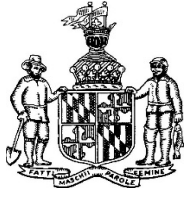


Feinstein Letter of Support SB 394 Concealment of

Uploaded by: Debbie Feinstein

Position: FAV



STATE'S ATTORNEY
JOHN J. MCCARTHY

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DEPUTY STATE'S ATTORNEYS
PETER A. FEENEY
RYAN S. WECHSLER

January 29, 2025

The Honorable Will Smith
Chair, Judicial Proceedings Committee
11 Bladen Street
Annapolis, MD 21401

Dear Chair Smith and Committee Members:

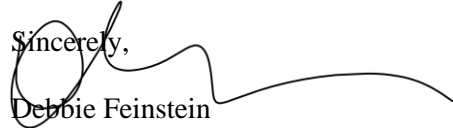
On behalf of the Montgomery County State's Attorney's Office and the Maryland State's Attorneys' Association, I write in support of SB394—Criminal Law – Concealment of Death and Disturbing and Dismembering Human Remains. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office and the Chair of the Montgomery County Elder/Vulnerable Adult Abuse Task Force.

Several years ago, I handled a Montgomery County criminal case involving the neglect of a vulnerable adult resulting in death (Section 3-605, Criminal Law Article) and disposing of a body in an unauthorized place (Section 5-514, Health General Article). In this case, the victim's son, aged 50, was the caregiver for his father, aged 75. Ultimately, the victim's son engaged in a course of neglect that culminated in his father's death sometime in winter/spring 2021. The victim's son, however, left his father's body in their shared home, and did not report his father's death. In addition, he concealed his father's death from family members, and continued to collect his father's retirement benefits. In fall 2021, police entered the house with a search warrant and discovered the victim's decomposed remains on the floor in the bedroom. The medical examiner concluded that the victim died at least 3 months before his remains were discovered. This outcome was devastating for family members; not only did they have no idea their loved one had passed, but they learned that the victim's own son left the victim to decompose on his bedroom floor.

Section 5-514 of the Health General Article prevents an individual from burying or disposing of a body except in certain locations (e.g., a cemetery or a family burial plot). This statute has a maximum penalty of one year and \$5000. This statute does not adequately address the circumstance where someone knows of and/or causes a death, fails to report it, and conceals that death for months.

Senate Bill 394 clearly addresses the facts in the Montgomery County case and creates a 10 year maximum penalty commensurate with the crime committed. I ask this Committee to issue a favorable report on SB394.

Sincerely,


Debbie Feinstein
Chief, Special Victims Division
Senior Assistant State's Attorney

SenatorBailey_FAV_SB394.pdf

Uploaded by: Jack Bailey

Position: FAV

JACK BAILEY
Legislative District 29
Calvert and St. Mary's Counties

Budget & Taxation Committee



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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January 31, 2025

Senate Bill 394 – Criminal Law - Concealment of Death and Disturbing and Dismembering Human Remains

Dear Chair Smith and Members of the Committee,

I am writing to introduce Senate Bill 394 which would provide for criminal penalties for individuals who intentionally conceal the death of another person.

Under this bill, a person may not, with the intent to conceal the death of another, knowingly and willfully dismember, destroy, remove, or otherwise obliterate by any means any portion of human remains. The bill also prohibits an individual from burying or otherwise disposing of a dead body or failing to contact law enforcement or emergency medical services if either action is done with intent to conceal the death of another.

During the interim, I heard from prosecutors in my county, St. Mary's County, about the inadequacy of Maryland's current law regarding dismembering or concealing the bodies of those who have been the victims of violent crime. It is my understanding that the only existing law that can be applied in these circumstances is a section of the Health-General Article that provides for a maximum penalty of one year in prison or a \$5,000 fine. I do not believe this is a sufficient penalty for such a serious offense, and, from my discussions with our State's Attorney in St. Mary's County, the existing penalty is not a sufficient enough deterrent and is making their efforts to hold these violent criminals responsible for their actions to the fullest extent of the law more difficult.

