

TESTIMONY BEFORE THE MARYLAND GENERAL ASSEMBLY:
SB591 –Criminal Procedure – Petition to Modify or Reduce Sentence
(Maryland Second Look Act)

Thank you for the opportunity to submit testimony on this very important issue to ensure fairness in our criminal justice system. I submit this testimony in support of SB 591 on behalf of the clients who have been served through **the University of Baltimore School of Law’s Juvenile Justice Project.**

The Maryland Second Look Act authorizes inmates serving a lengthy term of incarceration to file a petition for modification of sentence after serving the greater of 20 years without diminution credits or 25 years with diminution credits, and for them to refile five years after a denial. A judge may modify the sentence *only if* he or she determines that “retention of the sentence is not necessary for the protection of the public.” Such a finding requires a judge to modify a sentence imposed for a crime committed when the offender was under 18 years of age such that the offender would be released within three years (to allow the offender to participate in re-entry programs offered at the prisons), and authorizes a judge to modify a sentence imposed for a crime committed when the offender was 18 or older.

Between January 2016 and May 2019, the Juvenile Justice Project at the University of Baltimore School of Law represented clients serving life sentences for crimes that occurred when they were children. Most of these clients had been in prison for over 20 years when the Supreme Court issued a series of decisions acknowledging what common sense and neuroscience make clear: Children are different. Because adolescent brains are not fully developed, young people do not appreciate risks, resist peer pressure or understand the consequences of their actions in the same way adults do. On the positive side, that developing brain makes juveniles more likely than adults to mature and change over time—to become, in penological terms, "rehabilitated." In the most recent of these cases, *Montgomery v. Louisiana*, the Supreme Court held that clients like ours—serving life sentences for crimes committed when they were juveniles—are entitled to a "meaningful opportunity for release." That is, all but the rare "irreparably corrupt" juvenile offender should be given a chance to be released. SB591 lays out a process to permit Maryland’s judiciary to provide that constitutionally required “meaningful opportunity for release.”

The typical Juvenile Justice Project client was someone who was convicted or pled guilty to a serious crime that happened when he or she was 14, 15 or 16. Older co-defendants often played a more central role in the crimes. We regularly have serious doubt about whether our clients committed the crimes for which they were convicted after carefully reviewing the records in these cases. The crimes are heinous, the loss of life is real, but most of these cases were tried in the 1980s before the neurological studies had

been done. Indeed, juveniles were viewed as especially dangerous and unredeemable and were subject to long sentences, particularly if they were African American. Cases were built around single eyewitness or "confessions" now viewed as unreliable and before DNA evidence was available. Moreover, those who pled guilty often did so based on advice from their lawyers that they would be required to serve 15 to 20 years and would then be released as long as they had a good record in prison and didn't pose a threat to safety. Changes in parole policy have made that prediction untrue. Our clients came to us with excellent records, having taken advantage of the limited programs available in Maryland's prisons, having created new programs, and having helped young people learn from their mistakes both within and outside the prison walls. Many have also had risk assessments conducted either privately or through the Department of Correction that document that they have a low risk of recidivism.

With more than two thousand people currently serving life sentences within the Maryland prison system and many more serving 50 or more years, Maryland taxpayers have likely spent millions of dollars incarcerating people who could be safely released back into society. Permitting the judiciary to have a "second look" after a substantial period of incarceration will enable courts to fully consider evidence of rehabilitation and potential risks to public safety, information that was not available at the time of initial sentencing.

For these reasons, I request a favorable report on SB 591 on behalf of the clients who have been represented by the University of Baltimore's Juvenile Justice Project.