



Testimony for the House Judiciary Committee

HB 1361: Public Safety – Controlled Dangerous Substances and Criminal Organizations

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UNFAVORABLE

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The ACLU of Maryland urges an unfavorable report on HB 1361, which seeks to expand options for venue for the prosecution of crimes involving controlled dangerous substances. This bill would allow prosecution to bring charges in any county where the state is considering a violation of ANY subtitle of both the criminal law and public safety articles. The application of this legislation would be incredibly and dangerously broad for violations that the prosecution considers to be in furtherance of organized criminal activity. Additionally, the bill authorizes the joinder of the causes of action in a single complaint with the consent of each State's Attorney that has jurisdiction of any offense being sought.

Disproportionate Impact

While addressing organized crime is a valid concern, this approach may lead to disproportionate penalties, especially for individuals § 9-805 of the criminal law article is not intended to target. The state connecting multiple incidents may not accurately reflect the actual relation and relevance each individual offense has to one another. This can potentially result in harsher sentences than warranted. A defendant allegedly engaged in any one violation of the criminal law or public safety articles does not equate to the defendant engaging in an action(s) that are in furtherance of organized crime.

Stacking

Conversely, this bill would allow for prosecutors to “stack” charges onto defendants in excess. Because HB 1361 would allow for joinder across jurisdictions, instead of charging a defendant once, prosecutors would be able to charge defendants for each individual instance in each county that has jurisdiction under the language presented in this bill. This is a practice known as “stacking” that “build pressure against criminal defendants when fewer charges would suffice and more accurately capture defendants’ culpability.”¹

Joinder Across Jurisdictions

Moreover, allowing for joinder across jurisdictions would deprive judges of the discretion to apply different precedents when sentencing for alleged crimes in different jurisdictions. We believe that defendants should have a fair day in court, including at sentencing.

Drug Law Enforcement

Lastly, for over a century, U.S. drug policy has prioritized punitive approaches under the guise of stopping drug use and production. The results have been drugs becoming cheaper, more available, and potent, record-high overdose deaths.¹ To save lives and promote healthy communities in Maryland, it is urgent that we shift our drug policy away from punishment and towards health-focused strategies instead of sweeping up in punitive drug measures that don’t actually make communities safer.

¹ Stacked: Where Criminal Charge Staking happens and Where It Doesn’t, <https://harvardlawreview.org/print/vol-136/stacked-where-criminal-charge-stacking-happens-and-where-it-doesnt/>

For the forgoing reasons the ACLU of Maryland urges an unfavorable report on HB 1361.

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