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UPDATED WRITTEN TESTIMONY IN **OPPOSITION** TO HB 1160
AND SB 940

Motor Vehicles - Allowing unauthorized use of a motor vehicle and Reckless,
Negligent, and Aggressive Driving

Please accept this submission by the Maryland State's Attorneys' Association as its opposition to House Bill 1160 and Senate Bill 940. HB 1160 and SB 940 seek to re-define Reckless, Negligent and Aggressive Driving and if passed, would cause serious, negative impact on the prosecution of Grossly Negligent Automobile Manslaughter, Criminally Negligent Manslaughter by Motor Vehicle and Criminally Negligent Driving Resulting in Life-Threatening Injury.

1. **Per Se Reckless Driving** - HB 1160/SB 940 seeks to expand the definition (and penalty) for Reckless Driving by making it a *per se* offense to drive at a speed exceeding 90 MPH. Like anything, speed must be looked at in context. A driver doing 91 MPH on Interstate 70 at 3:00 in the morning with no other vehicle around isn't nearly as dangerous and likely to cause carnage and mayhem as a driver who is going 60 MPH on the same roadway during rush hour and bumper to bumper traffic or traveling 45 MPH through a school zone at 3:00 in the afternoon. My making 91 MPH a *per se* violation, this law would have a chilling effect on the prosecution of Auto Manslaughter and Criminally Negligent Vehicular Homicide as the defense argument would be that the legislature defined 91 MPH as the line of demarcation between reckless and non-reckless behavior. The levels of recklessness necessary to prove Auto Manslaughter (gross negligence) and Criminally Negligent Homicide (criminal negligence) are greater than "simple" reckless driving. If the legislature deems 90 MPH as not being reckless, how could the State be expected to prove that anything below that speed as being grossly or criminally negligent?

2. One-Year Penalty - HB 1160/SB 940 also seek to make it a one-year penalty for Reckless Driving. According to Motor Vehicle Administration data, in 2021, law enforcement cited 10,994 drivers for going 90 MPH or greater. In 2022, law enforcement cited 8,885 drivers for going 90 MPH or greater. In total, 19,849 drivers were ticketed over that two-year span for doing 90 MPH or greater. If these bills were to pass, all of those 19,849 drivers except the ones cited for “only” doing 90 MPH would be eligible for a jury trial in Circuit Court, based upon the statutory one-year penalty. Of the 19,848 citations issued, 14,130 were for driving between 90 and 99 MPH. Of those 14,130 driving between 90-99MPH, 3,403 were cited for driving *exactly* 90 MPH, which would exempt them from the possibility of incarceration. Subtracting the 3,403 cited for doing exactly 90 MPH, that still leaves 16,445 drivers who would be able to pray a jury trial. It is understood that some of these speeders were undoubtedly concurrently charged with incarcerable offenses such as DUI, Revoked, Fleeing and Eluding, etc. Regardless, the court system cannot handle that influx of potential cases. The fiscal note alone of all these cases possibly flooding the Circuit Court would be enormous. In addition, if incarceration is a possibility, both the Office of the Public Defender and the State’s Attorney’s Office would have to become involved in the defense/prosecution of those cases. The financial burden on these agencies would be crushing.

3. Expanding Definition of Aggressive Driving - When looking at the current statutory penalties, Aggressive Driving (5 points/\$500) is a lesser penalty than Reckless Driving (6 points/\$1,000). Aggressive Driving is currently defined as committing three or more of seven delineated offenses. (See TA §21-901.2.) HB 1160/SB 940 seeks to expand that list of offenses from seven to 19. Again, this would severely cripple prosecutor’s ability to prove gross negligence and criminal negligence (and perhaps even reckless driving) by defining aggressive driving so specifically. In almost every Auto Manslaughter or Criminally Negligent Manslaughter prosecution, the defendant’s driving includes many of the violations that would be amongst the 19 delineated violations for aggressive, were this bill to pass.

Conclusion

While the Maryland State’s Attorneys’ Association applauds the sentiment behind these bills and the behavior they seek to curtail, it is our belief that they would do much more harm than good. The better solution is to better take advantage of the currently existing Reckless, Negligent and Aggressive Driving laws and perhaps increase the number of points for those offenses, limit the number of probations before judgements granted and revoke the violator’s licenses to drive.

For the reasons outlined above, the Maryland State’s Attorneys’ Association respectfully opposes HB 1160 and SB 940 and urges an unfavorable report.

Respectfully Submitted,

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Maryland State's Attorneys' Association