

Caroom_fav_sb1038.

Uploaded by: Caroom, Phil

Position: FAV



MARYLAND ALLIANCE FOR JUSTICE REFORM
Citizens working to reform criminal justice in Maryland



Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) supports modification of Maryland's felony murder rule, particularly SB 1038 that would permit Maryland courts as part of the sentencing process to recognize juveniles limitations at the time of the offense and their potential for rehabilitation when their mental maturity is complete.

Constitutional standards and juveniles: The U.S. Supreme Court has ruled repeatedly, between 2005 and 2016, that a different standard must be applied to children than is applied to adults in cases which could result in their receiving the death penalty or life without parole. This is because "as any parent knows," juveniles are recognized to inherently to suffer from developmental "transient rashness, proclivity for risk, and inability to assess consequences"; however, they are capable with maturity of growing out of these traits. For all these reasons, the Court has called upon lawmakers to avoid mandatory penalties and to permit individualized sentencing that permits judges discretion to carefully consider the individual circumstances and traits of juvenile offenders before possibly imposing the most harsh penalties.

This same set of considerations should apply to Maryland's sentencing laws rule that, currently, automatically exposes juvenile participants to life sentences or even life without parole, even if the played only peripheral roles in an offense and even if they did not foresee the fatal outcome.

Would such resentencing burden the State or the Courts?: Reviews of convictions would not be difficult, as the Courts and counsel easily could rely on evidence from plea agreements and closing arguments to obtain stipulations. Hearings would not need to constitute new trials. Clearly, such costs should be offset by savings of reduced incarceration for those no longer serving time at \$40,000 per year per person.

Will State's Attorneys be unable to get appropriate convictions without the first-degree felony-murder rule? Nothing in SB 1038 would prevent a first-degree murder conviction for a juvenile who, himself, perpetrated a premeditated murder. Nothing in SB 1038 would prevent a juvenile from being convicted (or resentenced under the review of conviction provision) for a felony in which he deliberately participated.

For all these reasons, MAJR urges approval of SB 1038.

PLEASE NOTE: Phil Caroom offers this testimony for MAJR and not for the Md. Judiciary.

Jennison_FAV_SB 1038

Uploaded by: Jennison, Chris

Position: FAV



COMMISSION ON JUVENILE JUSTICE

March 12, 2020

The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

Re: Senate Bill 1038 – *Juveniles Convicted as Adults – Sentencing – Limitations and Reduction (Juvenile Restoration Act)* - Support

Dear Chairman Smith:

The Montgomery County Commission on Juvenile Justice (MC CJJ) is writing in support of SB 1038 – (Juvenile Restoration Act). The MC CJJ believes that this bill will support Maryland's continued fight at a fair justice for all. The MC CJJ further believes this bill will benefit imprisoned people of color, who continue to be over-represented in the Juvenile Justice system when compared to white counterparts. By increasing the parole and reduction of sentencing opportunities for youth of color who are now full-grown adults, this bill we hope will be able to be the fresh start some of these men and women have been working to achieve.

MC CJJ was established to advise the Montgomery County Executive, County Council and the Juvenile Court on matters concerning juvenile justice. Our work includes gathering and disseminating information from public and private agencies serving youth, monitoring the Juvenile Justice System, visiting facilities, and closely following State and County legislative proposals affecting juveniles. MC CJJ is comprised of citizen members who serve three-year terms without compensation, and agency members that includes Child Welfare, State's Attorney's Office, Office of the Public Defender, Montgomery County Police, Montgomery County Public schools, and Department of Juvenile Services.

Thank you for your consideration.

Sincerely,

Chris Jennison, Chair
Commission on Juvenile Justice

Cc: Members of the Judicial Proceedings Committee

PaulLaRuffa_FAV_SB1038

Uploaded by: LaRuffa, Paul

Position: FAV

Paul LaRuffa

March 12, 2020

SUPPORT for Senate Bill 1038, *Juveniles Convicted as Adults – Resentencing – Limitations and Reduction (Juvenile Restoration Act)*

My name is Paul LaRuffa and I am writing this statement in support of Senate Bill 1038.

On September 5th, 2002, I left my restaurant as I had done for the previous 16 years. Immediately after sitting in the driver's seat of my car, the window next to my head exploded with a loud bang from a gunshot followed by four more shots. All five shots hit me. The two people who had left the restaurant with me and witnessed the person running up to my car and shooting, called 911. Help arrived in time to get me to Prince George's County Hospital Trauma Center where doctors operated for more than seven hours and saved my life.

