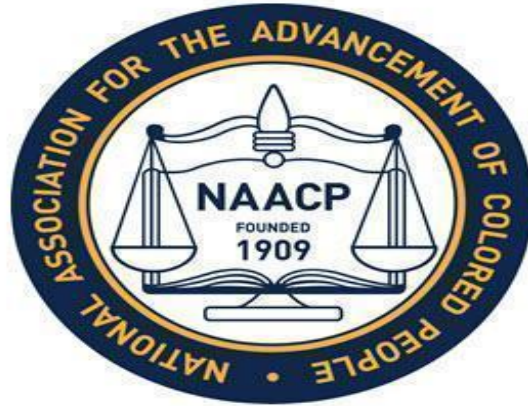


# **PRESSRICO Legislation (1).pdf**

Uploaded by: Ryan Coleman

Position: FAV



# Randallstown

**P.O. Box 731 Randallstown, MD 21133**

## State RICO Legislation

**Feb 2, 2023**

**Immediate Release**

**Contact: Ryan Coleman, President**

[randallstownnaacp@gmail.com](mailto:randallstownnaacp@gmail.com)

Carjackings are on the rise in cities across the country and juvenile offenders are more and more a part of this unsettling trend. As of Aug. 13, 2022, there have been 412 carjackings in Baltimore city, according to the most recent data. This is compared to 272 over the same time period the year before. As of Aug. 18, 2022, there have been 65 carjackings in Baltimore County, compared to 64 at the same time in 2021.

Carjackings are being driven by the need to commit additional robberies, shootings and murders. It also is being driven by the secondary market to sell catalytic converters, airbags and etc. These crimes are being committed and organized by gangs and organized crime entities.

Therefore, we need additional tools to make Maryland safe. Many states have enacted racketeering laws to prosecute organized crime, as well as otherwise legitimate businesses that participate in criminal activity. Racketeering laws allow state prosecutors to bring all of an organization's different criminal acts together in one single prosecution. These states, called Little RICO Acts, are often patterned on the federal RICO laws.

**The Randallstown NAACP supports the effort for legislation to create the Racketeer Influenced and Corrupt Organizations (RICO) state law.**

# **State's Attorney Braveboy Testimony - Senate Bill**

Uploaded by: Aisha Braveboy

Position: FWA

**AISHA N. BRAVEBOY**  
STATE'S ATTORNEY



**JASON B. ABBOTT**  
PRINCIPAL DEPUTY STATE'S ATTORNEY

**State's Attorney for Prince George's County**

14735 Main Street, Suite (M3403)  
Upper Marlboro, Maryland 20772  
Phone: 301-952-3500

March 14, 2023

**Testimony in Support Of:**

**Senate Bill 606 – *Amendment of Maryland's Organized Crime Statutes***

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Good Afternoon Chairman Smith, Vice Chair Waldstreicher, and esteemed members of the Judicial Proceedings Committee, I am State's Attorney Aisha Braveboy, and I am here in support of Senate Bill 606 - to amend Maryland's Organized Crime Statutes.

In 1970, Congress enacted the [Racketeer Influenced and Corrupt Organizations Act](#), or RICO (18 U.S.C. section 1961), similar law have been adopted in many States across th US. These laws provide prosecutors with the tools they needed to fight organized crime. Maryland adopted a gang statute that mimics certain elements of the Federal Statute, but has a narrower definition of the types of enterprises that may be prosecuted for engaging in organized crime.

Organized crime has rapidly evolved in Maryland over the past several years. This evolution includes criminal organizations comprised of crews which are smaller in number and do not operate with the traditional vertical command structure that has been identified with larger traditional crime families or gangs. Often these "Crews" are comprised of adults who recruit and encourage juvenile participants. Adoption of this Bill will provide Maryland prosecutors with the tools to fight these crews engaged in ongoing criminal enterprises.

Adding the proposed amendments to the existing statute establishes clarity in the law and provides prosecutors with the tools needed to fight modern day organized crime. Specifically, these amendments - as proposed, will allow prosecutors to indict multiple members of a gang, crew, or individuals working in concert with each other, even in a situations where they were not present when the underlying act was committed. In each case, prosecutors will still have to show that all persons in the indictment benefited from the ongoing criminal enterprise.

Recently, Maryland has experienced a dramatic increase in gangs, crews and groups of individuals engaged in ongoing criminal enterprises whose illegal activities violate State laws against carjacking, drug trafficking, economic crimes, and human trafficking. As State's Attorney, I am seeking support for the passage of MD House Bill 1138 which amends MD Crim Law § 9-801 and 9-804 to expand criminal and civil exposure for those persons who benefit financially from the criminal activities of gangs or street crews.

As currently constructed it is unclear whether all persons who benefit financially or participate tangentially with street crews engaged in criminal activities can face criminal or civil exposure pursuant to MD Crim Law § 9-801 and 9-804.

The State's Attorney's Office has prosecuted several cases where crews are or associated individuals have worked in concert to commit crimes involving auto-theft, and carjackings and other violent crimes in and around Prince George's County. However, due to the current statutory limitations, we are unable to charge the gang statute. The proposed bill, with the amendments will strength our prosecution of crews and persons who benefit financially from the criminal activities of these crews. For example, Chop Shops have benefited by purchasing cars or parts from cars that have been either stolen or taken during a carjacking incident. Human trafficking has become increasingly problematic in Maryland. The proposed amendments will allow for prosecutors to prosecute everyone engaged in the stream of human trafficking to include persons who transport persons for trafficking purposes, property owners where prostitution occurs, such as massage parlors, and restaurant owners who exploit trafficked persons for unpaid labor.

As we continue efforts to shape the best version of Maryland's Organized Crime Statutes, we believe the following suggested amendments will efficiently address deficiencies in the existing statute and again allow for the prosecution of organized criminal activity occurring in Prince George's County. These amendments are offered as an expansion specifically to MD Criminal Law Articles §9-801 and §9-804 and includes; (1) adding language from page 7 line 26 to page 9 line 27, establishing civil liability (proposed in §9-903, draft MD RICO ACT, and adding new civil forfeiture language under MD Criminal Law Article §9-804(k), (2) expanding underlying crimes in §9-801(g), (3) altering the definition of "criminal organization" under §9-801(c) to reflect "street crews.

Passage of the Senate Bill 606 with the proposed amendments will provide Maryland Prosecutors with the ability to prosecute every member of a criminal organization, gang, crew or individuals who benefit from organized efforts to violate State law.

For the foregoing reasons, I respectfully urge a favorable report.

Sincerely,



Aisha N. Braveboy  
State's Attorney for Prince George's County

# **Muse SB 606 Amendments.pdf**

Uploaded by: C. Athony Muse

Position: FWA



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

Privileged & Confidential

MEMORANDUM

March 10, 2023

**Re:** Proposed Amendments to Maryland's Organized Crime Statutes  
MD Crim Law Article § 9-801 and 9-804.

---

Adding suggested Amendments to Organized Crime Statutes as follows:

***Adding Civil Forfeiture language as MD Crim Law Article § 9-804(k)***

(A) AN AGGRIEVED PERSON OR THE STATE MAY FILE A COMPLAINT IN CIRCUIT COURT TO ENJOIN A VIOLATION OF § 9-804 OF THIS SUBTITLE.

