



POSITION PAPER 2022-2023

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HB 156/SB 97 Courts – Jury Service – Disqualification

FAVORABLE

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

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

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

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

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

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

The MAJ requests a FAVORABLE Committee Report.