



Testimony for the House Judiciary Committee

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HB 278 Criminal Law - Misconduct in Office

UNFAVORABLE

TONI HOLNESS
PUBLIC POLICY DIRECTOR

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION OF
MARYLAND

MAIN OFFICE
& MAILING ADDRESS
3600 CLIPPER MILL ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
or 240-274-5295
F/410-366-7838

FIELD OFFICE
6930 CARROLL AVENUE
SUITE 610
TAKOMA PARK, MD 20912
T/240-274-5295

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS
JOHN HENDERSON
PRESIDENT

The ACLU of Maryland opposes HB 278, which establishes the offense of a course of conduct involving two or more acts constituting misconduct in office. Under HB 278, this new offense is punishable by a maximum 10-year prison term and it does not carry a statute of limitations. We oppose the omission of a statute of limitations.

Statutes of Limitations encourage prompt investigation and prosecution, which play an important role in our judicial system

As a general rule, the ACLU of Maryland does not support eliminating or omitting statutes of limitations. Statutes of limitations play an essential role in the judicial system and should remain intact—they provide judicial safeguards for the accused, and particularly those who are innocent of any wrongdoing.

According to the Supreme Court,

The purpose of a statute of limitations is to limit exposure to criminal prosecution to a certain fixed period of time following the occurrence of those acts the legislature has decided to punish by criminal sanctions. Such a limitation is designed *to protect individuals from having to defend themselves against charges when the basic facts may have become obscured by the passage of time* and to minimize the danger of official punishment because of acts in the far-distant past. Such a time limit may also have the salutary effect of *encouraging law enforcement officials promptly to investigate suspected criminal activity*. *Toussie v. United States*, 397 U.S. 112, 114-15 (1970)(emphasis added).

To expand on the Court's explanation—statutes of limitations prompt the prosecution and the defense to present a case before evidence disappears or becomes stale. Prosecution within a specified period of time allows the defendant to cross-examine any evidence or witnesses brought against her. As time passes from the commission of a crime, crucial memories may be forgotten, tangible evidence may be misplaced, key witnesses may have died,



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and as a result, once-exculpatory evidence may be impossible to obtain, depriving the defendant of presenting a meaningful defense.

Also, statutes of limitations ensure that “the possibility of punishment for an act committed long ago cannot give rise to either a person’s incarceration or the criminal justice system activation.”¹ After some point, people need to be free to move on with their lives without fear that an alleged long-ago act may resurface and disrupt their lives.

For the foregoing reasons, we oppose the omission of a statute of limitations from the newly proposed offense of a scheme of misconduct in office.

¹ The National Association of Legal Professionals, *Statutes of Limitations*, <http://www.nals.org/?p=5688>