(B) A COURT MAY, AFTER MAKING DUE PROVISIONS FOR THE RIGHTS OF INNOCENT PERSONS, GRANT A COMPLAINT FILED UNDER SUBSECTION (A) OF THIS SECTION BY ISSUING APPROPRIATE ORDERS AND JUDGMENTS, INCLUDING:

- (1) ORDERING A DEFENDANT TO DIVEST ANY INTEREST IN AN ENTERPRISE, REAL PROPERTY, OR PERSONAL PROPERTY;

***Page 2***

***Organized Crime Statutes Amendment Memo***

***March 10, 2023***

- (2) IMPOSING REASONABLE RESTRICTIONS ON THE FUTURE ACTIVITIES OR INVESTMENTS OF A DEFENDANT, INCLUDING PROHIBITING THE DEFENDANT FROM ENGAGING IN THE SAME TYPE OF ENDEAVOR AS THE ENTERPRISE IN

WHICH THE DEFENDANT WAS ENGAGED IN VIOLATION OF § 9-902 OF THIS SUBTITLE;

(3) ORDERING THE DISSOLUTION OR REORGANIZATION OF AN ENTERPRISE;

(4) ORDERING THE SUSPENSION OR REVOCATION OF A LICENSE, PERMIT, OR PRIOR APPROVAL GRANTED TO AN ENTERPRISE BY A STATE AGENCY; AND

(5) ORDERING THE FORFEITURE OF THE CHARTER OF A CORPORATION ORGANIZED UNDER STATE LAW, OR THE REVOCATION OF AUTHORIZATION FOR A FOREIGN CORPORATION TO CONDUCT BUSINESS IN THE STATE, ON A FINDING THAT:

(I) THE BOARD OF DIRECTORS OR A MANAGERIAL AGEN ACTING ON BEHALF OF THE CORPORATION, IN CONDUCTING AFFAIRS OF THE CORPORATION, HAS AUTHORIZED OR ENGAGED IN CONDUCT IN VIOLATION OF § 9-902 OF THIS SUBTITLE; AND

(II) FOR THE PREVENTION OF FUTURE CRIMINAL ACTIVITY, THE PUBLIC INTEREST REQUIRES THAT THE CHARTER OF THE CORPORATION BE FORFEITED AND THAT THE CORPORATION BE DISSOLVED OR ITS AUTHORIZATION TO CONDUCT BUSINESS IN THE STATE BE REVOKED.

(C) (1) IN AN ACTION UNDER THIS SECTION, THE COURT SHALL GRANT RELIEF IN CONFORMITY WITH THE PRINCIPLES THAT GOVERN THE GRANTING OF INJUNCTIVE RELIEF FROM THREATENED LOSS OR DAMAGE IN OTHER CIVIL CASES, IF NO SHOWING OF SPECIAL OR IRREPARABLE DAMAGE TO THE PLAINTIFF IS MADE.

(2) ON THE EXECUTION OF PROPER BOND AGAINST DAMAGES FOR AN INJUNCTION IMPROVIDENTLY GRANTED AND A SHOWING OF IMMEDIATE DANGER OF SIGNIFICANT LOSS OR DAMAGE, THE COURT MAY ISSUE A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION BEFORE A FINAL DETERMINATION ON THE MERITS.



(D) A PERSON WHO IS INJURED AS A RESULT OF A VIOLATION OF § 9-902 OF THIS SUBTITLE:

(1) HAS A CIVIL CAUSE OF ACTION AGAINST THE VIOLATOR FOR THREE TIMES THE ACTUAL DAMAGES SUSTAINED AND, WHERE APPROPRIATE, PUNITIVE DAMAGES; AND

(2) IS ENTITLED TO RECOVER ATTORNEY'S FEES IN THE TRIAL AND APPELLATE COURTS AND COSTS OF INVESTIGATION AND LITIGATION REASONABLY INCURRED.

(E) THE PLAINTIFF OR DEFENDANT MAY DEMAND A JURY TRIAL IN ANY CIVIL ACTION BROUGHT UNDER THIS SECTION.

(F) A CRIMINAL CONVICTION FOR A VIOLATION OF § 9-902 OF THIS SUBTITLE SHALL ESTOP THE DEFENDANT IN ANY SUBSEQUENT CIVIL ACTION UNDER THIS SUBTITLE OR CIVIL FORFEITURE PROCEEDING UNDER TITLE 13, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE AS TO ALL MATTERS PROVED IN THE CRIMINAL PROCEEDING.

(G) (1) THE APPLICATION OF ONE CIVIL REMEDY UNDER THIS SECTION SHALL NOT PRECLUDE THE APPLICATION OF ANY OTHER CIVIL OR CRIMINAL REMEDY FOR A VIOLATION OF § 9-902 OF THIS SUBTITLE.

*Expanding Underlying Crimes Section of MD Criminal Law Article § 9-801(g) as follows:*

(2) CIVIL REMEDIES UNDER THIS SECTION ARE SUPPLEMENTAL AND NOT MUTUALLY EXCLUSIVE.

SUBTITLE 4 OF THE REAL PROPERTY ARTICLE;

(14) FRAUD AND RELATED CRIMES UNDER TITLE 8 OF THIS ARTICLE;

(15) BRIBERY UNDER SUBTITLE 2 OF THIS TITLE;

(16) FALSE STATEMENTS UNDER SUBTITLE 5 OF THIS TITLE;

(17) IMPERSONATING A POLICE OFFICER UNDER § 3-502 OF THE 21 PUBLIC SAFETY ARTICLE;

(18) OBSTRUCTING JUSTICE UNDER SUBTITLE 3 OF THIS TITLE;

(19) PERJURY UNDER SUBTITLE 1 OF THIS TITLE;

(20) THREAT OF MASS VIOLENCE UNDER TITLE 3,  
SUBTITLE 10 OF THIS ARTICLE;

((22) UNLAWFUL GAMING UNDER TITLE 12 OR TITLE 13 OF  
THIS ARTICLE;

(23) INDECENCY AND OBSCENITY UNDER TITLE 11,  
SUBTITLE 1 OR SUBTITLE 2 OF THIS ARTICLE;

(25) INSURANCE FRAUD UNDER TITLE 27, SUBTITLE 4 OF  
THE INSURANCE ARTICLE;

(26) THE MARYLAND CONSUMER PROTECTION ACT  
UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE;

(27) REMOVAL OR FALSIFICATION OF VEHICLE  
IDENTIFICATION NUMBER UNDER § 14–107 OF  
THE TRANSPORTATION ARTICLE;

(28) ABUSE OR NEGLECT OF A VULNERABLE ADULT UNDER § 3–  
604 OR 16 § 3–605 OF THIS ARTICLE;

(29) ANY ACT OR THREAT INVOLVING MURDER, KIDNAPPING,  
GAMBLING, ARSON, ROBBERY, THEFT, RECEIPT OF STOLEN  
PROPERTY, BRIBERY, EXTORTION, OBSTRUCTION OF  
JUSTICE, DEALING IN CONTROLLED DANGEROUS SUBSTANCES, OR  
DEALING IN SECURITIES THAT IS:

(I) CHARGEABLE UNDER THE LAWS OF  
THE UNITED STATES, A TERRITORY OF THE UNITED STATES, OR ANY  
STATE; AND

(II) PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR;

***Increasing Penalty***

Increase maximum sentence to 20 years for first offense.

*March 10, 2023*

*Changing definitions to make it easier to prosecute less organized groups – “street crews” etc.*

MD Crim Law § 9-801(c) “Criminal Organization” means an enterprise ,[INCLUDING STREET CREWS] whose members:

- (1) Individually or collectively engage in a pattern of organized crime activity.
- (2) Have as one of their primary objectives or activities the commission of one or more underlying crimes, including acts by juveniles that would be underlying crime if committed by adults; and
- (3) Have in common an overt or covert organizational or command structure.

**SB 606 - MD RICO - TESTIMONY.pdf**

Uploaded by: C. Athony Muse

Position: FWA



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**TESTIMONY by Senator C. Anthony Muse**

**SB 606: Criminal Law – Maryland RICO Act**

Good afternoon, Mr. Chairman, Vice Chairman, and members of the Senate Judicial Proceedings Committee. Senate Bill 606 **as amended** would change the organized crime statute by adding civil forfeiture language, civil remedies, and it increases the penalty and changes the definition of “street crews.”

Senate Bill 606 *as amended* is intended to address the pattern of organized crime activity in our neighborhoods.

