

HB135 Legislative Black Caucus of MD

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March 28, 2023

Senator Willam C. Smith, Chair
Judicial Proceedings Committee
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Dear Chairman Smith and Members of The Committee:

The Legislative Black Caucus of Maryland offers strong **favorable** support for House Bill 135 - Criminal Law - Controlled Dangerous Substances and Firearms - **This bill is on the 2023 legislative priority agenda of the Black Caucus.**

In effect, this legislation will specify that manufacturing, distributing, dispensing, or possessing specific large quantities of certain controlled dangerous substances is a felony; defining a "drug kingpin" as an organizer, supervisor, financier, or manager who acts as a co-conspirator in a conspiracy to manufacture, distribute, dispense, transport in, or bring a controlled dangerous substance into the State; and altering the penalties for being a volume dealer and drug kingpin with regard to cannabis.

This bill establishes reduced penalties for cannabis-related violations of the prohibitions on being a volume dealer and a drug kingpin; authorizes specified individuals incarcerated for violations of §§ 5-612 and 5-613 to file an application for a modification or reduction of a mandatory minimum sentence; modifies penalties and crime classifications for specified firearms offenses; and authorizes a person at least age 21 to manufacture a personal use amount of cannabis products or concentrated cannabis, as specified. The bill also specifies in statute that with the exception of a violation involving cannabis, a violation of the volume dealer statute is a felony.

In light of the legalization of cannabis use in Maryland, it is critical that modifications are made to several policies currently in place. This bill will reduce penalties and alter prohibitions regarding cannabis, abating unjust criminalization. Throughout the nation and in the State of Maryland, Black people disproportionately make up the majority of Maryland's incarcerated population. Considering this, there is a need for reformative policy that will modify the penalties of cannabis-related offenses in Maryland. For these reasons, the Legislative Black Caucus of Maryland supports House Bill 135 and would appreciate your favorable support of this legislation.

Legislative Black Caucus of Maryland

HB 135_Opposition_ACLUMD_Carroll.pdf

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**Testimony for the Senate Judiciary Committee
March 30, 2023**

HB 135 Criminal Law – Controlled Dangerous Substances and Firearms

OPPOSE

DARAJA CARROLL
PUBLIC POLICY
LEGAL ASSISTANT

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 opposes HB 135. Although we support the initial intent and spirit of the bill, we strongly oppose the amendments to reclassify certain firearm offenses from misdemeanors to felonies.

In particular, we support the provisions in the bill to limit the maximum criminal penalties for manufacturing, distributing, dispensing, or possessing large amounts of marijuana and allowing individuals to petition to modify or reduce their sentences for a violation of §5-612 or §5-613 involving marijuana or less than 448 grams of cocaine base. Punitive sentencing policies in Maryland have already resulted in a deeply racially disproportionate criminal justice system.¹ Research shows Black people are vulnerable to serving longer sentences and that increasing criminal penalties does little to deter crime. Limiting the maximum criminal penalties for some crimes will work against the already-present racial disparities in sentencing in the state.

However, HB 135 also seeks to implement harsher penalties despite overwhelming research showing that “tough on crime” initiatives have been ineffective in reducing violent crime or recidivism and have only resulted in increased distrust in the police and the mass incarceration of people of color.

We specifically oppose the increase of firearm crime penalties from misdemeanors to felonies.

HB 135 seeks to reclassify the penalty for possessing, selling, transferring, or otherwise disposing of a stolen regulated firearm, manufacturing a non-registered firearm or a firearm that has manufacturer identification marks removed, or selling or offering to sell a handgun without proper manufacturer identification markings or is unregistered to a felony.

¹ Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland (Nov. 6, 2019), Justice Policy Institute, <https://justicepolicy.org/research/policy-briefs-2019-rethinking-approaches-to-over-incarceration-of-black-young-adults-in-maryland/>.

In passing the Justice Reinvestment Act of 2016, legislators expressed concern for Maryland's bloated prison population and racial disparities in sentencing while addressing public safety. Instead of reducing Maryland's prison population, HB 135 would further existing racial disparities in sentencing. The war on guns will have the same impact as the war on drugs with little benefit to public safety, as seen recently in Chicago. A Marshall Project analysis found that from 2010 to 2022, Chicago police made more than 38,000 arrests for illegal gun possession.² These arrests almost always resulted in felonies and bore misleading names that implied violence. Chicago police justified their focus on confiscating guns as a way of curtailing violence but these tactics have not substantially reduced shootings. Studies showed those convicted of felony gun possession did not go on to commit a violent crime, and the majority of those sentenced to prison for gun possession did not have past convictions for violence. This rings true in Maryland as well. In 2019, 52% of the people charged with a firearm offense in 2019 were solely carrying a firearm and were not convicted of any other crime. As amended, HB 135, would directly counter to the initial goals of reducing the bloated prison population if every one of these offenders was saddled with the burden of additional jail time and a felony conviction.

Enhanced sentences yield little to no public safety benefits. Evidence shows that longer sentences do not deter crime more effectively than shorter sentences.

There is no evidence that there is a public safety benefit to increasing sentencing lengths. Research consistently shows that higher incarceration rates are not associated with lower violent crime rates. The weak association between higher incarceration rates and lower crime rates applies almost entirely to property crime.³ There is also growing evidence that, for many offenders, adding days, months, or years to prison sentences has no impact on recidivism.

Furthermore, according to the National Institute of Justice, it is the certainty of being caught that deters a person from committing a crime, not the fear of being punished or the severity of the punishment.⁴ Focusing on minor or low-level offenses like illegal gun possession instead of the actual violent crime or gun traffickers has repeatedly proven ineffective in reducing violent crime. For example, comparing Baltimore City numbers from 2019, the year with the most homicides over the past 30 years, with 2011, the year with the least murders during the same time period, proves this. In 2019 in Baltimore City, there were 348 murders, 2,203 gun seizures, and 1,161 weapons possession arrests. In 2011,

² Lakeidra Chavis & Geoff Hing, The War on Gun Violence Has Failed. And Black Men Are Paying the Price, Mar. 23, 2023, https://www.themarshallproject.org/2023/03/23/gun-violence-possession-police-chicago?utm_campaign=share-tools&utm_content=post-top&utm_medium=email&utm_source=email.

³ Don Stemen. The Prison Paradox: More Incarceration Will Not Make Us Safer. New York: Vera Institute of Justice, 2017, https://www.vera.org/downloads/publications/for-the-record-prison-paradox_02.pdf.

⁴ National Institute of Justice, "Five Things About Deterrence," June 5, 2016, [nij.ojp.gov: https://nij.ojp.gov/topics/articles/five-things-about-deterrence](https://nij.ojp.gov/topics/articles/five-things-about-deterrence)

there were 196 murders, 2,178 gun seizures, and 1,224 weapons possession arrests.⁵

Enhanced sentences are an expensive way to achieve little public safety.

Increasing criminal penalties is not necessary to make communities safer and is not an effective use of resources. Growing evidence that responses from outside the criminal legal system, like funding for community and hospital-based violence intervention programs, will make communities safer. Additionally, costs of high incarceration are not just felt by the government. Incarceration reduces economic mobility and has a lasting impact on families and communities.

For the foregoing reasons, the ACLU of Maryland urges an unfavorable report on HB 135 unless amended.

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⁵ Soderberg, B. (2022, February 18). 30 years of gun seizures in Baltimore haven't kept the city safe. The Real News Network. Retrieved March 28, 2023, from <https://therealnews.com/30-years-of-gun-seizures-baltimore-havent-kept-the-city-safe>.

MOPD Sign on Written testimony opposition to House

Uploaded by: Elizabeth Hilliard

Position: UNF



BILL: House Bill 135

POSITION: Unfavorable to the Firearm Provisions; Favorable to the Drug Provisions

DATE: 03/30/2023

We urge the committee to favorably consider the provisions of House Bill 135 that limit the maximum criminal penalties for manufacturing, distributing, dispensing, or possessing large amounts of cannabis. Specifically, those that reduce the penalties for manufacturing, distributing, dispensing, or possessing greater than 50 pounds of cannabis from a felony conviction with a mandatory minimum sentence of 5 years to a misdemeanor conviction with a maximum penalty of 10 years. For those “drug kingpins” who organize the manufacturing, distribution, dispensing, or importing of cannabis, it reduces the penalties from a felony conviction with a mandatory sentence between 20 and 40 years, to a felony conviction with a maximum penalty of 20 years. This reduction both acknowledges that cannabis is now part of the legal economic market in Maryland, and that cannabis is not as dangerous as the other enumerated substances in the statute. It would be contradictory for the State to benefit from the large financial gains of the legal cannabis market while sentencing individuals for the unlicensed sale of large amount of cannabis commensurate with cocaine, fentanyl, methamphetamine, and other illegal and dangerous substances. These provisions of House Bill 135 appropriately balance holding those accountable who sell cannabis outside of the regulated market, while not over-penalizing those engaged in conduct that is now lawful.

