

MAJR_SUP_SB0873_25RS.pdf

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MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



To: Chair Smith and Senate Judicial Proceedings Committee Members
From: Jennifer Zito and Bill Carlson, MAJR executive committee

February 26, 2025

The Maryland Alliance for Justice Reform (MAJR) asks you to support of SB 873 – Criminal Law – Third Degree Assault.

We believe SB 873 is a sensible bill that will create a new category of lesser assault charges in cases which are not as serious as many second-degree assault charges. Specifically, those case where there is physical contact but no physical injury nor the risk of serious physical injury. The bill specifies a maximum penalty for such offenses of 90 days in prison and/or a fine not to exceed \$500. This seems very appropriate for these offenses, while the current maximum penalty of 10 years in prison and/or a \$2500 fine seems excessive.

Currently, the actions described in the bill could be sentenced by a judge as a second-degree assault with a sentencing guidelines category V and a maximum penalty of 10 years. Lessening the nature of the offense also would likely cause the Sentencing commission to assign a lesser guidelines category (perhaps VII) to the new 3rd degree assault offense as has been done for other lesser offenses to ensure that proportionally lesser sentences will be imposed

The Maryland Alliance for Justice Reform (MAJR) is a nonpartisan, all-volunteer organization of nearly 2000 Marylanders who advocate for sensible evidence-based legislative and policy changes in Maryland's correctional practices. MAJR thanks you for the opportunity to provide input on this important legislation and urges the committee to give SB 873 a favorable report.

SB0873_Criminal_Law_-_Assault_in_the_Third_Degree_

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0873 Criminal Law - Assault in the Third Degree

Bill Sponsor: Senator Smith

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Aileen Alex, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0873 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

The purpose of SB0873 is to establish that it is a misdemeanor to intentionally cause offensive contact, engage in conduct tending to put another in fear of offensive contact, or attempt to cause offensive contact. This bill is long overdue, with a version first being introduced in 2018.

Acting as a deterrent, this law ensures that no one is subject to unwanted physical contact. A feeling of safety is promoted, especially for the vulnerable and marginalized who may be disproportionately affected by such behavior. Ultimately this can alleviate the stress, anxiety, and trauma experienced by victims, leading to better mental health outcomes. These are important values shared by our members.

A person who violates this section is guilty of the misdemeanor of assault in the third degree and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$500 or both. Yet for those who have completed their sentence and/or fine, a petition for expungement can be filed 7 years later. Thus, not having to continue to be negatively impacted by an earlier transgression.

The Maryland Legislative Coalition steadfastly supports this bill and similar initiatives that help to assure personal safety free from fear.

SB 873_MCDAA_FAV.pdf

Uploaded by: Jason Weintraub

Position: FAV



Maryland Criminal Defense Attorneys' Association

February 26, 2025

Senate Bill 873
Criminal Law – Assault in the Third Degree
Sen. William C. Smith, Jr.
Senate Judicial Proceedings Committee
FAVORABLE

Current Maryland law provides a maximum penalty of 10 years in jail for even minor assaultive behavior including pushing, shoving, spitting or bumping into someone intentionally. It's time to have the option to charge such conduct where the penalty is significantly less than a decade in jail. A lower penalty encourages quick and fair resolution of cases through plea agreements, which avoids jury trials. This promotes expediency and judicial economy.

Example: A 30-year-old defendant with an intellectual disability threw a Styrofoam container at his peer support worker. The worker then filed charges against the defendant for assault in the 2nd degree. He had to secure an attorney. The case went on for many months and caused significant stress to the defendant because he was facing the possibility of up to 10 years in jail. The case was eventually dismissed.

For clients who are not competent to stand trial, including those who are already patients at mental hospitals, the high maximum penalty for 2nd degree assault means that they can be held for up to 3 years until their case is dismissed, even if the assaultive behavior is very minor.

Second Amendment Impact

Maryland has many residents and visitors who enjoy hunting throughout the state and could be significantly impacted if faced with a lifetime firearm ban. Under current Maryland law, second-degree assault is classified as a "crime of violence," meaning that even a minor incident can result in a lifetime firearm prohibition.

