

February 24, 2025

The Honorable Chair Senator William C. Smith, Jr.

Chairman, Judicial Proceedings Committee

2 East Miller Senate Office Building

11 Bladen Street

Annapolis, MD 21401

**RE: OPPOSITION of Senate Bill 0709**

(Criminal Law - Masked Intimidation - Prohibition (Unmask Hate Act)) - **UNFAVORABLE**

Dear Chair Smith and Judicial Proceedings Committee Members,

**I am a nearly lifelong Marylander and current Maryland resident writing to request that you oppose SB0709.** I understand, and appreciate, that the bill's sponsors aim to limit acts of hatred in our state. I also understand that the reported goal of the bill is to target only those who are intentionally harassing, intimidating, or threatening another person. I understand that the bill's sponsors may feel that if you are not intentionally harassing, intimidating, or threatening another person, you should have no concern about the bill applying to you.

However, the bill differentiates itself from existing legislation regarding harassment or assault by referencing concealment of identity, and, further, specifically, use of masks. This can negatively impact Marylanders, even those who are not intentionally harassing, intimidating, or threatening another person, in at least two ways.

First, **the people who are most likely to wear a face mask for personal and public health purposes are in marginalized groups, who are at risk for negative outcomes of implicit bias, and already fear criminalization and pathologization exacerbated by their use of masks.**

A 2023 study in Political Science Quarterly by authors Sanchez, Vargas, and Sayuri "found that racial and ethnic minorities are more likely to wear a mask or scarf over their faces to prevent the spread of COVID-19 despite being more likely to worry about being criminalized by police or security while wearing a mask. We argue that proximal contact with the virus, because racial and ethnic minorities are more likely to be affected by COVID-19, leads to increased willingness by people in these groups to protect themselves and others." Dr. Sanchez elaborated in a news report on this article that especially Black and Latino men had greater fears while wearing masks, including a fear of mask-wearing bringing "unwanted attention from police and security." And yet, the public health risks of not using this accessibility and disease prevention tool are so great that "populations of color still were more likely to wear masks than their White counterparts."

These fears are not unfounded. A 2021 literature review by Du notes that “after evaluation empirical and rigorous research during the past five years, the review maintains that racial bias still exists in the [criminal justice] system. Implicit and/or explicit racial bias indeed influence law enforcement agents’ legal decisions and practice.” Additionally, African American males are already at higher risk for “social punitive measures, including involuntary psychiatric hospitalizations, owing to stereotypical social perceptions of this group as more threatening relative to other race/ethnic negative outcomes” (Singh, Catalano, Bruckner, 2025). As DEI initiatives that might empower law enforcement personnel to carefully consider racial and cultural biases are rolled back and training in these areas may become more limited, marginalized groups face an even greater risk.

Taken together, this suggests that Marylanders who are in racial/ethnic minorities and using masks as a public health tool are already facing risks for criminalization. If masks are further highlighted as associated with assault and harassment through legislation like SB0709, Marylanders could be at risk for erroneously being considered to have intent of harassing, intimidating, or threatening others, but more as a matter of demographic and personal factors than a matter of true intent.

As a disabled Black Marylander who wears a face mask to more safely access spaces like my workplace, grocery store, doctors’ appointments, I empathize significantly with the findings of Dr. Sanchez’s study. The health risks of going certain places without proper, doctor- and researcher-recommended precautions are too great to forgo wearing it, and I have to make a concentrated, overt effort to appear non-threatening to others as I do so- ensuring that my smile reaches my eyes, my hands are visible, my approach is audible, and my movements are predictable. **This bill further endangers marginalized Marylanders who rely on masks for public health purposes because of the risk for misjudging their intent.**

Second, **if masks are associated with hatred and potential criminalization as this bill purports, the public’s use of this essential tool may decrease.**

The Maryland Department of Health names “universal masking” one of several “key measures to prevent and contain the spread of respiratory infections” in a January 14, 2025 letter:

[https://www.mbp.state.md.us/forms/Clinician\\_Letter\\_Source%20Control\\_1.14.2025.pdf](https://www.mbp.state.md.us/forms/Clinician_Letter_Source%20Control_1.14.2025.pdf)

and a 2024 study through the University of Maryland (Lai and colleagues) notes that use of N95 masks stopped 98% of COVID-19 particles from infected individuals from entering the air, through which others could catch this highly contagious airborne illness.