Approximately fifty days later John Allen Muhammad and Lee Boyd Malvo were captured. It was soon determined that Malvo was the person who shot me, took my laptop and bank bag from the back seat of my car and ran away into the night.

When Malvo received a sentence of life without parole, I had no objection. I felt that the sentence was just, not for what he had done to me, but certainly for the killings in which he took part over the more than one and a half months after my shooting.

I felt I had good reason to subscribe to the idea of "put him away and throw away the key".

Why do I NOT feel that way today?

It is because I have learned many important facts.

I became aware that there were thousands of juveniles/children serving life without parole and other extreme sentences in adult prisons across the country. They had committed various serious crimes when they were between 14 and 17 years old but many of the crimes, if not all, were far less heinous than those of Malvo and Muhammad.

I also became acutely aware of the important differences between a child and an adult. Scientific studies show that the brain itself, as well as, the character and judgment of young people are areas that are not fully developed. Juveniles act and react on emotion rather than reason. Additionally and perhaps most importantly, it has been

shown that juveniles have a profound capacity for rehabilitation and positive transformation.

The Supreme Court certainly recognized this real difference between child and adult by banning the death penalty for juveniles in the 2005 Roper vs Simmons decision. The Court also reinforced this “difference” in 2010 by banning juvenile life without parole sentences in certain circumstances and in 2012 by ruling them as excessive punishment in the great majority of cases.

My support for House Bill 1437 and Senate Bill 1038 was greatly strengthened by meeting and interacting with members of the Incarcerated Children’s Advocacy Network (ICAN), a group of people who were incarcerated as children and have been given the opportunity of returning to society.

These individuals have demonstrated positive change in many ways starting with taking personal responsibility for the harm they caused. They are now contributing positively to society by serving their communities, supporting their families, and leading fulfilling lives outside of prison walls. Many of these individuals were only given a second chance after courts took another look at their sentences and found that they no longer resembled the teenagers who committed acts of harm so long ago. However, in Maryland, many people are serving life-without-parole or decades-long sentences for crimes committed as children and are not being given an opportunity to show they have changed.

Currently, 23 States plus the District of Columbia have banned “juvenile life without parole” (JLWOP) sentences and 5 States have no individuals serving a JLWOP.

The obvious question is: Has banning juvenile life without parole sentences (JLWOP) had a positive result?

There have been more than 600 people released in the States that have banned JLWOP. None of those who have been released have reoffended. A recidivism rate of “0” certainly indicates a great deal of success.

As a Maryland resident and a survivor of youth violence, I understand that others who have suffered at the hands of a juvenile may not support the ideas of an offender receiving a “second look” and the possibility of release after serving a punishment of 20 years.

However, I feel it is critically important to realize that not all victims and victims’ families feel the same way. I along with many others whose lives have been forever impacted by youth violence feel compelled to support Senate Bill 1038 and have Maryland join the other states which have demonstrated that a civilized, moral, fair and just society does not condemn children to die in prison.

KymberlyNelson_FAV_SB1038

Uploaded by: Nelson, Kymberly

Position: FAV

Honorable Chair Senator William C. Smith, Jr. and Vice Chair Jeffrey D. Waldstreicher

Kymberly Nelson

March 12, 2020

SUPPORT for Senate Bill 1038, *Juveniles Convicted as Adults – Resentencing – Limitations and Reduction (Juvenile Restoration Act)*

Dear Honorable Members of the Judicial Proceedings Committee:

My name is Kymberly Nelson. I have resided in Prince Georges County, Maryland for over 43 years. I am the Aunt of a young man who is currently incarcerated at the Jessup Correctional Institution. I am testifying in support of ***Senate Bill 1038, Juveniles Convicted as Adults – Resentencing – Limitations and Reduction (Juvenile Restoration Act)***.

I will open with a brief background on my nephew. My nephew was second to the oldest of seven children. At the young tender age of six, he took the leadership role in his home. He had two younger siblings, a younger brother who was four and his younger sister was two. Regretfully, they were all being neglected by their parents due to drug abuse that the rest of the family was oblivious to. One morning I was riding by, on my way to school. I noticed my nephew walking to his bus stop by himself. That troubled me. So the next day, I went to walk him to the bus stop. When I arrived to the house, I knocked on the door. He opened the door to let me in. He told me that his parents were asleep. He had on a dirty school uniform and went in the kitchen to warm up some rice for himself and his siblings which were 4 and 2 as I aforementioned. I was completely shocked that this little six-year old boy understood the dynamics of what was going on in that household and had the cognizance to take care of not only himself but his siblings.