The creation of a third-degree assault statute in Maryland would be a significant step toward ensuring that firearm prohibitions are applied more fairly. The current law fails to differentiate between truly violent assaults and minor physical altercations, resulting in unnecessarily harsh consequences for gun owners. By establishing another misdemeanor assault with a maximum sentence of ninety days, the bill would prevent many Marylanders from being permanently disarmed for minor assaultive acts. At the same time, it would help ensure that federal firearm prohibitions are not automatically triggered for low-level conduct.

Noncitizens Impact

The creation of a third-degree assault statute in Maryland would prevent significant harm to noncitizens. The proposed legislation helps avoid the disproportionate impact on many legal immigrants from a second-degree assault conviction. Under federal immigration law, the classification of offenses as misdemeanors or felonies is primarily based on the maximum sentence rather than the state law designation. Noncitizens, including Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS) holders can lose their status completely from just one second-degree assault conviction. That's a harsh penalty for shoving someone.

The Maryland Criminal Defense Attorneys' Association urges a favorable report on SB 873.

Support SB873 -Third Degree Assault.docx.pdf

Uploaded by: Philip Caroom

Position: FAV

SUPPORT SB 873 – Third-degree Assault



TO: Chair Will Smith and Senate Judicial Proceedings Com.
FROM: Phil Caroom, MAJR Executive Committee
DATE: February 26, 2025

Maryland Alliance for Justice Reform (MAJR-www.ma4jr.org) strongly support SB 872 – a simple bill that both could reduce unnecessary incarceration and could make our criminal system more just.

[SB 873](#) would carve out a new, lesser offense called “third degree assault” from the more general, more serious offense of “second degree assault.” Why would this change be useful to Marylanders?

Currently, second degree carries a possible penalty of up to 10 years incarceration. It includes any kind of physical contact or threat of such contact from a mere slap in the face to use of a weapon that might cause permanent scars. Under Maryland’s sentencing guidelines, it carries a score of “V” (more serious).

The new, third degree offense—applicable to the least serious actions—would carry a top penalty of just 90 days. The Sentencing Guidelines commission clearly would score the new minor offense as a “VII”(less serious) with the result of lesser recommended sentences.

The new, lesser offense also, appropriately, would be presumptively heard in the District Court with less serious offenses. It would create a category of offenses which would be eligible for expungement within 5 years after successfully completing any sentence and probation.

Please give a favorable report to SB 873 to assure less serious penalties for those with less serious offenses, to give former offenders a better chance to clear their records, and, thus, to save taxpayer costs.

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Please note: This testimony is submitted for MAJR and not for the Md. Judiciary.

SB0873_UNF_OFJ (1).pdf

Uploaded by: Christopher Dews

Position: UNF



TESTIMONY IN OPPOSITION OF SENATE BILL 873

Criminal Law – Assault in the Third Degree

TO: Hon. William Smith, Chair, and members of the Senate Judicial Proceedings Committee

FROM: Christopher Dews, Policy Consultant (Out for Justice)

DATE: February 26th, 2025

Out for Justice, Inc. (OFJ) is an organization comprised of individuals directly and indirectly impacted by the criminal legal system. It advocates for reforming policies and practices that adversely affect successful reintegration into society. We oppose Senate Bill 873, which would remove second-degree assault and protective orders from the Expungement List.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment prospects for the [estimated 25% of working-age Marylanders with a record](#) (pg.26). Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society.

Demographically, [71% of Maryland's prison population is black](#) (pg.20), the highest in the nation, and [one out of three](#) Marylanders returning from incarceration return to Baltimore City. The Department of Justice has [found](#) high recidivism rates among returning citizens, with half of all returning citizens recidivating within three (3) years and 60 percent recidivating within five (5) years. One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: [over 60 percent of formerly incarcerated persons remain unemployed](#) one year after their release. This is mainly because more than [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. A past criminal conviction of any sort reduces job offers by half. This leaves many of the 1.5 million Marylanders with a criminal record in the cold when trying to obtain gainful employment. A 2015 Manhattan Institute study [revealed](#) that employment, especially within the first six months of release, drastically lowers the likelihood of recidivism for nonviolent offenders.

