

hb432 (2).pdf

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Position: FAV

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HON. RICHARD SANDY
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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 432
Courts and Judicial Proceedings and Criminal Procedure –
Technical Corrections – References to Intellectual Disability
DATE: March 14, 2024
(3/21)
POSITION: Support

The Maryland Judiciary supports House Bill 432. This bill amends various provision of CJP Title 3, Subtitles 8 and 8B and in the Criminal Procedure Article by deleting references to “mental retardation” and substituting references to “intellectual disability”.

The Judiciary supports the elimination of outdated and offensive terminology and its replacement with more appropriate language used elsewhere in the Code.

cc. Hon. Aaron Kaufman
Judicial Council
Legislative Committee
Kelley O'Connor

HB432.DD Coalition.FAV.JPR.pdf

Uploaded by: Rachel London

Position: FAV



MARYLAND DEVELOPMENTAL DISABILITIES COALITION

Dedicated to the rights and quality of life for people with developmental disabilities in Maryland

Senate Judicial Proceedings Committee

March 21, 2024

HB 432: Courts and Judicial Proceedings and Criminal Procedure – Technical Corrections – References to Intellectual Disability

Position: **Support**



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Maryland Developmental
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The Maryland Developmental Disabilities Coalition (DD Coalition) is comprised of five statewide organizations that are committed to improving the opportunities and outcomes for people with intellectual and developmental disabilities (IDD) and their families. As such, the DD Coalition supports HB 432. It is time to remove outdated language that is no longer used from Maryland law.

- In 2009, Maryland passed Rosa's Law and replaced outdated language with inclusive, person first language for people with intellectual disabilities. Rosa's Law only changed language in certain sections of Maryland law: Education, Estates and Trusts, Family Law, Health-General, Labor and Employment, State Finance and Procurement, and Transportation. The Courts and Judicial Proceedings and Criminal Procedure statutes were notably missing.
- The same year, the "Spread the Word to End the Word" campaign launched to encourage people to sign the pledge to end the "R-Word."
- In 2010, President Obama signed Rosa's Law which changed the language in US federal law.
- In 2013, the *Diagnostic and Statistical Manual (DSM-5)* included the diagnosis of intellectual disability, aligning the diagnosis terminology with more appropriate language, and the requirements in Rosa's Law.

Fifteen years later, it is time for Maryland to take the last step to eliminate the use of the outdated, medical language that is too often used as an insult. We support HB 432, and the effort to eliminate language that is no longer used. Continuing to remove old references helps decrease any harmful effects and social stigma associated with the term.

Contact:

Rachel London, Executive Director, Maryland Developmental Disabilities Council
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HB432_FAV_DRM_SB.pdf

Uploaded by: Sandy Balan

Position: FAV

Senate Judicial Proceedings Committee
House Bill 432 Courts and Judicial Proceedings and Criminal Procedure-Technical
Corrections-References to Intellectual Disability
March 21, 2024

POSITION: SUPPORT

Thank you, Mr. Chair Smith and Senate Judicial Proceedings Committee Members, for the opportunity to provide written testimony in support of House Bill 432: Courts and Judicial Proceedings and Criminal Procedure-Technical Corrections-References to Intellectual Disability. Disability Rights Maryland (DRM – formerly Maryland Disability Law Center) is the federally designated Protection and Advocacy agency in Maryland, mandated to advance the civil rights of people with disabilities. DRM works to increase opportunities for Marylanders with disabilities to be integrated into their communities, live independently and access high-quality, affordable health care.

While the “R-word” was initially used primarily in a clinical setting, the word has shifted to now being used as a derogatory slur against individuals with disabilities. Because of this harmful shift, there has been a recent push to ensure that use of the harmful word is eliminated in everyday language. Movements like “Spread the Word to End the Word” encourage the general public to sign pledges to end the use of the R-word. Additionally, new terminology was included in the *Diagnostic and Statistical Manual* (DSM-5) that defined “intellectual disability” and replaced the R-word. In Maryland, Rosa’s Law was passed in 2009 to remove the use of the harmful language in specific sections of Maryland law. In 2010, President Obama signed Rosa’s Law, modeled on Maryland’s law, that replaced the harmful word in various sections of federal law.

When Maryland passed Rosa’s Law, only the following statutes had its language changed: Education, Estates and Trusts, Family Law, Health-General, Labor and Employment, State Finance and Procurement, and Transportation. However, Rosa’s Law particularly did not include a removal of the outdated language from The Courts and Judicial Proceedings and Criminal Procedure statutes; House Bill 432 aims to correct that grave omission.

