrictions on jury eligibility for individuals with a criminal conviction who have completed their sentence.

With as many as one in three Americans having a criminal record, it has become increasingly clear to lawmakers and to the public that criminal justice reform must be a priority. States across the country have implemented reforms addressing the vast web of barriers, restrictions, and other collateral consequences that come with a conviction in this country. We are encouraged by Maryland's trailblazing criminal justice reforms in the past few years including fair chance licensing legislation and extensive voter enfranchisement, extending to those still serving on probation and parole.

Despite this progress, full access to political and civic engagement opportunities remains out of reach for Maryland residents who have either completed their sentences or who have pending criminal charges. Existing Maryland law bars from jury service any individual who has been convicted of or has a charge pending for a crime punishable by a term of imprisonment exceeding one year. This and other jury disenfranchisement laws across the country uphold a criminal legal system that systematically silences those communities most impacted by it. Laws that bar individuals who have criminal records from serving on juries dramatically limit juror pools and undercut the constitutional right to a fair trial by a jury of one's peers. In a state with such deeply disproportionate rates of incarceration—70% of Maryland's prison population is African-American, compared to 31% of the state population—a law which disqualifies those with criminal records from serving on juries is a law which all but guarantees inadequate representation in juror pools¹.

¹ Justice Policy Institute (2019). Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland. Retrieved from: http://www.justicepolicy.org/uploads/justicepolicy/documents/Rethinking_Approaches_to_Over_Incarceration_MD.pdf

A central rationale from proponents for barring those with felony convictions from serving on juries is that their experience with the criminal justice system would render them so biased against the state that they would present a threat to fair jury proceedings. In his quantitative study, John M. Binnall found no evidence to support the idea that jurors with felony convictions were less able to openly exchange ideas and adhere to legal concepts; in fact, jurors with felony convictions raised novel case facts more often than did jurors without felony convictions. No evidence exists to support the idea that individuals who have completed sentences for felony convictions cannot serve as effective and fair jurors. On the contrary, “apart from removing a unique perspective from the deliberation room, felon-juror exclusion statutes seemingly curtail the potential of the collaborative deliberative process” and “denigrate the law’s professed conceptualization of the jury as a representative, inclusive arbiter of facts.”²

Broadening the juror pool through the re-enfranchisement of individuals who have served their sentences is a critical step toward restoring the many freedoms and constitutional rights still denied to those with criminal records. We must continue to pass legislation which promotes meaningful and equitable participation in the foundational processes of our justice system.

For these reasons, we urge you to vote yes on SB 921.

Sincerely,

Health in Justice Action Lab, Northeastern University School of Law
Justice Policy Institute
Legal Action Center
National Association of Criminal Defense Lawyers
The Sentencing Project
Out 4 Justice

cc: Members, Senate Judiciary Proceedings Committee

² James M. Binnall (2018): Jury diversity in the age of mass incarceration: an exploratory mock jury experiment examining felon-jurors’ potential impacts on deliberations, *Psychology, Crime & Law*. Retrieved from: <https://www.tandfonline.com/doi/full/10.1080/1068316X.2018.1528359>

ACLUMD_Holness_FAV_SB921

Uploaded by: Holness, Toni

Position: FAV



**Testimony for the Senate Judicial Proceedings Committee
March 4, 2020**

SB 921 Courts -- Jury Service -- Disqualification

FAVORABLE

TONI HOLNESS
PUBLIC POLICY DIRECTOR

AMERICAN CIVIL
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FOUNDATION OF
MARYLAND

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OFFICERS AND DIRECTORS
JOHN HENDERSON
PRESIDENT

The ACLU of Maryland urges a favorable report on SB 921, which would expand eligibility for jury service in Maryland by repealing the current law which disqualifies persons from serving on juries simply because they had ever been sentenced for an offense punishable by one year imprisonment or are facing charges for an offense that is punishable by at least one year imprisonment. Under SB 921, the only persons disqualified from jury service would be those who are currently serving a sentence for a felony conviction.

An individual's civic duty to be called for and serve on a jury is one the ACLU of Maryland considers of grave importance and correspondingly, the right to a trial by a jury of one's peers is fundamental to our system of justice. As the Supreme Court of the United States recognized in *Strauder v. West Virginia*,¹ a jury must be drawn from a group "composed of the peers or equals [of the defendant]; that is, of his neighbors, fellows, associates, persons having the same legal status in society as he holds."²

Jury disqualification based on pending charges undermines the presumption of innocence

As this body knows, persons facing criminal charges enjoy a presumption of innocence. The current law undermines that presumption by disqualifying persons from serving on juries simply because they may be currently facing charges for an offense punishable by at least one year imprisonment.

The current law is likely to be racially and geographically disparate

In Maryland, African Americans make up only 30% of the general population, but over 70% of the incarcerated population. Moreover, we know that some communities—communities of color and poor communities—are over-policed and face greater entanglement with the criminal legal system. The disparate rate of jury disqualification of African Americans and residents of over-policed neighborhoods undermines the fundamental notion of a jury of one's peers

¹ 100 U.S. 303 (1880).

