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MAJORITY WHIP

Judicial Proceedings Committee

Joint Committee on
Cybersecurity, Information Technology,
and Biotechnology

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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Senate Judicial Proceedings Committee

**Senate Bill 527 - Probation Before Judgment - Facts Justifying a Finding of
Guilt and Suspension of Sentence**

Senate Bill 653 aims to fix a technicality in our state law that creates an unintended consequence at the federal level. Under current law, a plea acceptance of a probation before judgment (PBJ) in Maryland may trigger the deportation legal permanent residents or undocumented immigrants, even though it is not a finding of guilt. We must correct this undesirable consequence and protect people from harmful effects that a technicality in law has created. This language passed this chamber in 2020, but we have updates.

Judges may impose any punishment, just as before the effective date of the bill. Only in cases where State's Attorneys, defense counsel, and judges agreed that a PBJ is an available option could the immigrant defendant plea. There are many arguments in favor of the purpose for PBJs that opponents of this bill might like to use in other context, but I urge them to see that in this context the tool is unusable and even unethical. And I remind anyone that might want to sensationalize the impact of this bill, that the relevant crimes would be limited and apply to almost exclusively to first-time violators.

For these reasons, I respectfully request a favorable report on SB 527, as amended. (see draft below)

- (3) (I) FOR THE PURPOSES OF THIS PARAGRAPH, THE COURT MAY:
1. MAKE FINDINGS OF FACT SUFFICIENT TO SUPPORT A FINDING OF GUILT; AND
 2. IN THE EVENT OF A VIOLATION OF PROBATION GRANTED IN ACCORDANCE WITH THIS PARAGRAPH, ENTER A FINDING OF GUILT AND IMPOSE A SENTENCE.
- (II) WHEN THE COURT FINDS FACTS JUSTIFYING A FINDING OF GUILT, THE COURT MAY ENTER INTO A PROBATION AGREEMENT WITH THE DEFENDANT.
1. THE DEFENDANT ACCEPTS PROBATION IN EXCHANGE FOR THE COURT EXPRESSLY WITHHOLDING A FINDING OF GUILT;
 2. THE DEFENDANT KNOWINGLY AND VOLUNTARILY WAIVES:
 - A. THE RIGHT TO A TRIAL; AND
 - B. UNLESS THE COURT MAKES A FINDING OF GUILT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE RIGHT TO APPEAL THE PROBATION AGREEMENT, BUT NOT THE UNDERLYING PROBATION;