

HOUSE BILL 518

P5

CONSTITUTIONAL AMENDMENT

5lr0707

By: **Delegate Grammer**

Introduced and read first time: January 22, 2025

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **General Assembly – Criminal Offenses – Mens Rea Requirement**

3 FOR the purpose of establishing a certain mens rea requirement for a bill passed by the
4 General Assembly that establishes a criminal offense; requiring the Department of
5 Legislative Services to report certain information to certain committees of the
6 General Assembly; requiring that a fiscal note prepared for a bill establishing a
7 criminal offense include certain information; and generally relating to an explicit
8 mens rea requirement for criminal offenses.

9 BY proposing an addition to the Maryland Constitution
10 Article III – Legislative Department
11 Section 62

12 BY adding to
13 Article – State Government
14 Section 2–1262
15 Annotated Code of Maryland
16 (2021 Replacement Volume and 2024 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – State Government
19 Section 2–1505(e)
20 Annotated Code of Maryland
21 (2021 Replacement Volume and 2024 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 (Three–fifths of all the members elected to each of the two Houses concurring), That it be
24 proposed that the Maryland Constitution read as follows:

25 **Article III – Legislative Department**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **62.**

2 (A) EXCEPT AS PROVIDED UNDER SUBSECTIONS (B) AND (C) OF THIS
3 SECTION, EACH BILL PASSED BY THE GENERAL ASSEMBLY THAT ESTABLISHES A
4 CRIMINAL OFFENSE SHALL INCLUDE AN EXPLICIT MENS REA REQUIREMENT FOR
5 EACH OFFENSE ESTABLISHED.

6 (B) AN EXPLICIT MENS REA REQUIREMENT IS NOT REQUIRED UNDER THIS
7 SECTION IF THE LANGUAGE ESTABLISHING A CRIMINAL OFFENSE IN A BILL PASSED
8 BY THE GENERAL ASSEMBLY PLAINLY INDICATES A PURPOSE TO IMPOSE STRICT
9 LIABILITY FOR THE PROHIBITED CONDUCT DESCRIBED IN THE OFFENSE.

10 (C) THIS SECTION DOES NOT APPLY TO THE AMENDMENT OF A CRIMINAL
11 OFFENSE THAT EXISTED ON OR BEFORE JANUARY 1, 2027.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
13 as follows:

14 **Article – State Government**

15 **2–1262.**

16 ON OR BEFORE DECEMBER 1 EACH YEAR, THE DEPARTMENT SHALL REPORT,
17 IN ACCORDANCE WITH § 2–1257 OF THIS SUBTITLE, TO THE SENATE JUDICIAL
18 PROCEEDINGS COMMITTEE AND THE HOUSE JUDICIARY COMMITTEE ON CRIMINAL
19 LAWS IN THE STATE THAT DO NOT SPECIFY AN EXPLICIT MENS REA REQUIREMENT
20 FOR THE OFFENSE.

21 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
22 as follows:

23 **Article – State Government**

24 **2–1505.**

25 (e) (1) A fiscal note for a bill shall contain an estimate of the fiscal impact of
26 the bill on the revenues and expenditures of the State government and of local
27 governments:

28 (i) during the year in which the bill is to become effective and the
29 next 4 years after that year; and

30 (ii) if the full fiscal impact of a bill is not expected to occur during
31 those years, during each year until and the first year during which that impact is expected
32 to occur.

1 (2) If a bill, as introduced or amended, imposes a mandate on a local
2 government unit, the fiscal note for the bill shall contain:

3 (i) a statement that clearly identifies the imposition of the mandate;
4 and

5 (ii) an estimate of the fiscal impact of the mandate and, if applicable
6 and if data is available, the effect on local property tax rates.

7 (3) If a bill, as introduced or amended, requires a mandated appropriation,
8 the fiscal note for the bill shall contain:

9 (i) a statement that clearly identifies the imposition of the
10 mandated appropriation; and

11 (ii) an estimate of the fiscal impact of the mandated appropriation.

12 (4) **A FISCAL NOTE FOR A BILL THAT ESTABLISHES A CRIMINAL**
13 **OFFENSE SHALL CONTAIN:**

14 **(I) A STATEMENT THAT UNDER ARTICLE III, § 62 OF THE**
15 **MARYLAND CONSTITUTION, EACH BILL PASSED BY THE GENERAL ASSEMBLY**
16 **ESTABLISHING A CRIMINAL OFFENSE SHALL PROVIDE AN EXPLICIT MENS REA**
17 **REQUIREMENT FOR THE OFFENSE ESTABLISHED UNLESS THE BILL PLAINLY**
18 **INDICATES A PURPOSE TO IMPOSE STRICT LIABILITY FOR THE CONDUCT DESCRIBED**
19 **IN THE OFFENSE; AND**

20 **(II) AN ASSESSMENT OF WHETHER THE CRIMINAL OFFENSE**
21 **ESTABLISHED IN THE BILL INCLUDES AN EXPLICIT MENS REA REQUIREMENT.**

22 **(5)** A fiscal note shall identify the sources of the information that the
23 Department used in preparing the estimates of fiscal impact.

24 SECTION 4. AND BE IT FURTHER ENACTED, That the General Assembly
25 determines that the amendment to the Maryland Constitution proposed by Section 1 of this
26 Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland
27 Constitution concerning local approval of constitutional amendments do not apply.

28 SECTION 5. AND BE IT FURTHER ENACTED, That the amendment to the
29 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified
30 voters of the State at the next general election to be held in November 2026 for adoption or
31 rejection in accordance with Article XIV of the Maryland Constitution. At that general
32 election, the vote on the proposed amendment to the Constitution shall be by ballot, and on
33 each ballot there shall be printed the words "For the Constitutional Amendment" and
34 "Against the Constitutional Amendment", as now provided by law. Immediately after the

1 election, all returns shall be made to the Governor of the vote for and against the proposed
2 amendment, as directed by Article XIV of the Maryland Constitution, and further
3 proceedings had in accordance with Article XIV.

4 SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act is
5 contingent on the passage of Section 1 of this Act, a constitutional amendment, and its
6 ratification by the voters of the State.

7 SECTION 7. AND BE IT FURTHER ENACTED, That, subject to Sections 6 and 8 of
8 this Act, Section 3 of this Act shall take effect on the proclamation of the Governor that the
9 constitutional amendment, having received a majority of the votes cast at the general
10 election, has been adopted by the people of Maryland.

11 SECTION 8. AND BE IT FURTHER ENACTED, That, except as provided in
12 Sections 6 and 7 of this Act, this Act shall take effect June 1, 2025.