Further, we support the provision that allows individuals to petition to modify or reduce their sentences for a violation of §5-612 or §5-613 involving marijuana or less than 448 grams of cocaine base (crack). This provision aligns with the efforts that the legislature made through the Justice Reinvestment Act.

Despite our support of the aforementioned provisions, we urge the committee to either strike the proposed changes to Firearm Offenses in House Bill 135 or issue an unfavorable report on the bill.

The Firearm Provisions of House Bill 135 will not Improve Public Safety.

Increasing felony convictions and incarceration for the gun offenses in House Bill 135 will not improve public safety.^[1] To adequately address violence we do not need to incarcerate or disenfranchise more people, rather we need to address the reason that people feel the need to carry guns.

The Prison Policy Institute has highlighted **poverty, inequality, high unemployment, high rates of neighborhood change**, and **lack of educational and economic opportunities** as significant contributors to violence in communities. Many of these factors can be mediated through community investments without the destabilizing impacts of incarceration and collateral consequences and disenfranchisement that follow a felony conviction.^[2]

The prevalence of illegal guns in our communities is a serious problem and directly contributes to the high rates of homicide and nonfatal shootings in Maryland. It demands urgent solutions. However, these provisions do not actually address the problems that need to be solved, including the factors that lead residents to carry and use guns to commit violence in the first place.

For individuals with a history of experiencing violence in their community or in prison, fear of being victimized is a powerful motivator for carrying a firearm.^[5] For people who have not been provided meaningful support services, this is especially true.^[6]

A poignant illustration comes from research in a Baltimore neighborhood where 9 in 10 residents are Black, and half the families live below the federal poverty line, which found that among 40 young men age 18–24 in a homicide support program, they had collectively experienced the deaths of 267 peers, family members, and other important adults in their lives. Nearly half were homicides. Only three of the youth had not suffered the loss of a biological family member or close peer to homicide.^[7]

The reality is that most people are not aware of nor weighing criminal penalties when making the decision about whether to possess a gun, especially when motivated by their own survival. This is especially true for those carrying the physiological and emotional weight of untreated trauma.

An ever-growing body of research on trauma is critical for informing more effective policy solutions to the gun violence epidemic we are trying to address. It promotes opportunities to ask better questions about what people actually need to heal and feel safe, guided by a more evidence-based incorporation of the historical, systemic, and individual trauma the highest risk population using and disproportionately dying by these firearms face; the population which growing evidences makes clear must be a specific focus of violence reduction efforts.

Trauma reactions vary across individuals, cultures and experiences, but there is often an underlying element of fear which motivates behavior, especially when untreated.^[8] A survivor's nightmares after victimization represent a trauma reaction, just as another survivor deciding to carry a weapon also may represent a trauma reaction. Fight, flight, or freeze responses are occurring in the body. Those internal body responses to threats not only impact decision making, but can have long-term health outcomes for survivors (e.g., sleep disturbance, hypertension, early death).^[9] In fact, there are striking differences in average life expectancy across certain Baltimore zip codes with the highest rates of gun violence, concentrated poverty, and other stressors compared to more affluent communities well-documented in the data, i.e., 84 years in Homeland compared to within the 60s in Clifton-Berea, Greenmount East, Upton/Druid Heights and more, despite their close geographic proximity within the same city.^[10]

Many in Maryland and across the country are unifying around the need to understand violence as a public health epidemic.^[11] Such an approach to violence, and gun violence, necessitates focus on the factors that increase the risk of gun violence, particularly in communities that are disproportionately

impacted, by such violence. Yet contrary to this approach, the trauma reactions are still often evaluated solely through a lens of archaic penological response. Rather than apply the data to create community safety through healing,^[12] we continue to exile many of those who need that healing most from eligibility for support, and, through unnecessary incarceration, from their community. When the underlying trauma reactions are not recognized and/or overcriminalized, we undermine numerous opportunities for prevention of future victimization or perpetration of harm.

We do not ask this Committee to absolve harmful and illegal behavior, or discount the need for true accountability. Rather, we urge policies effectuated based on data that proves that the source of behavior is often trauma-reactive rather than bad or irredeemable character flaws is critical to effective public safety measures. While it is often stated that “today’s victims are often tomorrow’s perpetrators” and vice versa, this well-documented reality has often not translated effectively into policy and practice in the criminal legal system - even when that system purports to not be exclusively about punishment.

Unnecessary Incarceration is Harmful and Exacerbates Racial Disparities in the Criminal System

The United States is both an outlier with gun violence and mass incarceration, with 5% of the world’s population and more than 20% of the world’s prison population.^[13] Within this context of punitive excess nationwide, Maryland holds the shameful distinction of ranking first in the nation in racial disparities through its over-incarceration of Black men and youth.^[14]

In addition to establishing new felonies, HB 135 increases the penalty for **Public Safety § 5-406** Manufacture or sale of an unregistered firearm or a firearm with the identification marks removed, changed, obliterated, altered. Currently, this law carries fine only consequences, but House Bill 135 creates a penalty of up to five years’ imprisonment. Creating another opportunity for incarceration will not improve public safety and is likely to lead to harsher sentences for Black, brown and poor defendants than their white and wealthier counterparts.^[15] The provisions in this bill to add penalties, especially given the abundance of already existing penalties for firearm offenses, represents a reliance on failed policies that led to our current mass incarceration problem and have not made us safer. [Appendix 2]

The impact of incarceration on individuals, families and communities is staggering, including the extensive list of collateral consequences that can follow a justice-involved individual for years, well after a case or period of incarceration concludes.^[16] Time incarcerated, away from one’s family, peers, employment, or school can have cascading negative consequences, spanning numerous areas central to a person’s ability to survive and thrive. These include job loss, impeding access to stable housing, education and healthcare disruption, voting, occupational licensing, loss of public benefits, parent-child separation and more. [SEE APPENDIX 1].

Notions that people need to experience prison time as opposed to local jail, where they would be incarcerated farther away from their community, in institutions such as Cumberland, Hagerstown and Jessup, in order to advance deterrence are misguided. Sending a person to a state-run facility farther

from home exacerbates these impacts and collateral consequences, especially the disconnection from family members, a direct contributor to risk of recidivism upon release. This heightened vulnerability too often undermines the goal of getting people to abstain from carrying firearms upon release.

It is also worth drawing special attention to the profound impact this misplaced focus on harsher penalties has on family members, especially children.^[17] For families with lower means, time off of work and transportation to these facilities can be especially burdensome if not impossible; stress borne by mothers, grandparents, and numerous other loved ones. A large percentage of the incarcerated population overall, and undoubtedly individuals who will be impacted by this bill, are parents. A large body of literature on children with incarcerated parents demonstrates the trauma and severe disruption parental incarceration can cause to a child's life.^[18] In addition to the health and wellbeing of all involved, visitation with children is also key to preserving parental rights. This bill will increase the number of children whose relationships with their parents will be legally severed forever.^[19]

Scores of reputable studies demonstrate that 1) remaining in close touch with loved ones reduces recidivism,^[20] and 2) prisons too often do the opposite of rehabilitate; they cause trauma.^[21]

The alarming recent revelations surrounding the conditions of confinement in Maryland facilities, including the violence, overdoses, and other unexplained deaths, should also call these policy choices as the pathway to public safety into question. At least four deaths have occurred in Central Booking in the past four months,^[22] and in August 2022, the ACLU National Prison Project published a letter following a visit to the Baltimore Central Booking and Intake Center, stating, "people in [Baltimore Central Booking and Intake Center] IMHU are held in the harshest and most depraved conditions we have ever encountered in any prison or jail in the United States, including in death row and 'supermax' units."^[23] Confinement settings in Baltimore and throughout Maryland are far from rehabilitative and it is unreasonable to suggest otherwise as part of a public safety and gun violence reduction strategy.

