

Support for SB97- limiting jury service disqualifi

Uploaded by: Carrie Williams

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MSBA Main Office
520 West Fayette Street
Baltimore, MD 21201
410-685-7878 | msba.org

Annapolis Office
200 Duke of Gloucester Street
Annapolis, MD 21401
410-269-6464 | msba.org

To: Members of the Senate Judicial Proceedings Committee
From: Carrie J. Williams, Chair, Legislative Committee, Criminal Law and Practice
Section
Date: 1/24/2023
Subject: SB97– Courts—Jury Service—Disqualification
Position: **Support**

The Legislative Committee of the Criminal Law and Practice Section of the Maryland State Bar Association (MSBA) Supports SB97– Courts—Jury Service—Disqualification.

This bill makes people who have been convicted of crimes and have served their sentences, including any term of parole or probation, eligible for jury service. A trial by a jury of one’s peers is a fundamental tenet of the American judicial system. Yet current law permanently disqualifies a person from jury service if they have been convicted of a crime and sentenced to more than one year in prison.

SB97 would allow people who have served their sentence to do their civic duty and participate in jury service. For these reasons, we support SB97. If you have questions about the position of the Criminal Law and Practice Section’s Legislative Committee, please feel free to address them to me at carriej.williams@gmail.com.

Additional information can also be provided by Shaoli Katana at MSBA - shaoli@msba.org.

SB 97 Testimony.pdf

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Testimony for the Judiciary Committee

February 6th, 2023

SB 97 Courts- Jury Service – Disqualification

FAVORABLE

GREGORY BROWN
PUBLIC POLICY
COUNSEL

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

3600 CLIPPER MILL
ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
F/410-366-7838

WWW.ACLU-MD.ORG

OFFICERS AND
DIRECTORS
HOMAYRA ZIAD
PRESIDENT

DANA VICKERS
SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland supports SB 97, allowing formerly incarcerated people to serve on juries. It is foundational to our judicial system that those accused of crimes be judged by a jury of their peers. Limiting that pool of peers based on a prior conviction for which a person has already served their time is an undue burden to civic participation. SB 97 would enfranchise Marylanders who otherwise are left out of civic participation and expand the pool by which we select people to serve their communities by sitting on a jury. All members of a community should be included when it comes to deciding matters of justice.

These limitations hurt Black communities

Black communities, and thus Black defendants being accused of crimes, are disproportionately impacted by the current limitation due to the fact that 71% of Maryland’s prison population is Black.¹ Those who have served their time and are returning to the community are barred from serving on juries, significantly shrinking the pool of “peers” Black defendants will be judged by. This allows for underrepresentation of Black Marylanders on juries. These conditions create circumstances where implicit bias can go unchecked within jury panels during deliberations and ultimately verdict decisions. Black defendants are entitled to be judged by their peers and SB 97 will allow for that to be the case in practice more often than it currently is, not just in theory.

For the foregoing reasons the ACLU of Maryland urges a favorable report on SB 97.

¹ <https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>

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Uploaded by: Jill Carter

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter
In Favor of SB97 Courts – Jury Service -Disqualification**

**Before the Judicial Proceedings Committee
on February 7, 2023**

SB-97 will allow an individual convicted of a crime punishable by imprisonment exceeding one (1) year to serve on a jury after completion of the sentence imposed, including a term of probation. It will serve two (2) purposes: (1) to ensure that all parties, including Black defendants, have a jury of their peers; and (2) re-enfranchise people who have paid their debt to society.

Under current Maryland law, an individual convicted of a felony, as well as some misdemeanors, are precluded from serving on juries. Maryland has one of the most restrictive jury exclusion laws in the country.

According to a 2019 report of the Bureau of Justice Statistics, although Blacks are only thirteen percent (13%) of the U.S. population, they account for thirty-eight percent (38%) of the people in jails and prisons.

According to a 2019 report of the Justice Policy Institute, a Washington, D.C., a nonprofit that aims to reduce incarceration, more of Maryland's prison population is black than in any other state in the nation. The report notes that more than seventy percent (70%) of Maryland's prison population was black in 2018, compared with thirty-one percent (31%) of the state population. That rate far surpasses the next closest states: Mississippi, South Carolina, and Georgia. As a result, very few Blacks, especially Black males, have the opportunity to serve on a jury in Maryland; thereby, denying Maryland citizens a cross-section jury of their peers.

MD Elections Law §3-102 permits an individual convicted of a felony to vote after completion of the sentence imposed. SB-97 will grant that same right

when it comes to jury service. SB-97 will be the last step in restoring FULL citizenship to convicted individuals who have served their debt to society. In doing so, Maryland will be included in the growing number of states (approximately 21) that permit convicted individuals to serve on juries after completion of their sentence. Four (4) states (Colorado, Illinois, Iowa, and Maine), impose no restrictions on the ability of convicted individuals to serve on juries.

The main reason, if not the sole reason provided by opponents, is that convicted individuals “may” harbor biases against the government; and as a result, will always vote to acquit the person charged with a crime. There is no evidence to support this theory in states that permit convicted individuals to vote. Furthermore, this unsupported theory would not be applicable in civil cases.

Every individual in society harbors biases, and the courts have a system to weed out those biases during the jury selection process. Individuals that may harbor a bias to the subject matter of a case can be identified and removed during the *voir dire* process, where the court and attorneys are permitted to ask perspective jurors questions in an effort to uncover bias. If a perspective juror is found to harbor a bias, the judge can remove that person from the jury pool on the court’s own initiative or at the request of the attorneys. In addition, attorneys are provided preemptory challenges where they can remove a perspective juror for any reason other than the prohibitions set forth in Title VII of the Civil Rights Act of 1964, as amended. Accordingly, the notion that convicted individuals should be excluded from jury service due to bias against the state is not supported, and ignores the jury selection process designed to weed out biases.

Moreover, the bias argument used to exclude convicted individuals is grossly inconsistent with the jury selection process in Maryland. As mentioned earlier, every individual has a bias of some type, but individuals who have such biases are not automatically excluded under law. For example, the following are examples where this is a strong argument that an individual should be excluded due to potential bias, but are not excluded by law from jury service:

- Police officers can serve on juries in criminal cases
- Police officers can serve on juries in cases where a police officer is alleged to have engaged in excessive force

- **Prosecutors can serve on juries in criminal cases**
- **Crime victims can serve on juries in criminal cases**
- **Medical doctors can serve on juries involving medical malpractice**
- **Victims of medical malpractice can serve on juries involving medical malpractice**
- **Individuals accused of violating someone's civil rights can serve on juries involving civil rights issues**
- **Individuals whose civil rights were violated can serve on juries involving civil rights issues**
- **The at fault party to an automobile accident can serve on juries involving an automobile accident**
- **The party not at fault party in an automobile accident can serve on juries involving an automobile accident**

This is just a sample of the types of cases where one may (or may not) have a biased point of view based on their experiences, but not excluded by law from serving on a jury due to that experience. The jury selection process, however, addresses that issue before allowing an individual to serve on a jury. The process involving an individual convicted of a crime is no different.

I urge a favorable report of SB97.

Sincerely,



Jill P. Carter, Esq.

2021 Article Rigging the jury_ How each state redu

Uploaded by: John Giannetti

Position: FAV

Rigging the jury: How each state reduces jury diversity by excluding people with criminal records

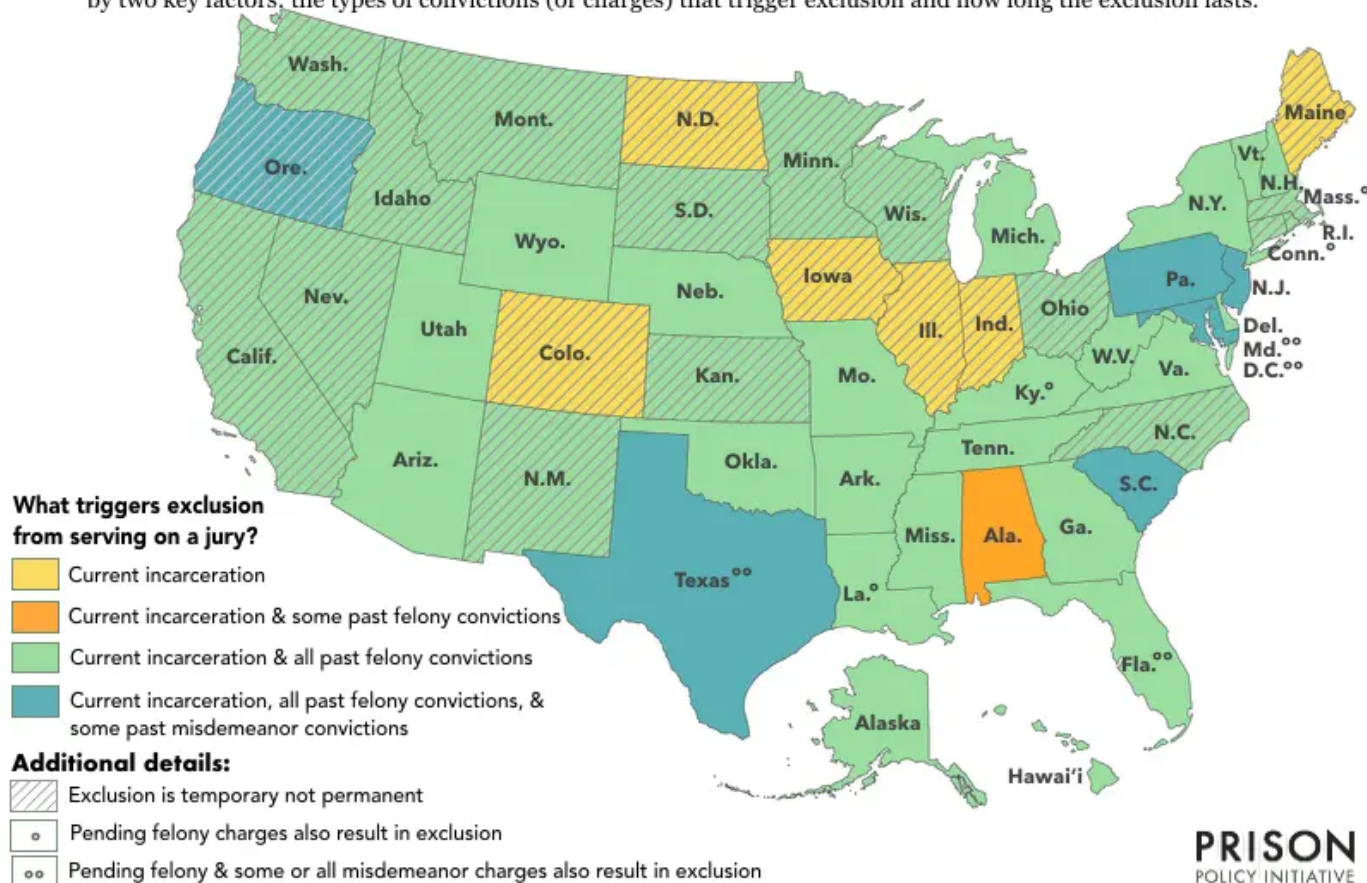
by Ginger Jackson-Gleich

February 18, 2021

In courthouses throughout the country, defendants are routinely denied the promise of a "jury of their peers," thanks to a lack of racial diversity in jury boxes.¹ One major reason for this lack of diversity is the constellation of laws prohibiting people convicted (or sometimes simply accused) of crimes from serving on juries.² These laws **bar more than twenty million people from jury service**, reduce jury diversity by disproportionately excluding Black and Latinx people, and actually cause juries to deliberate less effectively. Such exclusionary practices exist in every state and often ban people from jury service forever.

Every state has some form of jury exclusion

State laws barring people with criminal convictions—or pending charges—from serving on juries vary greatly by two key factors; the types of convictions (or charges) that trigger exclusion and how long the exclusion lasts.



The state laws that bar people with criminal convictions (or pending criminal charges) from serving on juries are complex. In Arizona, for example, exclusion becomes permanent upon conviction of a second felony; in Nevada, the duration of exclusion is different for civil and criminal jury service; and in Iowa, automatic exclusion ends when incarceration ends, but attorneys may ask judges to dismiss potential jurors because of prior felony convictions (no matter how old the conviction). For more detail, see our [appendix table](#).

Jury exclusion laws hinder jury diversity

As we have [chronicled extensively](#), the criminal justice system disproportionately targets Black people and Latinx people—so when states bar people with criminal convictions from jury service, they disproportionately exclude individuals from these groups. Of the approximately 19 million Americans with felony convictions in 2010, an estimated 36% (nearly 7 million people) were Black, despite the fact that Black people comprise 13% of the U.S.

population. Although data on the number of Latinx people with felony convictions is difficult to find (because information about Latinx heritage has not always been collected or reported accurately within the criminal justice system), we do know that Hispanic people are more likely to be incarcerated than non-Hispanic whites and are overrepresented at numerous stages of the criminal justice process. It stands to reason, then, that Latinx populations are also disproportionately likely to have felony convictions.

As a result, jury exclusion statutes contribute to a lack of jury diversity across the country. A 2011 study found that in one county in Georgia, 34% of Black adults—and 63% of Black men—were excluded from juries because of criminal convictions. In New York State, approximately 33% of Black men are excluded from the jury pool because of the state’s felony disqualification law. Nationwide, approximately one-third of Black men have a felony conviction; thus, in most places, many Black jurors (and many Black male jurors in particular) are barred by exclusion statutes long before any prosecutor can strike them in the courtroom.

Jury diversity makes juries more effective

Not only does jury diversity underpin the constitutional guarantee of a fair trial and ensure that juries represent the “the voice of the community,” research shows that diverse juries actually do a better job. A 2004 study found that diverse groups “deliberated longer and considered a wider range of information than did homogeneous groups.” In fact, simply being part of a diverse group seems to make people better jurors; for example, when white people were members of racially mixed juries, they “raised more case facts, made fewer factual errors, and were more amenable to discussion of race-related issues.” Another study found that people on racially mixed juries “are more likely to respect different racial perspectives and to confront their own prejudice and stereotypes when such beliefs are recognized and addressed during deliberations.” In addition, the verdicts that diverse juries render are more likely to be viewed as legitimate by the public.

In some states, even misdemeanors can disqualify people from jury service

While the laws barring people with criminal convictions from jury service are often referred to as “*felony* exclusion laws,” in some states (and in federal courts), people with *misdemeanor* convictions can also be subject to exclusion. Texas, for example, specifically excludes from juries people who have been convicted of misdemeanor theft. Maryland, Pennsylvania, and South Carolina exclude people who have been convicted of any crime punishable by more than one year of incarceration, which includes certain misdemeanors in those states. Oregon excludes people convicted of certain misdemeanors for five years post-conviction. And several states and Washington, D.C. exclude people currently facing misdemeanor charges. This is in addition to states like Montana, Tennessee, and West Virginia that disqualify people only for those rare misdemeanors related to violating civic or public duties (a level of detail not reflected in the chart below).³

50 States: What triggers exclusion from serving on a jury?

Current incarceration	Current incarceration & some past felony convictions	Current incarceration & all past felony convictions	Current incarceration, all past felony convictions, & some past misdemeanor convictions
<p>No legal exclusion, but incarcerated jurors excused Maine</p> <p>No exclusion after incarceration ends Indiana North Dakota</p> <p>No exclusion after incarceration ends (although attorneys may request dismissal by the court) Colorado Illinois Iowa</p>	<p>Forever Alabama</p>	<p>Forever Arizona Arkansas Delaware Florida Georgia Hawaii Kentucky Louisiana Michigan Mississippi Missouri Nebraska New Hampshire New York Oklahoma Tennessee Utah Vermont Virginia West Virginia Wyoming</p> <p>For a fixed period of time Connecticut District of Columbia Kansas Massachusetts Nevada</p> <p>Until sentence completed (including parole and probation) Alaska California (certain offenses lead to permanent exclusion) Idaho Minnesota Montana New Mexico North Carolina Ohio Rhode Island South Dakota Washington Wisconsin</p>	<p>Forever Maryland New Jersey Pennsylvania South Carolina Texas</p> <p>For a fixed period of time Oregon</p>

Pending criminal charges also result in exclusion

Connecticut, Kentucky, Louisiana, and Massachusetts also exclude anyone currently facing felony charges. Florida, Maryland, Texas, and D.C. also exclude anyone currently facing felony charges or facing (some or all) misdemeanor charges.

Table 1. This table (which focuses on trial or “petit” juries; “grand” juries, which examine the validity of accusations before trial, often have different rules) was compiled through our own legal analysis and interviews with court staff in numerous states, but it also benefited from reference to several great resources, including the Restoration of Rights Project’s [50-State Comparison](#), the [National Inventory of Collateral Consequences of Conviction](#), and [this 2004 article](#) by Professor Brian Kalt. To be sure, many states have rights restoration processes (e.g., executive pardons, expungement) that can restore rights to individuals who would otherwise be barred, but such relief is generally rare and therefore not addressed here. For other nuances, exceptions, and the relevant statutes for each state, see our [appendix table](#).

Recommendations for reform

Reduce the scope of exclusion laws. The good news is that change is possible. California recently passed legislation—championed by public defenders—largely ending the permanent exclusion of people with felony convictions. In most contexts, Californians may now serve on juries upon completion of felony sentences, once probation and parole have ended. Prior to the change, the state’s felony exclusion law prohibited 30 percent of California’s Black male residents from serving on juries. While California’s jury exclusion law is still more punitive than the laws in many states, this recent change shows that reform is possible. Other states can and should follow suit.

At the same time, as Professor James Binnall insightfully observes, once reform legislation is passed, it remains critically important to ensure full implementation of the law by restoring formerly excluded people to jury rolls. This process has met with mixed success in California, where months after the law went into effect, 22 of 58 counties were still providing incorrect or misleading information about eligibility to the public. (Professor Binnall’s new book on jury exclusion offers detailed analysis of the impact of these exclusionary statutes, as well as a comprehensive takedown of the justifications usually offered in their defense; we also recommend Professor Anna Roberts’ article Casual Ostracism for anyone looking for a compelling orientation to the issue of jury exclusion laws.)

Decriminalize and decarcerate. Of course, a more sweeping way to address jury exclusion laws would be to reduce the number of people with criminal convictions generally. This approach would entail criminalizing fewer behaviors, incarcerating fewer people, and penalizing criminal activity less harshly. Permitting 20 million people with felony convictions to serve on juries would be a powerful step toward a fairer and more effective legal system, but a far more holistic approach would be reducing the number of people who have criminal convictions in the first place.

Address other obstacles to jury diversity. Thanks to the efforts of advocates, many states are also taking steps to address other early-stage roadblocks to jury diversity. For example, states that draw jury pools exclusively from voting rolls inherently exclude anyone whose felony conviction prevents them from voting, even if the state technically allows them to serve on juries. To avoid this problem, states can draw potential jurors from additional sources, such as state tax records and DMV records. Some jurisdictions have begun to conduct more frequent address checks to decrease rates of undeliverable jury notices, or to require that a replacement summons be sent to the same zip code from which an undeliverable notice was returned. And Louisiana recently increased jury compensation, a small change that the American Bar Association notes makes it possible for “a broader segment of the population to serve.”

No matter how it’s done, reforming the nation’s many jury exclusions laws (and the many other barriers to jury diversity) will be a long, steep road, and the challenges will vary greatly from state to state. However, successful reform will bring millions of Americans back into the jury box and help to truly realize the promise of a fair trial by jury.

Appendix: How do states exclude people with criminal charges and/or convictions from jury service?

This table indicates which jurisdictions exclude people from jury service on the basis of criminal charges or convictions, how long such exclusion lasts, and which statutes set forth the law. The explanatory notes and footnotes here seek to clarify more complex issues that were not addressed in the table above. Here, too, the focus of this table is trial (or "petit") juries, as opposed to grand juries.

As noted in the table above, many states have rights restoration procedures (such as executive pardons, expungement, etc.) that can restore rights to individuals who would otherwise be barred from jury service; relief via such processes is generally rare and therefore mostly not included here. We also note that exclusion from jury service is often a penalty for crimes specifically related to juror misconduct or abuse of public office; however, we have generally not delved into that level of complexity here, particularly because such crimes are rare.

As stated previously, in addition to conducting our own legal analysis and speaking with court staff in numerous states, we consulted several great resources during the research stage of this project. In particular, we recommend the Restoration of Rights Project’s 50-State Comparison, the National Inventory of Collateral Consequences of Conviction, and this 2004 article by Professor Brian Kalt. Professor Kalt’s piece discusses other state-level specifics,

such as whether convictions from other jurisdictions lead to exclusion, how rights restoration processes work, how errors related to criminal records are resolved, and distinctions between rules for civil/criminal jury service or petit/grand juries. State rules also vary in whether restitution payments must be completed before rights can be restored.

As always, we welcome your input if you have corrections to any of the information presented.

State	Which crimes trigger jury pool exclusion?	Upon conviction, how long does jury pool exclusion last?	Statutes and notes
Alabama	Some felonies <input type="checkbox"/> ⁴	Forever	See Ala. Code § 12-16-60, and the Secretary of State's list of crimes involving moral turpitude . In addition, all felonies are a basis for challenge , even those not triggering exclusion from the pool.
Alaska	All felonies	Until sentence completed (incl. probation and parole).	See Alaska Stat. §§ 09.20.020, 12.55.185 .
Arizona	All felonies	Forever, upon second felony. <input type="checkbox"/> ⁵	See Ariz. Rev. Stat. §§ 13-904, 13-907 .
Arkansas	All felonies	Forever	See Ark. Code Ann. § 16-31-102 .
California	All felonies <input type="checkbox"/> ⁶	Until sentence completed (incl. probation and parole). However, convictions requiring sex offender registration result in permanent disqualification.	See Cal. Const. art. VII, § 8 ; Cal. Civ. Proc. § 203 .
Colorado	None	N/A	There is no automatic exclusion once incarceration ends. However, in the courtroom, the parties may consider the fact of a felony conviction in "determining whether to keep a person on the jury." See Colo. Rev. Stat. § 13-71-105 .
Connecticut	All felonies	Limited period (while accused, while incarcerated, or 7 years post-conviction).	See Conn. Gen. Stat. § 51-217 . In addition, a juror who engages in a second prohibited conversation while on jury, can be banned for life. See Conn. Gen. Stat. § 51-245 .
Delaware	All felonies	Forever	See Del. Code Ann. tit. 10, § 4509 .
D.C.	All felonies and all misdemeanors	For 1 year after the completion of incarceration, probation, supervised release, or parole, following conviction of a felony. People are also excluded while accused of either a felony or a misdemeanor.	See D.C. Code. § 11-1906 .
Florida	All felonies and all misdemeanors	Forever upon conviction of a felony. People are also excluded while accused of either a felony or misdemeanor. <input type="checkbox"/> ⁷	See Fla. Stat. § 40.013 .
Georgia	All felonies	Forever	See Ga. Code Ann. § 15-12-40 .
Hawaii	All felonies	Forever	See Haw. Rev. Stat. § 612-4 .
Idaho	All felonies	Until end of sentence (incl. probation and parole), if a term of incarceration is served.	See Idaho Code §§ 2-209, 18-310 .
Illinois	None	N/A	There is no automatic exclusion once incarceration ends. However, in the courtroom, a prior felony conviction can be a basis for a challenge .
Indiana	All felonies	Until released from custody	See Ind. Code Ann. §§ 33-28-5-18; 3-7-13-4 .
Iowa	None	N/A	There is no automatic exclusion once incarceration ends. However, in the courtroom, a prior felony conviction can be a basis for a challenge. See Iowa R. Civ. P. 1.915, 2.18 .

State	Which crimes trigger jury pool exclusion?	Upon conviction, how long does jury pool exclusion last?	Statutes and notes
Kansas	All felonies	For 10 years after conviction or upon completion of sentence (incl. probation and parole), whichever is longer.	See Kan. Stat. §§ 43-158, 21-6613 .
Kentucky	All felonies	Forever upon conviction, and while accused of a felony.	See Ky. Rev. Stat. § 29A.080 .
Louisiana	All felonies	Forever upon conviction, and while accused of a felony.	See La. Code Crim. Proc. art. 401 .
Maine	No felonies	N/A	While Maine does not technically bar those incarcerated from serving on juries, it appears that the common practice is to excuse them.
Maryland	All felonies and all misdemeanors	Forever upon conviction of a felony. People are also excluded upon conviction of some misdemeanors, § 8 and while accused of either a felony or any misdemeanor punishable by more than 1 year of imprisonment.	See Md. Code Ann., Cts. & Jud. Proc. § 8-103 .
Massachusetts	All felonies	Limited period (while accused, while incarcerated, or 7 years post-conviction) § 9	See Mass. Gen. Laws ch. 234A, § 4 .
Michigan	All felonies	Forever	See Mich. Comp. Laws § 600.1307a .
Minnesota	All felonies	Until sentence completed (incl. probation and parole)	See Minn. Const. art. VII, § 1 ; Minn. Stat. § 609.165 . See also this court guidance .
Mississippi	All felonies	Forever	See Miss. Code Ann. §§ 13-5-1, 1-3-19 .
Missouri	All felonies	Forever	See Mo. Rev. Stat. §§ 494.425; 561.026 .
Montana	All felonies § 10	Until sentence completed (incl. probation and parole)	See Mont. Code Ann. §§ 3-15-303; 46-18-801 .
Nebraska	All felonies	Forever § 11	See Neb. Rev. Stat. §§ 29-112, 29-112.01, 25-1650 .
Nevada	All felonies	Excluded from civil juries until sentence completed. Excluded from criminal juries for 6 years after sentence completed.	See Nev. Rev. Stat. §§ 176A.850, 213.155 .
New Hampshire	All felonies	Forever	See N.H. Rev. Stat. § 500-A:7-a .
New Jersey	All felonies and some misdemeanors § 12	Forever	See N.J. Rev. Stat. § 2B:20-1 .
New Mexico	All felonies	Until sentence completed (incl. probation and parole)	See N.M. Stat. Ann. § 38-5-1 .
New York	All felonies	Forever	See N.Y. Jud. Law § 510 .
North Carolina	All felonies	Until sentence completed (incl. probation and parole)	See N.C. Gen. Stat. §§ 9-3, 13-1 .
North Dakota	All felonies	While incarcerated § 13	See N.D. Cent. Code §§ 12.1-33-01, 12.1-33-03, 27-09.1-08 .
Ohio	All felonies	Until sentence completed (incl. probation and parole)	See Ohio Rev. Code §§ 2313.17, 2945.25, 2961.01, 2967.16 .
Oklahoma	All felonies	Forever	See Okla. Stat. tit. 38, § 28, tit. 22, § 658 .

State	Which crimes trigger jury pool exclusion?	Upon conviction, how long does jury pool exclusion last?	Statutes and notes
Oregon	All felonies and some misdemeanors ¹⁴	Excluded while incarcerated, and for 15 years following a felony conviction. Excluded from criminal juries for 5 years following certain misdemeanor convictions.	See Or. Const. art. I, S 45; Or. Rev. Stat. §§ 137.281, 10.030.
Pennsylvania	All felonies and some misdemeanors ¹⁵	Forever	See 42 Pa. Cons. Stat. § 4502.
Rhode Island	All felonies	Until sentence completed (incl. probation and parole)	See R.I. Gen. Laws § 9-9-1.1.
South Carolina	All felonies and some misdemeanors ¹⁶	Forever	See S.C. Code Ann. § 14-7-810.
South Dakota	All felonies	Until sentence completed (incl. probation and parole).	See S.D. Codified Laws §§ 16-13-10, 23A-27-35.
Tennessee	All felonies ¹⁷	Forever	See Tenn. Code Ann. §§ 22-1-102, 40-29-101.
Texas	All felonies and misdemeanor theft	Forever upon conviction of any felony or of misdemeanor theft. People are also excluded while charged with any felony or with misdemeanor theft.	See Tex. Gov't Code § 62.102.
Utah	All felonies	Forever	See Utah Code Ann. § 78B-1-105.
Vermont	All felonies	Forever, if a term of incarceration is served.	See Vt. Stat. Ann. tit. 12, § 64; tit. 4, § 962.
Virginia	All felonies	Forever ¹⁸	See Va. Code Ann. § 8.01-338.
Washington	All felonies	Until sentence completed (incl. probation, parole, and any financial obligations)	See Wash. Rev. Code §§ 2.36.070, 9.94A.637.
West Virginia	All felonies ¹⁹	Forever	See W. Va. Code § 52-1-8; W. Va. Const. art. IV, § 1.
Wisconsin	All felonies	Until sentence completed (incl. probation and parole)	See Wis. Stat. §§ 756.02, 304.078.
Wyoming	All felonies	Forever ²²	See Wyo. Stat. Ann. §§ 6-10-106, 1-11-102.
Federal	All felonies ²⁰ and some misdemeanors ²¹	Forever upon conviction of a felony or a misdemeanor punishable by more than one year of imprisonment. People are also excluded while such charges are pending.	See 28 U.S.C. § 1865.

Acknowledgments

Ginger and the Prison Policy Initiative thank the numerous legal experts who provided insight during the preparation of this report, particularly Jennifer Sellitti at the New Jersey State Office of the Public Defender, Margaret Love at the Collateral Consequences Resource Center, and numerous staff at the state courts of Mississippi, New Jersey, North Dakota, South Carolina, and South Dakota. The author also thanks Katie Rose Quandt, Peter Wagner, Emily Widra, Wanda Bertram, Wendy Sawyer, and Tiana Herring for their editorial guidance and technical support.

About the Prison Policy Initiative

The non-profit, non-partisan Prison Policy Initiative was founded in 2001 to expose the broader harm of mass criminalization and spark advocacy campaigns to create a more just society. Alongside reports like this that help the public engage in criminal justice reform, the organization leads the nation's fight to keep the prison system from exerting undue influence on the political process (known as prison gerrymandering) and plays a leading role in protecting the families of incarcerated people from the predatory prison and jail telephone industry and the video visitation industry.

About the Author

Ginger Jackson-Gleich is Policy Counsel at the Prison Policy Initiative. She previously wrote about the ways that mass incarceration undermines democracy in her major report *Eligible but Excluded: A guide to removing the barriers to jail voting*. Ginger's focus at the Prison Policy Initiative is on our campaign to end prison gerrymandering. She was involved in criminal justice reform for 15 years prior to joining the Prison Policy Initiative.

Footnotes

1. For an overview of the lack of racial diversity in juries, see *Lack of Jury Diversity: A National Problem with Individual Consequences* from the American Bar Association. ↩
2. Racially non-diverse juries are, of course, caused by many factors, including the well-documented racism that infects the final stages of jury selection, when prosecutors and defense attorneys interview and eliminate potential jurors. For a quick overview of the "legal loophole" that permits such discrimination, see this 8-minute video from Vox. ↩
3. For more about the staggering number of collateral consequences that can be triggered by a misdemeanor conviction, check out *Misdemeanorland* by Professor Issa Kohler-Hausmann and *Punishment Without Crime* by Professor Alexandra Natapoff. ↩
4. Those involving moral turpitude. ↩
5. For first-time felonies, exclusion lasts until sentence completed, including any financial restitution being discharged. ↩
6. And misdemeanor malfeasance in office. ↩
7. In the course of our research, several court employees asserted that people convicted of certain misdemeanors are also excluded from juries under Florida law. However, both legal precedent and widespread county practice indicate that people with misdemeanor convictions do not lose the right to serve on juries. While there may be some conflicting information on this topic, our conclusion is that misdemeanor convictions are not disqualifying. ↩
8. Those punishable by more than 1 year of imprisonment. ↩
9. Rights are restored automatically when someone becomes legally eligible. ↩
10. And misdemeanor malfeasance in office. ↩
11. Someone who receives a noncustodial sentence upon conviction of a felony regains jury eligibility after completion of their sentence. ↩
12. New Jersey classifies crimes differently from other states; thus, the category of crimes that are disqualifying in New Jersey (those punishable by more than 1 year of imprisonment, referred to as "indictable offenses"), encompasses what would be classified as more serious misdemeanors in other places. ↩
13. North Dakota law also contemplates that a "conviction of a criminal offense...[can] by special provision of law" disqualify a prospective juror. However, attorneys at the N.D. Supreme Court informed us that they were aware of no such provisions currently in operation. ↩
14. Involving violence or dishonesty. ↩
15. If punishable by more than one year of imprisonment. ↩
16. If punishable by more than one year of imprisonment. ↩
17. And misdemeanor perjury or subornation of perjury. ↩
18. Since 2013, Virginia's governors have used their executive powers to restore civil rights to hundreds of thousands of Virginians with felony convictions. Nonetheless, the underlying law in Virginia (which imposes permanent jury exclusion upon people convicted of felonies) remains the same. ↩
19. And misdemeanor perjury, false swearing, and bribery. ↩
20. Whether proceeding is in state or federal court. ↩
21. If state or federal crime is punishable by more than one year of imprisonment (in some states this will include misdemeanors). ↩
22. Someone convicted of a nonviolent felony (and without prior felony convictions) will regain jury eligibility upon application to the state board of parole after completion of sentence. See Wyo. Stat. Ann. § 7-13-105. ↩

SB 97 SUPPORT JURY ENFRANCHISEMENT 2023.pdf

Uploaded by: John Giannetti

Position: FAV

Maryland Criminal Defense Attorneys' Association



MD Senate -Judicial Proceedings Committee

February 7, 2023 1:00pm

Hearing on SB 97

Courts – Jury Service - Disqualification

MCDAA POSITION: SUPPORT

Brief bill explanation: This bill incorporates the amendments made by the Maryland General Assembly during the 2022 legislative session. It reverses the disenfranchisement of individuals convicted of crimes by making individuals eligible to serve on a jury AFTER their sentences, including probation, are complete, as long as they do not have any pending felony or serious misdemeanor charges.

All Marylanders who have completed their criminal sentence may vote in elections. Under this legislation, those same individuals will have their rights to serve on juries restored also. See Md. Code Elections, Section 3-102.

This bill alters the circumstances under which an individual may be disqualified for jury service by repealing provisions that disqualify individuals who received a sentence of imprisonment for more than one year or have pending charges for crimes punishable by imprisonment for more than one year. Instead, under the 2023 legislation, an individual is not qualified for jury service if the individual has been convicted of a felony or crime punishable by a sentence more than one year and is currently serving the sentence imposed for the conviction, including any term of probation, OR if the individual has current felony or serious misdemeanor charges pending.

For additional information or questions regarding this legislation, please contact MCDAA Government Relations Contact John Giannetti 410.300.6393, JohnGiannetti.mcdaa@gmail.com

SB 97 Jury Support.Haven. 2023.pdf

Uploaded by: Kimberly Haven

Position: FAV

Kimberly Haven

January 20, 2023

Chairman Will Smith
Vice Chairman Jeff Waldstreicher
Senate Judicial Proceeding Committee

Senate Bill 97 –
Jury Disqualification
POSITION: FAVORABLE

Members of the Senate Judicial Proceeding Committee,

My name is Kimberly Haven, and ***I offer this testimony in support of SB 97.***

Jury service is one of the most important civic duties in our country. I am here today on behalf of myself as well as thousands of Maryland citizens who are excluded from doing our civic duty simply because of a prior felony conviction.

Every year, I get a jury summons. Every year, I must submit all kinds of documentation about my criminal record. And every year, I get told “No thanks.”

The disqualification simply because of a prior felony conviction is rooted solely in unsupported by evidence bias and stigmatization. The rationale I hear on this topic is a fear of bias. This would have you believe that we would sympathize with a defendant and even have resentment toward the prosecution. If we were allowed to serve, we would acquit in all cases, and destroy the impartiality of the jury process.

Evidence does not support this – Disqualifying someone with a felony conviction does not make our justice system fairer or just. What it does do, is keep people like me confined to permanent second-class citizen status. It is a bad solution to a nonexistent problem

Jury service is not only a duty of citizens of our country, but also a right protected by our Constitution. I did not stop being a citizen because I have a felony conviction.

There is no rationale...there is no evidence to support. But it is a duty, it is a responsibility, and it is one that I, and the thousands like me, would be able to perform under SB 97.

For these reasons and on behalf of all of our community members who continue to live under draconian collateral consequences from our past, ***I urge a favorable report on SB 97.***

Respectfully submitted,

Kimberly Haven
2103 Gough Street
Baltimore, MD 21213
443.987.3959
kimberlyhaven@gmail.com

SB 97 MOPD favo Jury disq.pdf

Uploaded by: Natasha Khalfani

Position: FAV



NATASHA M. DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 0097 - Courts - Jury Service - Disqualification

FROM: Maryland Office of the Public Defender

POSITION: Favorable

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 97.

