

Dear Judicial Proceedings Committee Members:

My name is Y Nunez and I am a Maryland resident from Frederick County. I am asking that you oppose the mask criminalization bill, SB 0709 in the Senate (HB1081 in the House) that is being presented to the Committee this week. Here are my objections:

**Hate Crime Laws, not Harassment Laws:** While the bill is said to be for “Anti-Hate” purposes, it is actually an Anti-Mask bill. If the bill were written to “discourage the concealment of identity for the purpose of committing a hate crime”, then the bill would pair the pre-requisite crime with Hate Crime Laws (the thing the bill aims to reduce), not Harassment/Intimidation Laws (which apply to much broader scenarios than intended).

**Identity Concealment and criminals:** Proponents further suggest that the point is to curve anonymity. They want to make sure criminals are identifiable when committing a crime. The inherent silliness in suggesting that making a law compelling criminals to make themselves identifiable is laughable. Criminals will continue to crime and that includes trying to get away with it by concealing themselves. So this law would impact only innocent mask wearers that find themselves in run-of-the-mill social altercations or become the victims of ill-intentioned citizens or law enforcement.

**Identity Concealment vs. Health:** The bill misses its own point if the goal is to prevent concealment of identity while committing harassment. It only targets face masks. But people can wear shades, wigs, fake mustaches, body paints, hoodies, scarves and any number of other items to conceal themselves for the purpose of committing a Hate Crime, but only a face mask can serve a Health Aide – so criminals will continue to have options, but disabled communities will find their most important tool for disease prevention legally deemed as “sus.”

**Higher Behavior Standards:** To deny that average decent citizens can sometimes find themselves in common kerkuffles is naïve, but this law would create a higher standard of behavior for masked people, since they will be more likely to be perceived as having had “ill-intent” or be “suspicious.” The carve-out in the law will do nothing to prevent this bias on the streets and with law enforcement. Historically, this bias of who is perceived as “threatening” has disproportionately harmed Black people, people of color and Muslims in religious garb. Law enforcement is additionally able to misuse this power during constitutionally protected public assembly because the line for clearing the “intimidation” bar is already so problematic and subjective.

**Stigma and Exclusion of Disabled:** With face masks being a medical tool, and despite the carve-out in the law, the criminalization of masks creates suspicion around anyone masking and gives permission to establishments to ban them under claims of “public safety” and “suspicious behavior.” It would become easy to argue that the masking itself is “proof” of the requisite ill-intent. The “Unmask Hate” bill SB 0709 will inevitably add to the existing stigma and harassment directed towards disabled people who mask for health reasons. This population already struggles to have access to public spaces

**Government Political Motivations for UnMasking Citizens:** Masks were deeply politicized during the covid pandemic - many people still wearing them tend to be politically to the left, so masked citizens are already vulnerable to political attacks from other citizens – and this law would add pressure from the government itself to not mask. An anti-mask law can be argued to be its own form of intimidation on behalf of the government to reduce mask-wearing for its own citizen identification purposes. This legislation will create a chilling effect on anyone who wants to protect themselves from airborne illness as they go about their lives, and even anyone wanting their anonymity as their right.

**Privacy and HIPPA:** Carve outs in the bill for health reasons still puts the onus on citizens to exclude themselves and that affirmation could infringe on their rights to privacy under HIPPA regulations, as maybe I don’t want to tell a cop about my health issues.

**Law Easily Rendered Useless:** At the other end, it would also be easy for everyone to affirm that they were masking for a qualified reason, and render the law pointless, unless we require the person have to “prove” why they were concealing their face, which becomes a slippery slope of basic right infringement.

**Clarifying Goal into the Law:** If the goal is to unmask Nazis, proud boys, racists and the KKK, why not be clear about that in the law? Why not stipulate that the prerequisite crime has to be a Hate Crime/ identify-based harassment of protected groups? This law’s net is cast so wide that it will catch too many innocent scenarios and too many innocent people – majority of whom are disabled or chronically ill, are currently sick and protecting the community, are wearing religious garb, are exercising their first amendment rights to protest, or are politically left-leaning. The carve outs in the bill, to reiterate, are not enough and still place these populations under additional scrutiny, and in a defensive position over an important medical device. It also will make it harder for public health to recommend or require masks during future health crises.