Nowadays, groups of individuals may not necessarily be a “gang” or “street crew,” but they are group of individuals who have a pattern of “organized” crime. SB 606 would allow civil remedies under the criminal law article for crimes related to: fraud, bribery, impersonating a police officer, obstruction of justice, perjury, threat of mass violence, insurance fraud, and any act or threat involving murder, kidnapping, gambling, arson, robbery, extortion, dealing in controlled dangerous substances, etc. In addition, if found guilty the penalty for a felony conviction would be no less than 5 years and up to 20 years or a fine not exceeding \$25,000.

In closing, I am a strong advocate for expungement and giving people a second chance when they make a mistake; however, I do not support or endorse organized crime. Therefore, the goal of this legislation is to **prevent** and **deter** persons from participating in organized crime... from the local owners of “chop” shops to persons who transport and exploit victims of human trafficking they too are committing a serious crime.

Therefore, I urge this committee for a FAVORABLE report for SB 606 as amended.

# 2023 SB606 Written Testimony.pdf

Uploaded by: Deborah Brocato

Position: UNF



### **Opposition Statement SB606**

Criminal Law - Maryland RICO (Racketeer and Influenced and Corrupt Organizations) Act  
Deborah Brocato, Legislative Consultant  
Maryland Right to Life

We oppose **SB606**.

On behalf of our Board of Directors and our followers across the state of Maryland, Maryland Right to Life strongly opposes SB606. The Federal Racketeer Influenced and Corrupt Organizations (RICO) Act passed in 1970 and was designed primarily to fight organized crime for crimes such as gambling, murder, kidnapping, arson, drug dealing and bribery. Maryland Right to Life opposes this Maryland version in the way that it will attack First Amendment Rights, especially for those who speak and act to protect the vulnerable members of society including the unborn, the sick, the disabled and the elderly. In the context of other legislation being passed by the Assembly (i.e., End of Life Option Act, Declaration of Rights - Right to Reproductive Freedom), we strongly urge the committee to protect Freedom of Speech and give SB606 an unfavorable report.

**According to Operation Rescue, a total of 45 abortion facilities closed** or stopped doing abortions nationwide in 2020, and 255 surgical abortion centers have closed since 2009 (See article attached, Closing Abortion Centers). The multiple reasons for closures include violations of health and safety regulations, not enough physicians to provide abortions, laws enacted to restrict abortion, and individuals or groups praying or counseling outside abortion facilities. As a result, the abortion industry developed a multi-pronged strategy to prevent further loss of businesses and revenue.

**First, the abortion industry has lobbied lawmakers to loosen restrictions on abortion centers and to expand scope of practice for healthcare practitioners.** Maryland enacted the Abortion Care Access Act of 2022 which removed the physician requirement, allows non-medical personnel to be certified by the state to provide surgical and chemical abortions through birth, and allows abortion providers to determine parental notification for minor daughters. Multiple pieces of legislation have expanded prescription and dispensing authority and efforts to continue to further expand scope of practice. All of these measures have made it easier for the abortion industry to find workers to provide abortions and to increase their profits by having lower paid, less educated abortionists.

**Second, the abortion industry seeks to attack the First Amendment and prosecute all those who would speak and act against them.** This happened in Harford County, Maryland. In 2008, a group of individuals were arrested for demonstrating in defense of human life. Defend Life filed and won their lawsuit with a settlement of \$385,000. In the case of Joseph and Ann Scheidler and Pro-Life Action Network (PLAN), Scheidler v. National Organization of Women (NOW), the Supreme Court unanimously ruled that PLAN "could not be found guilty according to RICO's extortion statutes because the group was not seeking monetary gain through its protests" (see article, RICO, National Catholic Register) The Scheidlers stated, "We'd go to the clinics and talk the women out of abortions and the abortionists knew they had to stop that. So if we were charged with RICO and got a great penalty, it might cut down on that sort of activity - protesting clinics." The abortion industry wants to stifle free speech and bankrupt people while they defend themselves. In this decision, the justices realized that if RICO could be used against PLAN, it could be used against other protesting groups, too. Joseph Scheidler stated, **"During the arguments, Justice Ginsberg said that if we were guilty of RICO then so was Martin Luther King."**



### **Opposition Statement SB606**

Criminal Law - Maryland RICO (Racketeer and Influenced and Corrupt Organizations) Act  
Deborah Brocato, Legislative Consultant  
Maryland Right to Life

**SB606 undermines the integrity of the General Assembly.** As written, the broad language of the bill leaves the danger of subjective interpretation used against certain groups of people. As seen in the 2 cases cited, if enacted, this law could be used against those exercising their First Amendment right with pro-life speech and Crisis Pregnancy Centers for providing abortion information that may be contrary to state provided abortion information. All Marylanders have the right to Free Speech and this right must not be impinged as a result of the state of Maryland becoming a sponsor of abortion. In *McCullen v. Coakley*, the United States Supreme Court upheld Freedom of Speech declaring unconstitutional a Massachusetts requiring buffer zones near abortion centers to prevent pro-life activity.

**The bill would unfairly burden individuals and organizations with the cost of criminal and civil defense** from frivolous charges and lawsuits using the broad language of the bill. Charges and lawsuits against Free Speech would likely be found unconstitutional but the time and expense of defending them would unfairly burden the defendants and instill fear in others which would seem to be the intent.

**Federal precedent prohibits targeting pro-life speech.** *Scheidler v. NOW* and *McCullen v. Coakley* both upheld freedom of speech for pro-life Americans. Locally, in *Greater Baltimore Ctr. for Pregnancy Concerns, Inc. v. Mayor & City Council of Baltimore*, 879 F.3d 101 (4th Cir. 2018), the federal appeals court for the 4th Circuit decided in favor of a pro-life pregnancy center, "the City has considerable latitude in regulating public health and deceptive advertising. But Baltimore's chosen means here are too loose a fit with those ends, and in this case compel a politically and religiously motivated group to convey a message fundamentally at odds with its core beliefs and mission." (see article, Baltimore Pregnancy Centers, Reuters)

Maryland Right to life urges the committee to preserve Free Speech for all and deliver an unfavorable report on **SB606**.



# **Baltimore Pregnancy Centers, Reuters.pdf**

Uploaded by: Deborah Brocato

Position: UNF

Reuters HEALTHCARE, JANUARY 5, 2018

## **Court voids Baltimore law requiring 'no abortion' disclaimers at clinics**

By Jonathan Stempel

Jan 5 (Reuters) - A federal appeals court on Friday declared unconstitutional a Baltimore law requiring pregnancy clinics that do not offer or refer women for abortions to post signs disclosing that fact in their waiting rooms.

The 4th U.S. Circuit Court of Appeals ruled 3-0 that the law violated the First Amendment free speech rights of the Greater Baltimore Center for Pregnancy Concerns, a Christian nonprofit that provides prenatal services and counsels women on abortion alternatives.

Maryland's largest city argued that its 2009 law was meant to address deceptive advertising and reduce the potential health risks from waiting too long to have an abortion.

Circuit Judge J. Harvie Wilkinson III, however, wrote for the Richmond, Virginia-based appeals court that Baltimore's approach amounted to "too loose a fit" with those ends.

"The ordinance forces the center to utter in its own waiting room words at odds with its foundational beliefs and with the principles of those who have given their working lives to it," he wrote. "Without proving the inefficacy of less restrictive alternatives, providing concrete evidence of deception, or more precisely targeting its regulation, the city cannot prevail."

Leana Wen, Baltimore's health commissioner and one of the defendants in the lawsuit, was not immediately available to comment on the city's behalf.

David Kinkopf, a lawyer for the clinic, said he was pleased that the court "strongly upheld the First Amendment rights of religious and other nonprofit charities to speak and to serve those in need in the manner their conscience dictates, without undue government interference."

Friday's decision upheld an October 2016 ruling by U.S. District Judge Marvin Garbis in Baltimore.

The lawsuit is one of a handful of similar U.S. cases, and generated dozens of court submissions from abortion rights, anti-abortion and religious freedom advocates.

