



## **POSITION ON PROPOSED LEGISLATION**

**BILL:** House Bill 1423 – Commission to Review and Assess Racial Disparities in the State Criminal Justice System – Establishment

**FROM:** Maryland Equitable Justice Collaborative

**POSITION:** FAVORABLE WITH AMENDMENTS

**DATE:** March 6, 2025

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The Maryland Equitable Justice Collaborative (MEJC) requests that the Committee issue a favorable report on House Bill 1423, which would establish the Commission to Review and Assess Racial Disparities in the State Criminal Justice System (the “Commission”) and request Amendments reflecting the addition of the Maryland Public Defender and the Maryland Attorney General or their designees.

### **About the Maryland Equitable Justice Collaborative**

The Maryland Equitable Justice Collaborative (MEJC) was established by the Office of the Attorney General (OAG) and the Office of the Public Defender (OPD) to address racial disparities in mass incarceration in Maryland. This initiative is the first of its kind. It was developed based on listening sessions the Attorney General and Public Defender held with impacted people, advocates, and other community members. Academic partners, including the Judge Alexander Williams Center for Education, Justice & Ethics at the University of Maryland at College Park and the Bowie State University Institute for Restorative Justice, were brought in to ensure the work is evidence-based and data-driven statewide.

The MEJC comprises over 40 representatives from state agencies, community groups, subject matter experts, and people directly impacted by the system. Its initiatives are organized into workgroups focusing on various factors influencing incarceration rates. Each workgroup is led by a staff member from the Office of the Attorney General, a staff member from the Office of the Public Defender, and a community advocate with relevant expertise. Community voices and public input have shaped the recommendations developed under the direction of the OAG and OPD. In December 2024, the MEJC approved 18 recommendations for legislative and agency reforms, program development, data collection, and other measures designed to reduce the mass incarceration of Black men and women and other marginalized groups in Maryland prisons and jails. Recommendation No. 4 urges the State to study the drivers of racial disparities in the criminal system by conducting a qualitative and quantitative analysis of each step in the criminal legal process from arrest to parole to understand the impact of racial and geographic disparities in Maryland’s adult prison population.

## **The Need to Evaluate Racial Disparities in Maryland's Criminal Law System**

One of the most significant aspects of the Commission's work will be examining the cumulative impact of disparities across the entire criminal justice continuum. The American Civil Liberties Union (ACLU) argues that inequalities stem from the unequal treatment of Black and Brown individuals during stops, searches, arrests, prosecutions, plea negotiations, trials, sentencing, and parole or probation revocation decisions.<sup>1</sup> Likewise, the National Conference of State Legislatures (NCSL) points out that racial and ethnic disparities exist throughout the criminal justice system, highlighting the need for extensive data collection and policy reforms to tackle these concerns.<sup>2</sup> The Vera Institute of Justice further stresses that these inequalities are tied to a history of oppression and biased decision-making, which has deliberately targeted Black individuals, fostering a misleading connection between race and crime criminality.<sup>3</sup> The Commission's research into these compounding effects will be crucial for understanding how to interrupt this cycle of disparity.

The Commission's focus on mandatory minimum sentencing deserves particular emphasis. The bill specifically calls for research into disparate impacts of mandatory minimums in firearms cases and felony murder cases where defendants did not intend to commit murder. This research is vital, as current evidence suggests these mandatory sentences often result in disproportionate punishment and fail to consider individual circumstances or potential for rehabilitation.<sup>4</sup>

Another critical research area outlined in the bill is the examination of risk and needs assessment methodologies. While striving for objectivity, current assessment tools often perpetuate existing biases.<sup>5</sup> The Commission's mandate to study race-neutral assessment methods could improve how we evaluate individuals at various stages of the criminal justice process, from pretrial release decisions to sentencing and supervision strategies.

The bill's emphasis on studying alternatives to incarceration and rehabilitative programming is particularly timely. As Maryland grapples with prison population management and recidivism reduction, research into evidence-based alternatives could provide valuable guidance for policy reform. The Commission's investigation into programs designed to reduce prison populations while maintaining public safety could help Maryland join other states that have successfully implemented such reforms.

