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TESTIMONY IN SUPPORT OF SB 34

Courts – Jury Service – Disqualification

TO: Members of the Senate Judicial Proceedings Committee

FROM: **Heather Warnken, Executive Director, Center for Criminal Justice Reform**

DATE: January 22, 2024

The Center for Criminal Justice Reform at the University of Baltimore School of Law supports community driven efforts to improve public safety and address harm and inequity caused by the criminal legal system. **In direct alignment with this mission, we are grateful to testify in support of SB 34.**

Access to a trial by jury of one’s peers is a fundamental tenet of the American justice system. Yet in Maryland, especially for Black and brown residents accused of crimes, this is simply not the reality. The statistics on jury exclusion are alarming: across the country, approximately one-third of Black men have a past felony conviction; thus due to laws in numerous states, many Black jurors are excluded by law from ever entering the jury pool.

Maryland takes this even further, having both the highest overrepresentation of Black people incarcerated (71% of our prison population while making up only 29% of the state population)¹, **combined with one of the most restrictive jury exclusion statutes in the country.** Maryland is one of only a small handful of states which excludes people from jury service who have been convicted and/or are facing charges for both felonies and misdemeanors that are punishable by incarceration of a year or more.

SB 34 would remove this outdated and highly problematic barrier, allowing for greater diversity of our jury pools and the re-enfranchisement of people with past convictions who have paid their debt to society. Allowing for greater participation in this important civic duty is not only fair, it is more effective in advancing the efficiency and legitimacy of our justice system. Verdicts rendered by juries viewed as more fully representative of the community are more likely to be viewed as legitimate by the public, and research demonstrates that diverse juries “deliberated longer and considered a wider range of information than did homogeneous groups.”²

For these reasons, we urge a favorable report on SB 34.

¹ See Ashley Nellis, Ph.D., Senior Research Analyst at The Sentencing Project, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (2021) at 20.

² According to research, “when white people were members of racially mixed juries, they “raised more case facts, made fewer factual errors, and were more amenable to discussion of race-related issues.” Another study found that people on racially mixed juries “are more likely to respect different racial perspectives and to confront their own prejudice and stereotypes[.]” See Prison Policy Initiative *Rigging the Jury* report, <https://www.prisonpolicy.org/reports/juryexclusion.html>.

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Uploaded by: Jill Carter

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Jill P. Carter
In Favor of SB34 - Courts – Jury Service-Disqualification
Before the Judicial Proceedings Committee
on January 23, 2024

Mr. Chairman, Vice Chair, and Members of the Committee:

Senate Bill 34, alters the circumstances under which an individual is disqualified from jury service. The bill repeals a provision that disqualifies an individual who has previously received a sentence of imprisonment for more than one year. Instead, an individual is not qualified for jury service if the individual has been convicted of a crime punishable by imprisonment exceeding one year and is currently serving the sentence imposed for the conviction, including a term of parole or probation. The bill also disqualifies an individual for jury service if the individual was convicted of a crime involving or related to perjury, witness intimidation, jury intimidation, or a crime under Title 8 of the Criminal Law Article (Fraud and Related Crimes). Finally, the bill repeals a provision providing that an individual with a disqualifying conviction who has been pardoned qualifies for jury service.

I believe that this bill is a crucial step towards ensuring that our juries truly represent a diverse and unbiased cross-section of our community.

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

one of the highest incarceration rates for Black people in the country according to the Justice Policy Institute.

Senate Bill 34 proposes essential changes to the existing criteria for disqualification from jury service. The current disqualification criteria may inadvertently exclude individuals who are fully capable of serving on a jury while failing to adequately address potential biases. This bill seeks to rectify these issues by introducing more nuanced and fair disqualification standards that consider an individual's ability to be impartial rather than making blanket disqualifications based on certain characteristics.

Maryland Elections Law 3-102 permits an individual convicted of a felony to vote after completion of the sentence imposed. SB-34 will grant that same right when it comes to jury service. SB-34 will be the last step in restoring full citizenship to convicted individuals who have served their debt to society.

By advocating for a more inclusive approach to jury service, Senate Bill 34 will align Maryland with the 21 other states that permit convicted individuals to serve on juries after completion of their sentence. It acknowledges that individuals may bring valuable perspectives to the jury box and that disqualifications should be based on a demonstrated inability to be impartial rather than on arbitrary factors.

Furthermore, this bill has the potential to enhance public trust in our justice system. When juries are diverse and representative of the community, citizens are more likely to view the legal process as fair and just. Senate Bill 34 contributes to building a justice system that is not only effective but also perceived as equitable by the public.

In conclusion, I urge you to support Senate Bill 34 and work towards its passage. By doing so, we can take a significant step towards ensuring that our jury system is fair, inclusive, and reflective of the values we hold dear in our state.

Respectfully submitted,



Senator Jill P. Carter, Esq.