Ten U.S. states with Republican attorneys general supported the clinic.

In another case, the U.S. Supreme Court is expected to decide by June whether California violates the free speech rights of private "crisis pregnancy centers" opposed to abortion by requiring signs about how to obtain state-sponsored services including abortion and contraception.

California Attorney General Xavier Becerra, a Democrat, has said the law is meant to help inform women about their options.

The California law was upheld in October 2016 by the federal appeals court in San Francisco.

Wilkinson distinguished it by calling the disclaimer "markedly different" from Baltimore's, and saying a separate requirement that unlicensed clinics disclose their lack of licensing does not mention abortion.

The case is Greater Baltimore Center for Pregnancy Concerns Inc v Mayor and City Council of Baltimore et al, 4th U.S. Circuit Court of Appeals, No. 16-2325. (Reporting by Jonathan Stempel in New York; Editing by Jonathan Oatis)

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# **Closing Abortion Centers, Lifenews.pdf**

Uploaded by: Deborah Brocato

Position: UNF

## **45 Abortion Clinics Closed in 2020, 79% of All Abortion Clinics Open in 1991 Have Shut Down**

National | Cheryl Sullenger | Jan 5, 2021 | 11:57AM | Washington, DC

A total of 45 abortion facilities closed or halted abortions nationwide in 2020, leaving one state without an active abortion facility, according to a survey conducted by Operation Rescue.

Missouri has become the first Abortion-Free State – at least in practice for now. The embattled Reproductive Health Services Planned Parenthood in St. Louis was the last abortion facility in Missouri. It remains open, but Operation Rescue has confirmed that no abortion appointments have been available there for months, and none are available anytime in the foreseeable future. All abortion appointments are now being referred to the Fairview Heights Planned Parenthood facility across the Mississippi River in Illinois.

RHS Planned Parenthood won a dramatic licensing battle with Missouri in May after an Administrative Court judge ordered the facility relicensed despite the objections of the Missouri Department of Health and Senior Services, which found the facility to be unsafe and out of compliance with state abortion regulations. The DHSS had documented several cases of life-threatening abortion injuries, but their investigation into those incidents were stone-walled by uncooperative Planned Parenthood employees. Shortly after being relicensed, the facility voluntarily halted surgical abortions in Missouri. It had earlier voluntarily halted the distribution of abortion-inducing pills due to an unwillingness to comply with Missouri laws regulating the drugs. (Read more about this licensing battle at this link.)

“While the RHS Planned Parenthood remains open and licensed for abortions, we confirmed that none are being done there. That means this facility is currently acting only as an abortion referral center. There is no operational abortion facility in the State of Missouri, making it the first Abortion-Free State at this time,” said Operation Rescue President Troy Newman. “It is obvious that Planned Parenthood of the St. Louis Region, which operates RHSP, seeks to avoid having to comply with Missouri’s strong pro-life laws, and has opted to abort in Illinois where abortion facilities are essentially unaccountable. This shows a gross disrespect for the lives and safety of the women Planned Parenthood purports to serve.”

Other noteworthy facts were revealed by Operation Rescue’s survey of every U.S. abortion facility.

There are currently 706 active abortion facilities in the U.S.

Since Operation Rescue began tracking the number of abortion facilities in 2009, surgical abortion facilities have decreased in number by 255.

Since 1991, there has been an incredible 79 percent drop in the number of surgical abortion facilities nationwide.

There was a net loss of four U.S. abortion clinics overall in 2020.

The number of Planned Parenthood abortion facilities decreased in 2020.

2020 was the first year that Operation Rescue tracked the number of facilities that distributed abortion drugs via telemedicine. The survey found that 69 locations, representing 9.78 percent of all abortion facilities, now operate telemedicine abortion programs.

### **Methodology**

Each year, Operation Rescue conducts a nationwide survey that involves contact with each abortion business in the U.S. The information gathered about the abortion clinics and their practices represents the most current and accurate data available.

This most recent data was compiled by Operation Rescue from November 16 through December 16, 2020.

Operation Rescue defines “abortion clinics” as those businesses that conduct abortions outside a hospital setting. There are two categories of abortion clinics:

**Surgical Abortion Clinics:** These offices conduct surgical abortions. Almost always, surgical facilities also distribute abortion-inducing drugs.

**Abortion Pill Clinics:** These offices supply abortions through the administration of drugs (pills) or other chemical means. They do not conduct surgical abortions.

Abortion facility totals

Today, there are a total of 706 U.S. abortion facilities, down a total of four facilities over last year. This marks a return to the downward trend in numbers of abortion facilities nationwide after a slight uptick in 2019 due to an expansion in chemical abortion facilities.

The number of surgical abortion clinics continues to decline with six fewer today than last year at this time.

In fact, the number of surgical abortion clinics has fallen each year for at least the past decade from 713 in 2009 to a record low of 458.

That represents a decrease of 255 surgical facilities — 36 percent – over the past ten years.

“The decline in surgical abortion facilities continues to be bad news for the Abortion Cartel, but is great news for women and their babies,” said Newman. “Surgical abortion facilities are still the most numerous and the most profitable, so when they shut down, it is great news that means lives are being saved.”

In contrast, abortion pill facility numbers have been steadily on the rise over the past decade, increasing 47.2 percent in the past eleven years.

Today, there are 248 facilities that abort only using chemical means – an increase of only three clinics nationwide in 2020 compared to 15 in 2019. This has slowed Planned Parenthood’s push to expand abortion pill facilities nationwide.

Facilities That Closed or Halted Abortions in 2020

In all, 45 abortion facilities closed or halted abortion services in 2020. Twenty-four of those were surgical facilities, while 21 were abortion pill facilities. This number does not include facilities that temporarily halted abortions, but reopened later in the year.

Interestingly, the largest Democrat states, California and New York, had the most closures or facilities that stopped all abortions. These states were also among the hardest hit with restrictive China Virus lock-downs. There is anecdotal evidence that the restrictions contributed to the inability of some facilities to conduct abortions, but the extent of that impact is unknown at this time.

Of the 45 facilities no longer in the abortion business, at least seven indicated that they hoped to begin offering abortions again at some point in 2021. One facility indicated they could not offer abortions until 2021 at the earliest, because they had no abortionist due to the China Virus. There is a likelihood that at least some of those facilities will never resume abortions.

Some notable facilities that closed or stopped conducting abortions are highlighted below.

**RHS Planned Parenthood, St. Louis, Missouri** – As already mentioned, this notoriously dangerous Planned Parenthood facility remains open but has stopped conducting all abortions. With the help of local pro-life activists, Operation Rescue documented 75 medical emergencies that required patient transport directly from RHS Planned Parenthood to hospital emergency rooms – some of which threatened the lives of the women involved.

**Hilltop Women’s Reproductive Center, El Paso, Texas** – This facility, operated by Franz Theard, closed after he and his staff were wracked with the China Virus, which led to the death of his long-time nurse, Gloria Martinez and her husband

in November. Theard, who also operates an abortion facility in New Mexico, was sued there on December 22, 2020, for an alleged assault and battery.

Naples Health Center Planned Parenthood, Naples, Florida – In 2015, Operation Rescue, which once operated a fleet of Truth Trucks, caused a ruckus in the upscale community of Naples, Florida, by parking two of the vehicles at the Planned Parenthood abortion facility. This surgical facility halted abortions in 2020, and is now closed “until further notice.”

## States

Since Missouri is now without an active abortion facility, there are five states with only one abortion facility left. Those states are Mississippi, North Dakota, South Dakota, West Virginia, and Wyoming, which saw its only surgical facility close in 2020.

Rhode Island fell off the single-clinic list in 2020 when an independent business, Early Options, opened in Providence in competition with Planned Parenthood.

Of the single-clinic states, four are surgical abortion facilities and the one in Wyoming is an abortion pill facility. South Dakota’s abortion center is the only one operated by Planned Parenthood. The other four are independent abortion businesses.

