

SB763 Prosecutorial Info Sen Sydnor Testimony for

Uploaded by: Charles E. Sydnor III

Position: FAV

CHARLES E. SYDNOR III, ESQ.
Legislative District 44
Baltimore City and Baltimore County

Judicial Proceedings Committee

Joint Committees

Children, Youth, and Families

Ending Homelessness



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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.

StateS_1_Baltimore Witness Testimony (1).pdf

Uploaded by: LaTrina Antoine

Position: FAV



TESTIMONY OFFERED RELATING TO MARYLAND STATE SENATE BILL 0763
RELATING TO PROSECUTORIAL TRANSPARENCY
OFFERED BY LATRINA ANTOINE
EDITOR-IN-CHIEF, BALTIMORE WITNESS

MARCH 1, 2022

Senators Smith, Waldstreicher, Sydnor and distinguished members of the Judicial Proceedings Committee, thank you for the opportunity to testify in support of the Collection and Publication of Criminal Case and Prosecutorial Information (SB 0793).

My name is LaTrina Antoine. I am the Editor-in-Chief of Baltimore Witness, a nonprofit organization that uses shoe-leather reporting and data science to track every homicide and non-fatal shooting case currently under adjudication in the Baltimore City Circuit Court.

Baltimore City is in crisis. In 2021, there were 339 homicides and 488 non-fatal shootings. There were also approximately 156 investigations with 79 arrests for homicide, and 111 known suspects arrested for non-fatal shootings. Of those arrested only 137 cases made it to adjudication, 17 of these cases were nolle prossed, approximately 82 cases received a conviction, 7 defendants were released on bail, and 310 plea offers were rejected.

The chronic lack of transparency in criminal justice and the woeful state of data collection and information in the city is reflected by efforts in this legislative session calling for greater transparency from the judiciary, pretrial services, and today, the prosecution's office.

We applaud the committee's effort to address this critical transparency issue. But, as the current bill (SB 0763) moves forward, we would urge the committee to consider factors that are needed to ensure a successful bill:

1. Legislative Regulation
2. Data Gathering Systems
3. Government Agency Cooperation
4. Validation

These four areas will transform any government push into substantial aid to the community by offering a different perspective to violent crime. However, a validator of the data is needed to guarantee success.

As evidenced by the recent data dump from the SAO, the office has lots of data and is more than happy to provide it. We do not have a data issue, instead we have a credibility issue. Fairly or not, every offering from the SAO is met with public skepticism.



And while Baltimore Witness has no view on State's Attorney Mosby's performance, we offer an observation:

- Based on our independent data, the SAO's data is accurate but misleading.

For example, last fall the SAO claimed convictions on 18 homicide charges. The implication is that 18 murderers were taken off the streets. However, there were 7 people convicted of those 18 charges. The SAO also claims a 97% conviction rate, without accounting for all the cases the office dismissed that were immediately expunged under previous legislation designed to protect those not charged.

Our point is not to suggest the SAO, or other prosecutors, need policing but rather to urge the committee to ensure independent data validation. As an example, we sent the committee a spreadsheet that carries data on homicide and non-fatal shooting cases in the city.

We respectfully request the committee include, in the bill (SB 0763), external validation to ensure the integrity of official data.

M Sahaf (Vera Institute) SB 0763 Testimony (Feb 20

Uploaded by: Mona Sahaf

Position: FAV

Testimony of Mona Sahaf, Vera Institute of Justice

Supporting HB1429/SB0763: Requiring the Collection and Publication of Criminal Case and Prosecutorial Information

Oral testimony

Good afternoon. My name is Mona Sahaf. I am a Maryland resident and work at the Vera Institute of Justice as Deputy Director of the Reshaping Prosecution Program. The Reshaping Prosecution program helps prosecutors shrink the criminal legal system, promote racial equity, and increase transparency and accountability to the communities they serve. Before joining Vera, I worked for twelve years as a federal prosecutor in Washington, DC.

Prosecutors wield great power to shape criminal cases, including collecting evidence through subpoenas and search warrants, choosing who to investigate or charge, deciding what charges to bring, and making plea offers. Many of these decisions—especially around declination, charging, and plea bargaining—are virtually unreviewable by any court or other entity, and totally discretionary to prosecutors. Yet, despite this immense power, the general public does not receive much, if any, information about how prosecutors make these choices, which are often life-altering for people and their families.

This bill is a significant step towards unlocking the black box of prosecution for Maryland residents. Publicizing this data and information empowers the public to isolate and understand how prosecutors' decisions collectively and individually impact the communities that they are elected to serve, and what priorities a given state's attorney is pursuing. With access to this data, community members will have information necessary to understand vital issues like what resources state's attorneys spend on cases driven by substance abuse, how frequently they ask for pretrial detention for people presumed innocent, and how their decisions contribute to racial disparities in the system.

However, while this bill is a significant step towards transparency, its success will depend on helping state's attorneys' offices to implement it effectively. The vast majority of state's attorneys' offices likely do not have the in-house capacity necessary to properly collect or report many of the data points in the legislation. As such, the general assembly or the governor should consider providing state-wide technical assistance to help prosecutors meet the demands of the legislation.

Please see my supplemental written testimony for additional data points that the legislation could capture, as well as implementation suggestions to support offices in collecting and publishing data.

Supplemental written testimony

My supplemental testimony focuses on two areas: additional data points to collect and avenues to help state's attorneys collect data.

First, although HB502/SB456 requires collection and reporting of many crucial data points, there are a few others our team would suggest:

- Non-public safety traffic stops These are stops where someone is detained for a minor traffic infraction that does not impact public safety. These stops increase racial bias in the

system and do not provide a public safety benefit.¹ To capture how these stops impact the justice system, consider requiring state’s attorneys to collect whether an arrest involved:

- a traffic stop, documenting the traffic infraction even if the prosecutor does not file the traffic offense;
 - an outstanding warrant; or
 - a consent search.
- Demographic information. In addition to the proposed information about the person charged, state’s attorneys could collect:
 - The person’s residential zip code and ethnicity – both of which would shed light on who is disparately impacted by the criminal legal system.
 - Victim information: demographic information on victims like race, ethnicity, age, gender, residential zip code, and disability status would similarly shed light on the disparate impact of the justice system.

Second, the state should consider providing support – financial or technical – to increase the data collection capacity for state’s attorneys’ offices. Even for well-resourced offices, changing practices to collect the data required under the legislation will be a heavy lift.

To relieve that burden, and to ensure the effective collection of data, other states have offices devoted to providing technical assistance to prosecutor offices. For example, Colorado passed legislation creating and funding the Colorado Integrated Criminal Justice Information System, a centralized state-wide data system that provides technical support to offices in maintaining data standards.² The Prosecuting Attorneys Association of Michigan develops software and helps offices with technical matters.³ Developing a similar centralized support system for Maryland state’s attorneys could help with standardizing data collection and ease implementation of the legislation.

