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POSITION ON PROPOSED LEGISLATION

Bill: House Bill 1183 - Criminal Procedure - District Court Commissioners and False Statements

Position: Favorable, with amendments.

Date: 02/29/2024

The Maryland Office of the Public Defender urges a favorable report on House Bill 1183, with an amendment to the penalty provision.

Currently in Maryland anyone can walk into a District Court Commissioner's Office and make allegations that another has committed a crime, resulting in a commissioner issuing not only criminal charges but a warrant for a person's arrest. That warrant can issue without any investigation being made into the allegations. While the Office of the State's Attorney may later determine that there is not sufficient evidence to prosecute the case, or even that the allegations were completely without merit, the harm inflicted by the issuance of the warrant rarely can be undone.

By limiting the circumstances in which a District Court Commissioner can issue an arrest warrant to those instances where an application for statement of charges is made by a police officer or a State's Attorney, House Bill 1183 adds a much needed check to a system that is too often abused.

The current system, in which anyone can essentially cause an arrest warrant to be issued, is routinely abused. Individuals make false allegations for all sorts of reasons. Some hope to have another arrested as retaliation for making true accusations against them. Others have mastered using this unique quirk in our legal system as a method of harassing their enemies. Still others abuse the current system to cause their legal adversaries to miss crucial court dates or other important events.

Take the instance of a Jasmine,¹ a woman our office represented who was the victim of domestic assault at the hands of her ex-husband. The week before Jasmine's ex-husband's trial date, where she was to testify as to the abuse he had inflicted upon her, the ex-husband filed a false application for statement of charges against Jasmine, leading to her arrest. The arrest caused her to miss the trial date where she was scheduled to testify against her husband. The charges against Jasmine were later dismissed, but the damage had already been done.

¹ Jasmine is not the true name of this client, whose name is being withheld to protect her identity.

Another example is that of Nina², who was charged on 19 separate occasions over a period of three years by the same individual, also an ex-boyfriend, of crimes she claimed were false. In all 19 of these instances the State's Attorneys Office ultimately dropped the cases against her, however, the damage inflicted by the false charges and the multitude of unnecessary arrests was devastating. She lost jobs, was put in situations where she had no one to care for her minor child, and walked around in fear, traumatized, worried that she was always at risk of being arrested again due to false allegations by her harasser.

The modest reform in House Bill 1183 would make to Courts and Judicial Proceedings § 2-607 would not fundamentally alter Maryland's charging system. People still could apply for statements of charges against others through the District Court commissioner, in addition or instead of what most people do when they are victim of a crime, i.e., call the police. The amendment would simply put an additional limit on the circumstances in which an arrest warrant, rather than a criminal summons, would issue to those where the Police or the State's Attorney's Office are the ones initiating the charges.

The Office of the Public Defender supports this Bill, with one exception, which is that we are opposed to increasing the maximum penalty provision for making a false statement under Criminal Law § 9-503 from six months to three years. The crime of making a false statement to a law enforcement officer under Criminal Law § 9-501 carries a maximum six months. The two like offenses should carry like penalties. Thus, we encourage an amendment to strike the three year penalty provision.

A six month penalty is further supported by the social science research that consistently demonstrates that increasing enforcement, not increasing maximum penalties, is the more effective approach to deterring crime.³ In our experience, Criminal Law § 9-503 is rarely enforced. A refocused effort on the enforcement of this law already on the books should be prioritized and attempted before considering increasing the maximum penalty for violating Criminal Law § 9-503.

For the foregoing reasons, the Maryland Office of the Public Defender urges this committee to issue a favorable report on House Bill 1183.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

² Nina is not the true name of this client, whose name is being withheld to protect her identity.

³ <https://www.ojp.gov/pdffiles1/nij/247350.pdf>