The bill also prohibits a person from aiding or abetting another who undertakes any of the actions prohibited by this section. A violation would be a felony, subject to up to 10 years in prison. This bill does not impose any minimum sentences but does require that any sentences imposed under this section of law be served consecutively to and not concurrent with any other sentence imposed for any other crime based on the act establishing the violation of this law.

I respectfully request a favorable report on Senate Bill 394. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bailey", written over a horizontal line.

Senator Jack Bailey

SB 394 - Criminal Law - Concealment of Death and D

Uploaded by: Scott Shellenberger

Position: FAV

Bill Number: SB 394

**Scott D. Shellenberger, State's Attorney for Baltimore County
Support**

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN SUPPORT OF SENATE BILL 394
CRIMINAL LAW – CONCEALMENT OF DEATH AND DISTURBING AND
DISMEMBERING HUMAN REMAINS

I write in support of Senate Bill 394 which makes it a crime to conceal the death of another.

This proposed new Law fills a possible gap in Maryland Law should a body be found and the State is unable to prove some form of murder. This came very close to happening in Baltimore County.

In July of 2021 a police officer pulled over a car traveling at a high rate of speed. During the stop the driver Nicole Johnson learned that the car was going to be towed due to a bad tag. As Johnson started taking belongings out of her trunk the officer noticed a strong odor coming from a suitcase that also had maggots on the outside. Johnson began to remove some blankets from the suitcase and eventually the officer sees the decomposing body of a young child. The child was later identified as 7 year old Joshlyn Johnson. A second deceased child was also recovered from the trunk and was identified as Larry O'Neil.

The bodies were severely decomposed but from what the medical examiner could determine they ruled the death of both children as homicide but by unspecified means. We were able to get a conviction on two counts of child abuse resulting in death, a specific statute dealing directly with this crime. Sentencing is in two weeks.

A great deal of the proof in this case was provided by the defendant's statements. These statements coupled with the very specific statute made it possible to obtain the appropriate result.

Had these two bodies been adults it would have been a very different story. That is why a specific statute as proposed by SB 394 is necessary. Being able to prove a traditional homicide with these facts would have been extremely challenging.

Had we not had the specific child abuse statute we may have been limited to proving failure to report the death of a child. Penalty three years. Disposing of a body in an unauthorized place. A one year penalty. Those penalties clearly would have been an insufficient result.

This is why we need Senate Bill 394. We need to fill this gap in Maryland Law should similar facts occur to an adult.

I urge a favorable report.

2025 SB00394 Testimony Against 2025-01-31.pdf

Uploaded by: Alan Lang

Position: UNF

Testimony Against SB0394

Honorable Senators

Please enter an unfavorable decision for SB0394.

Doing these despicable acts should be the crime and I would have thought that they are already existing crimes.. While I am in favor of the sentiment, I must urge an unfavorable decision.

We cannot make it a crime if one does not inform the authorities that one has killed someone or hidden a body, or assisted someone in doing these vile acts.

One has a constitutional right (5th Amendment) not to be compelled in any criminal case to be a witness against himself.

To follow this proposed law, one must self incriminate.

Please enter an unfavorable decision for SB0394.

If the following subsection [10-405.18 (A)(1)] was removed, I would wholeheartedly support the remainder of this bill (Subsections A2, A3, B, C, and D).

10-405.18

(A) A PERSON MAY NOT, WITH THE INTENT TO CONCEAL THE DEATH OF ANOTHER:

(1) FAIL TO CONTACT EMERGENCY MEDICAL SERVICES OR LAW ENFORCEMENT REGARDING THE DEATH OF THE PERSON

Alan Lang
45 Marys Mount Road
Harwood, Maryland 20776
Legislative District 30B
410-336-9745
Alanlang1@verizon.net

January 31, 2025

2025-01-31 SB 394 OPD (UNFAV).pdf

Uploaded by: Hannibal Kemerer

Position: UNF



POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 394 – Criminal Law – Concealment of Death and Disturbing and Dismembering Human Remains

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 01/31/2025

The Maryland Office of the Public Defender respectfully requests that the Judicial Proceedings Committee issue an unfavorable report on Senate Bill 394.