¹ Vera Institute of Justice and Institute of Innovation in Prosecution, “Refuse: Decline arrests from pretextual stops,” <https://motionforjustice.vera.org/strategies/refuse>.

² Colorado Integrated Criminal Justice Information System homepage, accessed February 22, 2022, <https://cicjis.colorado.gov/>.

³ Prosecuting Attorneys Association of Michigan homepage, accessed February 22, 2022, <https://www.michiganprosecutor.org/>.

Support SB 763-prosecutorial information.docx.pdf

Uploaded by: Philip Caroom

Position: FAV

Support SB 763 – Prosecutorial Information

MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Will Smith and Senate Judicial Proc. Com.
FROM: Phil Caroom, MAJR Executive Committee
DATE: March 1, 2022

Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) supports SB 763. Crucially, the bill will shed light on the extent that plea bargain practices, by which 95% of all criminal charges are resolved, contribute to the nation-leading disparity in the rate at which Maryland incarcerates black citizens.

What's the problem?: The General Assembly, more than 20 years ago, created the Maryland State Commission on Criminal Sentencing Policy [MSCCSP] with a mission to “reduce unwarranted disparity, **including any racial disparity**, in sentences for criminals who have committed similar crimes and have similar criminal histories.” Md.Code, Crim.Proc.Art.,sec.6-202 (Emphasis added.) However, MSCCSP has neglected this function, especially in the central context of plea bargains.

The [Justice Policy Institute](#), just before the onset of the pandemic - late in 2019, reported that our state's criminal justice system incarcerates black Marylanders disproportionately at a higher rate than any other U.S. state, including the runner-up sister-state Mississippi. Our incarceration for black citizens is more than double the national average. This report sparked calls from the Baltimore [Sun](#), the Washington [Post](#), community leaders and advocates around the State for investigation and change.

How would this prosecutorial transparency bill help?: SB 763 would require the Administrative Office of the Courts (AOC) to collect data from States Attorneys' offices that is key to gaining insight into how plea-bargaining and other exercises of prosecutorial discretion may contribute to the disproportionately high incarceration rate of black Marylanders. Gathering this data would allow Maryland to study racial disparity resulting from plea bargaining practices as has been done in other jurisdictions. For example, A September 2020 Harvard University study of Massachusetts racial disparities found that *initial* charges are heavier against black & minority defendants; this, in turn, weakens their bargaining position in plea agreements. - A July 2020 Wisconsin report found blacks' rate of incarceration on violations of probation especially disproportionate. -A prior local Wisconsin study found 74% more likelihood for white defendants than black defendants to receive a plea agreement without incarceration.

Despite the [well-known phenomenon that plea bargains dispose of 95% of all criminal charges](#), the MSCCSP has taken few steps to collect data on plea bargain practices. Yet, as U.S. Supreme Court Justice Anthony Kennedy wrote for the Court's 2011 decision [Missouri v. Frye](#), plea bargaining “is not some adjunct to the criminal justice system; it is the criminal justice system.”

Under section 15-505 of the bill, MSCCSP would receive such data annually and, “at least twice per year, publish issue-specific reports that provide in-depth analysis of one or more areas of prosecutorial decision making.” At least one such report, would “focus on racial disparities.”

What have other States done to focus on this problem?: The State of Connecticut passed a bill to provide prosecutorial transparency in 2019 passed a bill similar to SB 763 which was approved with unanimous support in both that state's House and Senate-

Fiscal impact: In 2021, a Fiscal Impact Statement suggested that the State's cost to implement this system might be minimal (under \$105,000 per year) but that local State's Attorneys' costs could be much higher (from \$140,000 per year in Dorchester County to \$1.3M per year for Montgomery County). The widely disparate estimates of the cost impact of SB 763 may reflect a lack of appreciation for just how little effort will be required to collect the data elements identified in the bill. Data could be gathered by having State's Attorney personnel make a few more keystrokes as they enter data into the existing Maryland Electronic Courts (MDEC) system and the MSCCSP sentencing guidelines system known as the Maryland Automated Guidelines System (MAGS). Both systems already are automated and are completed online by current States' Attorney personnel or court personnel.

SB763 would add only a few more details as to pretrial status (as discussed further below). As to plea agreements, the assigned prosecutor to every Circuit Court case will complete a MAGS sentencing worksheet before every plea. SB 763, MAJR suggests, would not add appreciably to the several minutes currently required for prosecutors to complete such worksheets.

The few items not currently collected by existing databases include:

- 1) Local State's Attorneys' listing of staff, resources, and disclosure of written policies. This is a simple one-time or annual disclosure; not an ongoing, daily task. (Please note that, if a policy doesn't exist, the office may comply by saying "no policy has been adopted.")
- 2) Reasons that criminal cases are dismissed. These could be expressed in a few words such as "insufficient evidence, victim's request, or diversion program" as used in the MAGS system to explain sentencing guidelines deviations.
- 3) Identification of a trial judge at sentencing or dismissal. MAJR suggests that this, perhaps, is a misguided policy because identification of sentencing judges is commonly believed to encourage more harsh sentencing in light of Maryland's contested Circuit elections.
- 4) Additional details related to plea offers such as discovery status, time limits imposed, and diversion programs offered. This group of items presents the most challenge, but MAJR still suggests that the staff and time requirements from 2021 fiscal impact statement is substantially overstated.

Rather than create an entirely new system, SB 763 calls for the MSCCSP "in coordination with the Administrative Office of the Courts [to] determine the manner in which the Administrative Office of the Courts provides to the [MSCCSP] Commission the information collected under § 15-502 of this subtitle." This will offer a good first step towards avoiding duplication of current data collection via MDEC and MAGS. If legislators fear approval of SB 763 because of costs concerns, MAJR urges consideration of an amendment to require an initial study of the logistics and costs to be reviewed before implementation this sorely-needed system in the 2023 Maryland General Assembly session.

Conclusion: For all the reasons stated above, MAJR strongly encourages the Committee to give SB 763 a favorable report --or, if too concerned with local fiscal impact, to approve a study or joint report from the Administrative Office of Courts, the MCSSCP, and designees representing State's Attorneys from a small and a larger county as to how to reduce the fiscal and staffing requirements to gather such information.

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PLEASE NOTE: Phil Caroom files this testimony for MAJR and not for the Md. Judiciary.

MDDC Support SB763.pdf

Uploaded by: Rebecca Snyder

Position: FAV



Maryland | Delaware | DC Press Association

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To: Judicial Proceedings Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: March 1, 2022

Re: **SB763 - FAVORABLE**

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of newspaper publications, from large metro dailies like the Washington Post and the Baltimore Sun, to hometown newspapers such as The Annapolis Capital and the Maryland Gazette to publications such as The Daily Record, Baltimore Jewish Times, and online-only publications such as MarylandReporter.com and Baltimore Brew.

