



## HOUSE BILL 0788

RICH GIBSON, HOWARD COUNTY STATE'S ATTORNEY

Human Relations-Protections Against Discrimination-Criminal Records

**POSITION: UNFAVORABLE**

February 16, 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. Part of my obligation in these roles is to advocate for laws that enhance the safety and well-being of our community; that is the reason I am writing today, to oppose House Bill 0788.

Would you feel safe in a world where police officers on patrol had previously been convicted of multiple assaults? How safe would members of the communities we represent feel taking public transportation if the operator of the bus/ train/ plane had recently been convicted of driving under the influence? A world where the firefighter responding to your house was previously convicted of arson. Would you be comfortable going to a bar for a drink if the bartender working there was previously convicted of possession with intent to distribute rohypnol (the "date rape" drug). Would our communities have faith in a prosecutor who had a criminal record reflecting a probation before judgment for bribing a juror (Criminal Law § 9-202)?

House Bill 0788 seeks to add criminal records as a protected class in Maryland; thereby prohibiting employers from examining that criminal record as a basis for determining fitness for employment. Not

everything is for everyone; there is nothing inequitable about using someone's judgement and choices in assessing whether they are a good fit for the occupation they are seeking. It is inappropriate to view a negative choice made to violate our laws in the same way as we view demographic distinctions between one person and another. An individual's race, color, religion, national origin, age, sexual orientation, gender identity, or disability in no way reflects on that person's judgment, or future discernment. An examination of recidivism data reveals that people who commit crimes frequently reoffend (please review attached separate document from the Bureau of Justice Statistics). Employers should be able to assess whether hiring a person with a criminal record in a capacity reflecting the needs of that particular job creates an unreasonable risk to public safety or pecuniary interest.

If this bill were drafted in a more narrowly tailored way that protected society, it might be acceptable. Such a drafting would reflect the nature of the crime and the substance of the work being performed. For example, a person's prior theft conviction would be a basis to exclude them from employment in the banking industry but would not be a basis for exclusion in a career as a graphic designer.

I ask that the legislature give House Bill 0788 an unfavorable report.