Senate Bill 394 creates a new felony in Maryland for anyone found guilty of (1) failing to contact emergency medical services or law enforcement regarding the death of the person; (2) knowingly and willfully dismembering, destroying, removing, or otherwise obliterating human remains by any means; or (3) burying or otherwise disposing of the body. See Proposed §10-405(a)(1)-(3). If enacted, the bill would further criminalize any effort to aid or abet another in committing a violation of the foregoing three sections. *Id.* at §10-405(b). Anyone found guilty of committing the substantive offenses, or aiding and abetting the principal perpetrator, is guilty of a felony and subject to a 10 year statutory maximum penalty. *Id.* at §10-405(c) There's more: subsection (d) of the proposed law mandates, "a sentence imposed under this section shall be consecutive to and not concurrent with any other sentence imposed for any other crime based on the act establishing the violation of this section."¹ If enacted, SB 394 would become effective on October 1, 2025.

¹ This consecutive sentencing provision appears designed to legislatively overrule *Sifrit v. State*, 383 Md. 116 (2004). In that case, the Court of Appeals affirmed Benjamin Adam Sifrit's second-degree murder conviction while vacating his conviction for assault because it merged with second degree murder. *Sifrit v. State*, 383 Md. at 137. Here, SB 394 seeks to subvert merger by requiring a sentence under this new provision (dismembering and destroying a body to avoid detection) be served consecutive to the sentence for the



This bill is an unfortunate step in the wrong direction and will not make Maryland safer. At its worst, SB 394 creates a 10-year statutory maximum penalty for mere negligence. If the bill passes, a prosecutor could charge someone with a felony under §10-405(a)(1) for failing to notify police or emergency services when a friend overdoses and dies in their presence. This crime of omission lacks the *actus reus* normally required to accompany criminal law violations.

This bill creates a new felony conviction. Felonies are the highest level of crime. As such, people with felony convictions face increased challenges in gaining employment. Eighty-seven percent of employers conduct background checks. Most employers do not hire people with felony convictions and/or who have served time in prison. Sixty percent of incarcerated people remain unemployed one year after their release. This inability to gain employment desperately impacts a person's quality of life and ability to establish a livelihood without committing crime. Without the possibility of stable housing and income to provide for food and other necessities, people are forced to partake in illegal and not unsafe measures, increasing the risk of crime and making our communities less are not safe. Additionally, people with felony convictions are excluded from participating in food supplement programs in Maryland. With the prices of food on the rise, limited income and no access to food supplement programs, the options for a convicted felon to survive and meet their basic needs without reoffending are little to none.

Additionally, felonies result in many collateral consequences. Collateral consequences are legal restrictions that disqualify people convicted of crimes from accessing certain needs and benefits available to other citizens. Many of the collateral consequences experienced by people with felony convictions involve very basic needs, including employment, housing and public food benefits. In particular, a person with a felony conviction faces significant barriers accessing housing, especially affordable housing because of their conviction. Most, if not all, government housing disqualifies applicants with felony convictions. Furthermore, families that live in public housing or have housing through a government voucher, are often not allowed to have family members with felony convictions live with them. Additionally, most landlords often do background checks

underlying primary crime (murder). However, "Offenses merge and separate sentences are prohibited when, for instance, a defendant is convicted of two offenses based on the same act or acts and one offense is a lesser-included offense of the other." *Holbrook v. State*, 364 Md. 354, 369 (2001) (internal citations omitted); *Sifrit v. State*, 383 Md. at 137. Dismembering or destroying human remains is most likely to occur after a murder, and will likely be merged with the latter notwithstanding legislative efforts to the contrary.



and do not rent to people with criminal backgrounds and specifically felony charges. They could also be prohibited from reunifying with their families if their family lives in any form of public housing.

Finally, we know that longer sentences do not work as deterrence. Certainty and swiftness of a conviction are the primary ways that the criminalization of behavior works to deter that behavior. Research shows clearly that the chance of being caught is a vastly more effective deterrent than even draconian punishment. To best address the issue of gun theft, we must focus on the root causes of the theft. We must pursue policies that will actually make our communities safe, including prioritizing public health approaches to gun violence and investing in community resources, infrastructure, and systemic supports.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB 394.

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