

Judiciary Committee: Vote No on all SB 122 Penalty Provisions! Amendments by the Committee Workgroup Still Not Good Enough!

When asked in the workgroup to explain their rationale for why the state needed to increase minimum and maximum sentences for serious, repeat, violent offenders in SB 122, proponents offered little more than the need to “send a message.”

But since the best available data suggests that none of the offenses where penalties are increased actually end in convictions of such offenders with any regularity, and most have in fact ended in 0 convictions for the last three fiscal years, one has to ask what the *real* reason is.

The best explanation is as follows:

- For apparently political reasons, obviously not based on any research or factual grounding, the crafters of SB 122 decided to focus mostly on a number of tack-on misdemeanor offenses that already have minimum sentences;
- The number of recorded convictions for subsequent offenders of these crimes is extremely low, often zero (see attached). The data is best explained by the fact that police/prosecutors are either not charging these offenses, or agreeing to drop them as part of pleas that likely focus culpability on the higher-level charges that these offenses are tacked onto, like murder (from 30 years up to life without the possibility of parole, depending on circumstances), robbery (up to 20 years), carjacking (up to 30 years), 1st degree assault (up to 25 years), etc.

We reject two interrelated responses to this:

- “Since changing these provisions will have little impact (either negative or positive, depending on your perspective) why not just pass it, since it’s harmless?” This is a terrible abdication of responsibility, particularly in light of the serious problem of fatal violence in Baltimore City. But perhaps even more troubling is that it heaps upon impotence an outright political illusion: that we are actually doing something legislatively when we know we are most probably not. Thankfully, the bill does contain program funding that will address the violence, and that part of the bill we fully support.
- “But none of the code’s punishment provisions are based on data - aren’t all the numbers there because we just put them there?” Yes and no. Yes, they are probably all there because they seemed more or less proportional with our other laws and penalties. But no, because we can now look back, as we now have, to determine (more or less with the data sets currently available) how often the offenses are charged, how often charges end in conviction, how often convictions end in imprisonment, and lastly and most importantly for sentencing reform, how often imprisonment approaches or equals the maximum penalty permitted. We posit that unless numbers clearly show judges punishing at the maximum time permitted more often than not, then there is no reason to think the current penalty is in need of an increase. In fact, it might suggest a need for a revision downward.

Any action on SB 122’s punishment provisions, even as amended, continues to be unfounded, and those provisions should be completely deleted from the bill.

