

HB 940: Probation Before Judgement
Sponsor Testimony: Delegate Aaron Kaufman
Tuesday, February 18 – Judiciary Committee

Chair Clippinger, Vice Chair Bartlett and esteemed colleagues. I am asking for a favorable report on HB 940 – Probation Before Judgement (PBJ). HB 940 is brought forth by the request of the Autism Society. This bill requires a court to place a defendant diagnosed with Autism or other Intellectual Developmental Disabilities on probation before a judge finds them guilty of a crime. While on probation, the person must follow certain rules set by the court – which they are more likely to do, because if they violate probation, they face the threat of incarceration.

HB 940 also recognizes that not all people with IDD are incompetent to stand trial, but that their disability should still be considered before sentencing. This also takes into account a person's disability could be the cause for the manifestation of the criminal conduct. A court shall consider the position of the state and statements made by the victim or the victim's representative, before granting the PBJ.

This bill is important for several reasons:

- Persons with autism have less culpability because often the crime they commit is a manifestation of their disability.

- A lesser sanction is appropriate due to a persons disability – a typical punishment is often unreasonable when it concerns people with disabilities
- The issue of public safety is a paramount concern and the punishment needs to fit the crime. Before granting the PPBJ, the judge has to determine the best interest of the defendant and the best interest of the public safety, as well as the views of the State's Attorney

The benefit to PBJ – the threat of incarceration is likely to deter the defendant from making additional poor decisions in the future.

Persons with disabilities are overrepresented in the legal system. Here are some statistics:

- Autistic individuals are more likely to be victims of crime due to social vulnerability
- 12 x more likely to become involved in the criminal justice system without intent
- 5 x more likely to be incarcerated than the general public

These are staggering numbers!

The bill is supported by the Arc of Maryland, Maryland Developmental Disabilities Council, People on the Go, Pathfinders for Autism, Disability Rights Maryland, Maryland State's Attorney's Association, Office of the Public Defender, and many others.

Again, I ask for a favorable report on HB 940 – Probation Before Judgement. Thank you very much for your time and consideration.