The Firearm Provisions of House Bill 135 will not Effectuate Deterrence

The evidence suggests that deterrent effects from longer prison sentences are minimal to nonexistent, and any minimal effect is severely costly - financially to the state, and to the stability of that person's life.^[24] This is often bad for public safety, with studies demonstrating that unnecessary incarceration, especially when compared to more cost effective non-custodial responses such as programming or probation, "does not prevent reoffending and has a criminogenic effect on those who are imprisoned."^[25]

Provisions of HB 135 also rely on a conflation of the difference between "certainty" versus "severity" of consequences. The research is clear that certainty of apprehension and response for committing gun offenses is more important and cost-effective in reducing crime than the creation of felonies or increasing the length of sentences.^[26] Incarceration for unlicensed gun carrying and related offenses is

described in the research as counter to public safety, due to the ways unnecessary incarceration infringe on residents' liberty and make individuals more - not less - likely to commit crimes.

Although we posit that by far the greatest return on investment in reducing gun violence will come in the form of a long list of currently under-invested health and healing oriented strategies in disinvested communities, currently the criminal legal consequences for certain gun offenses are not certain at all, due to many systemic deficiencies, including surrounding how illegal gun possession is policed and prosecuted.^[27] A 2020 report from the Johns Hopkins University Center for Gun Violence Policy and Research cites a long list of factors impacting case outcomes, including the need for better data sharing and transparency with government partners, improved quality and maintenance of evidence, improving relationships needed to work with community in the course of prosecution, and working to curb illegal police stops and searches that create evidentiary issues in court.^[28] Attention paid to these systemic issues would be a far better use of resources than creating additional penalties beyond the numerous available penalties that already exist.

Notwithstanding the lack of evidence to support its effectiveness, this bill represents an attempt at general deterrence, at the same time that Baltimore and cities throughout the country have embraced a very different approach: focused deterrence.

The Group Violence Reduction Strategy (GVRS) is a pillar of Baltimore's current violence reduction strategy. GVRS relies on identifying the highest risk individuals - the very small number of people in a given community who are most likely to be victims of gun violence, and most likely to be actual shooters, a highly overlapping group. It is based on well established data that only a very small number of people in the hardest hit communities drive the violence (not all people carrying or selling unlicensed guns), and that by far the most effective use of resources is to target interventions to this specific high risk group.

The strategy, when implemented with fidelity, focuses on a meaningful offering of services to those individuals, to help guide them to a more sustainable pathway of safety and support. This starts the very hard work of helping someone address the many factors that create this high risk of being involved in violence, such as gainful employment and economic opportunities, cognitive behavioral therapy and trauma supports and more, which most effectively take place in community, not in prison, in order to facilitate behavior change, and address the reasons they may be turning to violence in the first place. To be effective, this necessitates services capable of getting to the root causes of why they are afraid, and often recognizing and healing surrounding their own repeated victimization experiences and/or other traumatic events often dating back to childhood. This outreach is usually done through credible messengers and those with "community moral voice", including mothers who have lost children to gun violence, to help communicate effectively with them the message that they care about them and they want them to live; that they do not want them to lose their lives to gun violence or to a prison cell. The strategy also depends on sending the clear message that if they continue with violent and/or illegal behavior, there will be criminal legal consequences. If and only if outreaches and service delivery are

unsuccessful, the strategy utilizes where needed a criminal legal response to incapacitate the individual from committing harm. By definition, participant individuals almost always have prior system contacts and/or are known to be otherwise involved in prior illegal activity, and therefore potential charges may include numerous penalties and lengthy prison terms already codified in Maryland law.

There is no need for additional harsh consequences to be created through new laws for implementation of GVRS. The focus on creating new, and/or more harsh penalties is also antithetical to the premise of GVRS, where incapacitation is a last resort; and where evidence-based interventions are far preferable for their ability to effectuate change and reduce violence in the long term. General deterrence on the other hand is not effective, and serves as a dragnet for system involvement that destabilizes people and communities through unnecessary. As recent reporting from [The Marshall Project illuminates](#), it is important for interventions to focus on highest risk individuals rather than expend resources on enforcement and incarceration strategies that have disproportionately harmed low income Black and brown individuals and devastated communities without reducing gun violence.

We Must Account for Lack of Trust Between Police and Communities Hardest Hit by Gun Violence

Addressing the reasons residents carry illegal guns also requires acknowledging another elephant in the room: the lack of trust between those living in neighborhoods hardest hit by gun violence and the police. This bill seeks to threaten and punish individuals into putting down illegal firearms, while at the same time ignoring that many of those same individuals have little to no faith in the party the government claims will protect them from other people's guns.

Beyond questioning the responsiveness of law enforcement in the aftermath of victimization, many downright fear or resent the police. Police violence and mistreatment is exponentially more prevalent for Black, brown, and low income residents,^[29] and when combined with other forms of low confidence in government systems, leads too many residents to view gun carrying as a necessary means of self defense.^[30] The recent horrific killing of Tyre Nichols and recurring incidents throughout the country create a steady pace of tragic reminders that we have not fully reckoned with prevalent abuse of power and violence at the hands of police. Until we improve trust and legitimacy of the legal system in the eyes of those making decisions about how to keep themselves safe, we can continue to expect high rates of gun possession.

Even the nightmare of Baltimore's Gun Trace Task Force (whose purported focus at one point was arresting individuals illegally possessing guns) is not past but present, still playing out in Maryland's courts. Hundreds of cases involving those officers have since been dropped or vacated, and total settlement payouts by the city connected to GTTF have reached \$22 million.^[31] Given the tremendous amount of work still needed to improve trust and legitimacy of police and other actors in the system, there are many policy solutions that would better convince those most fearful of calling the police that they should put down their guns.

Since the death of Freddie Gray in 2015, homicides in Baltimore have exceeded 300 per year. Many residents of color living in the hardest hit communities across the city have experienced a sense of both over and under-policing, i.e., high rates of arrest for minor offenses their white, wealthy counterparts engage in routinely with impunity (e.g., drug use), and abysmally low arrest and clearance rates for serious violent crime,^[32] which has further exacerbated their sense of vulnerability and lack of trust in police and city government. The increase in gun carrying is reflective of the culture of fear throughout the US that has resulted in record surge of gun purchasing since the onset of the Covid-19 pandemic.

Research ties this unfinished work of repair and trust-building as vital to gains in public safety in numerous ways.^[33] Eroded police legitimacy can actually decrease compliance with the law, and significantly impacts the willingness of community members to share information with law enforcement officials trying to solve or prosecute cases.^[34] We are not talking enough about the crisis of clearance rates throughout the state, which in Baltimore dropped again last year for homicides to 36% (lower for nonfatal shootings), which *includes* cases where any arrest was made or the case was “cleared by other means,” such as the suspect is subsequently murdered. None of this is fixed, and is likely made worse, by this bill.

A more promising policy agenda for reducing gun violence

Though there is little research evidence to support this bill, there are many promising strategies for reducing gun violence that we have yet to fully embrace. A recent report on the response to victims of violence in Baltimore completed as part of the U.S. Department of Justice Public Safety Partnership Program (PSP), focused on those who are so often most harmed yet least helped by our systems of support - Black and brown victims of gun violence. The report details the prevalence of mistreatment by the criminal legal system, numerous barriers and gaps in services, and the implications of this.

The reality that repeatedly emerged is that Black residents impacted by violence, especially those who are low income or who have ever touched the system previously, are more likely to be criminalized than seen as human beings deserving of dignity and support. Even surviving loved ones of homicide victims, witnesses at crime scenes, and people fighting for their lives in hospital beds are experiencing additional trauma at the hands of the system, including rights violations and coercion, in the course of investigations, prosecutions, and beyond. Service providers in multiple settings repeatedly expressed how they often feel they are expending their limited resources trying to protect victims from the system rather than proactively helping them heal.

These dynamics don't just fail residents in their most difficult moments. They profoundly worsen the relationship between the community and police, and the system as a whole. They undermine police and prosecutor's own investigative goals. They alienate victims and witnesses who face genuine threats to

their physical safety, who subsequently get characterized as emblematic of “stop snitching” culture. They miss opportunities to interrupt cycles of violence stated as top of every elected leader’s agenda.

The report identifies numerous opportunities for public safety and prevention in the community, public health, and criminal legal system realm, especially for those living at highest risk, such as addressing the current deficiencies in victim/witness relocation and Criminal Injuries Compensation Board benefits eligibility. Most importantly, the report offers 21 recommendations for changing policy, practice and culture urgently needed to more effectively help residents heal and reduce violence, including the homicides and retaliatory shootings committed with unlicensed guns.

This work requires repair and investment in our long-divested communities - the same communities bearing the brunt of gun violence, which research now directly ties to their history of being redlined.^[35] We have not reckoned with this intergenerational exclusion. We have continued it through a fiscally and morally unsustainable overreliance on incarceration, rather than scaling an evidence-based infrastructure of opportunity and care.