The total number of abortion facilities increased in ten states over the past year, with California seeing the largest net gain three new facilities.

There was a net decrease in abortion facilities in nine states in 2020, with biggest loss in New York, which dropped nine abortion facilities since 2019.

Thirty-one states and the District of Columbia, had no net change in the number of abortion clinics in the past year. (See map at the top.)

## Planned Parenthood

Of the 706 abortion facilities currently open for business, 379, or 52 percent, are Planned Parenthood facilities.

Planned Parenthood’s 171 surgical abortion facilities represent just 37 percent of all surgical abortion facilities. But Planned Parenthood also operates 208 abortion pill facilities – 84 percent of that type of facility currently in operation.

While those statistics seem impressive, in all, Planned Parenthood’s share of the nation’s abortion facilities shrank by two percent in 2020.

While Planned Parenthood operates more facilities than independently owned clinics, it is the independent clinics that still conduct the most abortions, according to a report published in 2020 by the Abortion Care Network.

There are currently six states with no active Planned Parenthood abortion facility. Those states are Louisiana, Missouri, Mississippi, North Dakota, West Virginia, and Wyoming.

## Corona Virus Impact

In 2020, abortion facilities and pro-life activists were forced to contend with new restrictions due to the China virus pandemic. In some Democrat-controlled states, abortion facilities were allowed to remain open while legitimate businesses were ordered to close, churches were shuttered, and people were ordered to stay home.

At first, lines of women were observed that reached out the doors and down the street at several abortion businesses as women rushed to the facilities for panic-driven abortions.

Because of the virus, there was an increased desire to obtain abortions with minimal personal contact. This led to an expansion of telemedicine programs that were used to dispense abortion pills to women.

While telemedicine programs were restricted to a handful of abortion facilities prior to the pandemic, in 2020, Operation Rescue documented 69 facilities that now use telemedicine to dispense abortion-inducing drugs.

However, that expansion was limited to existing facilities, for the most part. In fact, facilities that added telemedicine abortions had minimal effect of the number of abortion facilities nationwide. In fact, there has only been an increase of two in abortion pill “facilities” nationwide over 2019.

Those two new abortion businesses – Just the Pill, based in Minnesota, and Choix in California –operate exclusively over the internet and have no physical address and distribute abortion drugs to women solely through the U.S. Mail. They can only prescribe to women who reside within the business’ home states.

Due to the China Virus, the U.S. Food and Drug Administration relaxed a 2000 law that required women to visit a clinic, doctor’s office, or hospital before they could receive the two-drug abortion cocktail. Just the Pill and Choix operate as they do only because of the temporary lifting of that law.

The Trump Administration has sought to have that law reinstated, and filed an appeal to the U.S. Supreme Court on December 15, 2020. If the High Court rules in favor of reinstatement, it would likely put the internet/mail pill distributors out of business, unless they change their practices.

However, should the Democrats resume control of the White House, it is possible that the FDA restriction will never be reinstated. Operation Rescue predicts that would allow the internet sale of abortion drugs and distribution through the U.S. Mail to increase exponentially in 2021.

Yet, there are still eighteen states that completely ban the use of telemedicine to distribute abortion drugs. Those state laws have so far hindered the widespread expansion of telemedicine abortion businesses, and should continue to do so.

#### Political influences

Pro-life legislative advances have traditionally been much more numerous and effective at the state level than the Federal level, and 2020 was no different.

Six states enacted 17 life-affirming laws that added protections to women and their unborn babies, strengthened parental rights, and added new protections for minors from abuse. Those states were Florida, Idaho, Indiana, Iowa, Kentucky, and Louisiana.

Pro-abortion legislation that expanded abortion was enacted only in Virginia and the District of Columbia

It usually takes time for legislation passed on the state level to have an impact, especially if the enactment of new laws are delayed by challenges in court, as is the case with most pro-life legislation.

Nevertheless, pro-life legislation passed in previous years continues to contribute to clinic closures, as was seen this year in Missouri, and is providing necessary road-blocks to keep the rapid expansion of abortion chains in check nationwide.

On the Federal level, President Donald J. Trump, handed pro-life supporters several victories through rules changes, policy decisions, and Executive Orders.

His 2019 Protect Life Rule took effect in 2020, denying Planned Parenthood approximately \$60 million in tax-payer funds. This led to the closure of several Planned Parenthood facilities nationwide.

However, the impact has been less than some predicted. This is because several Democrat-controlled states replaced the lost federal funding with state tax dollars. Monitoring of news reports has showed reason to believe that private donations to Planned Parenthood also increased to compensate.

President Trump made the decision in mid-December withhold \$200 million from the State of California because it requires all health insurance policies to include abortion coverage. The impact of that decision won’t be felt until 2021.

But perhaps President Trump's most potentially impactful pro-life acts in 2020 were his appointments of Federal judges that have transformed the judiciary. Since his term began, he has appointed over 300 new conservative Federal judges. This gives pro-life legislation that is known to affect the ability of some abortion facilities to operate a better chance of surviving future Constitutional challenges.

Also this year, President Trump nominated Amy Coney Barrett, the first openly pro-life Justice to the U.S. Supreme Court – his third pick for the High Court since he took office. This has created the first conservative majority on the Supreme Court in decades and paved the way for *Roe v. Wade* to be reversed at some future time.

Currently 10 states have trigger laws that would immediately ban abortion should *Roe* be overturned. Those are Arkansas, Idaho, Kentucky, Louisiana, Mississippi, North Dakota, Missouri, Tennessee, South Dakota, and Utah.

The impact of Trump's judicial appointments and other pro-life policies are sure to be felt for years to come.

#### Factors Contributing to Fewer Abortion Facilities

The decrease in the number of abortion facilities in 2020 is attributable to at least three factors.

State laws.

Regulatory issues.

The China Virus.

In past years, a decrease in demand for abortions played a role in clinic closures, however, what effect the China Virus has had on abortion demand remains unknown for now, until state abortion numbers for 2020 are released.

Also in past years, the retirement of abortionists played a role in abortion facility closures. While at least one facility in California closed due to abortionist retirement, that trend is fading due to the rapid training of new abortionists through programs affiliated with the Bixby Center for Global Reproductive Health. That organization claims to have trained 7,100 abortionists world wide from 1999 through 2018.

In 2020, Operation Rescue published an exposé about Bixby's U.S. abortion training programs, their funding, and their globalist depopulation goals. (Read that exclusive report.)

#### Conclusions

Since 2020 has been a troubled and unpredictable year, there has been a bit of a shake-up in some abortion industry trends, there has been stability in others. For example, surgical abortion facilities continue to dominate at 65% of all abortion facilities. That percentage is unchanged from 2019, and down just two percent since 2018.

Operation Rescue's survey also found that most abortion pill facilities continue the previously documented trend of being comprised primarily of part-time facilities, whereas surgical facilities tend to have more abortion days available. The survey found that some abortion pill clinics are only open to dispense abortion drugs as infrequently as once a month.

There is no doubt that the China Virus was responsible for a new trend toward expanded telemedicine programs that distributed abortion drugs with minimal contact. However, this expansion did not lead to any substantial increase in the number of abortion facilities nationwide.

The increase in abortion pill distribution through the U.S. mail was also noted in 2020. This trend was predicted by Operation Rescue in an exposé published in May 2019. While we considered this a back-up plan to be implemented should *Roe v. Wade* be overturned, the China Virus accelerated that timeline, with the aid of the FDA's decision to "temporarily" relax distribution guidelines. Whether this trend continues to hold after the China Virus subsides remains to be seen.



“Overall, we are grateful for fewer active abortion facilities in 2020 and for the 45 clinics that closed or halted abortions. With all the turmoil in our nation, 2020 could have been much worse for the unborn,” said Newman.

Current events will undoubtedly play a part in future abortion trends.