The Press Association is pleased to support Senate Bill 763, which would instill more transparency into the prosecutions of the State's Attorneys across Maryland by collecting and disclosing data about the demographics and individuals involved with all cases. This information will allow journalists a window into the big picture of prosecutions across the state and aid in the analysis of patterns of prosecution.

By consolidating this information across the state, journalists can more easily analyze and report on the information and show the efficacy – or needs – of various programs and topics relating to criminal justice.

We urge a favorable report.



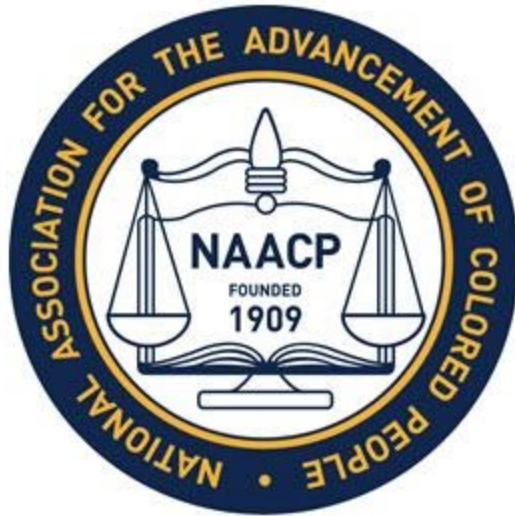
**We believe a strong news media is
central to a strong and open society.**

Read local news from around the region at www.mddcnews.com

Support SB 0763.pdf

Uploaded by: Ryan Coleman

Position: FAV



Randallstown

Po Box 731 Randallstown, MD 21133

February 28, 2022

Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

*RE: SUPPORT SB 0763-Collection and Publication of Criminal Case and
Prosecutorial Information.*

Dear Chair Smith, Vice Chair Waldstreicher and Members of the Judicial Proceedings Committee:

May it be known the mission of the Randallstown NAACP is to secure equal rights in order to eliminate race-based discrimination and ensure the health and wellbeing of all persons in Baltimore County and the State of Maryland.

As the most powerful – and perhaps least understood – actors in the criminal legal system, prosecutors have an incredible impact on both individual criminal cases and the criminal legal system at large.

Prosecutors make decisions that affect the lives of millions of people every day. They possess formidable powers to carry out justice. They decide whom to prosecute, what to charge, whether to recommend freedom or incarceration before trial, whether to bargain

for a plea and its conditions, and whether to dismiss a case altogether. They hold this authority throughout the life of a criminal case, giving them extraordinary power from arrest through trial, conviction and sentencing, as well as during appeals.

Despite growing calls for reform, information about how prosecutors make decisions remains largely hidden from public view. This lack of data collection has long been the norm among prosecutors' offices for a variety of reasons. *First, there are almost no legal requirements that they do so. Laws rarely mandate the recording or public disclosure of substantive prosecutorial data, nor do they require prosecutors' offices to make their policies public.*

SB 0785 will help prosecutors manage their offices efficiently and measure progress toward goals. This reporting of data will increase transparency about prosecutorial decision making, the constraints prosecutors navigate, and how their decisions link to broader justice and public safety outcomes. **The Randallstown Branch of the NAACP urges a favorable report from the committee on SB 0763.**

yours,

R. Coleman
President, Randallstown NAACP
<http://randallstownnaacp.yolasite.com>
<https://www.facebook.com/NAACPrandallstown>
<https://www.instagram.com/naacprandallstown>

Written Testimony for SB 763 Collection and Pub C

Uploaded by: Allan Culver

Position: UNF

Bill Number: SB 763

Allan J. Culver, State's Attorney for Carroll County

55 North Court Street, Westminster, MD 21157

Opposed to SB 763

WRITTEN TESTIMONY OF ALLAN J. CULVER,
STATE'S ATTORNEY FOR CARROLL COUNTY
IN OPPOSITION TO SENATE BILL 763
COLLECTION AND PUBLICATION OF CRIMINAL CASE AND
PROSECUTORIAL INFORMATION

I write in opposition to Senate Bill 763. This bill would unnecessarily enlist the State's Attorney's Office in every local jurisdiction to collect sixty-five (65) categories of data for each criminal case after each criminal hearing. These requirements would have an enormous fiscal and work-load impact on our budgets and employees.

The bill would require every local State's Attorney's Office to create a database to capture the data every time there was activity in a case. Our office handled approximately 6000 criminal cases with 15,00 court hearings in 2021. Our employees would have to review each of these 6000 cases to input data into the 65 categories required by SB 763 after every one of the 15,000 hearings. The onerous tasks would require us to hire two additional staff members, an attorney, and an IT staff member. With the enormity of information required after each hearing, the bill would also require us to create a computer database with the capacity to track sixty-five (65) categories of data for every case and every hearing. This bill would require the Carroll County State's Attorney's Office to increase the office budget between seven hundred seventy thousand dollars (\$770,000) and one million dollars (\$1,000,000) per year. Our office is already facing significant budget and personnel increases this year to comply with the enormous increase in information that we receive from body camera surveillance video.

Of the 65 categories of data required under SB 763 approximately 33 of the categories of data are already available from existing sources. MDEC, Maryland Judiciary Case Search and the Maryland Sentencing Guidelines already collects much of data required to be collected in section 15-502. The Maryland Sentencing Guidelines capture much of the data for most Circuit Court cases. The Maryland Judiciary Case Search is an existing tool that already lists case numbers, charges, bail status and the disposition of charges. Case Search could be modified to collect the additional data that is sought by the bill. Maryland Judiciary Case Search would allow for a uniform statewide platform that could still permit comparison among jurisdictions. There is simply no compelling reason to pass this bill to collect duplicate data, especially when the overwhelming and crippling workloads and costs are considered.

Interestingly enough, the bill would require the name of the prosecutor handling the case at every stage of the case but create a unique identifier in place of the criminal defendant's name. For the Committee's information, a specific prosecutor's name is already attached to cases in MDEC. The specific prosecutor's appearance must be entered into MDEC so the court knows which prosecutor to notify about the case. The prosecutor's name affiliated with a case is one of the many categories of information already available to those who are interested.

The Carroll County State's Attorney's Office joins the Maryland State's Attorneys' Association in requesting that this committee give SB763 an unfavorable report.

MSCCSP Statement on SB 763 .pdf

Uploaded by: David Soule

Position: UNF

MSCCSP



Maryland State Commission on Criminal Sentencing Policy

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Hon. Brett R. Wilson

Vice-Chair

Hon. Shannon E. Avery

Commissioners

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Chief Douglas DeLeaver
Paul B. DeWolfe, Esq.
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Lisa M. Spicknall-Horner
Sen. Charles E. Sydnor, III
Sen. Chris R. West

Executive Director

David A. Soulé, Ph.D.

