



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I urge a favorable report of SB97.

Sincerely,



Jill P. Carter, Esq.