

# SUPPORT

## HB 213

### Statement of Karen Polis

*Former Assistant State's Attorney in Prince George's County from 2011-2018 who during that timeframe handled every coram nobis case (a kind of post conviction proceeding) filed in Prince George's County.*

I see no disadvantage to the State or Court based on this proposed law. This bill would not change anything for anyone other than people facing immigration consequences as the result of their case. This bill is also in the interest of justice and judicial economy.

As it stands, the United States Constitution requires counsel to correctly advise clients of the immigration consequences of their guilty plea. The result is that non-citizens do not plead guilty as freely as their citizen counterparts do. A reduction in guilty pleas means an increase in trial demands, in a system that relies very heavily on plea bargaining to manage its docket.

A reduction in guilty pleas may also result in more cases being dismissed. If the State is unable to find or bring in witnesses for trial, the State may be forced to dismiss the case. Whereas the State may be successful in getting a citizen to plead guilty for probation before judgment, it may have to dismiss the case against a non-citizen who is forced, by the consequences, to demand a trial.

This bill grants power to judges and prosecutors to impose justice as they see fit. It allows judges and prosecutors to use their sound discretion to manage their own dockets, to secure probation before judgment instead of dismissal, and to reduce post conviction claims of ineffective assistance of counsel. It gives the State greater leverage in negotiating plea agreements, and it gives judges greater discretion in handling proceedings.

This bill gives authority only to judges and prosecutors, not to defendants. A defendant cannot demand that the proposed language be used. He can only negotiate for it. Judges and prosecutors will decide whether the alternative language serves the interest of justice on a case by case basis.

(In my 12 years of practice in Maryland state courts, I have never encountered a prosecutor or judge whose goal it was to use their case to get a defendant deported.) Quite the contrary, having to negotiate around immigration consequences interferes with the plea bargaining process to everybody's consternation. Imagine the prosecutor, judge, and defendant all wanting to resolve the case the same way, except that the defendant cannot accept the plea due to immigration consequences. It's like plea bargaining with a party, the federal government, who isn't even in the room for the negotiations. Immigration consequences stymie the plea bargaining process. This bill uses a few little words to eliminate immigration consequences so that judges and prosecutors can resolve cases as they see fit.

This will is not designed to interfere with federal law. It is designed to neutralize the interference that federal law has on the plea bargaining process in state courts of Maryland.

This is a very small "ask" by the immigration bar, one that benefits the courts and state as much, if not more, than the defendant, since they are the ones given all the power. I recommend this bill as it is in the interest of justice and judicial economy.