TO: Senate Judicial Proceedings Committee
FROM: MSCCSP
RE: SB 763
Collection and Publication of Criminal Case and Prosecutorial Information
DATE: March 1, 2022
POSITION: Oppose

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP or Commission) convened via videoconference on February 22, 2022, to solicit feedback on Senate Bill (SB) 763. Thirteen of the 19 Commissioners participated in the videoconference. By unanimous vote with 5 abstentions, the Commission voted to oppose SB 763.

The Commissioners voted to oppose SB 763 because the legislation substantially expands the scope and purpose of the MSCCSP beyond criminal sentencing policy and therefore the legislation is inconsistent with the Commission's historical and statutory purpose. The Commission was not created to collect and publish data to monitor prosecutor decisions. SB 763 would require the Commission to create and host a database capable of storing information on more than 75 data points for an estimated 750,000 prosecutions per year.¹ For comparison, in fiscal year 2019, the MSCCSP received data for just over 11,000 guidelines-eligible sentencing events in circuit courts. Accordingly, SB 763 would substantially expand the number of cases tracked by the MSCCSP and would substantially expand the scope of the Commission's work beyond criminal sentencing in circuit courts to include all prosecution charging decisions and practices. The MSCCSP fiscal year 2022 budget is \$573,117. The estimated cost for the Commission to meet the requirements of SB 763 is approximately \$265,000 in year-one and \$155,000 per subsequent year. The MSCCSP does not have the existing

¹ The estimated 750,000 prosecutions per year is based on the number of circuit court criminal filings, district court criminal filings, and motor vehicle filings from FY 2019, which was the last full fiscal year before COVID.

MSCCSP



Maryland State Commission on Criminal Sentencing Policy

Chair

Hon. Brett R. Wilson

Vice-Chair

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Commissioners

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Paul B. DeWolfe, Esq.

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Kyle E. Scherer, Esq.

Lisa M. Spicknall-Horner

Sen. Charles E. Sydnor, III

Sen. Chris R. West

Executive Director

David A. Soulé, Ph.D.

infrastructure and resources to meet the substantial additional requirements created by SB 763.

Finally, the legislation would require the Commission to publish data that identifies individual judges and prosecutors. Consistent with the Commission's position regarding SB 392/HB 412 (2022), the Commission opposes publishing data that identifies individual judges. The sentencing guidelines are voluntary and were never intended to impose a limit on judicial discretion, or to gather and/or publish judge-specific sentencing information.

For these reasons, the MSCCSP opposes SB 763.

SB0763-JPR_MACo_OPP.pdf

Uploaded by: Michael Sanderson

Position: UNF



Senate Bill 763

Collection and Publication of Criminal Case and Prosecutorial Information

MACo Position: **OPPOSE**

To: Judicial Proceedings Committee

Date: March 1, 2022

From: D'Paul Nibber and Michael Sanderson

The Maryland Association of Counties (MACo) **OPPOSES** SB 763. The bill obliges each State's Attorney, a county-funded State agency, to assemble and publish a litany of detailed information on public-facing media, at substantial cost to the county and its taxpayers.

SB 763 sits among a series of proposals this session seeking to improve transparency and accountability in public safety and related functions. Counties recognize the importance of accountability for public officials and processes. However, the detailed requirements of SB 763 would inundate the Office of the State's Attorney from each county with a dramatic and cumbersome management requirement that would raise overhead costs dramatically, and siphon limited local budget resources away from other priorities.

County-funded State agencies represent an anomaly in Maryland government – the State's Attorney is an elected position at the county level, and effectively operates independently of the actual county government. Under multiple Maryland court rulings, the county governing body's ability to address budget issues within such agencies (also including Boards of Elections, Boards of Liquor Control, and other comparable units) is very limited. Thus, the costs of meeting the strict requirements of SB 763 would translate, very directly, to mandated costs on county governments – whose budgets are already strained by the national health pandemic, a weakened economy, aggressive education funding mandates, and other State obligations.

SB 763 offers costly and cumbersome requirements for public access, that could presumably be advanced through more moderate and affordable means. Accordingly, MACo requests the Committee give SB 763 an **UNFAVORABLE** report.

sb763.pdf

Uploaded by: Sara Elalamy

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 763
Collection and Publication of Criminal Case and Prosecutorial
Information
DATE: February 23, 2022
(3/1)
POSITION: Oppose

The Judiciary opposes Senate Bill 763. The offered legislation adds Subtitle 5, State's Attorney's Data Collection, to Title 15 of the Criminal Procedure Article. The bill requires that the Administrative Office of the Courts (AOC), in cooperation with each State's Attorney, collect and disclose certain information for each case prosecuted.

Unlike the other policies to which the Judiciary is subject and which do not impose on judicial functions, the proposed legislation would impose on the Judiciary's day-to-day functioning and therefore it runs afoul of the separation of powers. In acknowledging the limited powers of the legislative branch to impose authority on the judicial branch, the Court of Appeals in *Attorney Gen. of Maryland v. Waldron*, 289 Md. 683, 699 (1981) stated:

There can be no doubt, however, that the deferential respect accorded the legislative branch by the judicial must neither undermine nor dilute the fundamental authority and responsibility vested in the judiciary to carry out its constitutionally required function, an aspect of which, as we have seen, is the supervision of practicing attorneys. Nonetheless, the flexibility that inheres in the separation of powers doctrine allows for some limited exertion of legislative authority. As a consequence of this elasticity, we have recognized, first, that the General Assembly may act pursuant to its police or other legitimate power to aid the courts in the performance of their judicial functions[.]

By requiring the Judiciary to perform essentially data entry on behalf of the State's Attorney (SAO), an executive function, the legislature exceeds its permissible "limited exertion of legislative authority . . . to aid the courts in the performance of their judicial function." Instead, the proposed legislation "dilutes the fundamental authority and responsibility vested in the judiciary to carry out its constitutionally required function."

The administration of justice requires that the Judiciary be able to function without performing duties outside of the Judiciary's prescribed scope.

In addition, the required data collection in this bill would create a tremendous operational and fiscal impact on courtroom operations – an administrative function – by requiring court staff to coordinate the collection of the information requested at each stage of a criminal proceeding. This will require additional staffing and require the development of a new database and/or web based platform all of which are under the administrative purview of the Chief Judge, the State Court Administrator, and the Clerks of Court. This also could impact the speed of trials and other criminal proceedings by requiring court staff to coordinate the collection of each of the 44 data fields.

There could also be concern about *ex parte* communication between the court and the State's Attorney. The level of interaction and collaboration required would open the door for too much communication between the Court and the State's Attorney alone. For example, data field 18 asks for whether diversion was offered and the judicial position on diversion. The judge's position on diversion may not be distillable into a data field and could potentially rely on a judge and State's Attorney having to "share notes" on what was intended to be stated on the record, which could be different from a defense attorney's interpretation. This could then require a defense attorney to be looped in on certain areas of data entry to ensure accuracy of the records.