Due to the above circumstances, Out for Justice strongly opposes any bill limiting the number of charges eligible for expungement, as it would be detrimental to our member



base of systems-impacted Marylanders. Senate Bill 873 would remove second-degree assault and protective orders from the expungement list, two charges that advocates have worked for years to allow to be expunged. Removing these prevalent charges would block tens of thousands of Marylanders from expungement *after they have completed their sentence, finished parole or probation, and waited the additional 5-7-year waiting period.* This would subsequently increase barriers to education, housing, employment, and more for returning citizens who already climb complex barriers to remain stable upon release.

For this reason, we urge an unfavorable report.

SB 873 - MNADV - UNF .pdf

Uploaded by: Laure Ruth

Position: UNF



BILL NO: Senate Bill 873
TITLE: Criminal Law – Third Degree Assault
COMMITTEE: Judicial Proceedings
HEARING DATE: February 26, 2025
POSITION: **OPPOSE**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judiciary Committee to issue an unfavorable report on SB 873.**

Senate Bill 873 would create a new misdemeanor offense for intentionally causing offensive contact, engaging in conduct that places another in fear of such contact, or attempting to cause offensive contact. While the bill aims to address certain lesser forms of assault, it also proposes altering the list of convictions eligible for expungement under specific circumstances. We appreciate that crimes designated as “domestically related,” as defined in Section 6-233 of the Criminal Procedure Article, are excepted from this crime. Nonetheless, given the frequency of pleading to a lesser offense, we are concerned that perpetrators of second-degree assault against an intimate partner will be able to arrive at a third-degree assault conviction. We fear this would revive and perpetuate a long-time stereotypical view that intimate parent violence is somehow not that bad, not that important, when nothing could be further from the truth.

Notably, *the “domestically related” designation happens only after conviction at the sentencing stage of the case.* We are not sure how that would work when deciding what to charge someone with, or whether this is even considered in the early stages of the criminal prosecution. In addition, for crimes designated as “Domestically Related” after conviction, and we have no data that indicates that States Attorneys across the state are consistently using the “domestically related” designation in all jurisdictions.

Finally, under this bill, the penalty for third-degree assault is significantly less than that for second degree assault, which encompasses a wide range of behaviors and thus has a broad penalty possibility. “Offensive contact” can still include scary and harmful behavior. If the crime is part of a pattern of power and control by an abuser and is not properly designated as “Domestically Related” this low penalty will not deter the perpetrator, and the victim will not be safe.

If this body is inclined to create a third degree assault crime, we suggest it amend this bill to be closer to HB 488 in 2018, specifically page 5, line 23, **which adds second degree assault to the list of crimes of violence in Section 14-101 of the Criminal Law Article.**

For further information contact Laure Ruth ■ Public Policy Director ■ 301-852-3930 ■ lruth@mnadv.org

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For the above stated reasons, the **Maryland Network Against Domestic Violence** urges an **unfavorable report on SB 873**.

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Assault 3rd degree - senate - 2025 - SB873 UNF.pdf

Uploaded by: Lisae C Jordan

Position: UNF



Working to end sexual violence in Maryland

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Testimony Opposing Senate Bill 873
Lisae C. Jordan, Executive Director & Counsel
February 11, 2025

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge an unfavorable report on Senate Bill 873.

Senate Bill 873 – Third Degree Assault

This bill would create the crime of 3rd assault and a definition of “offensive contact.” We very much appreciate the efforts to address concerns regarding survivors of sexual assault, domestic violence, and domestically related crimes. Nonetheless, we question the need for this particular solution to issues in the courts.

MCASA remains concerned that offensive contact can include serious and frightening behavior by people engaged in sexual harassment or other dominating behavior. While the bill does exclude an actual sexual offense or offenses in domestic situations, it could include things like:

- placing hands around another person's neck and pushing them up against the wall without causing physical harm;
- dragging a person around the floor without causing harm;
- hitting and pushing while screaming “I'm going to hurt you.”

Some of this may or may not fall under the exception for “contact that causes a risk of serious physical injury”, but the uncertainty of this illustrates one of the problems with the bill. Second degree assault as a charge is appropriately flexible and allows courts to consider a range of human factors. Additionally, it is questionable whether the bill will actually reduce litigation, since defendants will have a right to a *de novo* appeal. MCASA respectfully suggests that this bill fixes a problem that does not actually need fixing.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to report unfavorably on Senate Bill 873**