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Testimony in **Support**

HB330 - Postconviction Review - Motion for Reduction of Sentence

State's Attorney Aisha N. Braveboy and the Office of the State's Attorney for Prince George's County strongly support **HB330 – Postconviction Review – Motion for Reduction of Sentence**.

The Office of the State's Attorney is responsible for prosecuting violations of state or local law in Prince George's County and making sure that the laws are enforced in a just and fair manner and that there is due respect for the rights of everyone.

This bill addresses a real and long-standing gap in our criminal justice system whereby the courts are precluded from reviewing sentences once review has been denied and, in most cases, once five years have gone by – at exactly the time when review may be most appropriate.

Currently Maryland Rule 4-345 provides a framework through which a judge can reconsider a sentence that has been imposed if the defendant requests such a review within 90 days of sentencing. Most defense lawyers file such a request as a matter of good practice. But frequently, judges deny those requests shortly after they are filed. And, once denied, they cannot be brought back at any point – even if there is reason to do so. And for any sentence imposed after 2004, a motion to reconsider cannot be considered after five years have elapsed.

Circumstances and individuals change over time, however. That is as true for individuals who commit crimes and who are locked up for years as it is for anyone else – and it is especially true for those who commit crimes when they are young and immature. Years after they commit a crime and after lengthy periods of incarceration, they are not the same individuals they were when they committed the crime.

This bill will allow a State's Attorney to file a motion to reconsider, regardless of prior actions, and ask a judge to reconsider a sentence. The decision, of course, remains the judges based generally on his or her evaluation of the justice of any request.

HB330 is narrowly crafted to reduce any burden on the judicial system and to ensure that there is a reasonable basis for any request and that a court has everything necessary to make an informed decision. Motions to reconsider under the bill can only be filed by a State's Attorney. Any victims of the crime and the family of victims must be notified and given an opportunity to express their support or opposition. The judge can consider all relevant factors in deciding, including the nature of the crime and the actions of the petitioner while incarcerated, as well as victim sentiment.

HB330 addresses a major reservation expressed by the Court of Appeals (now the Maryland Supreme Court) when it considered proposed changes proposed by the Standing Committee on Rules and Practice to Rule 4-345 two years ago: that the courts would be overwhelmed by motions with little foundation. By limiting requests to those initiated by a State's Attorney, the bill reduces the chance that this will happen.

By limiting the requests to those initiated by a State's Attorney, the bill also provides prosecutorial offices who do not believe such requests should be allowed for any reason, including the potential impact on victims, the ability to refuse to file them – as is their right as the elected State's Attorney for their jurisdiction

On the other hand, prosecutorial offices like the Office of the State's Attorney for Prince George's County, which believes in the possibility of change and redemption, and which has set up a special unit to review such cases, will be able to move ahead with a possible reconsideration when they determine this is in the interests of justice.

For the foregoing reasons, **we urge a favorable report on HB330.**

For more information, contact: Doyle Niemann, Assistant State's Attorney and Chief of the Conviction and Sentencing Integrity Unit, at dlniemann@co.pg.md.us or 240-244-7178.