There are many other highly promising strategies that would produce a far greater return on investment in addressing the problems this bill seeks to address, and this testimony will do nothing close to providing a comprehensive list. However, we will cite a few important examples, including addressing unmet needs in reentry, and numerous ideas listed in the Johns Hopkins report; for example, the need for a government funded collaboration with community-based organizations and academic institutions to develop, implement and evaluate a program to reduce the risk of an individual previously charged with illegal gun possession from committing gun related crimes. And, relatedly, growing the availability and follow-up capacity for anti-violence programs such as ROCA and its evidence-based cognitive behavioral therapy model for youth up to 25, to reach a greater percentage of all ages of the highest risk population currently carrying guns.

The promising work of Maryland’s hospital based violence intervention programs is also far from realized. Some program staff feel as though they are “bailing water out of the ocean with a thimble”; under-capacity for meeting the needs of victims, and facing too many headwinds protecting the rights and dignity of their patients from ongoing criminalization of those patients by law enforcement to have yet been given a real chance to succeed.^[36]

Increasing Incarceration and Felony Convictions Runs Contrary to What a Majority of Victims Want

Public safety policy must incorporate a meaningful and effective approach to serving victims, aligned with their stated needs. Despite this foundational goal, too often public safety policy debates are not reflective of the experiences and needs of victims, especially those at highest risk. A groundbreaking survey on victims’ views of safety and justice include revelatory findings critical to consideration of this bill.^[37] “Perhaps to the surprise of some, victims overwhelmingly prefer criminal justice approaches that

prioritize rehabilitation over punishment and strongly prefer investments in crime prevention and treatment to more spending on prisons and jails. These views are not always accurately reflected in the media or in state capitols and should be considered in policy debates.”

The Impact of Each Firearm Offense in House Bill 135

Public Safety § 5-138 Sale, Transfer, or Disposal of Stolen Regulated Firearm Prohibited should not be reclassified from a misdemeanor to a felony. Felony convictions create significant barriers to employment, benefits, housing, and even volunteer opportunities.^[iv] These barriers will not prevent gun violence, rather they will further hinder community stabilization, and impede Marylanders trying to extricate themselves from situations in which they feel the need to carry a firearm. In 2022, MOPD logged 840 charges under **Public Safety § 5-138**.

Public Safety § 5-406 Manufacture or sale of an unregistered firearm or a firearm with the identification marks removed, changed, obliterated, altered should not be reclassified from a misdemeanor to a felony nor should the penalty be increased from fines to five years’ incarceration. Research consistently shows that higher incarceration rates are not associated with lower violent crime rates.^[v] Moreover, this offense is nearly never charged. OPD did not have any charges logged under **Public Safety § 5-406** in 2022 or 2021 and only one charge in 2020. Before increasing the felony

Public Safety § 5-703. Purchase, receipt, sale, offer to sell, or transfer of unfinished frames or receivers not in accordance with federal standards and with no serial number should not be reclassified from a misdemeanor to a felony. This proposal is hasty and unfounded. Just last year, the legislature passed House Bill 425, which created the scope of convictions under **Public Safety § 5-703**. There has not been enough time to demonstrate the efficacy of this law, thus there can be no evidence demonstrating that a felony conviction versus the existing misdemeanor would have any impact. In fact, to date MOPD has not identified any charges under this statute. Considering the life altering impact of felony convictions, they should be legislated sparingly and certainly not without any data surrounding the existing misdemeanor.

House Bill 135 is Particularly Arbitrary and Unnecessary Penalties.

In 2022, MOPD logged over 8,550 charges under Criminal Law § 4-203 which makes wearing, carrying, and transporting a gun without a permit a misdemeanor and carries up to 3 years’ incarceration for a first time offense and up to 10 years’ incarceration for a subsequent offense. This statute already provides for numerous ways to charge carrying guns (including those that are unregistered, illegally transferred, or unmarked in any way). There is certainly no reluctance on the part of the State to charge offenses under Criminal Law § 4-203, which carry significant penalties (especially for persons who are found to wear, carry, or transport guns multiple times). In fact, offenses under Criminal Law § 4-203 are charged at least ten times more often than any of the provisions at issue in House Bill 135. It is ineffective, superfluous, and potentially harmful

to attempt to increase the incarceration periods and felony convictions of offense that are not even being utilized in their current states.

Similarly, in 2022, MOPD logged over 8, 400 charges under [Public Safety § 5-133](#) which outlines a variety of circumstances under which a person may not possess a regulated firearm, including a prior conviction, substance use, mental health findings, under the age of 21 and depending on the circumstances of the accused may carry up to 15 years' incarceration and a felony conviction.

There is no shortage of gun offenses that the State may leverage against Marylanders, Appendix 2. There is, however, a paucity of public-safety-forward community support that will effectively, healthily, and holistically heal Maryland and prevent future violence. It is bad policy to increase the plethora of penalties and incarceration for gun offenses without first implementing evidence-based and promising strategies that will more effectively reduce crime.

Ultimately, and similarly to the “tough on crime” failed strategies of the war on drugs, we cannot and will not incarcerate our way out of the epidemic of gun violence. Public safety and racial justice require the legislature to end, or at the very least not increase, Maryland’s ineffective reliance on criminalizing the same Black, brown, low income communities this country has long excluded and abandoned, especially while leaving so many promising health and healing oriented strategies on the table. We have to give these evidence-based and emerging solutions a chance to work, rather than regressing to politically expedient yet utterly failed strategies of the past.

For these reasons, the signatories to this testimony urge this Committee to issue a favorable report on House Bill 135 only if the aforementioned gun penalties and provisions are struck from the bill.

^[1] [Recent research shows](#) that most people convicted in Illinois for felony gun possession do not go on to commit a violent crime, and the majority of those sentenced to prison for gun possession don't have past convictions for violence.

^[2] Maryland Reentry Resource Center, 2022 Reentry Impact Report, <https://mdrrc.org/>.

^[4] Maryland Reentry Resource Center, 2022 Reentry Impact Report, <https://mdrrc.org/>.

^[5] [Webster et al., Reducing Violence and Building Trust, Johns Hopkins Center for Gun Policy and Research, 2022: 68% of incarcerated people](#) sampled in New York prisons reported some form of childhood victimization. Similarly, over [90% of youth in the Cook County](#) (Chicago), IL juvenile detention facility reported that they had experienced one or more traumas. [One-third of adults](#) in Arkansas prisons report witnessing a murder, 40% of whom witnessed it while under the age of 18. An additional 36% reported that they have been seriously beaten or stabbed prior to their incarceration. In a sample of incarcerated men, [researchers found](#) that the PTSD rates were ten times higher than the rates found in the general male population (30-60% vs. 3-6%).

^[6] Warnken et al, *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021.

^[7] Smith, J. R. “Unequal Burdens of Loss: Examining the Frequency and Timing of Homicide Deaths Experienced by Young Black Men Across the Life Course.” *American Journal of Public Health*, 105(S3), (2015): 483–490.

^[8] Warnken et al, *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021

^[9] Id.

^[10] “Neighborhood Health Profile Reports.”, *Baltimore City Health Department*, 9 Jun. 2017, health.Baltimorecity.gov/neighborhood-health-profile-reports.

^[11] A growing research base demonstrates that it is possible to prevent shootings and killings through approaches such as [hospital-based intervention programs](#) , the [Cure Violence model](#) , and [Advance Peace](#) A growing number of safety plans across the country include upstream strategies such as [youth employment](#) neighborhood economic development, [safe park](#) , [restoring vacant land](#) , and reducing [alcohol outlet density](#) .[Lack of employment opportunities increases the risk](#) for gun violence, and on the other hand, economic opportunity protects against violence. Promoting equitable access to education programs, job training, and employment programs with mentorship for residents of neighborhoods with concentrated disadvantage, especially young people can be effective in reducing gun violence. For example, [a study of One Summer Chicago Plus](#) , a jobs program designed to reduce violence and prepare youth from some of the city’s most violence neighborhoods for the labor market – saw a 43% drop in violent-crime arrests of participants. Further, neighborhood-based economic development strategies such as [Business Improvement Districts](#) that bring public and private partners together to invest in neighborhood services, activities, and improvements, have also been shown to reduce violence, including gun violence.

^[12]

https://www.urban.org/sites/default/files/publication/99262/public_investment_in_community-driven_safety_initiatives_1.pdf

^[13] <https://www.aclu.org/issues/smart-justice/mass-incarceration>.

^[14] The Sentencing Project, *The Color of Justice: Racial and Ethnic Disparities in State Prisons at 20* (2021).