The bill, as written, also requires that the records be maintained for 10 years. It in no way addresses how the above records would be handled where the underlying charges are expunged before 10 years.

Finally, this bill will have a significant fiscal impact on the Judiciary. Much of the information and data required by the bill to be collected is not collected by or readily available to the Judiciary in a way that it can be extracted to meet the bill's requirements. As this bill appears to apply to all criminal actions, including traffic cases, hundreds of thousands, if not millions of cases would be affected each year and the manual effort would be extensive and require thousands of hours of clerk time. Many data fields included in the bill are non-existent in the MDEC case management system thereby requiring the development of a web based database where the State's Attorney's enter the information and send to the Administrative Office of the Courts.

cc. Hon. Charles Sydnor
Judicial Council
Legislative Committee
Kelley O'Connor

SB 763 Written Testimony.pdf

Uploaded by: Scott Shellenberger

Position: UNF

Bill Number: SB 763
Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION OF SENATE BILL 763
OFFICE OF THE STATE'S ATTORNEY – COLLECTION AND PUBLICATION OF
CRIMINAL CASE AND PROSECUTORIAL INFORMATION

I write in opposition to Senate Bill 763, Collection and Publication of Criminal Case and Prosecutorial Information as a slightly masked effort to accomplish what was introduced last year as Senate Bill 456 but then withdrawn. Last year, practically every State's Attorney in this State voiced extreme concerns regarding the Bill and pointed to the insurmountable expense it would demand to accomplish the directive of the legislation. In last years' bill, all of the obligations were on the State's Attorneys. This years' bill attempts to give the impression that the financial burden would not be on the State's Attorneys by requiring all of the compilation of information to be the responsibility of the Administrative Office of the Courts. However, it will be exceedingly clear that a large amount of the information and data is not known or available to the Administrative Office of the Courts. The Bill requires all the State's Attorneys to "cooperate" with the Administrative Office of the Courts to give them the information necessary for them to compile the information. The expense and staffing necessary from the State's Attorneys Offices would be the same as if the requirement was directly upon us.

The bill requires over 100 data points. Many of those are not currently recorded. The data points would have to be compiled on every case in Baltimore County. Baltimore County often handles up to 40,000 criminal cases a year. That would conceivably mean that up to 4 million data points would need to be entered into a currently non-existent data system for the State's Attorney to then pass this information on to the Administrative Office of the Courts.

Some of the information required is fairly easily accessible in a case management system if the particular State's Attorney's Office has one in place. Some of the information would not be in the case management system and would require an inquiry of the particular prosecutor or staff member who handled any distinct part of the prosecution of the case. In addition, some of the information required is not information within the knowledge and control of the State's Attorney's office and would require research through the files (electronic or hard file) of the Judiciary or other agencies involved in the criminal justice system.

Baltimore County has conservatively estimated that we would be required to hire at least 11 new employees. In Fiscal Year 2023 it will cost Baltimore County a minimum

of over \$800,000.00. That number will likely reach one million soon thereafter and will continue forever.

Senate Bill 763 comes with no money. Interestingly, while the Bill requires that a criminal Defendant's name not be used but replaced with a "unique identifier," the name of the prosecutor who charged the case is named. In addition, the names of those who helped in the risk assessment, the Presiding Judge, and the sentencing Judge have to be named.

The next part of the proposed legislation requires each State's Attorney's Office to place on a public website all office policies with regard to practically everything this office does and are listed at pages 8 and 9 of the bill. Policy would include manuals, training materials, directions, instruction and "any other piece of information." This would be both an impossible task and an inappropriate infringement upon the work product and internal function of our offices.

Simply put this is costly without providing funds and infringes on the privacy of employees in every State's Attorney's Office in the state.

I urge an unfavorable report.

SB763.pdf

Uploaded by: Shaoli Katana

Position: UNF

SENATE BILL 763

E2

2lr3172
CF 2lr3173

By: **Senator Sydnor**

Introduced and read first time: February 7, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Collection and Publication of Criminal Case and Prosecutorial Information**

3 FOR the purpose of establishing requirements for the collection and dissemination of
4 certain information relating to the Office of the State’s Attorney in each county and
5 Baltimore City, coordinated in a certain manner by the Administrative Office of the
6 Courts and the State Commission on Criminal Sentencing Policy; and generally
7 relating to the Office of the State’s Attorney and the collection and publication of
8 information.

9 BY adding to

10 Article – Criminal Procedure

11 Section 15–501 through 15–506 to be under the new subtitle “Subtitle 5. State’s
12 Attorney’s Data Collection”

13 Annotated Code of Maryland

14 (2018 Replacement Volume and 2021 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Criminal Procedure**

18 **SUBTITLE 5. STATE’S ATTORNEY’S DATA COLLECTION.**

19 **15–501.**

20 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (B) “CASE NUMBER” MEANS THE UNIQUE NUMBER ASSIGNED TO A
23 CRIMINAL CASE ASSOCIATED WITH A PARTICULAR CRIMINAL CHARGE.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(C) “CHARGE” MEANS AN ACCUSATION OF A CRIME BY A STATE’S ATTORNEY**
2 **INITIATED BY A TICKET, A COMPLAINT, OR ANY OTHER CHARGING DOCUMENT.**

3 **(D) “CHARGE DESCRIPTION” MEANS:**

4 **(1) THE NAME OF THE CHARGE AS PROVIDED BY LAW;**

5 **(2) A STATEMENT OF THE CRIMINAL PROVISION THAT IS ALLEGED TO**
6 **HAVE BEEN VIOLATED;**

7 **(3) THE ASSOCIATED STATUTORY SECTION ESTABLISHING THE**
8 **ALLEGED CONDUCT AS CRIMINAL; AND**

9 **(4) THE CLASSIFICATION OF THE CRIME.**

10 **(E) “CHARGE IDENTIFICATION” MEANS THE UNIQUE IDENTIFICATION**
11 **NUMBER ASSIGNED TO THE CHARGE.**

12 **(F) “CHARGE MODIFIER” MEANS AN AGGRAVATING OR MITIGATING**
13 **CIRCUMSTANCE OF AN ALLEGED CHARGE THAT ENHANCES, REDUCES, OR**
14 **RECLASSIFIES THE ALLEGED CHARGE TO A DIFFERENT CLASSIFICATION GRADE OR**
15 **LEVEL.**

