

# LAW, JUSTICE, AND ETHICS

Resolution LJE-20-19

## A RESOLUTION ON OPPOSING UNSUPPORTED CRIMINAL CHARGES

WHEREAS, prosecutors have been increasing the number of charges placed against a defendant, even though some of these charges may not be substantiated by the facts, and are simply to intimidate a defendant;

WHEREAS, prosecutors routinely "stack charges" against a defendant, thus building a very long potential prison sentence if convicted, and then approach the defendant with a "plea deal" that would result in a guaranteed, substantially reduced charge and sentence if the defendant agrees to plead guilty to the reduced offense;

WHEREAS, the stacking of charge's has become standard practices to build such a horrifying potential sentence, that even actually innocent people will be intimidated into pleading guilty, rather than face what's called the "trial penalty ";

WHEREAS, unsubstantiated charges can make any defense more difficult as defendants have to spend more time and resources fighting these unsubstantiated;

WHEREAS, more than 95% of cases that result in a conviction are because of plea bargaining;

WHEREAS, Supreme Court Justice Kennedy said in an opinion that, "today's criminal justice system the negotiation of a plea bargain, rather than the unfolding of a trial, is almost always the critical point for a defendant;"

WHEREAS, overcharging and stacking charges give prosecutors significant power over defendants to encourage them to plead to lesser charges;

WHEREAS, poor defendants are particularly vulnerable to these actions, as if they are unable to make bail, pleading to charges that they may not have committed may seem like the easiest way to get out of prison; and

WHEREAS, African Americans and other people of color are most likely to face arrest, and thereby be subjected to the stacking of charges.

THEREFORE BE IT RESOLVED, that the National Black Caucus of State Legislators (NBCSL) stands opposed to prosecutors stacking charges and overcharging, and fully believes that all charges brought by a defendant should be able to stand up in court; and

BE IT FURTHER RESOLVED, that the NBCSL will actively advocate against policies and practices resulting in the stacking of charges and overcharging\_by prosecutors at every level of government;

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BE IT FURTHER RESOLVED, that the NBCSL believes that prosecutors that knowingly overcharge or stack charges against defendants should be disciplined by the state bar association; and

BE IT FINALLY RESOLVED, that a copy of this resolution be transmitted to the President of the United States, the Vice President of the United States, members of the United States House of Representatives and the United States Senate, and other federal and state government officials and agencies as appropriate.

**SPONSOR: Senator Brenda Gilmore (TN)**

**Committee of Jurisdiction: Law, Justice, and Ethics Policy Committee**

**Certified by Committee Co-Chair: Representative Reginald Meeks (KY)**

**Ratified in Plenary Session: Ratification Date is December 6, 2019**

**Ratification is certified by: Representative Gilda Cobb-Hunter (SC), President**