The study’s senior author reported that “**the research shows that any mask is better than no mask.**” And yet, we already observe a woefully limited use of this tool. Based

on my own experience, it feels quite likely that this testimony is being read in a room where people are predominantly not wearing masks. Such spaces are not accessible or safe for our immunocompromised, at-risk, and health-conscious community members.

The more that spaces are dominated by little to no mask usage, the less these Marylanders can safely participate in the economy, sustain relationships, and bolster our communities.

I am so grateful for the doctor’s offices that require masks, the DMV theaters that offer

mask-required performances, the Maryland libraries that have distributed masks, and the gatherings of family and friends that use masks.

Marylanders who are not currently disabled or in the groups I named above also benefit from mask-wearing and limited spread of airborne illness, as some of these illnesses can result in disabling post-acute sequelae. The risk of post-acute sequelae from COVID-19, for example, increases with each time an individual contracts COVID-19 (Bowe and colleagues, 2022). **We desperately need messaging that *increases* use of face masks.**

If the heart of this bill is to limit concealment of identity to commit crimes, the bill's initial language seems sufficient: "for the purpose of prohibiting a person from intentionally harassing, intimidating, or threatening another person while hiding or concealing their face." I believe there is a significant public health risk to Marylanders by including the clause "and generally relating to masked intimidation" (emphasis added) and describing this bill in terms of "Masked Intimidation" (emphasis added) and as the "Unmask Hate Act" (emphasis added). Marginalized Marylanders who are impacted by the hate this bill aims to stop are also the ones most likely to mask, even at personal sociopolitical risk.

In conclusion, determining intent is too subjective for it to be dismissed as irrelevant for all Marylanders who do not have intent to harass, intimidate, or threaten others, and the bill as currently written raises multiple problems with potentially long-lasting health and economic effects in an attempt to solve another. I urge that this committee oppose SB0709 and generate legislation that limits hateful acts but does not reference masking in this negative and criminalized way.

Thank you for your consideration of my testimony and your service to our state.

Respectfully,  
Marissa Miller, PhD  
Maryland Resident

#### Citations

Bowe, B., Xie, Y., & Al-Aly, Z. (2022). Acute and postacute sequelae associated with SARS-CoV-2 reinfection. *Nature medicine*, 28(11), 2398-2405.

For more information, please see this news article:

<https://www.science.org/doi/pdf/10.1126/science.adl0867>

Du, Y. (2021). Racial bias still exists in criminal justice system? A review of recent empirical research. *Touro L. Rev.*, 37, 79.

Lai, J., Coleman, K. K., Tai, S. H. S., German, J., Hong, F., Albert, B., ... & Milton, D. K. (2024). Relative efficacy of masks and respirators as source control for viral aerosol shedding from people infected with SARS-CoV-2: a controlled human exhaled breath aerosol experimental study. *EBioMedicine*, 104.

Related, cited news article: <https://sph.umd.edu/news/study-shows-n95-masks-near-perfect-blocking-escape-airborne-covid-19>

Sanchez, G. R., Vargas, E. D., & Dominguez, M. S. (2023). The Race Politics Associated With Wearing a Mask in Public to Combat COVID-19. *Political Science Quarterly*, 138(4), 491-507.

Singh, P., Catalano, R., & Bruckner, T. A. (2025). Racial disparities in law enforcement/court-ordered psychiatric inpatient admissions after the 2008 recession: a test of the frustration–aggression–displacement hypothesis. *Social Psychiatry and Psychiatric Epidemiology*, 60(1), 113-123.