SB 34 Jury Support.Haven. 2024.pdf

Uploaded by: Kimberly Haven

Position: FAV

Kimberly Haven

January 22, 2024

Chairman Will Smith
Vice Chairman Jeff Waldstreicher
Senate Judicial Proceeding Committee

Senate Bill 34 –
Jury Disqualification
POSITION: FAVORABLE

Members of the Senate Judicial Proceeding Committee,

My name is Kimberly Haven, and ***I offer this testimony in support of SB 34.***

Jury service is one of the most important civic duties in our country. I am here today on behalf of myself as well as thousands of Maryland citizens who are excluded from doing our civic duty simply because of a prior felony conviction.

Every year, I get a jury summons. Every year, I must (and do diligently) submit all kinds of documentation about my criminal record. And every year, I get a recurring “No thanks.”

The disqualification simply because of a prior felony conviction is rooted solely in an ideology that is unsupported by evidence and is based solely on bias and stigmatization. The rationale I hear on this topic is a fear of bias. This would have you believe that we would sympathize with a defendant and even have resentment toward the prosecution. If we were allowed to serve, we would acquit in all cases, and destroy the impartiality of the jury process.

Evidence does not support this – Disqualifying someone with a felony conviction does not make our justice system fairer or just. What it does do, is keep people like me confined to permanent second-class citizen status. It is a bad solution to a nonexistent problem.

Jury service is not just a duty but also a constitutional right for all citizens of our country.

I did not stop being a citizen because I have a felony conviction.

There is no rationale...there is no evidence to support to support denying individuals the right to be fully engaged in the civic process. It is a duty, it is a responsibility, and it is one that I, and the thousands like me, would be able to perform under SB 34 and would provide a way to contribute meaningfully to the jury process.

SB 34 would end the harsh and draconian collateral consequences that we carry with us long after we have completed our court ordered sentences. It is time to address these issues and ensure a more inclusive and just legal system for everyone.

Respectfully submitted,

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Jury Disqualification Testimony 2024.pdf

Uploaded by: Natasha Khalfani

Position: FAV



NATASHA M. DARTIGUE
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ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 0034 - Courts - Jury Service - Disqualification

FROM: Maryland Office of the Public Defender

POSITION: Favorable

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 0034.

Any adult alleged to have committed a crime has the right to be tried in front of a jury of their peers. This is a constitutional right listed in the sixth amendment to ensure a fair trial for the accused by attempting to limit the biases that may exist from persons that are not from similar backgrounds, communities, beliefs or experiences. Unfortunately, the lack of such has consistently placed people of color and specifically black people at a disadvantage, sometimes leading to unjust convictions. Excluding formerly incarcerated people from being allowed to serve on a jury, continues to disproportionately exclude people of color and ensure that the accused are not afforded a trial by a jury of their peers.

Black people are disproportionately imprisoned in the state of Maryland and the nation as a whole. Which means that black people are also disproportionately targeted, arrested and charged with crimes. The very people who are in need of a jury of their peers, is the very population being disqualified from serving on juries. Similar, given that many people that are incarcerated have experienced similar issues of poverty, education deficits, foster care and the like, not only are juries lacking the racial makeup of the people accused but also in many cases the socioeconomic experiences of the accused as well which plays a significant role in how a juror views and evaluates the evidence before him or her.

Senate Bill 34 would limit the number of individuals who are currently disenfranchised from serving on a jury in Maryland. Where one third of all Americans have a criminal record, this bill would allow more Marylanders to serve their community through jury service. In particular, this

bill would have a significant impact on increasing opportunities for jury representation among black people. Maryland currently leads the nation in incarcerating young Black men – so far as Maryland has incarcerated the highest percentage of people who are Black in this country, more than twice the national average. The Justice Policy Institute (JPI) has found more than 70% of

all people in Maryland's prisons, double the national average, and almost 80% of people serving at least 10 years, are Black. These are the highest rates in the country, easily eclipsing the next closest states – Mississippi, South Carolina, and Georgia.

This bill changes the current law in that it has a more inclusive view of individuals ineligible for jury service because of criminal convictions. Individuals with criminal records are still members of their community and should not be silenced or prevented from one of our country's most basic civic duties, but also one that individuals with criminal records are directly impacted by. Formerly incarcerated people should have a right to participate in after their sentences have been served.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 97.

Submitted by: Natasha Khalfani, Maryland Office of the Public Defender, Government Relations Division. Maryland Office of the Public Defender, Government Relations Division, 45 Calvert St, Suite 108, Annapolis MD 21401

For further information please contact Elizabeth Hilliard, Elizabeth.hilliard@maryland.gov 443-507-8414 or Natasha Khalfani, natasha.khalfani@maryland.gov 301-580-3786.

