

March 4, 2020

The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
Maryland State Senate

The Honorable Jeffrey D. Waldstreicher
Vice-Chair, Senate Judicial Proceedings Committee
Maryland State Senate

Re: Senate Bill 921

Dear Senator Smith and Senator Waldstreicher:

The undersigned organizations write to express support for SB 921, a bill to eliminate current restrictions on jury eligibility for individuals with a criminal conviction who have completed their sentence.

With as many as one in three Americans having a criminal record, it has become increasingly clear to lawmakers and to the public that criminal justice reform must be a priority. States across the country have implemented reforms addressing the vast web of barriers, restrictions, and other collateral consequences that come with a conviction in this country. We are encouraged by Maryland's trailblazing criminal justice reforms in the past few years including fair chance licensing legislation and extensive voter enfranchisement, extending to those still serving on probation and parole.

Despite this progress, full access to political and civic engagement opportunities remains out of reach for Maryland residents who have either completed their sentences or who have pending criminal charges. Existing Maryland law bars from jury service any individual who has been convicted of or has a charge pending for a crime punishable by a term of imprisonment exceeding one year. This and other jury disenfranchisement laws across the country uphold a criminal legal system that systematically silences those communities most impacted by it. Laws that bar individuals who have criminal records from serving on juries dramatically limit juror pools and undercut the constitutional right to a fair trial by a jury of one's peers. In a state with such deeply disproportionate rates of incarceration—70% of Maryland's prison population is African-American, compared to 31% of the state population—a law which disqualifies those with criminal records from serving on juries is a law which all but guarantees inadequate representation in juror pools¹.

¹ Justice Policy Institute (2019). Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland. Retrieved from: http://www.justicepolicy.org/uploads/justicepolicy/documents/Rethinking_Approaches_to_Over_Incarceration_MD.pdf

A central rationale from proponents for barring those with felony convictions from serving on juries is that their experience with the criminal justice system would render them so biased against the state that they would present a threat to fair jury proceedings. In his quantitative study, John M. Binnall found no evidence to support the idea that jurors with felony convictions were less able to openly exchange ideas and adhere to legal concepts; in fact, jurors with felony convictions raised novel case facts more often than did jurors without felony convictions. No evidence exists to support the idea that individuals who have completed sentences for felony convictions cannot serve as effective and fair jurors. On the contrary, “apart from removing a unique perspective from the deliberation room, felon-juror exclusion statutes seemingly curtail the potential of the collaborative deliberative process” and “denigrate the law’s professed conceptualization of the jury as a representative, inclusive arbiter of facts.”²

Broadening the juror pool through the re-enfranchisement of individuals who have served their sentences is a critical step toward restoring the many freedoms and constitutional rights still denied to those with criminal records. We must continue to pass legislation which promotes meaningful and equitable participation in the foundational processes of our justice system.

For these reasons, we urge you to vote yes on SB 921.

Sincerely,

Health in Justice Action Lab, Northeastern University School of Law
Justice Policy Institute
Legal Action Center
National Association of Criminal Defense Lawyers
The Sentencing Project

cc: Members, Senate Judiciary Proceedings Committee

² James M. Binnall (2018): Jury diversity in the age of mass incarceration: an exploratory mock jury experiment examining felon-jurors’ potential impacts on deliberations, *Psychology, Crime & Law*. Retrieved from: <https://www.tandfonline.com/doi/full/10.1080/1068316X.2018.1528359>