16 **(G) “COMMISSION” MEANS THE STATE COMMISSION ON CRIMINAL**
17 **SENTENCING POLICY.**

18 **(H) “DISPOSITION” MEANS THE CONCLUSION OF THE PROSECUTION OF A**
19 **CHARGE, INCLUDING:**

20 **(1) NOLLE PROSEQUI;**

21 **(2) DIVERSION;**

22 **(3) DISMISSAL;**

23 **(4) DISMISSAL AS PART OF A PLEA BARGAIN;**

24 **(5) CONVICTION AS PART OF A PLEA BARGAIN;**

25 **(6) CONVICTION AT TRIAL; AND**

26 **(7) ACQUITTAL.**

1 **(I) “INITIATION” MEANS THE CREATION OR INSTITUTION OF A CHARGE**
2 **AGAINST A CRIMINAL DEFENDANT, WHETHER BY POLICE, PROSECUTORS, GRAND**
3 **JURY, OR OTHER ENTITY.**

4 **(J) (1) “POLICY” MEANS FORMAL, WRITTEN GUIDANCE FOR EMPLOYEES**
5 **OF A STATE’S ATTORNEY.**

6 **(2) “POLICY” INCLUDES:**

7 **(I) A PROCEDURE;**

8 **(II) A GUIDELINE;**

9 **(III) A MANUAL;**

10 **(IV) TRAINING MATERIAL;**

11 **(V) A DIRECTION;**

12 **(VI) AN INSTRUCTION; OR**

13 **(VII) ANY OTHER PIECE OF INFORMATION.**

14 **(3) “POLICY” DOES NOT INCLUDE:**

15 **(I) ATTORNEY WORK PRODUCT; OR**

16 **(II) INFORMATIONAL LEGAL OR PROCEDURAL ADVICE OR**
17 **GUIDANCE OFFERED AMONG ATTORNEYS WITHIN AN OFFICE OF A STATE’S**
18 **ATTORNEY.**

19 **(K) “STATE’S ATTORNEY” MEANS THE OFFICE OF THE STATE’S ATTORNEY**
20 **IN EACH COUNTY IN THE STATE AND BALTIMORE CITY.**

21 **(L) “UNIQUE IDENTIFIER” MEANS A RANDOMLY GENERATED NUMBER THAT**
22 **IS ASSIGNED IN PLACE OF A DEFENDANT’S NAME.**

23 **15-502.**

24 **(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AND IN**
25 **ACCORDANCE WITH § 15-505 OF THIS SUBTITLE AND OTHER LOCAL AND STATE LAW,**
26 **THE ADMINISTRATIVE OFFICE OF THE COURTS, WITH THE COOPERATION OF EACH**

1 STATE'S ATTORNEY, SHALL COLLECT AND DISCLOSE THE FOLLOWING
2 INFORMATION FOR EACH CASE PROSECUTED:

3 (1) THE CASE NUMBER;

4 (2) THE INDICTMENT NUMBER;

5 (3) THE DOCKET NUMBER;

6 (4) THE UNIQUE IDENTIFIER;

7 (5) THE DEFENDANT'S:

8 (I) RACE;

9 (II) GENDER; AND

10 (III) DISABILITY STATUS, IF ANY, AND THE SOURCE OF THE
11 DISABILITY STATUS;

12 (6) THE INCIDENT DATE;

13 (7) THE ARREST DATE;

14 (8) THE DISTRICT OR NEIGHBORHOOD OF ARREST;

15 (9) THE PRIMARY ARRESTING AGENCY;

16 (10) OTHER AGENCIES INVOLVED IN THE ARREST, IF ANY;

17 (11) THE CHARGES LISTED ON THE ARRESTING AGENCY'S
18 PAPERWORK;

19 (12) IF APPLICABLE, THE REASON THE STATE'S ATTORNEY DECLINED
20 TO PROSECUTE THE ARREST;

21 (13) THE CHARGES BROUGHT BY THE STATE'S ATTORNEY;

22 (14) THE PROSECUTOR WHO BROUGHT THE CHARGE;

23 (15) WHETHER THE DEFENDANT WAS DETERMINED ELIGIBLE FOR
24 COURT-APPOINTED COUNSEL, AND THE PROCEEDING WHERE THE DETERMINATION
25 WAS MADE;

1 **(16) THE ARRAIGNMENT DATE;**

2 **(17) THE CHARGE MODIFICATION DATE;**

3 **(18) WHETHER DIVERSION WAS OFFERED AND, IF SO:**

4 **(I) THE DATE DIVERSION WAS OFFERED;**

5 **(II) IF STATED ON THE RECORD, THE JUDICIAL POSITION ON**
6 **DIVERSION; AND**

7 **(III) THE DIVERSION TERMS, INCLUDING HOW MUCH THE**
8 **DEFENDANT MUST PAY;**

9 **(19) WHETHER THE CHARGE CARRIES A MANDATORY MINIMUM**
10 **SENTENCE;**

11 **(20) THE PROSECUTOR'S RECOMMENDATION ON BAIL OR BOND,**
12 **INCLUDING RELEASE CONDITIONS;**

13 **(21) WHETHER BAIL OR BOND WAS IMPOSED ON THE DEFENDANT;**

14 **(22) WHETHER BOND WAS SECURED, UNSECURED, OR OTHER TYPE;**

15 **(23) THE DATE BAIL OR BOND WAS IMPOSED;**

16 **(24) IF ORDERED, RELEASE CONDITIONS;**

17 **(25) THE DATE RANGE OF ANY PRETRIAL DETENTION;**

18 **(26) INFORMATION ON WHETHER A RISK ASSESSMENT OR OTHER**
19 **ALGORITHM-BASED OR QUANTITATIVE TOOL WAS USED IN DETERMINING WHETHER**
20 **PRETRIAL DETENTION WAS ORDERED OR THE AMOUNT OF BAIL OR BOND AND, IF**
21 **USED:**

22 **(I) THE NAME OF THE OFFICE OR AGENCY THAT CONDUCTED**
23 **THE RISK ASSESSMENT; AND**

24 **(II) THE NAME OF ANY OFFICE, AGENCY, INDIVIDUAL, OR**
25 **ATTORNEY THAT RECEIVED THE RISK ASSESSMENT RESULTS;**

26 **(27) INFORMATION ON WHETHER A STATUTORY OR CONSTITUTIONAL**

1 RIGHT OF THE DEFENDANT WAS WAIVED, EITHER BY STIPULATION OR ON THE
2 RECORD, INCLUDING:

3 (I) THE DATE OF THE WAIVER;

4 (II) THE RIGHT WAIVED; AND

5 (III) WHETHER THE RIGHT WAS WAIVED AS A CONDITION OF A
6 PLEA BARGAIN;

7 (28) WHETHER A PLEA WAS OFFERED;

8 (29) WHETHER A TIME LIMIT WAS PROVIDED WITH A PLEA OFFER;

9 (30) ALL TERMS OF ALL PLEAS OFFERED, INCLUDING:

10 (I) THE CHARGES DISMISSED;

11 (II) THE SENTENCE RANGES FOR THE CHARGES DISMISSED;

12 (III) THE CHARGES IN THE PLEA;