Soon after an unsuccessful family intervention, my nephews and niece moved in with our family. Even after they moved in with us, my nephew was still trying his hardest to be the parental figure for his siblings. Needless to say, that transition was hardest for my nephew. Being the oldest and fully aware of what was going on, he had abandonment issues and communicated to me all the terrible things that he witnessed while he was with his parents. Even though his home life wasn't easy for him. School was. He was very intelligent. His teachers and guidance counselor were particularly fond of him. They often bragged about how smart he was and how helpful he was. Some years later, his mom rehabilitated herself by entering a Drug Rehab facility. She gained employment, an apartment and she regained custody of her kids. Unfortunately, being influenced by his environment and lack of positive role models accompanied with low self-esteem, he started to do drugs to cope with the emptiness he felt. With the drug use he lacked good judgement and critical thinking skills.

He committed a crime and was arrested at sixteen years old and sentenced at seventeen to Life in Prison all suspended except thirty-five years. To date he has been incarcerated longer than he was alive at the time he was arrested. Living more than half of your life in prison should account for something. Since his incarceration, he has received his GED, successfully completed an Auto Mechanic Program. He was transferred to a different facility that didn't offer many programs but he has worked many jobs while incarcerated. He hasn't been in any trouble. He has a constant desire to learn. He is an avid reader and lover of all kinds of books, especially self-help books. He has big dreams and aspirations of becoming a productive citizen and family man when he is released.

This is why I am in support of the ***Senate Bill 1038***. If you commit a crime you have to be accountable and punished. However, the amount of time one is punished, should be fair and just. Even though a Juvenile commits a crime and the courts charge them as adult, the undisputable fact remains, they are indeed an adolescent. You have to give juveniles the opportunity to mature, reform, rehabilitate and redeem themselves as a productive Adult. Juvenile lifers deserve a substantial opportunity for release. Sixteen years age is a short life span. When you think of yourself at Sixteen, and all the mistakes that you have made, you look back and say I was just a kid. Juvenile lifers don't get that same luxury. They were kids who committed a crime and served adult time. Most of Juvenile Lifers has spent more time in jail than when they were free.

Life without parole for juvenile offenders violates the 8th Amendment's prohibition on cruel and unusual punishments because it results in disproportionate punishment. The consequences for Juvenile Lifers are far greater than an Adult who commits a crime and is sentenced to life in prison. It's a proven fact that Juveniles experience more violence, manipulation, attacks in Prison because of their age. All Juveniles evolve and therefore, those incarcerated are more likely to be rehabilitated. By not passing this bill, sends a devastating message that Juveniles cannot be rehabilitated. It says loud and clear, they don't deserve a second chance.

In conclusion, this bill is very important to the families of Juvenile Lifers. There are grandparents who would appreciate the opportunity of seeing their grandson released from Prison. They would marvel at the privilege to see their grandson functioning and thriving as a productive citizen. We *all* want to be able to see him fulfill his greatest potential.

Thank you Chairperson and members of the committee for your time and understanding.

MD CATHOLIC CONFERENCE_FAV_SB 1038

Uploaded by: O'DAY, GARRETT

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

March 12, 2020

SB 1038

Juveniles Convicted as Adults – Sentencing – Limitations and Reduction (Juvenile Restoration Act)

Senate Judicial Proceedings Committee

Position: Support

The Maryland Catholic Conference offers this testimony in SUPPORT of Senate Bill 1038. The Conference represents the public policy interests of the three (arch)dioceses serving Maryland, the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

Senate Bill 1038 would prohibit a court from imposing a sentence of life without parole on a person who was less than eighteen years of age at the time the offense was committed. Additionally, it would require a court to consider certain factors when considering a motion for a sentence reduction made by a person who was convicted as an adult for an offense committed while they were a minor. Those factors include, but are not limited to, age, nature of the offense, good behavior, academic achievement, family circumstances and demonstrated rehabilitative nature.

The U.S. Supreme Court has ruled on the constitutionality of mandatory sentences of life without parole for those who commit crimes under the age of eighteen. First, in 2010, the Court held that life sentences without parole for youthful offenders are unconstitutional for non-homicide crimes. *Graham v. Florida*, 560 U.S. 48 (2010). Next, it held that life sentences without parole for youthful offenders are unconstitutional even for homicide crimes. *Miller v. Alabama*, 567 U.S. 460 (2012). Specifically, the Court noted certain inherent characteristics of youthful offenders, such as “diminished capacity” and “greater prospects for reform”. *Id.* at 471. Most recently, the Court ruled that the *Miller* holding should be applied retroactively to allow those sentenced to mandatory life without parole to mitigate their sentences. *Montgomery v. Louisiana*, 577 U.S. __ (2016).