SB 34_ACLUMD_FAV.pdf

Uploaded by: Olivia Spaccasi

Position: FAV



Testimony for the Senate Judicial Proceedings Committee

January 23, 2024

Courts - Jury Service – Disqualification

FAVORABLE

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The ACLU of Maryland supports SB 34, which allows formerly incarcerated people to serve on juries. It is foundational to our judicial system that those accused of crimes be judged by a jury of their peers. Limiting that pool of peers based on a prior conviction for which a person has already served their time is an undue burden to civic participation. SB 34 would enfranchise Marylanders who otherwise are left out of civic participation and expand the pool by which we select people to serve their communities by sitting on a jury. All members of a community should be included when it comes to deciding matters of justice.

These limitations hurt Black communities

Black communities, and thus Black defendants being accused of crimes, are disproportionately impacted by the current limitation due to the fact that 71% of Maryland’s prison population is Black.¹ Those who have served their time and are returning to the community are barred from serving on juries, significantly shrinking the pool of “peers” Black defendants will be judged by. This allows for underrepresentation of Black Marylanders on juries. These conditions create circumstances where implicit bias can go unchecked within jury panels during deliberations and ultimately verdict decisions. Black defendants are entitled to be judged by their peers and SB 34 will allow for that to be the case in practice more often than it currently is, not just in theory.

For the foregoing reasons the ACLU of Maryland urges a favorable report on SB 34.

¹ <https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>

2024-01-23 SB34 (Support).pdf

Uploaded by: Tiffany Clark

Position: FAV

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January 23, 2024

TO: The Honorable Will Smith Jr.
Chair, Judicial Proceedings Committee

FROM: Tiffany Johnson Clark
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: Senate Bill 34 Courts - Jury Service – Disqualification - **Support**

The Office of the Attorney General urges the Judicial Proceedings Committee to issue a favorable report on Senate Bill 34 sponsored by Senator Jill Carter. Senate Bill 34 would relax the rules that have traditionally prohibited ex-offenders from serving on a jury. Under current law (§ 8-103(b)(4) of the Courts & Judicial Proceedings Article), anyone who is convicted of a crime punishable by imprisonment for more than a year and who in fact receives a sentence of more than a year is permanently disqualified from jury service. The only exception under current law is if the person is pardoned.

Senate Bill 34 would retain the restriction on jury service by persons convicted of a crime punishable by more than one year, but would limit the disqualification only to the time that the person is serving the sentence imposed for the conviction, including any term of probation. Once ex-offenders have served their sentence and probation, they would be free to serve on a jury despite the prior conviction. (The bill would also repeal, as no longer necessary, the proviso for qualification if a person has been pardoned.)

Senate Bill 34 advances sound policy, consistent with the legislature’s prior actions to “ban the box” (2020 Md. Laws ch. 8) and to eliminate voting restrictions on persons with felony convictions once their sentence has been served—measures that facilitate a person’s transition back to being a contributing member of the community after serving a sentence.

For these reasons, the Office of the Attorney General urges a favorable report on Senate Bill 34.

cc: Senator Jill Carter

SB 34_HoCoState'sAtty_Unfavorable_Courts_Jury Serv

Uploaded by: Rich Gibson

Position: UNF



SENATE BILL 34

Courts - Jury Service – Disqualification

RICH GIBSON, HOWARD COUNTY STATE'S ATTORNEY

POSITION: UNFAVORABLE FOR SB 34

January 22, 2024

My name is Rich Gibson, I am the State's Attorney for Howard County and the President of the Maryland State's Attorneys' Association (hereinafter MSA). I have been a prosecutor for approximately twenty years, and I am writing today to request an unfavorable report for Senate Bill 34.

The goal when selecting a jury in a criminal trial is to find twelve completely neutral individuals who know nothing about the case, have no knowledge of the people involved in the case, and have no preconceived notions, feelings or ideas that might impact their ability to fairly administer the law as instructed to them by the presiding judge. The underlying premise of the criminal justice system is change. It is designed to alter (hopefully to rehabilitate) those individuals that are exposed to it. It would be difficult to argue that incarceration does not change the incarcerated. Change the way they think, the choices they make, and alter their world view.

Senate Bill 34 seeks to modify the current law to allow those who have previously been incarcerated for a year or more to be members of the jury. However, this ignores the obvious--that people who have significant prior experience with criminal justice system are changed by it. That experience is part of who they are. This is not to say that is all that they are, but rather that experience has changed how they view the justice system and therefore would impact their ability to judge the case before the court in a vacuum. Separate from their prior experiences. As stated previously, the goal of the voir dire (jury selection) process is to find twelve individuals with no prior experiences,

thoughts, or beliefs that would impact their ability to fairly weigh the case in front of them.

Can a victim, the defendant, and their impacted families get a fair trial when the people assembled to reach the ultimate conclusion of guilt or innocence have themselves been incarcerated for the same or similar charges as the defendant now faces? If those jurors took the position, "I did my time so should they," doesn't that impact the defendant's ability to get a fair trial? Conversely, if they took the position that no one should be exposed to the jail/prison system, doesn't that impact the State's ability to get a fair trial for the community?

For these reasons, I, and **the members of the Maryland State's Attorneys' Association respectfully request an unfavorable report for Senate Bill 34.**