



MARYLAND LEGISLATIVE LATINO CAUCUS

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TO: Delegate Luke Clippinger, Chair
Delegate David Mood, Vice Chair
Judiciary Committee Members
FROM: Maryland Legislative Latino Caucus
DATE: March 1, 2023
RE: HB0193 Probation Before Judgment – Probation Agreements

The MLLC supports HB0193 Probation Before Judgment – Probation Agreements, 2023

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of HB0193.

Probation before judgment (PBJ), as provided in §6-220 of the Criminal Procedure Article, allows defense attorneys, prosecutors, and judges to work together to allow people with first-time offenses to avoid a criminal conviction. Defendants are still technically found guilty under state law, but the conviction does not show up on their record. PBJ has existed in Maryland for decades, and it is commonly used for qualifying misdemeanors like a first-time DUI. Notwithstanding the General Assembly's stated intent, PBJ is considered a conviction under federal law, because it requires a plea or finding of guilt. As a result, PBJ can trigger detention, deportation, and permanent banishment from the United States for non-citizens, including legal permanent residents, Dreamers, and other people with lawful immigration status. In addition, individuals who receive PBJ under the current statute may encounter difficulty obtaining federal employment, security clearances, and certain professional licenses (nurses, pharmacists, audiologists, etc). In the state of Maryland one in seven residents was born in another country, and the state is home to nearly 8,000 active DACA recipients.¹ According to the Honorable Lisa Dornell, a retired U.S. immigration judge, the current disconnect between our state PBJ statute and the federal immigration law essentially results in a "bait and switch," a situation that is profoundly unjust.

HB0193 would amend the probation before judgment (PBJ) statute so that it permits a court to impose PBJ without a plea or finding of guilt if: (1) the court believes such a disposition to be in the interests of justice; (2) the court determines that there are sufficient facts to support a guilty finding; and (3) the defendant agrees that the court can enter a guilty finding in the event of a violation of probation. This would protect immigrants who commit qualifying misdemeanors from being deported or prevented from finding work.

For these reasons, the Maryland Legislative Latino Caucus respectfully requests a favorable report on HB0193.

¹ [Immigrants in Maryland. \(2020, August 6\). American Immigration Council.](#)