The United States Conference of Catholic Bishops has echoed the Supreme Court on this issue, reasoning that “Abandoning the parole system, as some states have done, combined with the absence of a clear commitment to rehabilitation programs within prisons, turns prisons into warehouses where inmates grow old, without hope, their lives wasted.” (*Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice*, USCCB, 2000). Pope Francis has also expressly labeled life imprisonment a “hidden death penalty”. (*Address to the International Association of Penal Law*, Oct. 2014).

These examples of established case law and Catholic social teaching help to formulate our position that society should avoid the imposition of life-without-parole sentencing, particularly for youthful offenders. Such sentences destroy all hope for incarcerated children and ignore the inherent possibilities for rehabilitation. It is therefore important that the State of Maryland recognize the vulnerability of youthful offenders and provide for them proper hope for rehabilitation. It is for these reasons that we urge your support and favorable report on Senate Bill 1038.

DK_FAV_SB 1038

Uploaded by: Scott, Michael

Position: FAV

Testimony *in Support* of Senate Bill 1038
Juveniles Convicted as Adults – Sentencing – Limitations and Reduction
(Juvenile Restoration Act)

To: Senator William C. Smith, Jr., Chair, and Members of the Judicial Proceedings Committee

From: Delonte Kingsberry

Date: March 12, 2020

Re: Previously Submitted Testimony in Support of the Juvenile Restoration Act, cross-filed as House Bill 1437

To Whom It May Concern, In Support of
HB 1437 + HB 300

My name is Rolante Kingsberry and I am currently incarcerated, serving a life plus 20 year sentence for a murder that happened in 1992 when I was 17 years old. For almost 28 years I've been constantly working to better myself, to better my thinking and my choices. I can proudly say, that I am no longer that misguided and confused individual. As a 45 year old conscious man, I am no longer able to defend the actions and choices of my 17 year old self. This is my first and I promised to be my last conviction. I ask that I be forgiven, to

be given, one of life's most
cherishable gifts, a second chance.
Thank you very much for your time,
again my name is Delonte Fingberg,
I support this bill.

Sincerely
Delonte Fingberg

JGarcia_FAV_ SB 1038

Uploaded by: Scott, Michael

Position: FAV

**Testimony *in Support* of Senate Bill 1038
Juveniles Convicted as Adults – Sentencing – Limitations and Reduction
(Juvenile Restoration Act)**

To: Senator William C. Smith, Jr., Chair, and Members of the Judicial Proceedings Committee

From: Jaime Garcia

Date: March 12, 2020

Re: Previously Submitted Testimony in Support of the Juvenile Restoration Act, cross-filed as House Bill 1437

March 5,2020

Dear Chairman Clippinger ,Vice Chair Atterbeary,and members of the Judiciary Committee:

My name is Jaime Garcia and I strongly support HB 1437-The juvenile Restoration Act.

I am Tommy Bonilla's brother and I support HB 1437 because I believe that juveniles at the time that they commit an offense, are still children and do not think about the consequences that come with it. I strongly believe that all juveniles deserve a second chance in life because of their immaturity. Sentencing a juvenile to life imprisonment is unfair. I believe when an individual has demonstrated maturity, has been fully rehabilitated, and fitted to re-enter society it is sufficient to justify a sentence reduction. Tommy at a young age has dedicated his life to work and dropped out of school in order to work full time. He has always demonstrated his hard work. For 31 years and counting, my mother and I have had to endure this pain and hardship without him. He has missed out on quality time with his family and we feel like we have lost a son and a brother who deserves a second chance in life. Tommy has been a role model to his inmates and to our new generation of the family including my own children. He has shared his experiences in life from the time he was incarcerated until today. He has repeatedly advised them to stay in school, stay out of trouble, and become productive citizens. Tommy has endured a very long time in prison where he sees people in and out of jail, especially those when they are being released and remind them that he does not want to ever see them come back to prison. In my opinion, my brother has been fully rehabilitated and in no way he will be a threat to society. I also believe that he is mature enough to become a model citizen in society. Tommy was able to obtain his GED and has always worked his entire time in prison. He has a long record of great behavior. This bill would not only help Tommy, but others. I am proud to say that since Tommy's influence on inmates and family members has brought nothing but a positive outcome. Whenever Tommy is given the chance of freedom, he will be a productive citizen to society.

I urge you to give HB 1437 a favorable vote.