^[15] U.S. SENTENCING COMMISSION REPORT ON THE CONTINUING IMPACT OF UNITED STATES V. BOOKER ON FEDERAL SENTENCING 108 (2012) (finding that prison sentences of black men were nearly 20% longer than those of white men for similar crimes between 2007 and 2011); Blackness as Disability?, Kimani Paul-Emile, in *Georgetown Law Review* 2018; Chris Guthrie et al., *Blinking on the Bench: How Judges Decide Cases*, 93 *CORNELL L. REV.* 1 (2007): In this study, the researchers found the judges rely heavily on intuition in sentencing, which can lead to discriminatory results. Id. at 131. MIRKO BAGARIC ,GABRIELLE WOLF, DANIEL MCCORD, *Nothing Seemingly Works in Sentencing, Not Mandatory Penalties; Not Discretionary Penalties - But Science Has the Answer*, at 524-26.

^[16] <https://goc.maryland.gov/incarceration/>.

^[17] Eric Martin, *Hidden Consequences: The Impact of Incarceration on Dependent Children*, National Institute of Justice (2017).

^[18] Nat'l Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences* 270-73 (Jeremy Travis et al. eds., 2014), 270-273.

^[19]

<https://www.themarshallproject.org/2018/12/03/how-incarcerated-parents-are-losing-their-children-for-ever>;

<https://law.yale.edu/yls-today/news/clinic-releases-report-preserving-parental-rights-incarcerated-parents>.

^[20] Karen De Claire and Louise Dixon, *The Effects of Prison Visits From Family Members on Prisoners' Well-Being, Prison Rule Breaking, and Recidivism: A Review of Research Since 1991, Trauma, Violence and Abuse* (2017).

^[21] Benjamin Hattem, *Carceral Trauma and Disability Law*, *Stanford Law Review* (2020) (summarizing studies on experiences of trauma during incarceration).

^[22] www.thebaltimorebanner.com/community/criminal-justice/deandre-whitehead-jail-death-W2UHGCYAJJGEJO4SMUJ7QR4SIU/;

<https://www.thebaltimorebanner.com/community/criminal-justice/death-baltimore-central-booking-3GSA2X7OWREJJA6TZVNZMWAF4/>;

<https://www.thebaltimorebanner.com/community/criminal-justice/he-didnt-have-a-fighting-chance-questions-surround-killing-of-deaf-man-in-baltimore-jail-WHUNVECKTNEBNMYNKWY7H3L6OA/>.

^[23]

www.aclu.org/cases/duvall-v-hogan?document=duvall-v-hogan-report-plaintiffs-counsel-august-2-3-2022-jail-visit.

^[24] Webster et al, *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research. Nagin, *Deterrence in the Twenty-First Century*, *Crime and Justice* Vol. 42 No. 1, August 2013. One study limited to the Federal System, titled, “Length of Incarceration and Recidivism” did challenge the claim that longer sentences did not reduce recidivism. However, that study specifically found that increasing a sentence from 3 to 5 years as proposed by SB 751 would not improve public safety by decreasing recidivism. See USSC, *Length of Incarceration and Recidivism* (Apr. 29, 2020), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/researchpublications/2020/20200429_Recidivism-SentLength.pdf (“USSC Report”).

^[25] Webster et al, *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, pp. 24. Nagin, *Deterrence in the Twenty-First Century*, *Crime and Justice* Vol. 42 No. 1, August 2013.

^[26] *Id.*

^[27] *Id.* pg. 4

^[28] *Id.* pg. 21-22.

^[29] <https://mappingpoliceviolence.us/>.

^[30] Webster et al., *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, pg. 28-29, 2022.

^[31] www.baltimoresun.com/politics/bs-md-ci-baltimore-settlement-gttf-burley-johnson-20230208-bv4rxxn6rrfrfpfwz5tv7wo7k4-story.html.

^[32] Professor David Kennedy of John Jay College of Criminal Justice, Director of the National Network of Safe Communities described this phenomenon in the LA Times as, “what families in stressed black neighborhoods have experienced, very high rates of arrest for minor offenses white folks routinely get away with, and shockingly low arrest rates for serious violent crime. The cause of the latter is not as simple as deliberate police withdrawal - it’s a toxic mix of a terrible history of exactly that, and a nearly as toxic present of mistrust, broken relationships and bad behavior on both sides - but the result is the same. Being overpoliced for the small stuff, and under-policed for the important stuff, alienates the community, undercuts cooperation and fuels private violence: which itself often then drives even more intrusive policing, more alienation, lower clearance rates, and still more violence.”

<https://www.latimes.com/opinion/bookclub/la-reading-los-angeles-kennedy-ghettoside-20150404-story.html>.

^[33] Warnken et al., *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021; Webster, Crifasi, Williams, Booty, Buggs, *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, pg. 9, 2022.

^[34] Id.

^[35] Warnken, *A Vision for Equity in Victim Services: What Do the Data Tell Us About the Work Ahead*, noting recent analysis examining the enduring impact of redlining, the pattern of deliberate disinvestment widely practiced from the 1930s onward. In particular, this study looked at Census Tracts placed within red zones in 1937 and found that they now have more than eight times the amount of gun violence than those places that had been previously placed in the green. In other words, the same places imagined to be “unworthy of economic investment” due to residents’ race and ethnicity are the places where gun violence is most common today. <https://ovc.ojp.gov/media/video/12971>. Currie, *A Peculiar Indifference: The Neglected Tool of Violence in Black America*, Metropolitan Books, 2020.

^[36] Warnken et al., *Victim Services Capacity Assessment Report*, USDOJ National Public Safety Partnership, July 2021; Webster et al., *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, pg. 9, 2022.

^[37] <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>

HB135_3_29.pdf

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Position: UNF



**Testimony to the House Judiciary Committee
HB135 Criminal Law – Controlled Dangerous Substances and Firearms**

Keith Wallington

Justice Policy Institute

kwallington@justicepolicy.org

March 30, 2023

Please accept this statement in opposition to House Bill 135. The Justice Policy Institute (JPI) is a national nonprofit organization that changes the conversation around justice reform and advances policies that promote well-being and justice for all people and communities. Over the last decade, JPI has done several reports on the Maryland justice system.

JPI is opposing this bill that would take the state backwards at a time when Maryland is working to address a racially disproportionate justice system that prioritizes entry over release and does little to take the handcuffs off after individuals return to their communities.

If public safety was contingent on the amount of money that we spend, the number of people we arrest, and the length of time served; then Maryland (and the United States) would be among the safest places in the world. However, after decades of sustained investments in polices like this bill is proposing, Maryland now incarcerates a higher percentage of minorities than anywhere in the entire country— while not adequately addressing the devastating impact the justice system is having on entire communities. Despite decades and billions of dollars in failed investments it is unfortunate that we continue to see proposals like this bill. The definition of insanity is doing the same thing over and over and expecting different results. The only thing this and legislation like this accomplishes is satisfying a “tough on crime” mantra that does nothing in the way of actual public safety. It’s politics. While we have invested heavily in incarceration, we have not had the same investments in neighborhoods who have been most impacted by the justice system. This bill is more of what has not worked. Imagine if we had the same sustained investment in communities rather than the justice system. Communities that tend to have less crime are the communities that historically have had more opportunities.

Instead of continuing to push ineffective legislation like HB135, policy makers need to be bold in taking new approaches to dealing with violent crime like recommendations laid out in the [National Public Safety Partnership’s Victim Services Capacity Assessment Report: Focused on Underserved Survivors, including Boys and Men of Color and Those Impacted by Gun Violence](#). While the report – a result of a partnership between Baltimore and the U.S. Department of Justice National Public Safety Partnership program, which “provides specialized expertise and support to cities throughout the country in their efforts to address and reduce violent crime” – centers the needs of victims in violent crime, it provides policy makers with alternatives to knee jerk tough on crime legislation like HB135 that does nothing to improve public safety. For example, one of the report’s recommendations for addressing violent crime is to “Greatly enhance the understanding of the purpose and impact of Community Violence Intervention Programs and factors required for successful implementation. This includes education surrounding the unique role and value of credible messengers and other violence intervention specialists in advancing the shared citywide public safety mission.” Also, taken directly from that report:

- a. Address inconsistencies in working relationships and improve thoughtful and mutually respectful collaboration between BPD and various Safe Streets sites. Strategies include:
 - i. Enhance knowledge of intervention and prevention model(s), including highlighting benefits to shared community safety. BPD personnel should understand that Safe Streets staff aim for the same end goal of safe and healthy communities and reductions in gun violence, but through a different, sometimes complementary, approach.
 - ii. Develop and make widely available collaborative trainings with the goals and structure identified in the Report Findings section. Engage BPD recruits in a training program with Safe Streets, conducting neighborhood canvassing without uniforms or guns. Stress the importance of learning to be in communities without a gun in order to build the skills, relationships, and demeanor to be there safely with a gun.
 - iii. Elevate stature of these organizations and their professional staff as vested partners in co-produced, co-owned community safety approaches.
 - iv. Ensure clarity around information-sharing practices attached to ROCA and the Safe Streets model and other collaborating community organizations, and the need for a one-way flow of information in many circumstances to advance the public safety and community healing goals of all.
 - v. BPD personnel may have a prior contentious relationship with a credible messenger before they were employed to do violence intervention. BPD sworn personnel should not define these individuals from the previous relationship.
 - vi. Wherever possible BPD personnel can give CVI staff space to resolve brewing conflicts before they escalate in the neighborhoods with highest risks for gun violence.”

