

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 853
 Judiciary

(Delegate Pasteur, *et al.*)

Judicial Proceedings

Postconviction Review - Procedure to Reduce Duration of Sentence (Maryland
 Second Look Act)

This bill expands application of the Juvenile Restoration Act of 2021 (§ 8-110 of the Criminal Procedure Article) to allow an individual to file a motion to reduce a sentence under the Act’s provisions and procedures if the individual (1) was convicted of an offense committed when the individual was at least age 18 but younger than age 25; (2) was not sentenced to life without the possibility of parole; (3) is not a sex offender, as defined in § 11-701 of the Criminal Procedure Article; and (4) has been imprisoned for at least 20 years for the offense. The bill also adds specified protections for victims for all proceedings under § 8-110.

Fiscal Summary

State Effect: General fund expenditures for the Office of the Public Defender (OPD) increase by a minimum of \$538,100 in FY 2026. Future years reflect annualization and inflation and account for staffing costs only, as discussed below. General fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) decrease if incarcerated individuals are released from State correctional facilities under the bill. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	538,100	642,100	670,500	700,400	730,300
Net Effect	(\$538,100)	(\$642,100)	(\$670,500)	(\$700,400)	(\$730,300)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local expenditures may increase minimally for State’s Attorneys’ offices to handle petitions generated by the bill. Local revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill adds the following victim protections for all proceedings under § 8-110: (1) a victim or victim's representative may submit a victim impact statement to the court regarding the impact of the crime and the proposed sentence reduction; (2) a victim may not be cross examined when presenting a victim impact statement; (3) the court must order an individual to stay away from and refrain from contact with a victim and victim's family if the individual is released, unless the victim requests otherwise; and (4) the court may impose any other conditions of release necessary to promote victim safety and peace of mind.

Current Law: An individual convicted of a crime who wishes to have the sentence reduced has multiple alternatives. One option is the Juvenile Restoration Act (Chapter 61 of 2021), which provides an opportunity for an individual convicted as an adult for an offense *committed when the individual was a minor* to file a motion with the court to reduce the duration of the individual's sentence.

Among other provisions, the Juvenile Restoration Act authorizes an individual who was convicted as an adult for an offense committed when the individual was a minor to file a motion with the court to reduce the duration of the individual's sentence if the individual (1) was sentenced for the offense before October 1, 2021, and (2) has been imprisoned for at least 20 years for the offense.

The court must conduct a hearing on the motion. The individual must be present at the hearing, unless the individual waives that right. This requirement may be satisfied if the hearing is conducted by video conference. At the hearing, the individual may introduce evidence in support of the motion, and the State may introduce evidence in support of or in opposition to the motion. The victim or the victim's representative must be given notice of the hearing in accordance with §§ 11-104 and 11-503 of the Criminal Procedure Article.

After a hearing, the court may reduce the duration of a sentence imposed if the court determines that the individual is not a danger to the public, and the interests of justice will be better served by a reduced sentence. The court must consider specified factors when determining whether to reduce the duration of a sentence, including (1) the individual's age at the time of the offense; (2) the nature of the offense and the history and characteristics of the individual; (3) whether the individual has completed an educational, vocational, or other program; (4) whether the individual has demonstrated maturity, rehabilitation, and fitness to reenter society sufficient to justify a sentence reduction; (5) any statement offered by a victim or a victim's representative; (6) the individual's family and community circumstances at the time of the offense, including any history of trauma, abuse, or involvement in the child welfare system; and (7) the diminished

culpability of a juvenile as compared to an adult, including an inability to fully appreciate risks and consequence.

The court must issue a written decision that addresses the specified factors. If the court denies or grants, in part, a motion to reduce the duration of the sentence, the individual may not file a second motion for at least three years. If the court denies or grants, in part, a second motion, the individual may not file a third motion for at least three years. With regard to any specific sentence, an individual may not file a fourth motion to reduce the duration of the sentence.

State Expenditures:

Office of the Public Defender

General fund expenditures for OPD increase by a minimum of \$538,061 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring four attorneys, one social worker, and one administrative employee. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	6.0
Salaries and Fringe Benefits	\$493,848
Operating Expenses	<u>44,213</u>
FY 2026 OPD Staffing Expenditures	\$538,061

Additional legal representation will be provided by panel attorneys, law school clinics, and volunteer private attorneys. However, OPD advises that it cannot estimate projected costs for panel attorneys at this time; therefore, such costs are not included in the estimate above.

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

According to DPSCS, 656 incarcerated individuals in the Division of Correction (DOC) currently meet the bill's eligibility criteria. Initial workloads are likely to be heavy as OPD compiles and evaluates casefiles for eligible individuals within the DOC population, prepares their motions, and presents their motions at court hearings. Future workloads are likely to stabilize over time and involve newly eligible incarcerated individuals and repeat motions for individuals whose previous motions were denied.

For reference, OPD's Post-Conviction Defenders Unit has 24 attorneys (26 by August 2025) and 1 unfilled attorney vacancy; the unit has 7 additional staff, including 1 paralegal and administrative employees. OPD's Appellate Division currently has

32 attorneys (33 by August 2025); the unit has 7 additional staff, including 2 paralegals (1 of whom is a contractual employee) and administrative employees.

Department of Public Safety and Correctional Services

General fund expenditures for DPSCS decrease if the bill shortens incarcerations. The extent to which to this occurs depends on judicial decisions on filed motions and can only be determined with actual experience under the bill. Many of the factors judges must consider under the bill are natural considerations during the parole process. Excluding overhead and all health care (which is a fixed cost under the current contract), the average variable costs total \$312 per month.

For context, according to OPD's report on its efforts in the first year of the Juvenile Restoration Act, courts decided 36 motions during the first year of the Act. The following is a summary of the outcomes in those 36 cases:

- 23 cases (63.9%) – motion granted and individual released from prison;
- 4 cases – court granted the motion in part and reduced the remaining incarceration time the individual must serve prior to release;
- 7 cases – court reached the merits but denied the motion;
- 1 case – court denied the motion without a hearing due to ineligibility; and
- 1 case – the individual was released on parole after the motion was filed but before the hearing (the court modified the sentence to place the individual on probation with conditions designed to maximize the individual's chances of success).

As noted above, the Juvenile Restoration Act is currently limited to individuals who were convicted as adults for crimes *they committed as minors*. It is not clear at this time if the population eligible to file a motion under the bill will experience similar judicial outcomes.

Judiciary

The Judiciary advises that it does not anticipate a significant operational impact from the bill.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 123 and HB 724 of 2024.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of Public Safety and Correctional Services; Department of Legislative Services

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