13 (IV) THE SENTENCE RANGES FOR THE CHARGES IN THE PLEA;

14 (V) ANY CHARGES COVERED BY THE PLEA BUT NOT PART OF
15 THE CONVICTION; AND

16 (VI) THE PENALTIES OR SENTENCE OFFERED FOR TAKING THE
17 PLEA;

18 (31) WHETHER THE PLEA WAS ACCEPTED OR REJECTED;

19 (32) WHETHER DISCOVERY WAS OFFERED TO THE DEFENDANT BEFORE
20 THE PLEA;

21 (33) THE DATE DISCOVERY WAS DISCLOSED TO THE DEFENSE OR
22 DEFENDANT;

23 (34) THE PRESIDING JUDGE AT THE PRETRIAL STAGE;

24 (35) THE DISPOSITION, INCLUDING:

25 (I) THE CASE OR CHARGES DISMISSED BY THE STATE'S

1 ATTORNEY, IF ANY;

2 (II) IF DISMISSED, THE REASON FOR DISMISSAL;

3 (III) IF CONVICTED, WHETHER BY PLEA, JURY TRIAL, OR BENCH
4 TRIAL; AND

5 (IV) IF THE CASE WAS DISMISSED BY A JUDGE, THE REASON FOR
6 DISMISSAL;

7 (36) THE PRESIDING JUDGE AT THE DISPOSITION;

8 (37) THE DISPOSITION DATE;

9 (38) THE SENTENCE TYPE;

10 (39) THE SENTENCE LENGTH;

11 (40) THE PRESIDING JUDGE AT SENTENCING;

12 (41) SUPERVISION TERMS;

13 (42) SERVICES REQUIRED OR PROVIDED, IF ANY;

14 (43) FINES, FEES, OR SURCHARGES REQUIRED, IF ANY; AND

15 (44) FORFEITURE OF PROPERTY REQUIRED, IF ANY.

16 (B) INFORMATION DISCLOSED UNDER SUBSECTION (A) OF THIS SECTION
17 MAY NOT INCLUDE ANY IDENTIFIABLE INFORMATION RELATING TO A WITNESS.

18 (C) EACH STATE'S ATTORNEY SHALL COOPERATE WITH THE
19 ADMINISTRATIVE OFFICE OF THE COURTS TO PROVIDE ANY DATA NECESSARY TO
20 MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

21 (D) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL RECORD AND
22 MAINTAIN THE INFORMATION COLLECTED IN ACCORDANCE WITH THIS SECTION FOR
23 AT LEAST 10 YEARS.

24 15-503.

25 (A) EACH STATE'S ATTORNEY SHALL COLLECT AND PUBLISH ON THE
26 WEBSITE FOR EACH OFFICE IN ACCORDANCE WITH § 15-504 OF THIS SUBTITLE:

- 1 **(1) ALL OFFICE POLICIES RELATED TO:**
- 2 **(I) CHARGING AND CHARGE DISMISSAL;**
- 3 **(II) BAIL;**
- 4 **(III) SENTENCING;**
- 5 **(IV) PLEA BARGAINS;**
- 6 **(V) GRAND JURY PRACTICES;**
- 7 **(VI) DISCOVERY PRACTICES;**
- 8 **(VII) WITNESS TREATMENT, INCLUDING WHEN AND HOW TO**
9 **PROCURE A MATERIAL WITNESS WARRANT;**
- 10 **(VIII) HOW A DECISION IS MADE TO PROSECUTE A MINOR AS AN**
11 **ADULT;**
- 12 **(IX) HOW FINES AND FEES ARE ASSESSED;**
- 13 **(X) CRIMINAL AND CIVIL FORFEITURE PRACTICES;**
- 14 **(XI) MENTAL HEALTH SCREENING AND COLLECTION OF MENTAL**
15 **HEALTH HISTORY;**
- 16 **(XII) SUBSTANCE ABUSE SCREENING AND COLLECTION OF**
17 **SUBSTANCE ABUSE HISTORY;**
- 18 **(XIII) DOMESTIC VIOLENCE SURVIVORS;**
- 19 **(XIV) DIVERSION PRACTICES AND POLICIES;**
- 20 **(XV) HUMAN RESOURCES, INCLUDING:**
- 21 **1. HIRING;**
- 22 **2. EVALUATING;**
- 23 **3. PROMOTING; AND**

1 4. ROTATION AMONG DIVISIONS OR UNITS;

2 (XVI) INTERNAL DISCIPLINE POLICIES AND PROCEDURES;

3 (XVII) VICTIM SERVICES;

4 (XVIII) RESTORATIVE JUSTICE PROGRAMS;

5 (XIX) A LISTING OF OFFICE TRAININGS IN THE IMMEDIATELY
6 PRECEDING CALENDAR YEAR;

7 (XX) PRACTICES INVOLVING TRACKING AND RESPONDING TO AN
8 INMATE APPLICATION FOR PAROLE AND RESENTENCING; AND

9 (XXI) POLICIES SPECIFIC TO VULNERABLE POPULATIONS; AND

10 (2) THE NUMBER OF:

11 (I) ATTORNEYS ON STAFF;

12 (II) CASES HANDLED EACH YEAR FOR EACH ATTORNEY;

13 (III) ATTORNEYS WHO WORKED IN THE OFFICE IN A TEMPORARY
14 OR CONTRACTUAL CAPACITY DURING THE IMMEDIATELY PRECEDING CALENDAR
15 YEAR;

16 (IV) PARALEGALS AND ADMINISTRATIVE STAFF EMPLOYED BY
17 THE OFFICE;

18 (V) INVESTIGATORS UTILIZED DURING THE IMMEDIATELY
19 PRECEDING CALENDAR YEAR;

20 (VI) EXPERTS UTILIZED DURING THE IMMEDIATELY PRECEDING
21 CALENDAR YEAR WHETHER ON STAFF OR OTHERWISE EMPLOYED; AND

22 (VII) POLICE OR DETECTIVES WHO WORK DIRECTLY FOR THE
23 OFFICE.

24 (B) IF A STATE'S ATTORNEY DOES NOT MAINTAIN A POLICY RELATED TO
25 THE TOPICS DESCRIBED IN SUBSECTION (A)(1) OF THIS SECTION, THE STATE'S
26 ATTORNEY SHALL AFFIRMATIVELY DISCLOSE THAT FACT.

1 (A) BEGINNING APRIL 1, 2023, EACH STATE'S ATTORNEY SHALL MAKE
2 PUBLICLY AVAILABLE ALL THE INFORMATION DESCRIBED IN § 15-503 OF THIS
3 SUBTITLE BY:

4 (1) PUBLISHING THE INFORMATION ON THE STATE'S ATTORNEY'S
5 WEBSITE; AND

6 (2) PROVIDING THE INFORMATION TO ANY PERSON WHO REQUESTS
7 THE INFORMATION DIRECTLY FROM THE STATE'S ATTORNEY.