One of the main purposes behind the Americans with Disabilities Act (ADA) was to ensure that individuals with disabilities were not being discriminated against in everyday activities.¹ The use of the R-word in the statutes impedes that purpose from being fulfilled and deprives individuals with disabilities of the respect and dignity that they deserve. House Bill 432 will aid in creating a more inclusive environment where all individuals can be empowered to live a life where their humanity is not only recognized, but also valued.

¹ Americans with Disabilities Act, 42 U.S.C. §12101

While Maryland took the important step in ending such offensive and outdated language, it is time for Maryland to take an even bigger step by replacing the R-word in the language of The Courts and Judicial Proceedings and Criminal Procedure statutes.

Individuals with disabilities have been in a constant cycle of oppression, inequity and powerlessness. House Bill 432 can help ensure that Maryland is a part of the solution to ending that cycle, helping create a future that allows people with disabilities to feel respected and equal in society.

For these very reasons, DRM strongly supports House Bill 432 and urges a favorable report.

Sincerely,

Sandy Balan, Esq.
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testimony for HB 432 in JPR.pdf

Uploaded by: Aaron Kaufman

Position: FWA

Sponsor Testimony

Intellectual Disability Bill (HB 432)

Delegate Aaron Kaufman

March 21, 2024

Judicial Proceedings Committee

Good afternoon Chair Smith, Vice Chair Waldstreicher, and esteemed colleagues. For the record my name is Delegate Aaron Kaufman representing District 18.

This fall I was honored when the Attorney General's Office asked me to introduce HB 432 which would change the term mental retardation, a phrase the disability community considers a hurtful slur, to the appropriate medical term of intellectual disability in the Maryland code of law. This bill passed in the Judiciary Committee unanimously and on the House floor with a vote of 138 to 0. Given the ideological diversity among the co-sponsors and those in favor of this legislation, I am confident my colleagues agree with me on the importance of this bill.

The American Association on Intellectual and Developmental Disabilities defines an intellectual disability as “a condition characterized by significant limitations in both intellectual functioning and adaptive behavior that originates before the age of 22” (AAIDD 2024). The federal government removed the term mental retardation from the law early in the Obama administration, and prior to federal action a bill sponsored by the late Delegate Ted Sophocleus attempted to remove the slur from Maryland law. Mental retardation is a derogatory term that has no place in our codes of law.

This bill is personal to me. As all of you know, my brother, Jay, had an intellectual disability and passed away just over a year ago, so I am carrying this bill forward in his memory. I am not fond of labels as they relate to those with disabilities because people tend to focus on the label that society has given a person rather than actually getting to know them. This bill allows us to refer to people with disabilities in a respectful manner.

In full disclosure after submitting HB 432 I learned from bill drafting that this change is already occurring in this year's technical

corrections bill, as it relates to the criminal code. However, the Attorney General personally asked me to continue carrying the bill. HB 432 originally sought to rid the Maryland Criminal Code of the word mental retardation, but this Tuesday the Attorney General's office asked that I adopt an amendment that would strike the term from the Employment Discrimination Code as well. I have submitted the amendments to Ms. Popp, the Judicial Proceedings Committee Administrator for her to distribute to the committee members.

The Attorney General and I believe it is important for the General Assembly to make an affirmative statement that this derogatory term has no place in the Maryland code of law, and so I urge a favorable report on HB 432. Thank you and I will gladly answer any questions you may have.

2024-03-21 HB 432 (Support with Sponsor Amendment)

Uploaded by: Jer Welter

Position: FWA

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March 21, 2024

TO: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: Jer Welter
Division Chief, Criminal Appeals Division, Office of the Attorney General

RE: HB 432 – Courts and Judicial Proceedings and Criminal Procedure –
Technical Corrections – References to Intellectual Disability – **Favorable
with Sponsor Amendment**

The Office of the Attorney General urges the Judicial Proceedings Committee to issue a favorable with amendments report on House Bill 432. Delegate Kaufman's bill replaces references to "mental retardation" with "intellectual disability," and replaces references to "insanity" with "mental disorder or an intellectual disability," in the Criminal Procedure Article and the Courts and Judicial Proceedings Article. We urge the Committee to give a favorable report to the bill along with a sponsor amendment offered by Delegate Kaufman, discussed below, which would correct an additional reference to "retardation" in the State Government Article.

The terms "retardation" and "insanity" are outdated. "Mental retardation" is now widely understood to be a slur against people with intellectual disabilities that should be avoided. The term "insanity" is no longer used in medical nomenclature. Yet these phrases are used in the Code to refer to criminal defendants who assert that they are incompetent to stand trial, as well as those who plead not criminally responsible. Md. Code Ann., Crim. Pro. §§ 3-106(b), 3-109(a), 3-310. The continued existence of these two phrases in multiple statutes in the Code demeans the dignity of those to whom they are directed.