² MD. CODE ANN., CTS. & JUD. PRO. § 8-104 (2017).



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Maryland

when for some Marylanders, many of their peers are ineligible to serve as jurors.

There are many non-serious offenses punishable by a year imprisonment which should not disqualify potential jurors

Unfortunately, there are many minor offenses punishable by a one year prison term in current law. There is no logical basis to exclude persons convicted of these offenses from serving on juries. Consider, for example possession of counterfeit items, which is a misdemeanor punishable by 3 years imprisonment (Criminal Law, §8-601(c)(2)); disorderly conduct in a cemetery, also a misdemeanor punishable by 2 years imprisonment (Criminal Law, §10-404(c)); or unlawful capture of over \$20,000 worth of striped bass Natural Resources, §4-1201(d)(2), a misdemeanor punishable by 2 years imprisonment. These examples demonstrate that there are many criminal penalties that have no nexus to jury disqualification.

SB 921 would begin to align Maryland's law on jury service with the law on voter eligibility

In 2007, this body revised the Maryland voter eligibility law to remove consideration of prior convictions or the nature of the offense. As a result, any person convicted of a felony would be re-enfranchised upon completion of their sentence or supervision.³ The Fiscal and Policy Note accompanying the 2007 legislation noted that in 2006, about 8,678 persons were released from the Department of Corrections after serving a sentence for a felony. In 2015, with the passage of HB 980, disenfranchisement laws were further limited to the period during which a person convicted of a felony is incarcerated. In other words, persons under supervision would no longer be disenfranchised.⁴ Governor Hogan vetoed the bill, but his veto was overridden in 2016. The legislation re-enfranchised over 40,000 Marylanders.⁵

The spirit of the voter re-enfranchisement effort is at play in SB 921 and demonstrates an understanding that entanglement in the criminal legal system should not exclude Marylanders from the core democratic functions of society.

For these reasons, we urge a favorable report on SB 921.

³ HB 273, Md. Gen. Ass. (2003).

⁴ HB 980, Md. Gen. Ass. (2015).

⁵ Matt Ford, *Restoring Voting Rights for Felons in Maryland*, The Atlantic (February 9, 2016), available at <https://www.theatlantic.com/politics/archive/2016/02/maryland-felon-voting/462000/>

MAJ_FAV_SB921

Uploaded by: Howe, Josh

Position: FAV



Maryland Association for Justice, Inc.

2020 Position Paper

HB 1213 / SB 921

Courts - Jury Service – Disqualification

Favorable

The Maryland Association for Justice (MAJ) is an organization of trial lawyers. Our members represent victims injured in car accidents, medical malpractice cases, and other cases of negligence.

HB 1213/ SB 921 alters the circumstances under which an individual may be disqualified for jury service by repealing provisions that disqualify individuals who received a sentence of imprisonment for more than one year or have pending charges for crimes punishable by imprisonment for more than one year. Instead, an individual is not qualified for jury service if the individual has been convicted of a felony and is currently serving the sentence imposed for the conviction, including any term of probation.

The Maryland Association for Justice (MAJ) believes in expansion of the civil justice system including potential juror. All jurors bring with them different perspectives, temperaments, and convictions to the cases they hear. If a juror has been convicted of a felony and served their sentence, then they should be able to exercise their privileges of jury duty.

MAJ Respectfully urges a FAVORABLE Report

Justice Policy Institute_FAV_SB921

Uploaded by: INSTITUTE, JUSTICE POLICY

Position: FAV

March 4, 2020

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Maryland State Senate

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Dear Senator Smith and Senator Waldstreicher:

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With as many as one in three Americans having a criminal record, it has become increasingly clear to lawmakers and to the public that criminal justice reform must be a priority. States across the country have implemented reforms addressing the vast web of barriers, restrictions, and other collateral consequences that come with a conviction in this country. We are encouraged by Maryland's trailblazing criminal justice reforms in the past few years including fair chance licensing legislation and extensive voter enfranchisement, extending to those still serving on probation and parole.

Despite this progress, full access to political and civic engagement opportunities remains out of reach for Maryland residents who have either completed their sentences or who have pending criminal charges. Existing Maryland law bars from jury service any individual who has been convicted of or has a charge pending for a crime punishable by a term of imprisonment exceeding one year. This and other jury disenfranchisement laws across the country uphold a criminal legal system that systematically silences those communities most impacted by it. Laws that bar individuals who have criminal records from serving on juries dramatically limit juror pools and undercut the constitutional right to a fair trial by a jury of one's peers. In a state with such deeply disproportionate rates of incarceration—70% of Maryland's prison population is African-American, compared to 31% of the state population—a law which disqualifies those with criminal records from serving on juries is a law which all but guarantees inadequate representation in juror pools¹.

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Andrew Jezic_FAV_SB921

Uploaded by: JEZIC, ANDREW

Position: FAV

Maryland Criminal Defense Attorney's Association



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Jill Carter_FAV_SB 921

Uploaded by: Senator Carter, Senator Carter

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter
In Favor of SB0921 - Courts – Jury Service – Disqualification
Before the Judicial Proceedings Committee
on March 4 , 2020**

Mr. Chair, Mr. Vice Chair, and Members of the Committee:

I present SB 921 Juror Disqualification to you for your consideration.

