



Testimony for the House Judiciary Committee
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HB 312 Criminal Law - Assault of Public Transportation Operator - Penalties

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OPPOSE

The ACLU of Maryland respectfully opposes HB 312, expands provisions prohibiting felony second-degree assault to include the intentional injuring a bus operator, a train operator, a light rail operator, or any other individual engaged in providing public transportation services.

Public transportation workers are valued public servants and their work undoubtedly involves certain dangers and stress. However, HB 312 is unnecessary and counterproductive.

Enhanced criminal penalties are expensive and yield little or no public safety returns

Enhanced sentences require that the state expend unjustified resources housing persons who may pose little or no public safety threat. This is not only a waste of existing correctional resources; it is also a waste of future taxpayer dollars. Maryland currently expends on average \$3,800 per month per inmate in state facilities. Only two years ago, the General Assembly passed the Justice Reinvestment Act in an effort to curb the bloated prison population while maintaining public safety. HB 312 potentially undermines the progress and savings under the JRA, which the state is only just beginning to realize.

Moreover, no evidence indicates that there is a public safety benefit to increasing the severity of sentences. Indeed, the evidence shows that more severe sentences do not deter crime more effectively than less severe sentences.¹ In researching the correlation between severe sentences and crime deterrence, Professors Durlauf & Nagin found that the marginal deterrent effect of increasing already lengthy prison sentences is modest at best and evidence suggests the possibility of a negative criminogenic effect from imprisonment.² Therefore, it is highly questionable whether increasing the maximum prison sentence for this offense will actually make public transportation workers more safe.

Existing penalties are available and utilized to address offenses against Public Transportation workers

¹ Durlauf & Nagin, *Imprisonment and Crime: Can Both Be Reduced?*, 10 CRIMINOLOGY & PUBL. POL'Y, 13, 37-38 (2011)

² *Id.*

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At best, HB 312 is unnecessary. As the bill's fiscal note highlights, offenses against public transportation workers are very likely already prosecuted under existing assault statutes.

Heightened penalties are warranted where the government lacks the will or capacity to prosecute offenses against a group—this is not the case for Public Transportation Workers

Heightened penalties are intended to aid in the prosecution of crimes that are traditionally under-charged, as a result of prosecutorial unwillingness or the absence of legal remedies. There is absolutely no evidence that Maryland's prosecutors are unable to pursue crimes against Public Transportation Workers under existing criminal statutes, nor is there evidence that prosecutors treat offenses against these workers flippantly.

For the foregoing reasons, the ACLU of Maryland opposes HB 312.