



## Maryland State's Attorneys' Association

3300 North Ridge Road, Suite 185

Ellicott City, Maryland 21043

410-203-9881

FAX 410-203-9891

Brian DeLeonardo  
President

Steven I. Kroll  
Coordinator

**DATE:** February 4, 2021

**BILL NUMBER:** SB 46

**POSITION:** Support with Amendments

The Maryland State's Attorney Association (MSAA) supports SB 46 with amendments.

SB 46 bars the discovery or belief of someone's race, color, sexual orientation or sexual identity as legally adequate provocation to mitigate the crimes of murder or assault. The proposed amendment bans the utilization of this sentiment as a defense altogether for assault.

Any attempt to use racist beliefs or reactions rooted in bigotry as a defense to any crime should be met with the highest level of opposition. Clearly, playing upon prejudicial attitudes for the express purpose of justifying a crime is abhorrent. Unfortunately, this tactic has been used successfully in the State of Maryland to mitigate a crime or nullify a juror. This legislation halts this practice and should be roundly supported in all levels of the legal community.

The proposed amendment strengthens the objective of this legislation by eliminating the defense altogether in instances involving assault. The reason is based in practicality, as the degree of seriousness for murder and assault are rooted in different manners of intent. The degree of seriousness for a murder is, with few exceptions, based upon the intent of the killing by a suspect. In other words, the "why" of the death drives the degree, rather than the death itself. In instances involving assault, the degree of seriousness is reflected in the extent of the injury, again with limited exceptions. A minor injury will not typically rise to the level of a first degree regardless of the intent of the suspect. In short, the use of a prejudicial sentiment to mitigate an assaultive crime has no real practical effect as the degree of seriousness is predicated upon the intent to cause a serious injury, rather than the reason for causing it. A defendant would therefore be free to utilize this defense in the same manner as complete defenses, such as self-defense or defense of others, which again, should not be granted safe harbor.

For these reasons the MSAA requests a favorable report on SB 46 with the proposed amendments.