“I predict that 2021 will be a crossroads of sorts for the Abortion Cartel and the Pro-Life Movement alike,” said Newman. “National politics could have a greater impact than ever this year. If the Republicans maintain control of the Executive Branch, we could see huge pro-life gains. If the Democrats assume power over the Executive Branch, we could see an abortion expansion not witnessed since the early years after the Roe v. Wade decision decriminalized abortion nationwide. So much remains in limbo at this moment. But whatever challenges 2021 holds, Operation Rescue will continue to work toward our goal of building an Abortion-Free America and a bright future of the children of tomorrow.”

LifeNews.com Note: Cheryl Sullenger is a leader of Operation Rescue.

# **Defend Life arrest, Lifenews.pdf**

Uploaded by: Deborah Brocato

Position: UNF

## LIFENEWS

<https://www.lifenews.com/2012/03/07/maryland-settles-with-pro-life-girls-shackled-strip-searched/>

### **Maryland Settles With Pro-Life Girls Shackled, Strip Searched**

State | Steven Ertelt | Mar 7, 2012 | 7:42PM | Annapolis, MD

The Maryland Board of Public Works, which includes Governor Martin O'Malley as one of its three members, announced today that it will grant a \$385,000 settlement with nine individuals who were illegally arrested and jailed by Maryland State Police.

The pro-life advocates, including college-aged girls, who were shackled and strip searched after peacefully protesting abortion in Maryland in 2008, have settled the lawsuit they filed against the state.

Maryland state troopers handcuffed and arrested 18 pro-life advocates for sharing a peaceful pro-life message along a Bel Air, Maryland public street in August 2008. Among those arrested were three young women who were later shackled, strip-searched, and detained overnight by other police.

In January 2011, the Fourth Circuit U.S. Court of Appeals rejected an appeal taken by defendant police officers in a suit brought by Defend Life, a Maryland pro-life group that sponsored the event featuring pro-life signs held along a busy street. The court granted a motion to dismiss the appeal filed by Thomas More Society's special counsel.

Defend Life filed the lawsuit last year complaining that Maryland State Police, assisted by Harford County and Bel Air city officials, committed lawless arrests and jailing of protesters. Now, they are agreeing to settle.

This settlement must still be approved by the individual plaintiffs. After transfer of funds has been accomplished, a news conference with more details will be held in front of the Maryland State Police headquarters in Baltimore.

The out-of-court settlement by the Maryland Police results from an annual week-long event held every year since 2001 by Defend Life, a regional pro-life organization, during which a few dozen pro-life activists stand along streets and highways in 15 cities exercising their First Amendment rights of free speech. While 18 were arrested, only nine individuals in addition to the organization, Defend Life, filed suit.

Under the terms of the settlement, the Maryland State Police cannot restrict speech, including speech employing images of aborted human babies, based on reactions of viewers or motorists to that speech. Also, the Maryland State Police must agree to implement a training program within 120 days of settlement that will train its officials and employees on First and Fourth Amendment rights in a manner that is consistent with the District Court's opinion. The program must be reviewed by plaintiff's counsel before implementation.

Upon learning of the approval by the Maryland Board of Public Works, Jack Ames, director and founder of Defend Life, told LifeNews, "Thanks be to God! The good news is that the First Amendment still lives in Maryland. Our Founding Fathers who so wisely enshrined the right of free speech into our Constitution would be extremely pleased."

During the initial event, the pro-life people were arrested without warning by Harford County State Troopers during their multi-city protest featuring abortions signs. At least a dozen police officers arrived in more than seven marked vehicles.

They had started their peaceful pro-life event along a public road in Harford County but relocated to the town of Bel Air after being told by officers to leave the county for not having a county permit to engage in free speech activities. The officers then arrested them in Bel Air without explanation.

Once in custody, three young women among the group arrested—two of whom were teenagers—were subjected to two rounds of strip searches. Only after the strip searches and a night spent in jail were they told why they were arrested.

The first search took place in the police station parking lot in front of other males. A female officer pulled out the young ladies' shirt collars to inspect their breasts before reaching down their pants to feel around their waistlines.

The Harford County Detention Center administered the second strip search after the pro-life participants were transferred there. A female officer took the women one by one into a bathroom with a partially open door and ordered them to lift up their shirts and brassieres. Officials cast the pro-life participants in leg irons, denied them permission to call parents until after midnight.

A week after their release, the state dropped the charges ultimately filed against them: loitering, disorderly conduct, and failure to obey a lawful order. None of the participants were ever charged with any sort of permit violation.

The town of Bel Air also agreed to a settlement.

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# **RICO, National Catholic Register.pdf**

Uploaded by: Deborah Brocato

Position: UNF

## What We Need to Know About RICO

Federal and state racketeering laws are a double-edged sword that prosecutors would do well to consider before using — but that doesn't mean the Catholic Church shouldn't be concerned.

The Diocese of Buffalo, whose St. Joseph Cathedral is shown downtown, has had a RICO suit filed against it. (photo: CiEll / Shutterstock.com)

Joseph O'Brien Nation August 27, 2019

The lawsuits are flooding into New York state, after it opened a one-year window in the statute of limitations for abuse survivors to file suit against individuals and institutions accused of abuse crimes — and the new lawsuits filed in the Empire State include one utilizing the Racketeer Influenced and Corrupt Organizations (RICO) Act.

On Aug. 14, 22 plaintiffs filed a federal RICO suit against the Diocese of Buffalo, the Society of Jesus, parishes, high schools and others for an alleged “pattern of racketeering activity” that allowed for and hid clerical sexual abuse. Both current Bishop Richard Malone and his predecessor, Bishop Edward Kmiec, are named personally in the lawsuit.

Among the plaintiffs, who are not named, are several alleged victims of clerical sexual abuse. The lawsuit alleges specific instances of sexual abuse by priests and claims that the diocese failed in its duty of care toward children by allowing abusive priests to have contact with minors through parishes and schools.

Calling the diocese and affiliated organizations an “association in fact” for the purposes of federal racketeering laws, the suit alleged “common purpose” in “harassing, threatening, extorting and misleading victims of sexual abuse committed by priests” and of “misleading priests’ victims and the media” to prevent reporting or disclosure of sexual misconduct.

The suit claims that the various diocesan persons and agencies are legal “alter egos” for the diocese, completely under diocesan control, and were used to “transfer, assign, commingle and conceal assets” totaling \$90 million, and that the diocese violated federal racketeering laws by using the internet and mail to “deceive the public about the illicit sexual conduct rampant within the Diocese of Buffalo.”

As the RICO lawsuit is being brought by federal law, it does not directly stem from the New York law opening the one-year window. But it was filed at almost the same time as the window went into effect, on Aug. 15.

## RICO and the Church

To many observers, it seemed startling that the Diocese of Buffalo would be the subject of a RICO lawsuit. But using this 1970 federal law against the Church is nothing new.

Plaintiffs have in the past used RICO in civil suits against the Catholic Church on numerous occasions in cases related to sexual abuse and the resulting cover-ups. Each case, however, has either been hung up in the courts or resulted in either dismissal or settlement out of court.

Passed into law in 1970, RICO was designed primarily to fight crimes committed by organized crime, as well as corporations and nonprofit organizations. Churches fall into that last category. The law has both a criminal and civil component, and most experts agree that it is easier to win on civil grounds.

A civil case — which, unlike a criminal case, rewards triple damages — must establish that a crime stated in the federal RICO statutes was committed (such as gambling, murder, kidnapping, arson, drug dealing, bribery); that there is a pattern of criminal activity; and that the case is filed within a four-year statute of limitation.

In New York, any racketeering charges, according to Geoffrey Nathan, a lawyer writing for the Federal Charges website, fall under federal statutes.

"The Racketeer Influenced and Corrupt Organizations (RICO) Act defines racketeering in New York as a federal crime," he writes, "and the consequences for those convicted of this crime can include a variety of fines, the relinquishment of profits and property, and prison sentences."