It is particularly troubling that this bill is being introduced as a crime deterrent when research continually shows that longer sentences are not a crime deterrent.

1. Proposition 47 in California allowed for the reclassification of felonies to misdemeanors and studies done by the university of California-Irvine found that there was no impact on the overall crime rate including violent crime.
 - a. Mauer, Marc. *Long Sentences: Time to Reconsider the Scale of Punishment; The Sentencing Project. The Sentencing Project, 2018.*
<https://www.sentencingproject.org/reports/long-term-sentences-time-to-reconsider-the-scale-of-punishment/>.
2. Research shows that the certainty of being caught is what deters people from committing crimes rather than the severity of the punishment itself. Longer sentencing actually increases recidivism rates, and desensitizes incarcerated individuals to incarceration.
 - a. *Five Things About Deterrence. National Institute of Justice, 2016.*
<https://nij.ojp.gov/topics/articles/five-things-about-deterrence>.
3. Prisons themselves have been found to be school of learning to commit crime.

- a. Nagin, Daniel S., Francis T. Cullen and Cheryl Lero Johnson, "Imprisonment and Reoffending," *Crime and Justice: A Review of Research*, vol. 38, ed. Michael Tonry, Chicago: University of Chicago Press, 2009: 115-200.
4. "Some policymakers and practitioners believe that increasing the severity of the prison experience enhances the "chastening" effect, thereby making individuals convicted of an offense less likely to commit crimes in the future. In fact, scientists have found no evidence for the chastening effect."
 - a. *Five Things About Deterrence*. National Institute of Justice, 2016. <https://nij.ojp.gov/topics/articles/five-things-about-deterrence>.
5. "Longer terms of imprisonment do not reduce recidivism in the first months after release. Investing in longer prison sentences is not likely to yield higher crime-control benefits."
 - a. <https://journals.sagepub.com/doi/10.1177/0011128716687290> Wermink, Hilde, Paul Nieuwbeerta, Anke A. T. Ramakers, Jan W. de Keijser, and Anja J. E. Dirkzwager. "Short-Term Effects of Imprisonment Length on Recidivism in the Netherlands." *Crime & Delinquency* 64, no. 8 (January 12, 2017): 1057–93. <https://doi.org/10.1177/0011128716687290>.

At a time when Maryland is leading the county in incarcerating young men black men between the ages of 18-25 maybe it's time to consider a different approach to what the state has been doing for decades and instead of investing in corrections, invest in people. Target investments to the root issues that are driving justice system involvement. We have neighborhood indicators that speak to where investments are needed. [*The Right Investment? Corrections Spending In Baltimore City \(TRI\)*](#) found that the neighborhoods where the Maryland justice system spends the most money – or the highest incarceration communities – are the same neighborhoods that rank last or toward the bottom in educational attainment with just less than a third (30 percent) of the people in the five communities with the most people in prison do not have a high school diploma or GED. By contrast, about 6 percent of residents in the five communities that send the fewest people to prison have less than a high school diploma or GED. In the highest incarceration communities, about half (49 percent) of high schoolers are chronically absent from school. In the communities with the fewest people in prison, 20 percent of high school students are chronically absent.

The best crime deterrent is creating opportunities. Fifty-two percent of people between the ages of 16 and 64 in the highest incarcerated communities in Baltimore are not employed. The highest incarceration communities have an average median income of \$26,164 compared to a city average of \$40, 803. In 2012, there was one call made to 911 related to narcotics for every four residents in the highest incarceration communities. By sharp contrast, there was an average of 7 calls per 1,000 residents in the five communities with the fewest people in prison. The mortality rate among young people (15-24 years old) in the highest incarceration communities was 21 per 1,000 young residents. Comparatively, the mortality rate of young people in the five communities with the fewest people in prison was three per 1,000 young residents. In Clifton/Berea, the community with the lowest life expectancy of the highest incarcerated communities, residents have a life expectancy of 66. In Greater Roland Park/Poplar Hill – which is among the lowest incarceration communities in Baltimore – residents live to be about 84.

So, when you look at indicators of healthy neighborhoods then we know where investments are needed to stop the flow of individuals from those same communities into the justice system. Legislation like HB135 provides

cover for policy makers to continue it's failed investments in the justice system at the expense of those communities with the biggest investment needs. Not only do we ask you to oppose HB135, but we also ask the committee to be bold and rethink how we invest in public safety by investing long term in communities most impacted. Thank you for the opportunity to weigh in on this important legislation.

hb135.pdf

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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: House Bill 135
Criminal Law – Controlled Dangerous Substances and Firearms
DATE: March 22, 2023
(3/30)
POSITION: Oppose as amended

The Judiciary opposes House Bill 135, as amended.

The Judiciary opposes the bill, as amended, because it includes mandatory provisions in Criminal Law 5-612.1(C)(5) and 5-613.1(C)(4) that the court hold a hearing. Under the court’s revisory power in Md. Rule 4-345 to reconsider a sentence, the court is required to hold a hearing only if the sentence is modified, reduced, corrected, or vacated. A hearing is not required for any motions to reconsider that the court denies. It is unclear why this classification of individuals should be entitled to a hearing not mandated for all others. The hearing should be discretionary – “may” rather than “shall” – as is the ordinary and customary practice.

The Judiciary also opposes the mandatory notification requirements in Criminal Law 5-612.1(C)(3) & 5-613.1(C)(3), that the court send notice to the State’s Attorney’s Office. The Court should not be required to notify the State’s Attorney’s Office. The party filing a Motion must certify notification to the opposing party. Moreover, the Clerk’s Office then sends notification, pursuant to the Maryland Rules. The requested notification in this legislation should be made in conformity with the Maryland Rules (Rule 1-324 and Rule 1-321) as is the usual requirement. Notification by the Court is both unnecessary, given the requirements of the Maryland Rules, and unwarranted.

cc. Hon. David Moon
Judicial Council
Legislative Committee
Kelley O’Connor

One pager House Bill 135.pdf

Uploaded by: Natasha Khalfani

Position: UNF

OPPOSE THE FIREARM AMENDMENTS TO HOUSE BILL 135

The proposed changes to Firearm Offenses in House Bill 135 will not improve public safety.

Increasing felony convictions and incarceration for the gun offenses will not improve public safety. To protect Marylanders we need to address the root causes of violence. **Poverty, inequality, high unemployment, high rates of neighborhood change,** and lack of educational and economic **opportunities** all contribute to violence in communities.^[i] For individuals with a history of experiencing violence in their community or in prison, fear of being victimized is a powerful motivator for carrying a firearm.^[ii] Instead of passing archaic penological firearm legislation, we urge the legislature to oppose the amendments to House Bill 135 in favor of community investment that will prevent violence without the destabilizing impacts of incarceration and disenfranchisement that follow a felony conviction.^[iii]

Each of this legislation will not effectuate public safety efforts sought.

Public Safety § 5-138 Sale, Transfer, or Disposal of Stolen Regulated Firearm Prohibited should not be reclassified from a misdemeanor to a felony. Felony convictions create significant barriers to employment, benefits, housing, and even volunteer opportunities.^[iv] These barriers will not prevent gun violence, rather they will further hinder community stabilization, and impede Marylanders trying to extricate themselves from situations in which they feel the need to carry a firearm.

