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SUPPORT FOR SENATE BILL 918

Mr. Chairman and Members of the Judicial Proceedings Committee:

We are writing to express the Office of the State Prosecutor's support for Senate Bill 918. The Office of the State Prosecutor is tasked with enforcement of Maryland election laws and believes that extending the statute of limitations from three years to four years on election law offenses would aid in the Office of the State Prosecutor's ability to enforce Maryland election laws and preserve the integrity of the electoral process.

The Office of the State Prosecutor

The Office of the State Prosecutor is an independent agency within the Executive Branch of government. The Office is tasked with ensuring the honesty and integrity of State government and elections by conducting thorough, independent investigations and, when appropriate, prosecutions of criminal conduct affecting the integrity of our State and local government institutions, officials, employees and elections.

Election Violations- Referral Process

The current statute of limitations for state election law violations is three years. Election law violations can be reported in various ways, including: direct complaints to the Office of the State Prosecutor (from citizens or from a local State's Attorney or the Office of the Attorney General), investigations by the Office of the State Prosecutor as a result of failing to file reports, and referrals from the State Board of Elections.

The majority of the complaints come from the State Board of Elections. The State Board is often able to handle administrative violations of the election laws. If the crime is complex, however, requiring review of bank records and financial documents, or there is a failure to comply with the State Board of Elections, the case is referred to the Office of the State Prosecutor for civil or criminal enforcement action.

The State Board of Elections has two auditors to review thousands of campaign reports. The cases that are referred to the Office of the State Prosecutor are most often referred after a certain audit cycle where an entity either failed to file or there was suspicious activity reflected on the

campaign report. Due to the breadth of information involved, identifying suspicious activity is often limited to clear over contributions and other obvious violations, such as an anonymous donation or a donation from an inappropriate entity.

If an administrative violation is identified, the State Board of Elections spends months trying to bring the entity into compliance. It is usually only after initial detection and consequent months of remedial effort on the part of the State Board of Elections that the Office of the State Prosecutor begins our investigation. By the time the Office of the State Prosecutor is notified of an abnormality, it is routinely a year or in some cases years after the action in question.

For clear statutory violations, we initiate civil enforcement; for criminal enforcement of theft, straw contributions and other significant violations, however, the detection and subsequent investigation can take years to resolve. Such cases will often not be caught by the auditors at the State Board of Elections. They come to light only through the review of bank records and other investigative tactics executed by the Office of the State Prosecutor. Oftentimes the suspicious behavior is intentionally designed to make detection difficult, if not impossible, within a three year cycle. Accordingly, we often have only one contested election cycle of information to review. This forecloses any proactive investigative actions by the Office, often precluding the prosecution of responsible individuals.

These cases are serious and undermine the transparency and fairness of our democracy. Voters should have the opportunity to truly see who is funding the campaigns of their elected representatives. Individuals who attempt to undermine the process can bolster their campaigns through reporting more fundraising than they have actually received and by misrepresenting the sources of their campaign fundraising.

The current statute of limitations is unfair to Maryland voters and unfair to the majority of elected officials and individuals who run for office and follow the rules. We encourage this Committee to issue a favorable report on Senate Bill 918.

Sincerely,

CHARLTON T. HOWARD
MARYLAND STATE PROSECUTOR