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## **POSITION ON PROPOSED LEGISLATION**

**BILL: Senate Bill 827 – Courts and Judicial Proceedings – Jury Examination**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: Feb 29, 2024**

**The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 827.**

Senate Bill 827 will improve the impartiality and fairness of our jury trial process in Maryland by expanding *voir dire*. Currently, in Maryland, we have “limited *voir dire*.” *Voir dire* is the process of questioning potential jurors to determine whether they may have any bias or prejudice that would prevent them from rendering a fair and impartial verdict. Unlike other states, Maryland’s limited *voir dire* means that questions that either the prosecution or defense counsel thinks are relevant to identifying juror bias may not be asked. Senate Bill 827 will encourage inclusion of these questions so that the parties have the guidance they need to bring appropriate challenges.

The answers to *voir dire* questions help identify potentially biased jurors so they can be excluded from jury service. Potentially biased jurors can be excluded in two ways: First, the juror can be stricken “for cause,” if the Judge finds that their beliefs or experiences are likely to impair their ability to be fair and impartial. Second, the parties may exercise “peremptory challenges” to exclude jurors whose beliefs and experiences create a risk of implicit bias. The parties may not exclude a juror based solely on their race or gender. Without the ability to have their questions answered, the attorneys for both sides are prone to blindly exercise peremptory challenges.

Maryland’s “limited *voir dire*” relies on jurors to assess and admit their own biases, which makes it nearly impossible to identify implicit biases. For jurors who are not self-aware and self-critical, the only information available to an attorney is that which appears on the jury form: demographic information such as name, age, sex, marital status, employment, and zip code. This

creates an environment where jurors may be stricken improperly based on race and gender. Additional reforms – such as allowing attorneys to directly ask questions to prospective jurors; and limiting peremptory challenges — would further help ensure that voir dire is effective in identifying potential juror biases, but Senate Bill 827 is an important first step to improving the jury selection process.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report only after amending Senate Bill 827.**

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**Submitted by: Maryland Office of the Public Defender, Government Relations Division.**