

Anne Bocchini Kirsch
Director of Advocacy, PREPARE
anne@prepare-parole.org
(410) 994-6136
SUPPORT WITH AMENDMENT

HB0330 - Criminal Procedure - Postconviction Review - Motion for Reduction of Sentence

According to the 2022 ADP report, there are currently 14,955 individuals, 14,456 of whom are male, sentenced and serving time in Maryland. Of these people, 71.5% are Black, according to the 2022 DPSCS Inmate Characteristics report (compared to a Maryland population of 12.4% Black alone and 10.2% two or more races according to the 2020 US Census). 3,140 of the incarcerated people in Maryland are over the age of 50, while 2,212 have life sentences (5,843 have sentences over 180 months, which includes, but does not differentiate, many people with sentences so long they become effective life sentences or have parole eligibility that is greater than a life sentence). The inequities suggested by this data are chilling, and there is a need to identify incarcerated people who have successfully achieved rehabilitation and facilitate their return to the community.

I wholeheartedly agree with the need for legislation like HB0330, and its implementation statewide, however this particular piece of legislation, as drafted, does not provide a clear way for individuals to access relief, guidelines for when and how they can apply for review, or the data reporting requirements necessary to see if this legislation is effective, track who is being released under this provision, and ensure that it is being equitably applied to all communities. This creates a number of challenges.

The most important piece of this amendment is the data tracking. The concept of a motion for reduction of sentence that only the State's Attorney's Office can file is a novel one, and therefore requires careful study during and after its implementation. While there is one such successful program operating in Prince George's County, scaling a program is always a delicate and difficult process. This legislation is a step in the right direction to healing the damage caused by systemic racism, technological challenges, and personnel problems that have left so many people, including over 10,000 Black men, stranded in prison with long sentences and no chance for a second look. But in order to truly serve that goal, it is necessary to ensure the relief reaches its intended population. As with any new concept, that means building the prototype, figuring out

what works and what doesn't, and improving the model. The only way to do this is by tracking data and making those reports available for analysis.

Good data analysis requires a uniform structure, and that is what the guidelines of this amendment are designed to offer. This amendment limits who can ask for review to a reasonably sized population with an incarceration record of sufficient length to offer insight into the individual's readiness for release. Without this limit, the already overburdened State's Attorney's Office would be inundated with requests for review. While it is important for the State's Attorney's Office to have access to this modification measure at all times during the incarcerated person's sentence, it is also important that they not be burdened by the need to review cases too early or too frequently. Another reason for uniform criteria is the critical need for this process to be applied fairly and uniformly across the state, rather than encouraging each county to set different guidelines.

In my work as a parole advocate, I've seen many people who have done spectacular things with decades of incarceration, and are deserving of a second chance. In many cases, these are the mentors and leaders that the youth are in desperate need of - people who could do the community work necessary to prevent crimes before they happen. Maryland is literally paying to keep the solution away from the problem. While the process of bringing these people home may seem daunting at first, the long-term rewards to our society as a whole are too great to ignore. We need to move forward now.

I know that the idea of a law that puts so much power in the hands of one side of what has until now been an adversarial system is frightening to many people. As a proponent of collaborative justice and a strong believer in our ability to reach common ground, I have hope in an idea that will start to mend our divided system and bring all parties to the table to find results-driven solutions that provide the best outcomes for the State, individuals, families, and society as a whole. Properly executed, this might be the answer. We will never know unless we try it, track it, and then come back to discuss it. I urge you to pass this bill with the following amendment:

Bold is recommended amendment to be inserted after section (B)

(B) The State's Attorney's Office may file a motion for reduction of sentence at any time during the period of active incarceration recommending a lesser sentence.

(C) An incarcerated person or their representative may petition the State's Attorney's Office for a sentencing review.

(D) When an incarcerated person who has served a minimum of 20 years incarceration without application of diminution credits requests a sentencing review under section (C) of this subtitle, the State's Attorney's Office shall conduct the sentencing review within 6 months unless good cause is shown, and either:

- (1) File a motion for reduction of sentence in the Court, or**
- (2) Report the reason for denial to the petitioner.**

(E) The State's Attorney's Office shall produce a yearly report of the number of requests submitted, the number of requests denied, the reason for the denials, the number of motions filed under this section, and the outcome of the hearings to be provided to the legislature and made available to the public.

(F) If the State's Attorney's Office declines to file a motion for reduction of sentence after a review under section (D) of this subtitle, the incarcerated person is not entitled to a subsequent review for at least 3 years from the date of denial.

(G) The individual may file a response within 60 days after the filing of the motion providing any additional information for the court's consideration.