



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

December 21, 2020

The Honorable Lawrence J. Hogan, Jr., Governor of Maryland
The Honorable Bill Ferguson, President of the Senate
The Honorable Adrienne A. Jones, Speaker of the House of Delegates

Dear Governor Hogan, President Ferguson, and Speaker Jones:

I write to you on behalf of the Task Force to Study Crime Classification and Penalties, established by Chapter 372 of 2019. This letter outlines the work of the task force and its recommendations.

The task force is charged with:

- reviewing penalties for all criminal and civil violations throughout the Maryland Code;
- studying the history and legislative intent of the classification of criminal and civil violations throughout the Maryland Code, including the constitutional implications and collateral consequences that arise as a result of classification;
- studying the criminal classifications and penalty schemes in other states and how those classifications and schemes compare to those in the State; and
- making recommendations regarding the current statutory scheme for criminal and civil violations throughout the Maryland Code, including (1) whether there are violations that should be reclassified as civil offenses, misdemeanors, or felonies; (2) whether there are penalties that should be altered; (3) whether the State would benefit from the imposition of standardized crime classifications and penalties, the codification of a default mental state as an element of criminal liability, and the codification of affirmative defenses and their elements; (4) whether statutory changes are necessary for provisions of criminal law that lack an explicit *mens rea*; and (5) what limitations, if any, should be placed on the ability of administrative boards, agencies, local governments, appointed commissioners, or other persons or entities to enact rules, regulations, ordinances, or laws providing for criminal penalties.

The task force met twice prior to the 2020 legislative session, anticipating to resume its work shortly after *Sine Die*. However, due to the unprecedented nature of the ongoing COVID-19 pandemic, the task force was unable to meet again until November 12, 2020. The final task force meeting in 2020 was held December 18, 2020.

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October 29, 2019 Meeting

The task force held its first meeting on October 29, 2019. At the meeting, the task force elected its chair, discussed its duties under Chapter 372, and worked to focus and prioritize its objectives moving forward. The task force identified the following objectives and issues as its initial priority:

- examining the current classifications and penalties for criminal laws in Maryland;
- reviewing the work and findings of past task forces and commissions established by the General Assembly that are relevant to the work of the task force;
- gathering information and resources from other states that have made criminal classification system revisions;
- comparing Maryland's crime classification scheme to crime classification schemes in other states;
- examining the role of administrative boards, agencies, local governments, appointed commissioners, or other persons or entities in enacting rules, regulations, ordinances, or laws with criminal penalties; and
- examining the benefit of a default mental state as an element of criminal liability and whether to make statutory changes to provisions of criminal law that currently lack an explicit *mens rea* requirement.

December 3, 2019 Meeting

The second meeting of the task force was held on December 3, 2019. At the meeting, Dr. David Soulé, Executive Director of the Maryland State Commission on Criminal Sentencing Policy and task force member, presented a list of criminal offenses and penalties developed by the staff of the commission for the task force's use in performing its work. In addition, David Jaros, Professor at the University of Baltimore School of Law and task force member, provided the task force with a presentation on the activities of the Maryland Commission on Criminal Law which, between 1965 and 1975, undertook and completed many of the same tasks and objectives that the task force is presently assigned to accomplish.

November 12, 2020 Meeting

The third meeting of the task force was held on November 12, 2020. At the meeting, Professor Jaros presented on the work that he and other task force members have done so far and the work still needed to be done. The task force also heard from Ms. Iman Freeman and Ms. Tara Huffman, representatives from The Peoples Commission to Decriminalize Maryland,

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who provided an overview of their priority areas for criminal justice reform; Judge Daniel Long who reported on the relevant recent work of the Justice Reinvestment Oversight Board; and Ms. Amanda Essex, from the National Conference of State Legislatures, who provided an overview of criminal code revisions undertaken throughout the country.

December 18, 2020 Meeting

The fourth meeting of the task force was held on December 18, 2020. At the meeting, the task force reviewed this letter and voted on recommendations and draft legislation to extend its work for an additional year.

Recommendations

The task force voted to make the following recommendations:

- (1) due to the scope of the task force's responsibilities and delays caused by the ongoing COVID-19 pandemic, the General Assembly should extend the work of the task force for a period of one year and authorize the task force to obtain technical and research assistance in its work;
- (2) the General Assembly should adopt a standard crime classification system and consider a default *mens rea* for appropriate criminal offenses in the State; and
- (3) the General Assembly should define and distinguish misdemeanor and felony offenses.

The members of the task force and I greatly look forward to the opportunity to continue our work.

Sincerely,



Senator Mary L. Washington, Chair
Task Force to Study Crime Classification and Penalties

MLW/JDL/msr

Enclosures

cc: Senator William C. Smith, Jr.
Delegate Luke Clippinger
Ms. Victoria L. Gruber
Mr. Ryan Bishop