Notably, on two previous occasions, the General Assembly has substituted “intellectual disability” for “mental retardation” in other portions of the Code. In 2009, with the passage of “Rosa’s Law,” 2009 Md. Laws ch. 119, the legislature replaced “mental retardation” with “intellectual disability” in various portions of the Code, including all of the Health–General Article. According to the Fiscal and Policy Note for Rosa’s Law, it was meant to replace “the term ‘mental retardation’ with ‘intellectual disability’ in the State code.” Maryland Fiscal Note, 2009 Sess. H.B. 20. A federal law of the same name eliminated references to “retardation” in the U.S. Code. Rosa’s Law, Pub. L. No. 111-256, 124 Stat. 2643 (2010).

Notwithstanding the passage of Rosa’s Law in Maryland, some references to “mental retardation” remained. In an effort to rectify that omission, in 2016, a reference to “mental retardation” was replaced with “intellectual disability” in Title 3 of Criminal Law Article. 2016 Md. Laws ch. 633.

Unfortunately, neither Rosa’s Law nor the 2016 legislation addressed certain remaining areas in which the Code still refers to “mental retardation” or “retardation”: the statutes in the Criminal Procedure Article relating to competency to stand trial and criminal responsibility; the Juvenile Causes Subtitle of the Courts & Judicial Proceedings Article; and in a single instance in the State Government Article. Substituting the term “intellectual disability” for these remaining references to “retardation” will align those portions of the Code with the remainder.

House Bill 432 has been passed by the House unanimously. It also conforms with identical provisions of the Annual Corrective Bill (SB 1106), which the Senate has likewise passed unanimously.¹

The sponsor amendment addresses the use of the word “retardation” in a lone additional, but important, location in the State Government Article: in the definition of “disability” that applies to the Maryland Fair Employment Practices Act’s prohibition of employment discrimination on the basis of disability (§ 20-601(b) of the State Government Article). The amendment replaces the word “retardation” with “intellectual disability” in that section of the Code as well.²

The definitions at issue retain the same substantive meanings as the prior terms, and Section 2 of the bill includes uncodified language making clear that no substantive change is intended. Thus, the existing case law using the prior terminology will still apply.

The bill ensures that individuals are referred to in a dignified manner, consistent with modern sensibilities. For the foregoing reasons, the Office of the Attorney General urges the Committee to issue a favorable with amendment report on House Bill 432.

¹ The pertinent provisions are on pages 10–12 and 13–18 of Senate Bill 1106.

² The fact that the State Government Article provision uses the term “retardation,” while the other provisions at issue use the term “mental retardation,” may explain why the State Government Article provision was not addressed in the bill as originally introduced.

HB0432.pdf

Uploaded by: Suzanne Price

Position: UNF

HB0558 (notes are at the bottom but these 2 bills are related)
And

HB0432 Mental Retardation change to "Intellectual Disability"

This bill sounds innocent enough but it is NOT. It is not what it is, it is where this will go without any oversight. This is a push and bill that if you dig even just a tiny bit will see stems from **Planned Parenthood** and their **Project Shine** to sexualize mentally retarded children and individuals. This is a bad bill that is a slippery slope of destruction to one of our most vulnerable communities.

If California and New York are doing this, then there is nothing good that will come of it. If you google: "Intellectual Disability, New York, Planned Parenthood" you will be flooded with information to say, just leave these kids alone.

<https://www.plannedparenthood.org/planned-parenthood-greater-new-york/about/news>

Results from the second report will help inform inclusive sex education for young people with ID, parents, caregivers, and professionals.

<https://link.springer.com/article/10.1007/s11195-023-09805-y>

Sexual Health Innovation Network for Equitable Education also known as Project SHINE - a multidisciplinary network of intellectual disability experts

<https://www.plannedparenthood.org/planned-parenthood-greater-new-york/learn/community-programs/project-shine>

Add this bill with another bill on the same docket as they go hand in hand, HB0558 pushing for the sexualization of our children through a "comprehensive health education framework". Do our children really need schools (non family/ non parents) teaching about anal, oral and other sex? This is just a terrible bill too that has been rebranded from last year!

Requiring the State Department of Education, in collaboration with the Maryland Department of Health, to develop a comprehensive health education framework; requiring each county board of education to create an age-appropriate curriculum that is consistent with the comprehensive health education framework; requiring each county board to establish policies, guidelines, and procedures for a parent or guardian to opt out of certain topics for the parent's or guardian's student, subject to certain requirements; etc.

Who's watching them to do what is "appropriate"? Disaster in the making! And has the possibility for criminality.

I became a Republican after a lifetime being duped by the Democrats. Since when do my fellow Republicans carry water for the likes of- Planned Parenthood-who mutualize, murder and sacrifice babies for profit?

Please look into these very bad and dangerous bills, thank you.