Among the most visible RICO cases against the Church in the U.S. related to sexual abuse are a 1994 suit brought against the Diocese of Camden, New Jersey, and a 2008 suit brought against the Diocese of Norwich, Connecticut. In the Camden case, charges of conspiracy were brought against the diocese due to incidents of sexual abuse by 30 diocesan priests. In the Norwich case, conspiracy charges were brought against the diocese, which was accused of covering up for six priests of the diocese accused of sexual abuse. In both cases, however, the dioceses settled out of court (Camden in 2003 and Norwich in multiple settlements at various times) for an unspecified amount.

In a well-reported 2002 case, civil RICO charges were leveled at Bishop Anthony O'Connell, following him through the three dioceses that he served — as a priest for the Diocese of Jefferson City, Missouri; a bishop of the Diocese of Knoxville, Tennessee; and a bishop of the Diocese of Palm Beach, Florida (replacing Bishop Joseph Symons after he had admitted to sexually abusing boys). Bishop O'Connell was forced to resign as bishop of Palm Beach after he also admitted that he had molested two young men.

These dioceses were included in the suits under the RICO law after they were charged with covering up the bishop's and other clerics' behavior. This case was dismissed on appeal in 2004 because the plaintiff's claim had exceeded the statute of limitations.

More recently, in November 2018, coinciding with the U.S. bishops' fall meeting, two federal RICO suits on civil grounds were brought against the U.S. Conference of Catholic Bishops for conspiring to cover up sexual abuse in U.S. dioceses — one in Washington, D.C., federal court and one in Minnesota federal court. These cases are still pending.

## Mobs and Pews

One person who knows a good deal about RICO is Robert Blakey, a retired Notre Dame law professor and a Catholic, who wrote the original draft of the 1970 federal RICO law.

"The plaintiffs' description of the enterprise in the Buffalo case is probably valid, but they're skating on thin ice in their articulation of the alleged predicate offenses," that is, the specific crimes allegedly committed, he said.

Blakey told the Register that the RICO strategy used against the Church is the same employed against the mafia, in which the government sought to indict the invisible members of organized families through racketeering charges. It has since been used against corporations and other legitimate enterprises, Blakey noted. In a similar way, prosecutors are using RICO to bring charges against U.S. bishops for the crimes committed by their priests.

"But it's hard to show that a bishop, not in theory but in practice, supervises the parish priest," Blakey told the Register. "The priest is practically a king in his own realm. The bishop does not supervise a priest in the same sense that the head of a corporation is ultimately responsible for what his employees do. So it would be hard to make a case for what's called vicarious liability."

Blakey also said that RICO is often used as leverage for settlement rather than as a genuine attempt to bring a racketeering suit to court.

"Lawyers bring a RICO case to court because of the sense of terror that a RICO suit brings," he said. "Anybody who litigates doesn't want to litigate against triple damages — it's just too high."

"The lawyers who would defend against a RICO case usually don't know anything about the particular details of the law," he added, noting that for this reason defendants are easily intimidated into settlements.

Those lawyers bringing the cases often don't know any better, he added, noting: "One of the two federal cases brought against the Church in 2018 is so riddled with errors it's likely to be withdrawn."

Blakey also told the Register that it's a "dirty little secret" that state RICO suits are easier to prosecute than federal suits. According to Blakey, there are 35 states with RICO statutes (not including New York), and while they differ in details, generally most state RICO statutes are better equipped to target churches.

In fact, that's exactly the tack that some state attorneys general are taking. As AP reported in June, Michigan Attorney General Dana Nessel is also considering using the Wolverine State's RICO laws against the Church.

However, according to Blakey, the will to prosecute on the part of states remains a hurdle in itself.

"It takes incredible intestinal fortitude for an attorney general, state prosecutor or U.S. attorney to investigate the Church, and then not only insist on criminal punishment," but also bring civil charges against the Church. "People are scared to death of the fact that members of churches vote."

To ward off future RICO suits, Blakey told the Register, the best defense bishops have against RICO is transparency and accountability.

"Supervise your priests closely," he said. "The best defense for a bishop against RICO is to show he hasn't done anything wrong. He's not responsible for the unknowns that occur; but all the knowns that occur he should act on vigorously."

#### Scheidler v. NOW

According to Blakey, the federal courts have yet to decide a case in favor of sexual-abuse victims based on RICO. In part, this effort has been made more difficult after the 2006 landmark Supreme Court decision *Scheidler v. National Organization of Women (NOW)*.

In this decision, the court ruled unanimously that Pro-Life Action Network (PLAN) and its founder, Joseph Scheidler, could not be found guilty according to RICO's extortion statutes because the group was not seeking monetary gain through its protests.

"The plaintiff's theory of Scheidler was that extortion included mere coercion — trying to force someone to do something they didn't want to do," said Blakey, who argued an earlier iteration of the case, *NOW v. Scheidler*, before the Supreme Court in 1994. (The court did not issue a judgment at that time.)

"But the abortion demonstrators didn't want your property, which is extortion," Blakey said, explaining why the Supreme Court eventually ruled in Scheidler's favor. "The demonstrators only wanted to change what you were doing, which could be argued as a form of coercion. But coercion is not in RICO."

Joseph and his wife, Ann Scheidler, both Catholics, told the Register that, like prosecutors today using RICO against the Church, NOW used RICO as a way to send a message.

"The abortionists needed a symbol, a scapegoat, somebody doing the things making it difficult for them to carry on their business of aborting babies," Joseph Scheidler told the Register. "We'd go to the clinics and talk the women out of abortions and the abortionists knew they had to stop that. So if we were charged with RICO and got a great penalty, it might cut down on that sort of activity — protesting clinics. They wanted to use PLAN as a symbol for why the abortion industry was losing business."

However, Ann Scheidler said, the Church may have a more difficult time defending itself against a RICO suit than PLAN had.

"In our case, NOW was trying to claim that Joe's rhetoric in motivating people to get out and fight abortion was causing acts of violence against clinics and abortionists," she said. "But in the Church's case, there are actually individual cases of priests and bishops guilty of crimes. The question is whether the Church itself is any more responsible for causing these crimes than Joe was for the crimes committed against abortionists."



In defending against RICO, the Church could learn from the Scheidlers' case, they told the Register, by appealing to other institutions that may also face RICO scrutiny, such as public schools and the Boy Scouts of America, which also have a record of sexual misconduct among its members.

"We were ultimately successful," Ann Scheidler told the Register, "because the courts realized that if lawyers are successful in bringing RICO against PLAN, it can also be used against the darlings of the left. The anti-war and anti-fur people, for instance, submitted amicus briefs to the court on our behalf because they recognized this law could backfire against them, too."

According to Joseph Scheidler, during arguments being heard in their case, Justice Ruth Bader Ginsberg — "who was certainly no friend of the pro-life movement" — sided with PLAN because she recognized the potentially dangerous precedent their case could set.

"During the arguments, Justice Ginsberg said that if we were guilty of RICO then so was Martin Luther King," he said.

## Legal Debate

The suitability of RICO as a legal strategy remains debatable among legal experts. A 2003 article in the *Washington Law Review*, written by Laura Russell, a law student at the time, notes that state RICO laws "may prove to be adept tools to prosecute the Church and its decision-makers."

While Russell was writing before the 2006 *Scheidler v. NOW* decision, her reasoning remains current among state attorneys general who have sought to bring the law to bear against the Church's misdoings.

Russell notes that many state RICO statutes "afford a lengthy period of time to prosecute offenders" and "do not mandate a financial motive and can therefore be used against nonprofit corporations like churches."

On the other hand, as Nicholas Mancini notes in a 2002 article for the *Roger Williams University Law Review*, because sexual abuse as a form of personal injury is not included as a crime within the parameters of RICO, lawyers face nearly insurmountable hurdles in bringing RICO suits against the Church.

Mancini, a law student at the time, asserted that "if the core of the complaint is the physical or emotional injury sustained ... their suits will likely face dismissal."

