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Judicial Proceedings Committee

Joint Committees

Children, Youth, and Families

Ending Homelessness



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THE SENATE OF MARYLAND
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Testimony Regarding SB 763
Collection and Publication of Prosecutorial Information
Before the Judicial Proceedings Committee
March 1, 2022

Good afternoon Chair Smith, members of the Judicial Proceedings Committee,

Prosecutors have become potentially the most powerful actors in the criminal justice system. The fact that roughly 95% of state felony convictions arise through pleas shows that prosecutors have more influence than judges on case results, sentence lengths, and prison populations.¹ Prosecutors have the power to decide who to prosecute, what charges to bring, whether to recommend incarceration or freedom for a defendant awaiting trial, whether to offer a plea, and whether to dismiss a case. This power pervading throughout the entirety of a criminal case combined with the “tough on crime” rhetoric persisting over the past several decades has resulted in prosecutors perpetuating issues of mass incarceration and racial disparities in the system.²

Given the power prosecutors possess, insight into the decision-making processes of these offices is important to ensure they are employing fair practices. In reality, information about prosecutorial decision-making is difficult to access and is not effective in understanding how these offices operate. To make prosecutors’ offices more transparent and to help the criminal justice system operate more effectively, this bill is presented to better track and publicize the actions of prosecutors’ offices.

This bill will require prosecutors’ offices across the state to disclose data about the cases they pursue so this information may be available for the public to access. The information will include information such as demographic information about a defendant (race, gender, etc.), the neighborhood where the arrest occurred, the charges brought or an explanation if charges were not brought, whether bail was recommended and imposed, whether a plea was offered and the terms of the deal, and more.

The availability of this information will benefit the general public so that it knows what is going on in its criminal justice system, it will also benefit both prosecutors and defense attorneys. Prosecutors will be able to look at the data to track how they use their discretion and ensure that

¹ Matthew R. Durose and Patrick A. Langan, Bureau of Justice Statistics, *Felony Sentences in State Courts*, 2004 1 (2007) <https://www.bjs.gov/content/pub/pdf/fssc04.pdf>.

² Report of the Sentencing Project to the United Nations Human Rights Committee Regarding Racial Disparities in the United States Criminal Justice System. 1 (2013)

they are treating all members of the community fairly. The data can also help prosecutors' offices make better decisions in all respects, ranging from human resources to case strategies. Defense attorneys can utilize the data to help their clients by highlighting problematic habits within a prosecutor office, such as an office that routinely stacks charges and consequently drops them during plea negotiations or an office that repeatedly seeks higher bail amounts against certain racial groups.

Prosecutors have a great responsibility in our justice system. To ensure that prosecutors do not abuse this power, more transparency is needed to track their decisions and actions. The public has a right to know how these officials operate, and this database is a beneficial step to achieving this goal.

For the aforementioned reasons, I ask that SB 763 be reported out favorably.