



## POSITION ON PROPOSED LEGISLATION

BILL: HB 1243 – Hate Crimes (John Weed Dignity Act)  
POSITION: OPPOSE  
DATE: February 21, 2020

The Office of the Public Defender represents one of the two young persons charged with crimes against Mr. Weed, therefore, we are bound by confidentiality to say nothing with respect to that case.

However, on its face, HB 1243 raises concerns having nothing to do with the particular facts, evidence or arguments of the litigation, and it is that which this testimony will address.

According to the Maryland Constitution, the “General Assembly shall pass no special law, for any case, for which provision has been made, by an existing General Law.” *Md. Const. Art. III, § 33.*

Whether the prohibition against a “special law” applies to a given bill turns on a number of factors, including, among others: (1) whether it relates to particular persons or things of a class or for less than all the persons or subjects of a class (*see State v. Baltimore & O.R. Co.*, 113 Md. 179 (1910)), (2) whether distinctions drawn in the legislation are arbitrary and without reasonable basis (*see Cities Service Co. v. Governor, State of Md.*, 290 Md. 553 (1981), and (3) the public needs or interests in light of the adequacy of the already-existing general laws to serve them (*see State v. Good Samaritan Hosp. of Maryland, Inc.*, 299 Md. 310 (1984)).

As to the first two factors enumerated above, HB 1243 appears to relate to the alleged facts of one case, before that case has been adjudicated. Codifying as a protected class a person or group who “refuses to donate money” has no similarity whatsoever to the other categories of persons included in the current statute, which include categories such as race, religion or gender that have for millenia been the subject of discrimination.

As to the last factor, the already existing law prohibits conduct which is a crime, and includes special penalties for cases that result in the death of a victim. Thus, the provisions related to throwing, spitting etc. are unnecessary, as they are already punishable separately as 2<sup>nd</sup> degree assaults, already chargeable as a hate crime under existing provisions, and hate crimes resulting in death are already punishable as felonies up to 20 years.