

Unfavorable Written Testimony on House Bill 1282

To: The Maryland House Judiciary Committee

From: Brenda Myers

Date: 03/05/25

Re: Opposition to House Bill 1282 – "Criminal Law – Uploading Criminal Activity on Social Media Application – Prohibition (MaKenzi's Law)"

Honorable Members of the House Judiciary Committee,

I write today to express my **strong opposition** to House Bill 1282, which criminalizes the uploading of videos depicting criminal activity on social media with the "intent to promote or condone" the act. While I recognize the bill's intent to deter glorification of criminal acts, its **overbroad language, potential First Amendment conflicts, and negative impact on crime reporting and public awareness** make it problematic. Furthermore, the bill **fails to provide clear enforcement mechanisms and may be redundant with existing laws.**

1. HB 1282 Raises Serious First Amendment Concerns

- The bill's vague phrase "intent to promote or condone" is **highly subjective** and invites selective enforcement.
- The **First Amendment protects speech, even when controversial**; this bill could lead to unconstitutional restrictions on **journalistic content, activist footage, or documentary evidence of crimes.**
- Courts have repeatedly ruled against laws that **limit free speech based on vague or arbitrary criteria** (e.g., *Brandenburg v. Ohio*, 1969).

2. HB 1282 Could Criminalize Legitimate Crime Reporting and Social Justice Efforts

- **Whistleblowers, journalists, and activists** often use social media to expose crime, including **police misconduct, hate crimes, and corporate fraud.**
- This bill **fails to differentiate between malicious intent and efforts to raise awareness** of unlawful behavior.
- If enforced improperly, **victims or witnesses posting evidence of crimes could face prosecution**, discouraging public accountability.

3. Unclear Enforcement and Risk of Selective Prosecution

- **How will "intent" be determined?** Without clear guidelines, law enforcement could **apply the law inconsistently**, leading to **disproportionate targeting of certain groups.**

- **Could social media platforms be held liable for hosting such content?** The bill does not specify responsibilities for tech companies, potentially creating **legal gray areas**.
- The **existing criminal code already penalizes inciting or committing crimes**, making this bill **unnecessary** in many cases.

4. Recommendations for Improvement

While I strongly oppose HB 1282 in its current form, I recommend the following **amendments to ensure constitutionality and fair enforcement**:

- **Clarify the definition of "intent to promote or condone"** to explicitly exclude:
 - **News coverage, activism, crime reporting, and documentary evidence.**
 - **Videos uploaded for legal or educational purposes.**
- **Focus the bill on individuals who directly participate in crimes for social media notoriety** rather than penalizing those who report or expose crimes.
- **Include a safe harbor provision** protecting individuals who upload crime-related content for **awareness, evidence submission, or public interest reporting**.
- **Ensure enforcement guidelines are clearly defined** to prevent **racial or political bias in application**.

Conclusion

House Bill 1282, as written, **poses significant constitutional risks, threatens free speech protections, and may discourage crime reporting and social justice advocacy**. While addressing the issue of **criminal activity being glorified online** is important, this bill is **too broad and vague to be effective without infringing on fundamental rights**.

For these reasons, I strongly urge the committee to issue an **UNFAVORABLE REPORT** on HB 1282 unless significant amendments are made to address these concerns.

Respectfully Submitted,
Brenda Myers

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