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To: Delegate Luke Clippinger
Chair, Judiciary Committee

From: Office of the Attorney General

Re: House Bill 917 – Criminal Law - Hate Crimes - Basis (2nd Lieutenant Richard Collins, III's Law) (**SUPPORT**)

Dear Chair Clippinger:

The Office of the Attorney General writes in support of House Bill 917 – Criminal Law - Hate Crimes - Basis (2nd Lieutenant Richard Collins, III's Law) which alters the basis on which a person may not commit the acts under the State's hate crimes law. Specifically, HB 917 prohibits a person from committing a crime *motivated either in whole or in part* by another person's or group's race, color, religious beliefs, sexual orientation, gender, disability, or national origin. Current law prohibits crimes committed *because of* a person or group's membership in a protected class. Although most courts evaluating the *because of* standard have found that this language allows for mixed motives, it is possible that a court could interpret it to require that a perpetrator's commission of the crime be solely motivated by the victim's



actual or perceived status. House Bill 917 makes clear that a person can be held to violate the State's hate crime law even if their bias was one of several motives for committing the act.¹

Between 2016 and 2017, Maryland experienced a nearly 40% increase in reported hate bias activity, reaching a total of 398.² Despite a slight decrease in reported activity in 2018, Maryland residents continue to experience a heightened rate of hate crimes and hate bias incidents.³ It is critical that the State use every possible tool to deter these acts and to communicate that they will not be tolerated. For the past six months, the Office of the Attorney General has led an informal work group of law enforcement, state and local agencies and community advocacy organizations regarding how the State might improve its response to hate bias activity. A key issue cited by many community members is the lack of clarity around what constitutes a hate crime. House Bill 917 resolves the question of whether a hate crime can be successfully prosecuted if there is evidence of dual intents – that is, in cases where a perpetrator has targeted a person or group because of their membership in a protected class and also because of a separate motivation such as fear, grief or anger. Under House Bill 917, the answer is a resounding yes. For all these reasons, the Office of the Attorney General urges a favorable report.

cc: Members of the Judiciary Committee

¹ Several states, such as New York and Wisconsin, include similar language in their hate crime laws. See <https://codes.findlaw.com/ny/penal-law/pen-sect-485-05.html> and <https://docs.legis.wisconsin.gov/statutes/statutes/939/IV/645>.

² *State of Maryland 2017 Hate/Bias Report*, Maryland State Police, available at <https://mdsp.maryland.gov/Document%20Downloads/State%20of%20Maryland%202017%20Hate%20Bias%20Report.pdf>.

³ *State of Maryland 2018 Hate/Bias Report*, Maryland State Police, pp. 5, 7, 10-11, available at <https://mdsp.maryland.gov/Document%20Downloads/State%20of%20Maryland%202018%20Hate%20Bias%20Report.pdf>, documenting 23 fewer incidents reported in 2018 compared to 2017, a decrease of 5.8%.