Thank You.

Sincerely, Jaime Garcia

MM_FAV_SB1038

Uploaded by: Scott, Michael

Position: FAV

Testimony *in Support* of Senate Bill 1038
Juveniles Convicted as Adults – Sentencing – Limitations and Reduction
(Juvenile Restoration Act)

To: Senator William C. Smith, Jr., Chair, and Members of the Judicial Proceedings
Committee

From: Mica McNair

Date: March 12, 2020

Re: Previously Submitted Testimony in Support of the Juvenile Restoration Act, cross-
filed as House Bill 1437

Chester McNair is my husband. I submit this letter in hopes of a favorable vote on House Bill (HB) 1437. Chester is serving an indeterminate life sentence for a crime that was committed when he was a 17-year-old child. Chester was convicted of felony murder in Prince George's County in 1992. He is now 45 years old and has been incarcerated for over 28 years.

I have known Chester for 29 years. We met when we were teenagers. When Chester was convicted, I was pregnant with our son. Our son was born in 1992, shortly after Chester was incarcerated. We named our son Chester Jr., but we call him Chucky. We faced the trials and tribulations of raising Chucky while one parent was incarcerated. Our family has worked tirelessly to maintain communications with Chester throughout his incarceration. While it was not without challenges, Chester and I are proud of our family and our relationship.

Because Chester was incarcerated, I faced the challenge of raising a Black child as a single mother. I am proud to say that despite all the societal pressure placed on Chucky to fail, he has thrived. This is partially because of the large role that Chester played in his life growing up. Chester could have easily given up on parenting as a result of his incarceration. Instead, he stepped up to the plate in the most admirable way. He played a significant role in raising Chucky, especially during the times I could not reach my son strictly because I am a woman.

Chester Sr. has had an enormous impact on our son. When Chester went to prison, he did not have his GED. His focus was on maintaining a platform of structure and education for our son. Chester did this by enrolling in classes and obtaining his GED and continued on to receive his Associate's degree. He demonstrated the value of self-guided learning and it showed Chucky the value of education not just in his life, but in his father's life as well. His father would read books and have him check out the same books from the library and discuss them through letters, phone calls, or visits. Chester also took an interest and invested in our son's spiritual life, letting him know he could talk to him in difficult times. And that is what Chucky did. Chucky would not really talk to me about his issues, but he would wait and talk to his father about them. Even from behind the wall he trusted in his father's judgement and guidance.

Chester is very generous, and he is one of the humblest people I have ever met. Chester has grown into a man who will sacrifice his own wellbeing to make sure others around him feel comfortable. He has not always been this way. Throughout his incarceration, I have watched Chester grow from an impulsive child into a mature adult who is working to better himself while helping those around him. I believe he can do the same in our community, if given the opportunity.

Chester is now 45 years old. Despite his decades of incarceration, Chester works to make the best of the life he is living. Over the course of his incarceration, Chester has earned his GED and graduated *cum laude* with an Associate's Degree in Business Management. He has participated in a wide selection of self-help groups, educational opportunities and co-directed a program for his fellow inmates. He also been trusted with a variety of different work experiences.

Watching Chester struggle through the challenges of incarceration has pushed me to become more involved in systemic change to help make a difference for families across Maryland. I am a member of a family support group for juvenile lifers and also a part of the M.O.M.S. group

which is a subgroup of the Diversion Program in Prince George's County, Maryland which is headed up by the States Attorney's Office. As someone whose life has been impacted by the strenuous and unpredictable circumstances that the state prison system can cause, I feel it is my duty to not only help Chester, but any other family that is in a similar position.

Chester understands that he has a huge debt to pay. He also realizes that he will never be able to pay this debt in full. However, if he is released, he is more than ready to serve by sharing his experiences to hopefully prevent children and young men from making his same mistakes. Chester is best-situated to make a difference in the lives of children and young adults. He has learned valuable lessons over his decades of incarceration and, in his middle age, can help to provide a positive influence in the lives of others.

I am a strong believer that everyone deserves a second chance. We all make mistakes in our lives, and unfortunately, some are more devastating than others. Chester has learned from his mistakes and has been in prison for 28 years, for a crime that was committed when he a seventeen-year old child. Please allow Chester to come home so he can have a second chance.

I appreciate your consideration of my letter and for these reasons I urge a favorable vote on HB 1437.

Sincerely,

Mica McNair

RG_FAV_SB1038

Uploaded by: Scott, Michael

Position: FAV

Testimony *in Support* of Senate Bill 1038
Juveniles Convicted as Adults – Sentencing – