

Senator West - FAV - SB209.pdf

Uploaded by: Christopher West

Position: FAV

CHRIS WEST
Legislative District 42
Baltimore and Carroll Counties

Judicial Proceedings Committee



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Annapolis Office
James Senate Office Building
11 Bladen Street, Room 322
Annapolis, Maryland 21401
410-841-3648 · 301-858-3648
800-492-7122 Ext. 3648
Chris.West@senate.state.md.us

District Office
1134 York Road, Suite 200
Lutherville -Timonium, MD 21093
410-823-7087

February 14, 2023
Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Building
Annapolis, Maryland 21401

Re: Senate Bill – 209 - Task Force to Study Crime Classification and Penalties

Dear Chairman Smith and Members of the Committee,

I hope on this Valentine's Day, I'm presenting a bill that you'll fall in love with.

In 2019, the General Assembly created a task force to study the breadth of the State's criminal laws and the penalties associated with them. Unfortunately, COVID intervened, and the task force never got very far on its assigned tasks. Senate Bill 209 seeks to re-start the task force.

The task force will consist of 15 members, including three State Senators, three Delegates, the Executive Director of the Maryland Sentencing Commission, several experts on criminal sentencing, a state's attorney, a public defender, a representative of the Attorney General and several others. The assigned mission of the task force is to review the penalties for all criminal and civil violations throughout the Maryland Code, to study criminal classifications and penalty schemes in other states and how those classifications and schemes compare to those in Maryland and to make recommendations regarding the current statutory scheme for criminal and civil violations throughout the Maryland Code, including whether there are violations that should be reclassified as civil offenses, misdemeanors, or felonies and whether there are penalties that should be altered.

Following the study, the Task Force will report its findings and recommendations to the Governor and the General Assembly by December 31, 2024.

In 2019, this Committee voted unanimously in favor of the task force.

I appreciate the Committee's consideration of Senate Bill 209 and will be happy to answer any questions the Committee may have.

West Amendment

Uploaded by: Christopher West

Position: FAV



SB0209/783228/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

13 FEB 23
19:55:29

BY: Senator West
(To be offered in the Judicial Proceedings Committee)

AMENDMENT TO SENATE BILL 209
(First Reading File Bill)

On page 2, in line 6, strike “and”; and in line 8, after “Governor” insert “;

(12) the executive director of the Maryland Network Against Domestic Violence, or the executive director’s designee; and

(13) two representatives of the Maryland State Bar Association, designated by the President of the Association”.

SB 209 MOPD Favor Crime Classification & Penalties

Uploaded by: Brian Saccenti

Position: FWA



NATASHA 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: SB 209 -- Task Force to Study Crime Classification and Penalties

FROM: Maryland Office of the Public Defender

POSITION: Favorable with amendments

DATE: 2/13/2023

The Maryland Office of the Public Defender respectfully requests that this Committee issue a favorable report with amendments on Senate Bill 209.

Senate Bill 209 establishes a Task Force to Study Crime Classification and Penalties for the purpose of “review[ing] penalties for all criminal and civil violations throughout the Maryland Code,” and studying “the history and legislative intent of the classification of criminal and civil violations throughout the Maryland Code, including the constitutional implications and collateral consequences that arise as a result of classification” and “criminal classifications and penalty schemes in other states and how those classifications and schemes compare to those in the State.” It directs the task force to make recommendations regarding whether there are violations that should be reclassified; whether there are penalties that should be altered; whether the State would benefit from standardized crime classifications and penalties, the codification of a default mental state as an element of criminal liability, and the codification of affirmative defenses and their elements; whether statutory changes are necessary for provisions of criminal law that lack an explicit *mens rea*; and what limitations, if any, should be placed on the ability of administrative entities and local governments to enact regulations providing for criminal penalties.

It appears that the purpose of this task force is to lay the groundwork for needed reform of Maryland's criminal law and thereby reduce unnecessary incarceration by (a) looking to the best practices of other states; (b) examining whether certain violations should be decriminalized; (c) assessing whether current penalties are necessary and desirable; and (d) ensuring that criminal offenses require the prosecution to establish that the defendant had a culpable mental state sufficient to justify the punishment that is authorized. In the hope that this task force will accomplish these important goals, the Office of the Public Defender (OPD) supports Senate Bill 209.