I prefer to refer to this bill not as a juror disqualification bill, but as a juror enfranchisement bill.

This legislation will re-enfranchise Marylanders who have been disenfranchised by outdated laws adopted in a by-gone era. Gone are the times when Marylanders who served jail sentences of more than a year could not vote. Now they can vote. We have re-enfranchised them. But many of these same Marylanders still cannot serve on a jury, which is a valuable right of citizenship and a right which Maryland still takes away from its citizens who serve more than a year in jail for conviction of a felony. I ask that you re-enfranchise them and restore this important right of citizenship.

Last year, we completed part one of Juror re-enfranchisement, when we passed my bill which was signed into law after last session. We re-enfranchised thousands of Marylanders by raising the disqualification bar from 6 months to one year.

Now, we move into part two, and fully re-enfranchise jurors in the same way that we have re-enfranchised voters in the State of Maryland.

Under this bill, if you can vote in the state of Maryland, then you can serve on a jury.

We remove the barrier created by incarceration of more than a year, and we remove the barrier of pending charges. Just like we've done in our voter eligibility statute.

This bill helps to bring back the civil liberties that our state and has for too long taken away from our citizens that have been incarcerated.

Maryland led the nation in allowing felons to vote after serving their sentence. We did it step by step. First allowing one-time felons to vote, then allowing those with multiple convictions. Then, in 2016, we granted total re-enfranchisement, and now allow all Marylanders to vote once they have completed their sentence. Maryland was a national leader in the Voter Re-enfranchisement movement. Now, 49 states in the US allow former felons to vote.

Maryland is a leader, and justifiably so. We can be proud of our leadership in Re-enfranchisement. But we have more work to do.

I must remind you that recent studies have shown that Maryland has the highest percentage of African Americans in jail in the country. (Note 1) Our disenfranchisement of those who have served sentences unfairly robs an important population within our state, and disproportionately affects this population.

With our incarceration demographics in mind, It's important that Maryland again take a leadership role and take important steps to re-enfranchise those who have served time, not just with the ability to vote, but also with the ability to serve on juries.

This bill tracks Maryland's cutting edge voter legislation of former years. Now in Maryland, once you have served your sentence, you are eligible to vote again. Under this legislation, once you have served your sentence, you are eligible to serve on a jury again.

The philosophy is simple: Once you have paid your debt to society and have served your time, you are again eligible for the rights and responsibilities of citizenship. The right to vote and the duty to sit on juries.

Fourteen years ago, this committee heard legislation that was the result of efforts of the Article 27 Committee, a blue ribbon state-wide committee chaired by Chief Judge of the Court of Special Appeals Joseph Murphy. On the committee served Judge Irma Raker, Judge Charles Moylan, Judge Howard Chasanow, Judge Daniel Long, Tim Maloney, John Giannetti, and other eminent Marylanders.

The committee created an overhaul of the jury system in a 49 page piece of legislation, and submitted it to the General Assembly through the Judicial Conference.

That bill became law, but it was amended in several notorious and unfortunate ways. The bill advocated full re- enfranchisement for jury service, but the legislature cut that part out.

In that bill, the Article 27 Committee recommended temporary juror disqualification for conviction of crimes with more than 1 year punishment. The Judicial Proceedings Committee and the Judiciary Committee tightened this to 6 months. Last year, by passing my bill, we did as the Article 27 committee originally recommended back in 2006, and eased the initial disqualification back to one year.

An important further recommendation back in 2006 was to then allow ALL former incarcerants to eventually regain their right to serve on juries just 3 years after their sentences ended. That is, the committee recommended full re-enfranchisement for jury service after a short 3-year wait after serving a felony sentence.

Again, this Blue Ribbon Committee, back in 2006, in a sweeping recodification of our state's jury laws, recommended that all Marylanders who had been incarcerated, regardless of the length of their sentence, be eligible to vote after 3 years from the end of their sentence.

Unfortunately, the legislature removed this important re-enfranchisement element, and kept the disenfranchisement alive, contrary to the recommendations of the Article 27 committee.

I ask the members here today to take the step that we failed to take back in 2006. I ask that you pass this legislation and allow all those who have paid their debt to society to eventually regain their rights of citizenship.

We have done it in terms of restoring the right to vote, now we can restore the right to serve on juries. Maryland has been a leader in the realm of re-enfranchisement. Lets earn this reputation and take the next important step and give all of citizens a path back to serving on juries.

I respectfully ask for your positive vote on this measure.

Very Truly Yours,

A handwritten signature in blue ink that reads "Jill P. Carter". The signature is written in a cursive style with a large, looping initial "J".

Jill P. Carter

Note 1: Source: Baltimore Sun, November 6, 2019: Report: Proportion of Maryland black prison population is more than double the national average of 32%. Story reporting results of study from the Justice Policy Institute released that week.

NACDL_FAV_SB 921

Uploaded by: Senator Carter, Senator Carter

Position: FAV

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