

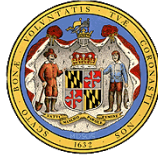
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SUPPORT WITH AMENDMENTS- HB 1085

Dear Madam Chair and Members of the Ways and Means Committee:

I am writing to express the Office of the State Prosecutor's support with amendments to House Bill 1085. The bill seeks to clarify the law to aid in the prosecution of individuals who solicit others to commit violations of Title 16 of the Election Law Article. We would propose that the legislation be amended so that the solicitation crime mirrors the penalties in the existing statutory scheme, and have included recommended language below.

The Office of the State Prosecutor

The Office of the State Prosecutor is an independent agency within the Executive Branch of government. The Office is tasked with ensuring the honesty and integrity of state government and elections by conducting thorough, independent investigations, and when appropriate, employing our criminal and civil enforcement power to prosecute conduct affecting the integrity of our government institutions, officials, employees, and elections.

The Office of the State Prosecutor has jurisdiction over election law violations. The Office pursues both civil and criminal enforcement of the Election Law Article, as appropriate, throughout the State.

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As currently drafted, the crime of solicitation is a separate provision with its own penalties. Accomplice liability (accessory liability) and conspiracy offenses, which this bill seeks to expand and clarify for the purposes of the election law article, are linked to the offenses that are committed. A key distinction is that a conspiracy charge is always a misdemeanor even if the underlying charge is a felony (conspiracy to commit murder is a misdemeanor charge, even though the crime of murder is a felony). This legislation would keep the crime of solicitation a felony if the underlying offense is a felony.

The Office of the State Prosecutor supports adjusting the bill's language to align with the theories of liability that the legislation seeks to codify. Accordingly, we recommend language such as:

- (A) A PERSON MAY NOT WILLFULLY AND KNOWINGLY SOLICIT, COMMAND, IMPORTUNE, OR OTHERWISE ATTEMPT TO CAUSE ANOTHER PERSON TO COMMIT A FELONY VIOLATION OF THIS TITLE.
- (B) A PERSON MAY NOT WILLFULLY AND KNOWINGLY SOLICIT, COMMAND, IMPORTUNE, OR OTHERWISE ATTEMPT TO CAUSE ANOTHER PERSON TO COMMIT A MISDEMEANOR VIOLATION OF THIS TITLE.
- (C) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO THE PENALTY PROVIDED IN THIS TITLE FOR COMMITTING THE UNDERLYING FELONY.
- (D) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO THE PENALTY PROVIDED IN THIS TITLE FOR COMMITTING THE UNDERLYING MISDEMEANOR.
- (E) IT IS NOT A DEFENSE TO A PROSECUTION FOR A VIOLATION OF THIS SECTION THAT THE PERSON ALLEGEDLY SOLICITED BY THE DEFENDANT COULD NOT BE GUILTY OF THE CRIME SOLICITED.

The Office of the State Prosecutor is committed to investigating and, where appropriate, prosecuting election law violations. The cases that this bill seeks to address are serious and undermine the transparency and fairness of our democracy. Voters should have faith that their votes are fair and feel safe at their polls or mailing in their ballots. Individuals who attempt to undermine this important process should be held accountable.

We support enhancing tools to hold individuals who seek to undermine our democracy accountable and ask this Committee to consider the proposed amendments in issuing a favorable report on House Bill 1085.

If there are any questions for our office, please contact Deputy State Prosecutor Sarah David at sarah.david@maryland.gov or 443-652-6689.

Sincerely,

Charlton T. Howard
Maryland State Prosecutor