



Maryland Association for Justice, Inc.

2021 Position Paper

MAJ Position In Support of SB625 - Courts – Jury Service – Disqualification

SB625 changes Md. Courts Article, §8-103 “Qualification Criteria” that defines the persons that qualify and are disqualified for jury service. Under current law, a potential juror is not qualified if he or she “4) Has been convicted, in a federal or State court of record, of a crime punishable by imprisonment exceeding 1 year and received a sentence of imprisonment for more than 1 year.” Md. Courts And Judicial Proceedings Code Ann. § 8-103(b)(4). That applies to misdemeanors and felonies.

If SB625 is adopted, then only a prospective juror who has been convicted of a felony and is currently serving a sentence or on probation is disqualified from juror eligibility in a Maryland state court. This would allow anyone with a misdemeanor conviction and a person convicted of a felony who served his or her complete sentence plus probation to be eligible for jury service.

Juries are supposed to be composed of community members who will fairly judge the case based on community standards. In *Duren v. Missouri*, 439 U.S. 357 (1979), the Court recognized the criminal defendant’s rights to be tried by jurors from the community. In *Lovell v. State*, 347 Md. 623, 662, 702 A.2d 261, 280 (1997), the Court addressed whether the jury represented a cross-section of the community and constituted a fair trial when considering whether African-American jurors were excluded from the jury pool based on voting registrations.

The rationale for excluding people convicted of felonies has come under more recent criticism because there is an imbalanced racial impact. One 2003 study indicates that over 6% of the adult population and about 30% of black men are excluded from jury service. See Kalt, *The Exclusion of Felons From Jury Service*, SSRN Electronic Journal Aug. 2003.

Everyone who pays their debt to society by serving their sentence and probation should no longer be prevented from jury service.

Another justification for this change is that there are misdemeanors that may be sentenced for longer than 1 year. For example, “assault” in the second degree may include up to ten years in jail or prison under Md. Code Ann., Crim. Law §3-203. Reckless endangerment is a misdemeanor punishable by up to five years in jail or prison under Md. Code Ann., Crim. Law §3-204. And a person convicted of a second and third driving while impaired violation can be sentenced for up to 5 years and 10 years, respectively, under Md. Transportation Code Ann. §21-902. There is no compelling reason that these misdemeanor violators should be excluded from jury service as provided under current law.

Excluding people for their lifetime, as under current law, who were sentenced to more than 1 year in jail for misdemeanors and felonies is too broad. Too many community members are prohibited from jury service. SB625 creates balance by permitting misdemeanor violators and people with past felony convictions who completely served jail and probation sentences to be permitted to serve on juries as part of the cross section of the community.

The MAJ requests a FAVORABLE Committee Report.