Senate Bill 97 would limit the number of individuals who are currently disenfranchised from serving on a jury in Maryland. Where one third of all Americans have a criminal record, this bill would allow more Marylanders to serve their community through jury service. In particular, this bill would have a significant impact on increasing opportunities for jury representation, whereby Maryland currently leads the nation in incarcerating young Black men – such that Maryland has incarcerated the highest percentage of people who are Black in this country, more than twice the national average. The Justice Policy Institute (JPI) has found more than 70% of all people in Maryland’s prisons, double the national average, and almost 80% of people serving at least 10 [years, are Black](#). These are the highest rates in the country, easily eclipsing the next closest states – Mississippi, South Carolina and Georgia.

The bill changes the current law which has a more expansive view of individuals ineligible for jury service because of criminal convictions. Individuals with criminal contacts are still members of their community and should not be silenced or prevented from one of our country’s most basic civic duty, but also one that individuals with criminal records are directly impacted by and should have a right to participate in after their sentences have been served.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 97.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

MAJ Courts Jury Service - Disqualification hb156

Uploaded by: Patrice Clarke

Position: FAV



POSITION PAPER 2022-2023

info@mdforjustice.com

HB 156/SB 97 Courts – Jury Service – Disqualification

FAVORABLE

HB 156/SB 97 changes Md. Courts Article, §8-103 “Qualification Criteria” that defines the persons that qualify and are disqualified for jury service. Under current law, a potential juror is not qualified if he or she “4) Has been convicted, in a federal or State court of record, of a crime punishable by imprisonment exceeding 1 year and received a sentence of imprisonment for more than 1 year.” *Md. Courts And Judicial Proceedings Code Ann. § 8-103(b)(4)*. That applies to misdemeanors and felonies.

If HB 156/SB 97 is adopted, then only a prospective juror who has been convicted and sentenced for more than 1 year and is currently serving that sentence or on probation is disqualified from juror eligibility in a Maryland state court. This would allow anyone who served his or her complete sentence plus probation to be eligible for jury service.

Juries are supposed to be composed of community members who will fairly judge the case based on community standards. In *Duren v. Missouri*, 439 U.S. 357 (1979), the Court recognized the criminal defendant’s rights to be tried by jurors from the community. In *Lovell v. State*, 347 Md. 623, 662, 702 A.2d 261, 280 (1997), the Court addressed whether the jury represented a cross-section of the community and constituted a fair trial when considering whether African American jurors were excluded from the jury pool based on voting registrations.

The rationale for excluding people convicted of felonies has come under more recent criticism because there is an imbalanced racial impact. One 2003 study indicates that over 6% of the adult population and about 30% of black men are excluded from jury service. See Kalt, *The Exclusion of Felons From Jury Service*, SSRN Electronic Journal Aug. 2003.

Everyone who pays their debt to society by serving their sentence and probation should no longer be prevented from jury service.

Excluding people for their lifetime, as under current law, who were sentenced to more than 1 year in jail for misdemeanors and felonies is too broad. Too many community members are prohibited from jury service. HB 156/SB 97 creates balance by permitting misdemeanor violators and people with past felony convictions who completely served jail and probation sentences to be permitted to serve on juries as part of the cross-section of the community.

The MAJ requests a FAVORABLE Committee Report.

Written testimony of Walter Pinkney for SB97 2023.

Uploaded by: Walter Pinckney

Position: FAV

Testimony of Walter Pinkney on SB97

Judicial Proceedings Committee

February 7, 2023 1pm

The Jury Disqualification Bill

Hello Mr. Chairman, and members of the committee, my name is Walter Pinkney, and I am here to voice my support for Senator Carter's bill, SB30. I am 48 yr old and I live in Northeast Baltimore on Broadway near Federal Street and Fells Point.

I understand this bill will give people like me a chance to serve on a jury in the State of Maryland, a civic duty which I am currently unable to partake in.

I was convicted when I was 25 of Second Degree Murder in Baltimore City back in 1999. I served 15 years in jail spending most of my time in the Annex in Jessup and in North Branch Correctional Institution in Cumberland, and then I spent 5 years on probation. I got out in 2012, and my probation ended in 2017.

Once I got out, I got a job working for a clothing company in Baltimore. I worked there 8 years and became

a manager in the company. I then changed to work for a roofing company, where I have been employed since 2020. I have not been arrested or charged with any crimes since I was released from jail. I have lived a clean life and I have paid my debt to society.

When I got out, I learned I was eligible to vote in elections, but I also learned that I am not allowed to serve on a jury because of my felony convictions.

I think serving on a jury is one of the rights that all Americans can be proud of. When you are on a jury, you play an important role at determining whether or not a person is guilty of a crime. This is something I am looking forward to doing, if Senator Carter's bill becomes law.

I understand that her bill will allow a former felon to serve on a jury as long as they have completed their sentence, and finished their probation, and don't have any charges pending against them. I think that would be a fair law.

I think that, if I were on a jury, I would listen to all the facts and make a fair judgement about the innocence or

guilt of the person charged, and I don't think I would be partial to the person charged. I would be fair and would look at the facts that I heard in court.

Like I said, I totally turned my life around. I currently work for a roofing company in Baltimore, I have a wife and two children, one grandchild.

I have learned my lesson and served my time, and I hope to be able to take advantage of the right to serve on juries in the future.

Thank you for the opportunity to speak to you.

Sincerely,

Walter Pinkney

walterpkinc@gmail.com

443.414.3108