Public Safety § 5-406 Manufacture or sale of an unregistered firearm or a firearm with the identification marks removed, changed, obliterated, altered should not be reclassified from a misdemeanor to a felony nor should the penalty be increased from fines to five years' incarceration. Research consistently shows that higher incarceration rates are not associated with lower violent crime rates.^[v]

Public Safety § 5-703. Purchase, receipt, sale, offer to sell, or transfer of unfinished frames or receivers not in accordance with federal standards and with no serial number should not be reclassified from a misdemeanor to a felony. This proposal is hasty and unfounded. Just last year, the legislature passed **House Bill 425**, which created the scope of convictions under **Public Safety § 5-703**. There has not been enough time to demonstrate the efficacy of this law, thus there can be no evidence demonstrating that a felony conviction versus the existing misdemeanor would have any impact. In fact, to date MOPD has not identified any charges under this statute. Considering the life altering impact of felony convictions, they should be legislated sparingly and certainly not without any data surrounding the existing misdemeanor.

Finally, House Bill 135 unnecessarily increases felony convictions and there are already penalties for unregistered firearms.

- In 2022, MOPD logged over 8,550 charges under **Criminal Law § 4-203** which makes wearing, carrying, and transporting a gun without a permit a misdemeanor and carries up to 3 years' incarceration for a first time offense and up to 10 years' incarceration for a subsequent offense.
- In 2022, MOPD logged over 8,400 charges under **Public Safety § 5-133** which outlines a variety of circumstances under which a person may not possess a regulated firearm, including a prior conviction, substance use, mental health findings, under the age of 21 and depending on the circumstances of the accused may carry up to 15 years' incarceration and a felony conviction.

RESOURCES AND FURTHER READING:

^[i] <https://www.prisonpolicy.org/reports/violence.html>. Specifically, **lack of employment opportunities increases the risk** for gun violence, and felony convictions significantly restrict employment opportunities.

^[ii] Webster et al., *Reducing Violence and Building Trust*, Johns Hopkins Center for Gun Policy and Research, 2022; **68% of incarcerated people** sampled in New York prisons reported some form of childhood victimization. Similarly, over **90% of youth in the Cook County** (Chicago), IL juvenile detention facility reported that they had experienced one or more traumas.

^[iii] [According to the Prevention Institute](#) a growing number of safety plans across the country include upstream strategies such as **youth employment**, neighborhood economic development, **safe parks**, **restoring vacant land**, and reducing **alcohol outlet density**.

^[iv] In 2021, DLS created a 100 page document outlining the consequences of convictions including [Licensure for numerous occupations may be restricted, denied, or revoked due to a felony conviction.](#) (Pages 48-63 of the PDF); [Felony convictions also result in the mandatory limitation or revocation of federal benefits, employment, and even volunteer opportunities.](#) (Pages 66-99 of the PDF).

^[v] See, e.g., Thomas B. Marvell and Carlisle E. Moody, "Prison Population Growth and Crime Reduction," *Journal of Quantitative Criminology* 10, no. 2 (1994), 109-40 (finding that higher incarceration rates were generally related to lower index crime rates but had little or no impact on murder, rape, or assault); Steven D. Levitt, "Alternative Strategies for Identifying the Link between Unemployment and Crime" (2001) (finding a very modest association between incarceration rates and property crime rates but no association between incarceration rates and violent crime rates); Robert H. DeFina and Thomas M. Arvanites, "The Weak Effect of Imprisonment on Crime: 1971-1998," *Social Science Quarterly* 83, no. 3 (2002), 635-53 (finding that higher incarceration rates were associated with lower crime rates for burglary, larceny, and motor vehicle theft, but not for murder, rape, assault, or robbery), http://www.antonioacasella.eu/nume/DeFina_Arvanites_2002.pdf; Tomislav V. Kovandzic and Lynne M. Vieraitis, "The Effect of County Level Prison Population Growth on Crime Rates" (2006) (finding no association between incarceration rates and crime rates); Oliver Roeder, Lauren-Brook Eisen, and Julia Bowling, *What Caused the Crime Decline?* (2017).

hb0135_unf.pdf

Uploaded by: Rusty Carr

Position: UNF

HB0135 Unfavorable
Warren (Rusty) Carr
4391 Moletton Drive
Mount Airy, MD 21771

I request an unfavorable report for HB1135.

The people have spoken. It is time to end the War on Drugs. Section 5-612 of the Maryland code is the war on drugs. Instead of making an exception for cannabis, we should repeal the entire section. Cannabis is proof that prohibition as a public policy tool doesn't work. Kingpin laws inherently can be effectively enforced. There only purpose is to be a tool in the war on drugs.

The war on drugs has been corrupt from day 1. The Marijuana Tax Act of 1937 was passed over the objection of the AMA at the behest of commercial interests threatened by the invention of the decorticator. The year after the Supreme Court ruled the act unconstitutional, the Nixon administration created the controlled substances act. Per John Ehrlichman we now know the real reason for placing heroin and cannabis on schedule 1 was the intent to harass the hippies and the blacks. He said "Did we know we were lying about the drugs? Of course we did!" What justifies the continuation of those lies?

Criminal penalties for selling cannabis in violation of regulations should be on par with penalties for tobacco or alcohol regulations instead of on par with selling heroin. This bill is re-authorizing the war on drugs, but all it does is move the front lines. What different results do you expect? How many exceptions do we have to make before we realize that "the war" is more dangerous than the drugs. The people have spoken. Sooner or later this war will end. We need a new policy of education and support to replace prohibition.

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Thank you,
Rusty Carr

HB 135 Controlled Dangerous Substances and Firearm

Uploaded by: Scott Shellenberger

Position: UNF

Bill Number: HB 135
Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION TO HOUSE BILL 135
CRIMINAL LAW – CONTROLLED DANGEROUS SUBSTANCES AND FIREARMS

I write in opposition to House Bill 135, Controlled Dangerous Substances and Firearms. While I am opposed to the majority of this Bill, I am not opposed to the charges for smoking in public.

The first problem with this Bill is it changes from a felony to a misdemeanor, a charge of being a volume marijuana dealer. Second it changes the possible sentence from 5 years without parole to 10 years with parole but which is also suspendable.

The volume dealer sections of the law were created for those dealers who are clearly more than just supporting a habit. Fifty pounds of marijuana is 530 times the amount of marijuana this Legislature has determined to be personal use (1.5 oz). Attached please find a picture of 50 pounds of marijuana. One pound of marijuana can make approximately 453 joints. Think how many joints 50 pounds can make. In addition, very often volume dealers also carry guns. This type of large dealing often leads to violence and home invasions.

A misdemeanor? Why should Maryland differentiate the most serious of drug dealers because they are selling cannabis and not other drugs.

This is especially true when you consider the amount you determined to be personal use. The Bill goes on to give drug kingpins a break. This does not make sense. While I like the increases in handgun sentences it should not come at the expense of dealing with volume dealers

Supporting document for HB 135.pdf

Uploaded by: Scott Shellenberger

Position: UNF

What does 50 lbs of Marijuana look like?



unfav HB135.pdf

Uploaded by: vince mcavoy

Position: UNF

HB0135 UNFAVORABLE

Dear Senators,

I was unable to testify on HB135 when it appeared in House Judiciary because I was working on another bill. It was a REPEAL bill, as some would call HB135 a repeal bill.

A bill should never start by REPEALING this.....

“Sexual molestation or exploitation includes:

(1)Allowing or encouraging a child to engage in Unnatural or perverted sexual Practices”.

The sponsor of the bill wrote – with his own hands – the call for repealing this language in HB131, repeal of bestiality/sodomy/perverse acts in front of children. HB131 which was on the bill-list of House Judiciary just after HB135, his bill you’re reviewing today, HB0135.

I doubt there could be a better visual in 2023 that these two bills – HB135 & HB131 – going back-to-back explains how these 2 “types“ of bills reflect the two-fold areas this sponsor most aligns with– DRUGS and LGBTQ.

This sponsor came to Annapolis as a progressive activist saying that Maryland wasn’t circling down the drain quickly enough.

To expedite the continued decline of Maryland, the sponsor has promoted children being exposed to all manner of perverse acts including bestiality/perverse acts/sodomy, advocating for the perpetrators of such to go free.

To expedite the continued decline of Maryland, the sponsor has promoted giving CRACK dealers another chance to reduce their sentence and reducing the prosecution of distributors of mass quantities of hyper-potent, hallucinatory cannabis.

The tie-in between the two? Children are being exposed to all manner of perverse acts including bestiality/perverse acts/sodomy and exposed to drug dealers moving hyper-potent drugs to children in Maryland....even though parents across the state (for instance, there are now 10 Moms for Liberty county-groups) are saying NO!!

Someone who brings these bills doesn’t care about Marylanders. To even **think** about reducing the penalties for bringing this perversion to our state and our children is sociopathic.

