



MARYLAND HOUSE REPUBLICAN CAUCUS

MINORITY LEADER

JASON C. BUCKEL, DISTRICT 1B

May 23, 2022

MINORITY WHIP

HAVEN SHOEMAKER, DISTRICT 5

The Honorable Brian E. Frosh, Esq.
Office of Attorney General
200 St. Paul Place
Baltimore, MD 21202

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Re: Maryland Defense Act of 2017

Dear Attorney General Frosh:

We, the undersigned members of the House Republican Caucus, write to you to urge you to act under the power granted to you pursuant to the Maryland Defense Act of 2017 (MDA) to curb certain practices and policies of the Biden Administration that pose a threat to the health, safety and general welfare of our constituents and all Maryland residents.

As you know, the MDA significantly expanded the independent authority of the Office of the Attorney General to sue the federal government “for the purpose of directing the Attorney General to take certain actions regarding civil and criminal suits and actions that are based on the **federal government's action or inaction that threatens the public interest and welfare of the residents of the State**” (emphasis added) and singled out the following areas the General Assembly wanted you and your Office to safeguard and protect:

- (1) the health of the residents of the State and ensuring the availability of affordable health care;
- (2) public safety and security;
- (3) civil liberties;
- (4) economic security of workers and retirees;
- (5) financial security of the residents of the State, including their pensions, savings, and investments, and ensuring fairness in mortgages, student loans, and the marketplace;

- (6) against fraud and other deceptive and predatory practices;
- (7) the natural resources and environment of the State; or
- (8) against illegal and unconstitutional federal immigration and travel restrictions; or
- (9) the general health and well-being of its residents.

Shortly after the MDA was adopted, you zealously and tirelessly sued the Trump Administration at every turn while ignoring your duties as the top law enforcement official in the State to combat rampant crime and the soaring murder rate in Baltimore City. You also turned a blind eye to the practice of Baltimore City State's Attorney Marilyn Mosby's decision not to prosecute entire categories of misdemeanor crimes. You also sat idly by while the State Board of Education usurped the local control over schools and forcibly masked them with little or no scientific justification during the COVID 19 Pandemic.

None of these safety or health concerns of Maryland residents were able to distract your laser-like focus on suing President Trump and his Administration numerous times and then glowingly crow about it in the *Maryland Defense Act Reports* (<https://www.marylandattorneygeneral.gov/Pages/Reports.aspx>, last visited May 19, 2022) issued by your Office. These reports gleefully recount how your Office sued President Trump and his Administration.

Since Joe Biden has been elected president, your zeal and ardor to carry out your marching orders as set forth in the MDA to take action "based on federal government's action or inaction that threatens the public interest and welfare of the residents of the State" has waned considerably. For example, you have shown no interest in safeguarding and protecting the health of Maryland residents. Witness that you have not joined other state attorneys general in suing the Biden Administration over its attempts to end the authority of [US Border Patrol](#) and [US Customs and Border Protection](#) under 42 U.S.C. § 265 to prohibit the entry of persons to the United States who potentially pose a health risk by being subject to previously-announced travel restrictions or because by unlawfully entering the country to bypass health-screening measure. We would assume that preventing persons with COVID-19 and other deadly contagious diseases from entering the United States and spreading such contagions to our State and its residents would be a priority of your office.

COVID-19 is not the only - or even the most critical - concern as it relates to our borders. The illegal flow of fentanyl across the US border is staggering. In FY 2021, approximately 11,200 pounds of fentanyl were seized by US Customs and Border Protection. That is enough fentanyl to kill the entire US population nearly eight times. Most of that fentanyl, 94.6%, was seized at the Southwestern border. Given that fentanyl is the drug with the highest instance of drug intoxication deaths in Maryland, now far outpacing heroin. With Maryland seeing 2,342 fentanyl-related

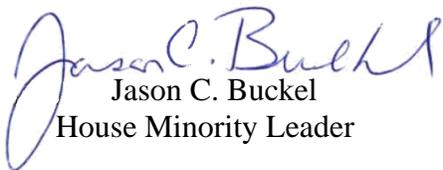
deaths in 2020, one would think such matters would be of great concern to your office. Porous borders are also targeted by human traffickers; what is fundamentally the Biden Administration's open-border policy only enables this tragedy. Because of this, anything we do in Maryland to combat human trafficking is little more than spitting in the wind.

Your Office has also failed to safeguard and protect Maryland's workers and school children using the MDA to challenge the Biden Administration's rescinding of President Trump's commonsense executive order *ensuring no government funding goes to anti-American or racist and sexist training, like Critical Race Theory (CRT), in the workplace*. Furthermore, your Office has not used the tool of the MDA to sue to ensure that federal education funds are not spent on K-12 schools that compel faculty members, students, or any other individual to affirm the tenets of CRT.

Most disturbing is your Office's failure to safeguard and protect the civil liberties of parents who voice their first amendment rights when advocating for children before local and state boards of education, only to be labeled "domestic terrorists" by the Biden Justice Department. Protecting the First Amendment Rights of parents to speak on behalf of the interest of their kids should be of paramount importance in deciding whether to use the power granted to you by the MDA.

Accordingly, we ask that you and your Office use the power granted you by the MDA to safeguard and protect the people of Maryland from action or inaction of the Biden Administration that threatens the public interest and welfare with the same zeal you wielded that power against the Trump Administration.

Sincerely yours,


Jason C. Buckel
House Minority Leader


Haven Shoemaker Jr.
House Minority Whip