The OPD respectfully proposes an amendment that would ensure that the task force's mandate is not unintentionally constrained. Maryland retains a significant number of common law offenses. For some, the General Assembly has codified penalties (e.g. indecent exposure). For others, no penalty has been codified (e.g. false imprisonment). To allow the task force to consider common law offenses as well as statutory offenses, the OPD suggests amending subparagraphs (f)(1) and (2) as follows (with capitalized text indicating added language):

(f) The Task Force shall:

(1) review the penalties for all criminal and civil violations throughout the Maryland Code AND MARYLAND COMMON LAW;

(2) study the history and legislative intent of the classification of criminal and civil violations throughout the Maryland Code AND MARYLAND COMMON LAW, including the constitutional implications and collateral consequences that arise as a result of classification;

For these reasons, we urge this Committee to issue a favorable report with amendments for Senate Bill 209.

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

2023-02-15 SB 209 (Support wtih Amendments).pdf

Uploaded by: Hannibal Kemerer

Position: FWA

ANTHONY G. BROWN
Attorney General



CANDACE MCLAREN LANHAM
Chief of Staff

CAROLYN A. QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.
(410) 576-7036

WRITER'S DIRECT DIAL NO.
(410) 576-6584

February 14, 2023

TO: The Honorable Will Smith Jr.
Chair, Judicial Proceedings Committee

FROM: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: SB209 - Task Force to Study Crime Classification and Penalties (**Support with Amendments**)

The Office of the Attorney General "OAG" supports Senate Bill 209, Sen. Christ West's bill with amendments. The OAG is requesting uncodified language mandating two full-time and one part-time AAGIV and a part-time paralegal to meet the needs of this task force. The bill would require the task force to "review the penalties for all criminal and civil violations throughout the Maryland Code"; to study the history and legislative intent of all of these classifications, including their constitutional implications and collateral consequences; also to study the classifications and penalty schemes in other states; and then make recommendations for potential changes along a variety of axes. The projected scope of work this could create is staggering.

The attorneys in the Criminal Appeals Division of OAG would be the most likely source of staffing for it, as the research and analysis the task force would require is very similar to the research and analysis that the Division does already in appeals in criminal cases, and it would draw on expertise and research history in the Division. Nevertheless, to prepare the research material necessary for that kind of analysis of even a single criminal statute (or topically connected set of statutes) would be equivalent to the research and writing demands of a very substantial appellate brief of the kind that an Assistant AG in the Criminal Appeals Division would likely take several weeks to prepare. To reiterate, this task force would require such research and analysis for every criminal and civil violation in the Code.

The Division is already spread thin at current staffing levels. A task force of this magnitude, in addition to the Division's other current workload, cannot be completed without the additional attorney staffing we are requesting. In addition, given the volume of work and the

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or sbrantley@oag.state.md.us

amount of work product the task force can be expected to generate, we would need the additional support staffing requested in order to support the coordination of the task force meetings, compilation and distribution of work product to task force members, and assembly of the required report.

For the foregoing reasons, the Office of the Attorney General requests the favorable report with our office's requested amendments on Senate Bill 209.

cc: The Hon. Chris West & Committee Members

SB 209 Task Force Support with Amendment.pdf

Uploaded by: John Giannetti

Position: FWA

Maryland Criminal Defense Attorneys' Association



MD Senate -Judicial Proceedings Committee

February 14, 2023 1:00pm

Hearing on SB 209

Task Force on Crimes and Classification

MCDAA POSITION: SUPPORT WITH AMENDMENT

Brief bill explanation: This bill establishes the Task Force to Study Crime Classification and Penalties. The task force must review the penalties for all criminal and civil violations throughout the Maryland Code; recommend whether there are violations that should be reclassified as civil offenses, misdemeanors, or felonies; whether there are penalties that should be altered, whether the State would benefit from the imposition of standardized crime classifications and penalties, the codification of a default mental state as an element of criminal liability, and the codification of affirmative defenses and their elements; whether statutory changes are necessary for provisions of criminal law that lack an explicit *mens rea*; and The task force must report its findings and recommendations to the Governor and the General Assembly by December 31, 2024. The bill takes effect June 1, 2023, and terminates June 30, 2025.