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<sup>1</sup> American Civil Liberties Union. "Race and Criminal Justice." Accessed February 19, 2025.

<https://www.aclu.org/issues/racial-justice/race-and-criminal-justice>

<sup>2</sup> National Conference of State Legislatures. "Racial and Ethnic Disparities in the Criminal Justice System." Published May 5, 2022. <https://www.ncsl.org/civil-and-criminal-justice/racial-and-ethnic-disparities-in-the-criminal-justice-system>

<sup>3</sup> Vera Institute of Justice. "An Unjust Burden." Accessed February 19, 2025.

<https://www.vera.org/publications/for-the-record-unjust-burden>

<sup>4</sup> United States Sentencing Commission. "Demographic Differences in Sentencing." November 13, 2017.

<https://www.ussc.gov/research/research-reports/2023-demographic-differences-federal-sentencing>.

Brennan Center for Justice. "End Mandatory Minimums." Brennan Center for Justice, November 18, 2019.

<https://www.brennancenter.org/our-work/analysis-opinion/end-mandatory-minimums>

<sup>5</sup> Angwin, Julia, Jeff Larson, Surya Mattu, and Lauren Kirchner. "Machine Bias: There's Software Used Across the Country to Predict Future Criminals. And It's Biased Against Blacks." ProPublica, May 23, 2016.

<https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing>

## **Key Benefits of HB 1423**

Creating a commission to examine racial disparities in Maryland's criminal legal system offers several key benefits:

- By studying racial disparities, the Commission will be able to develop evidence-based policy recommendations to address inequities in policing, sentencing, and incarceration.
- By creating opportunities for meaningful community engagement in discussions about justice reform, the Commission empowers impacted individuals, and advocacy groups and ensures that diverse perspectives are considered. This leads to more equitable and effective reforms in addressing community needs.
- The Commission's research and findings can provide lawmakers with valuable insights and recommendations for crafting effective policies promoting racial equity in the criminal legal system.
- The establishment of the Commission reflects a dedication to fairness and reform, helping to bolster public trust in Maryland's criminal justice system.

As Maryland's criminal legal policies continue to evolve, the research and recommendations produced by this Commission will be vital for informing evidence-based reforms. The Commission's work could lay the groundwork for transformative change in how our state administers justice, resulting in a more equitable system that better serves all Marylanders.

## **Requested Amendments to HB 1423**

House Bill 1423 should be amended to include the Maryland Public Defender and the Maryland Attorney General, or their designees, as members to improve the Commission's effectiveness. The Maryland Office of the Public Defender (OPD) has direct experience representing individuals disproportionately impacted by systemic inequities. As the agency responsible for providing legal defense to indigent defendants, OPD has firsthand knowledge of racial disparities in policing, charging decisions, pretrial detentions, sentencing, and post-conviction outcomes. This addition would ensure that the Commission benefits from OPD's data-driven insights, case studies, and policy recommendations based on the realities faced by those most affected by the justice system.

The Maryland Office of the Attorney General (OAG) should be included as a member of the Commission due to its critical role in shaping and enforcing the State's criminal justice policies. As Maryland's chief legal officer, the OAG has extensive experience analyzing legal frameworks, prosecutorial practices, and sentencing policies and an understanding of how they contribute to racial disparities in the criminal justice system. OAG staff also work closely with State's Attorneys, U.S. Attorneys, victims' advocates, and other criminal justice system stakeholders throughout the State, offering an important perspective on identifying systemic

challenges and inequities and developing effective and legally sound solutions that support fair and equitable justice reforms across Maryland.

House Bill 1423 represents a critical step forward in addressing key issues that affect our community, particularly the urgent need to understand the racial disparities present in Maryland's criminal legal system. For all these reasons, we urge the Committee to issue a favorable report with the requested amendments.

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**Submitted by: Maryland Equitable Justice Collaborative**

**Anthony Brown, Co-Chair  
Maryland Attorney General**

**Natasha Dartigue, Co-Chair  
Maryland Public Defender**