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Judicial Proceedings Committee

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Senate Judicial Proceedings Committee
The Honorable William C. Smith
2 East Miller Senate Building
Annapolis, Maryland 21401-1991

**RE: SB 494 – Juveniles Convicted as Adults – Sentencing – Limitations and Reduction
(Juvenile Restoration Act)**

Dear Chairman Smith and Members of the Committee:

First permit me to proudly acknowledge that both Senator Sydnor and Senator Carter have joined me as co-sponsors of this bill. It is always a privilege to work alongside Senators Sydnor and Carter on important legislation.

Senate Bill 494, the Juvenile Restoration Act, affords reasonable protections to minors who are convicted as adults. First, the bill provides that mandatory minimum sentencing requirements do not apply to minors. Second, the bill states that a court may not impose on a minor convicted as an adult a sentence of life imprisonment without the possibility of parole or release. Finally, the bill provides to an inmate who was convicted as an adult for an offense committed when the inmate was still a minor and who has been in prison for at least 20 years an opportunity to file a motion in the sentencing court seeking to reduce the duration of the inmate's sentence. A judge may not modify the sentence unless the judge finds, after a hearing, that **“the individual is not a danger to the public”** and that **“the interests of justice will be better served by a reduced sentence”**.

This bill carefully protects the interests of both the State and the victim. The judge will be required to hold a hearing, where of course the State will be represented by the State's Attorney. The State's Attorney will inform the victim of the family of the victim of the motion, and will extend to either the victim or the victim's representative an opportunity to be heard at the hearing.

At the hearing, the bill provides that the court will consider a number of factors before reaching a decision. Among them are the inmate's age at the time of the crime, the nature of the offense, the extent of the inmate's role in the crime and whether and to what extent an adult was involved in the crime, the history and characteristics of the inmate, the inmate's family and community circumstances at the time of the crime, including any history of trauma, abuse or involvement in the child welfare system, the behavior of the inmate while in confinement, whether the inmate

has completed an educational, vocational or other program, whether the inmate has demonstrated maturity, rehabilitation and fitness to re-enter society and to abide by our laws.

The decision of the court must be in writing and must explicitly address the factors that I just listed.

In the event the court denies or grants in part the motion to reduce the sentence, the inmate may not file another motion to reduce sentence for at least three years. In the event that a second motion is again denied or granted in part, once again the inmate may not file another motion to reduce sentence for at least three more years. After three tries, the inmate is precluded from filing a fourth motion.

Any human being who reaches his 37th birthday is a different person than he was at the age of 17. Quite literally he is a different person because all of the cells in his body when he was 17 have died and been replaced by new cells. But beyond this, a person's brain doesn't fully mature until he is 25 years old, and with maturity comes different thinking, different attitudes and a different approach to life. If we were to reflect on our own lives, I'm quite sure that at the age of 37, we would look back at our lives at 17 and conclude that a lot of changes had occurred in the meantime.

The opponents of Senate Bill 494 are going to argue that if this bill is passed, there will be no finality for the family of the victim, that it will never be over. They will claim that if this bill is defeated, the victim's family will achieve finality and will be able to live the remainder of their lives secure in the knowledge that the perpetrator of the crime will never be released. But this is not the case. Consider all of the post-conviction options available to a prisoner right now. Many of these are merely remedies that are available shortly after the trial, but some of them are available as the years pass. Most significantly, the first parole hearing of a convicted felon is set as early as 11 ½ years after his incarceration. And if he is not successful at that hearing, he can return over and over as the years pass and ask the parole board for relief. The only way to truly achieve finality for the family of the victim is to eliminate all possible post-conviction remedies and literally lock the prisoner up and throw away the key. As a society, we try to be just and merciful, and just locking people up in every single case and throwing away the key is not what we do. It's not who we are.

Of course the victims have rights. They are notified every time a prisoner applies for relief, and they have the right to be heard by the reviewing authority. And as embittered as the grieving families are, I suspect that in some cases, they have the capacity to hold out the hope that the person who committed an atrocious crime against their loved one will see the light and will transform himself into a different, better person.

Thus, Senate Bill 494 will provide an opportunity for people who have committed crimes when they were 17 years old or younger and who have served most of their lives behind bars to appear before the sentencing court and ask the court to consider whether they have so reformed their lives that they should be released from jail because their continued incarceration is no longer necessary for the protection of the public. People can change. Redemption is possible. When that happens, as a society we should rejoice. Keeping someone in prison who committed a

youthful crime and who has spent decades in jail but has transformed his life and is no longer a threat to society is hard to defend.

I hope the Committee will issue a favorable report on this bill.