8 (B) THE STATE'S ATTORNEY SHALL INCLUDE IN THE INFORMATION
9 COLLECTED UNDER § 15-503 OF THIS SUBTITLE:

10 (1) THE EFFECTIVE DATE OF THE POLICY; OR

11 (2) THE DATE THE INFORMATION WAS GATHERED.

12 (C) EACH STATE'S ATTORNEY SHALL PUBLISH REVISED, UPDATED, OR
13 NEWLY DRAFTED POLICIES OR NEWLY COLLECTED INFORMATION ON A TIMELY
14 BASIS AT LEAST ONCE EACH YEAR.

15 15-505.

16 (A) (1) THE COMMISSION, IN COORDINATION WITH THE
17 ADMINISTRATIVE OFFICE OF THE COURTS, SHALL:

18 (I) DETERMINE THE MANNER IN WHICH THE ADMINISTRATIVE
19 OFFICE OF THE COURTS PROVIDES TO THE COMMISSION THE INFORMATION
20 COLLECTED UNDER § 15-502 OF THIS SUBTITLE;

21 (II) ENSURE THAT DISCLOSURE OF INFORMATION UNDER THIS
22 SUBTITLE IS PERFORMED IN A UNIFORM AND CONSISTENT MANNER; AND

23 (III) DETERMINE AN IMPLEMENTATION SCHEDULE AND PLAN BY
24 WHICH THE ADMINISTRATIVE OFFICE OF THE COURTS WILL DISCLOSE
25 INFORMATION COLLECTED UNDER § 15-502 OF THIS SUBTITLE ON OR BEFORE
26 OCTOBER 1, 2025.

27 (2) THE IMPLEMENTATION SCHEDULE AND PLAN DESCRIBED UNDER
28 PARAGRAPH (1) OF THIS SUBSECTION MAY:

29 (I) INCLUDE IMPLEMENTATION ON A ROLLING BASIS THAT

1 STARTS BY PRIORITIZING A SUBSET OF THE DATA COLLECTED UNDER § 15-502 OF
2 THIS SUBTITLE; OR

3 (II) PRIORITIZE DISCLOSURE OF SPECIFIC INFORMATION FROM
4 LARGER STATE'S ATTORNEY OFFICES.

5 (B) (1) ON OR BEFORE OCTOBER 1, 2023, AND IN ACCORDANCE WITH THE
6 IMPLEMENTATION SCHEDULE AND PLAN DESCRIBED IN SUBSECTION (A) OF THIS
7 SECTION, THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL BEGIN DISCLOSING
8 DATA, STRIPPED OF ANY INDIVIDUALIZED OR IDENTIFYING PERSONAL
9 INFORMATION ABOUT ANY PERSON ARRESTED OR PROSECUTED, TO THE
10 COMMISSION FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

11 (2) ON OR BEFORE JANUARY 31, 2024, THE ADMINISTRATIVE OFFICE
12 OF THE COURTS SHALL COMPLETE THE REQUIRED DISCLOSURE OF DATA UNDER
13 THIS SUBSECTION.

14 (C) (1) ON OR BEFORE MAY 1, 2024, AND EACH MAY 1 THEREAFTER, THE
15 COMMISSION SHALL PUBLISH ONLINE THE DATA COLLECTED UNDER § 15-502 OF
16 THIS SUBTITLE IN A MODERN, OPEN, ELECTRONIC FORMAT THAT IS
17 MACHINE-READABLE, MACHINE-SEARCHABLE, AND READILY ACCESSIBLE TO THE
18 PUBLIC ON THE COMMISSION'S WEBSITE.

19 (2) DATA PUBLISHED IN ACCORDANCE WITH THIS SUBSECTION MAY
20 NOT CONTAIN INDIVIDUALIZED OR IDENTIFYING PERSONAL INFORMATION ABOUT
21 ANY PERSON ARRESTED OR PROSECUTED.

22 (D) ON OR BEFORE SEPTEMBER 1, 2024, THE COMMISSION SHALL REPORT
23 ON THE DATA RECEIVED FROM THE ADMINISTRATIVE OFFICE OF THE COURTS,
24 COMPARING AND CONTRASTING THE PRACTICES AND TRENDS AMONG
25 JURISDICTIONS.

26 (E) (1) THE COMMISSION SHALL, AT LEAST TWICE PER YEAR, PUBLISH
27 ISSUE-SPECIFIC REPORTS THAT PROVIDE IN-DEPTH ANALYSIS OF ONE OR MORE
28 AREAS OF PROSECUTORIAL DECISION MAKING.

29 (2) AT LEAST ONE REPORT UNDER THIS SUBSECTION SHALL FOCUS
30 ON RACIAL DISPARITIES.

31 15-506.

32 (A) (1) IN ORDER TO COMPLY WITH A REQUEST MADE UNDER THE
33 MARYLAND PUBLIC INFORMATION ACT, A STATE'S ATTORNEY MAY SATISFY A

1 REQUEST FOR INFORMATION GATHERED AS REQUIRED UNDER THIS SUBTITLE BY
2 REFERRING THE REQUESTING PARTY TO THE COMMISSION WEBSITE CONTAINING
3 THE DATA IF THE STATE'S ATTORNEY:

4 (I) IS IN COMPLIANCE WITH THIS SUBTITLE; AND

5 (II) IN GOOD FAITH, REASONABLY BELIEVES THAT THE
6 REQUEST FOR INFORMATION CAN BE SATISFIED BY REFERENCE TO THE DATA MADE
7 PUBLICLY AVAILABLE UNDER THIS SUBTITLE.

8 (2) IF AN INFORMATION REQUEST IS ABLE TO BE SATISFIED IN
9 ACCORDANCE WITH THIS SUBSECTION, THE STATE'S ATTORNEY MAY FULFILL THE
10 REQUEST WITHOUT AFFIRMATIVELY COLLECTING OR DISCLOSING THE PARTICULAR
11 INFORMATION BEING REQUESTED.

12 (B) THE REQUESTING PARTY MAY SEEK JUDICIAL REVIEW IN ACCORDANCE
13 WITH § 4-362 OF THE GENERAL PROVISIONS ARTICLE FOR PURPOSES OF
14 COMPELLING DISCLOSURE IF:

15 (1) THE REQUESTING PARTY DOES NOT BELIEVE THAT THE REQUEST
16 CAN BE SATISFIED UNDER THIS SECTION; AND

17 (2) THE STATE'S ATTORNEY REFUSES TO DISCLOSE THE
18 INFORMATION BEING REQUESTED.

19 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
20 the application thereof to any person or circumstance is held invalid for any reason in a
21 court of competent jurisdiction, the invalidity does not affect other provisions or any other
22 application of this Act that can be given effect without the invalid provision or application,
23 and for this purpose the provisions of this Act are declared severable.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2022.