MCDAA Position: MCDAA strongly endorses the establishment of the Task Force and respectfully suggests that, in addition to the Public Defender, a member of the MCDAA be appointed and included on the Task Force. MCDAA is affiliated with the nation's largest association of criminal defense attorneys and will provide valuable insight to the Task Force concerning the real-life courtroom practice efficacy of recommendations the Task Force may recommend.

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

SB 209_MNADV_FWA.pdf

Uploaded by: Melanie Shapiro

Position: FWA



BILL NO: Senate Bill 209
TITLE: Task Force to Study Crime Classification and Penalties
COMMITTEE: Judicial Proceedings
HEARING DATE: February 14, 2023
POSITION: **Favorable with Amendments**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Judicial Proceedings Committee to issue a favorable report with amendments on SB 209.**

MNADV would request that the bill be amended to include “The Executive Director of the Maryland Network Against Domestic Violence, or their designee.”

Senate Bill 209 would establish the Task Force to Study Crime Classification and Penalties to review the penalties for all criminal and civil violations in the Maryland Code, study the history and legislative intent of the classifications, study criminal classifications and penalty schemes in other states, and make recommendations regarding the current statutory scheme for criminal and civil violation in the State.

Notably missing from the composition of members of the Task Force are members and representatives of the victim community. MNADV believes that it is imperative that any group or Task Force working and studying crime classification and penalties include representation from the communities directly impacted by those crimes. MNADV is the federally recognized state domestic violence coalition and represents the nineteen comprehensive domestic violence programs in Maryland. Together these programs provide emergency shelter, 24-hour hotlines, counseling, advocacy and legal services to victims and survivors of domestic violence as well as abuse intervention services to those who have committed violence. The programs we represent offer services to those that are victims of domestic violence, those who have committed domestic violence, and victims that are criminalized. It is crucial that these voices are at the table during a study of crime classifications and penalties.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report with amendments on SB 209.**

For further information contact Melanie Shapiro ■ Public Policy Director ■ 301-852-3930 ■ mshapiro@mnadv.org

1997 Annapolis Exchange Parkway, Suite 300 ■ Annapolis, MD 21401
Tel: 301-429-3601 ■ E-mail: info@mnadv.org ■ Website: www.mnadv.org

SB0209 - MSBA Support with Amendment Letter (2023.

Uploaded by: Shaoli Katana

Position: FWA



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

MEMORANDUM

To: Members of the Senate Judicial Proceedings Committee

From: Maryland State Bar Association (MSBA)
Shaoli Katana, Esq., Advocacy Director

Subject: Senate Bill 209 - Task Force to Study Crime Classification and Penalties

Date: February 14, 2023

Position: Support with Amendment

The Maryland State Bar Association (MSBA) supports **Senate Bill 209 - Task Force to Study Crime Classification and Penalties**. SB 209 establishes the Task Force to Study Crime Classification and Penalties to review the penalties for all criminal and civil violations in the Maryland Code, study the history and legislative intent of the classifications, study criminal classifications and penalty schemes in other states, and make recommendations regarding the current statutory scheme for criminal and civil violation in the State; and requires the Task Force to report its findings to the Governor and the General Assembly by December 31, 2024.

The MSBA represents more attorneys and judges than any other organization across the State in all practice areas. MSBA serves as the voice of Maryland's legal profession. Through its Laws Committee and various practice-specific sections, MSBA monitors and takes positions on legislation of importance to the legal profession.

The MSBA strongly supports the creation of this Task Force to engage in a broad study of crime classifications in Maryland, review trends from other jurisdictions, and provide recommendations to legislators, advocates, and stakeholders to guide comprehensive

reform in important areas such as expungements. With membership of thousands of practitioners from over two dozen practice areas, as well as leading experts in the field of criminal justice and reform, the MSBA could provide expertise to this Task Force.

The MSBA requests an amendment for the MSBA to be added to the Task Force with at least two representatives, designated by the MSBA President. The MSBA would be glad to chair the Task Force. The MSBA also notes the inclusion of civil infractions in the bill, and asks whether the bill should be amended to remove that category.

For the reasons stated above, MSBA supports SB 209 and respectfully requests a favorable report with proposed amendment. For additional information, please feel free to contact Shaoli Katana at MSBA at shaoli@msba.org.