In HB0135, the sponsor has once again pushed contrary to what law enforcement, states' attorneys' experiences and plain wisdom inform our commonsense Marylanders ::

* Wicomico County Sheriff's testimony for this bill::

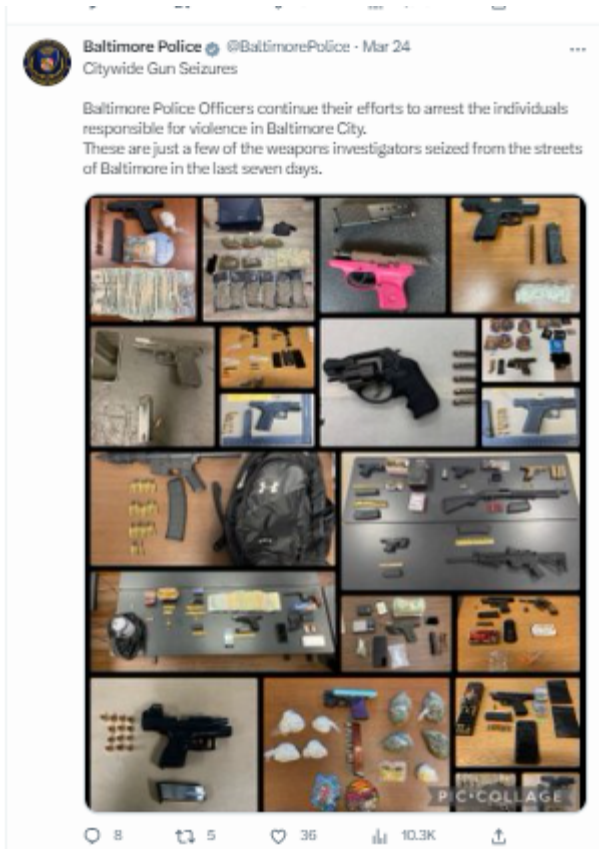
“Every day, homicide, armed robberies and shootings as well as illegal firearm possessions occur because of the illegal cannabis market... the marijuana of today is the cocaine of yesterday..”

Violent issues involving an AK47 and a shotgun in the illegal cannabis trade occur even over the sale of a pound of marijuana, as was discussed in testimony.

* Marijuana is already destroying our children (the example a county sheriff and your colleague-delegate in a ride-along, coming upon a woman crawling on the pavement, drug-needle paces away from her and her car....a woman who was exposed to marijuana at 9 years old, now gatewayed into opiate use)

<https://mgahouse.maryland.gov/mga/Play/e5c3e1b1ad4c4e1fb769fdb4ba9d13871d?playFrom=5751478&popout=true>

* Illegal gun possession coupled with cannabis drug-sales are everyday violent encounters. Note Baltimore Police's Twitter account states “these are just a few of the weapons investigators seized “ along with the cannabis and other drugs in the tweets.



In contrast, the sponsor of HB135 made the case that cartels and street drug-dealers ...he referred to these poor souls with their “side-hustle” shouldn’t be prosecuted.

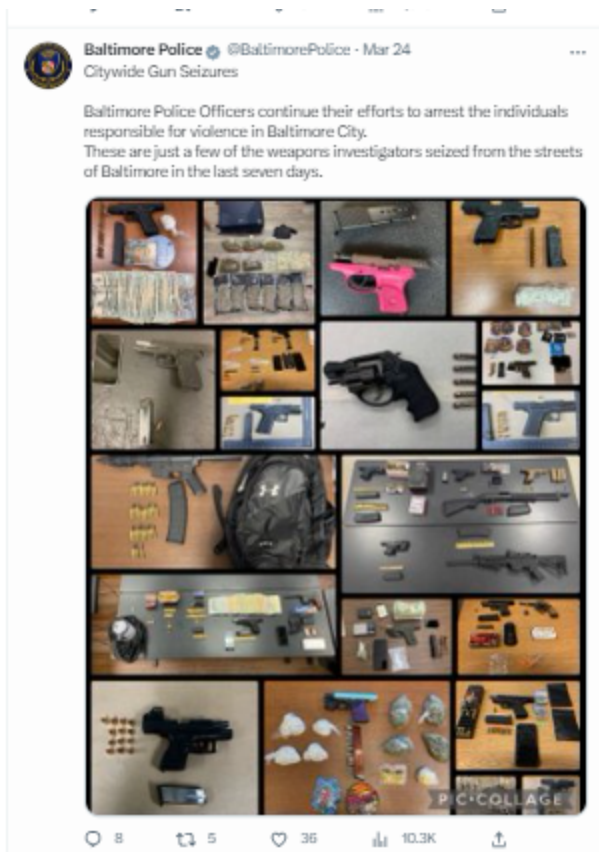
This bill is yet another in a string of foul efforts to expand boundaries and methods to get larger amounts and varied types of drugs onto the streets, including the overt encouragement by the sponsor of side-hustle, street-level drug dealers.



Like these poor souls...they just happened to get caught with **guns and cannabis**.

<https://twitter.com/BaltimorePolice/status/1639236770255585280>

“Baltimore Police Officers continue their efforts to arrest the individuals responsible for violence in Baltimore City. These are just a few of the weapons investigators seized from the streets of Baltimore in the last seven days.”



“Baltimore Police Officers continue their efforts to arrest the individuals responsible for violence in Baltimore City. Over the last seven days, officers have seized 50 guns from the streets of Baltimore City. The above pictured guns are just a portion.” from Twitter

This bill promotes cocaine use and is an apologetic for cocaine/crack. Are you senators too young to remember Len Bias dying from cocaine? Are you too young to recall the wholesale butchering of entire neighborhoods and children being shot dead due to dealing crack cocaine? Those dealers who were prosecuted were dealt the penalty the entire region DEMANDED. The sheriff explained that he routinely finds Felony amounts of marijuana and gun possession. He cannot control the existing underground market marijuana is exasperating the underground market. Of course, you senators don't have answers for this. Which is why you pushed to an often illiterate and/or overly liberal population. The existing drug kingpin laws exist to deter, quarantine, penalize, reform and prevent such action in Maryland. The amounts of drugs detailed in the existing code could best be characterized as “a huge lot of drugs”. What could also be said is that cutting those numbers in half would still be characterized as “a huge lot of

drugs”. An amount of drugs which make cartels, drug dealers and violent child traffickers multi-millionaires. Who’s the “lobbyist” for these types of bills? Ask yourselves that?

Only a sponsor who didn’t care about the perversion that enters a child’s mind could promote HB131.

Only a sponsor who didn’t care about the poison that enters a child’s body could promote HB135.

You have the ability to be a stop-gap to these kinds of poison and perversion being ramrodded into the lives of children and others.

If you won’t protect children, your role as *parens patriae* when it comes to drug kingpins and child grooming/perversion, honestly what the hell are you there for?

Criminal Article §5–613.

(a) In this section, “drug kingpin” means an organizer, supervisor, financier, or manager who acts as a coconspirator in a conspiracy to manufacture, distribute, dispense, transport in, or bring into the State a controlled dangerous substance.

(b) (1) A drug kingpin who conspires to manufacture, distribute, dispense, transport in, or bring into the State a controlled dangerous substance in an amount listed in § 5-612 of this subtitle is guilty of a felony and on conviction is subject to imprisonment for not less than 20 years and not exceeding 40 years without the possibility of parole or a fine not exceeding \$1,000,000 or both.

(2) A court may not suspend any part of the mandatory minimum sentence of 20 years.

(3) The person is not eligible for parole during the mandatory minimum sentence.

(c) It is not a defense to a prosecution under this section that the controlled dangerous substance was brought into or transported in the State solely for ultimate distribution or dispensing in another jurisdiction.

humbly

~vince

V. McAvoy po box 41075 baltimore md

Testimony - HB0135.pdf

Uploaded by: Will Zwart

Position: UNF

Testimony in opposition of HB0135

Mr. Chairman and members of the committee,

My name is Will Zwart, and I am testifying in opposition of this bill.

This bill is split into two subjects, neither of which have anything to do with the other.

Because the public is naturally resistant to the numerous schemes to infringe on our right to self-defense, these schemes must be done through devious and underhanded means, such as slipping them into otherwise beneficial bills.

Don't think we don't know that this is being done.

Restrictions on self-defense rights is unconstitutional i.e. illegal, and according to the Marbury v. Madison case of 1803, "Any law that is in violation of the Constitution is null and void."

The provisions of this bill regarding illegal gun control are going to get more Marylanders killed.

Please stop causing the deaths of your constitutions and vote against this bill and any other bills restricted our ability to defend ourselves.

Thank you.