The most successful route for lawyers, Mancini notes, is one that alleges "an injury to business or property sustained as a result of the actions of the Church hierarchy or in connection with alleged pay-offs or bribery attempts in the context of clergy sexual abuse. ... However, precedent, along with the need to curtail RICO's liberal interpretation, may influence courts to deny the validity of such injuries as emanating from what are, for all intents and purposes, purely physical or emotional injuries." Mancini also argues that other more potentially successful legal strategies — such as making a case for negligent hiring and supervision on the part of bishops — are already available to make a case against the Church. (RICO requires intentional conduct not negligent conduct.) He also warns that the overuse of RICO "might represent a 'point of no return' for the statute" in such a way that any organization or corporation can be subject to its penalties. (Corporations are already subject to RICO.) It was for this reason that the Scheidlers discovered several strange bedfellows writing amicus briefs on their behalf.

Recalling the history of the 1970 law, Mancini writes, "RICO was enacted as part of Congress' war against organized, underworld crime families. Although the statute's broad language and construction has resulted in its application outside the sphere of organized crime, there is strong evidence in the legislative history of the statute that such application was not intended."

Blakey told the Register, however, that such liberal application of RICO has always been present in the law.

"There may be a liberal interpretation on the part of lawyers; nevertheless, the statute itself requires liberal interpretation by the courts," he said.

## No Church Exemption

According to Blakey, though, a wide application of RICO was present from the creation of the law.

He pointed to the 1989 Supreme Court decision *H.J. Inc. v. Northwestern Bell*, which rejected any attempt to narrow the law's application strictly to organized crime since, as the case brief notes, "the language is clearly very broad in RICO," regardless of the original intention behind passing the bill into law.

For this reason, the Church is a viable target for lawyers bringing RICO suits against the Church.

"It makes no difference in RICO if your collar is open or if you wear a tie," Blakey told the Register, referring to organized crime and white-collar crime, "and now it also doesn't make any difference if your collar is turned around — there is no exemption for a church organization."

Register correspondent Joseph O'Brien writes from Soldiers Grove, Wisconsin.

Catholic News Agency contributed to this report.

# **SB 606 Unfavorable Testimony.pdf**

Uploaded by: Gregory Brown

Position: UNF



## Testimony for the Judicial Proceedings Committee

March 14, 2023

### SB 606- Criminal Law - Maryland RICO (Racketeer Influenced and Corrupt Organizations) Act

GREGORY BROWN  
PUBLIC POLICY  
COUNSEL

#### UNFAVORABLE

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ANDREW FREEMAN  
GENERAL COUNSEL

The ACLU of Maryland opposes SB 606, a bill that would establish a RICO statute in the state. The nature of RICO statutes is to enhance criminal penalties for patterns of racketeering by broadly defining associations of people as “enterprises.” The definitions in the proposed statute are too broad and meant to label simple groupings of people and their doings “gang activity” and “organized crime.” The wide net RICO statutes cast essentially sets a standard of guilty until proven innocent by criminalizing activity that, on its own, would not rise to the level of a criminal act. This bill also allows for warrantless seizures of property and arbitrary standards for recoverable damages that do not hold any justifiable basis.

#### Overly broad definitions

§9-901 (D)(1)(II) of the statute defines “enterprise” as an “unchartered union, an association, or a group of individuals associated in fact although not a legal entity.” Providing for groups of individuals to be categorized as an enterprise for mere association with one another in order to prove a pattern of racketeering activity is too broad and unnecessarily criminalizes actions that are in and of themselves noncriminal. The categorization of a “group of individuals” as an enterprise will undoubtedly be used in the same vein as the label “gang activity” has been used to criminalize Black and brown neighborhoods for decades. Allowing these definitions to be codified only serves the goal of over policing and mass incarceration.

#### Functions as enhanced penalties

This bill, as most RICO statutes do, establish derivative crimes that essentially function as enhanced penalties. Under this bill, if a person is indicted under this statute, then their assets and possessions are

legally allowed to be seized and, in most cases, forfeited, especially if the possessions were acquired due to income from a “pattern of racketeering.” This becomes even more problematic when that “pattern of racketeering” is defined as only two acts over a span of four years. Allowing the state to seize and force forfeiture of assets and properties by proving only two acts were in furtherance of a “pattern of racketeering” over a time span of four full years is too low of a bar to prove criminal activity and too long of a time span to try to connect these actions as a pattern. These provisions function as enhanced penalties by criminalizing new behavior, even if the act was on its own noncriminal.

Additionally, the bill allows for three times the amount of any pecuniary value gained by the violation of the RICO statute to be recoverable in civil suits resulting from a conviction in a criminal case. This amount is arbitrary and is completely unrelated to the goals of “punitive damages.” The bill does not provide for intent to be present for the acts to be categorized as criminal. Punitive damages are meant to curb the behavior of people intentionally violating the law. Here, a defendant who may have been unaware of how their actions contributed to a pattern of racketeering would now be responsible for three times the amount of any pecuniary value gained due to the violation. These penalties are arbitrary and unnecessarily enhanced.

For these reasons we urge an unfavorable report on SB 606.

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**sb606.pdf**

Uploaded by: Matthew Pipkin

Position: UNF



**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Matthew J. Fader  
Chief Justice

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 606  
Criminal Law – Maryland RICO (Racketeer Influenced and  
Corrupt Organizations) Act  
**DATE:** February 15, 2023  
(3/14)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill 606. Senate Bill 606 establishes Criminal Law Article, Subtitle 9- Maryland RICO (Racketeer Influenced and Corrupt Organizations) Act and Criminal Procedure Article, Subtitle 6 – Violations of the RICO Law.

The Judiciary has several concerns with this legislation. First, this bill requires courts to hold hearings within 60 days after certain notices. That requirement infringes on courts’ abilities to control their own dockets. Docket management is an essential element of the Court’s function and should not be infringed by a separate branch of government.

Further, at Criminal Law §§ 9-906(a) and 13-637(a), the bill allows the state to file with the clerk of court a certificate that the case is “of special public importance” which the clerk shall then forward to the Chief Justice of the Supreme Court of Maryland who must designate a judge to hear the case. The Judiciary questions the appropriateness of requiring the Chief Justice to designate judges to hear cases under this bill and also believes that the bill should define “special public importance” since otherwise it is a vague phrase. There is also no definition of the certificate or of the term “immediately” so it is unclear how or when this new requirement would be carried out.

The Judiciary is also concerned that the bill may ignore due process protections in the forfeiture process like those found in the existing statutes regarding forfeiture in drug or human trafficking cases.

The Judiciary further recognizes concerns raised by the Clerks of Court about the bill’s requirements that clerks appraise properties, serve summonses, and publish notices. For example, the bill provides that a clerk shall obtain an independent appraisal of the value

of the property. Clerks do not get involved in appraising property for any other circumstances and this would have a significant operational and fiscal impact on them.

Further, on page 21, the bill provides within 20 days after the filing of the complaint, copies of the summons and complaint shall be sent by certified mail requesting “restricted delivery – show to whom, date, address of delivery” and first-class mail to all known owners and lienholders whose identities are reasonably subject to discovery, including all real property owners and lienholders shown in the records required by law for notice or perfection of the lien. It is unclear if this is to be the filer who perfects service in this manner. If this duty falls on the clerks, this would have a large fiscal impact.

There are several other unclear provisions making implementation by the Judiciary impossible. For example, on page seven, what are “due provisions” or on page eight, “substantially similar?” Further, what does “close proximity” entail in page 12.

The bill also provides on page 16 that a sworn affidavit by the chief law enforcement officer is admissible in evidence in a proceeding. This removes the court’s authority to determine what is credible and relevant evidence. This page also requires the owner of seized property who wishes to obtain possession of the property, to convey an interest in real property, or to remove a building or fixture from real property to notify the clerk of the proper court. This bill does not indicate the form of notification to the clerk.

cc. Hon. C. Anthony Muse  
Judicial Council  
Legislative Committee  
Kelley O’Connor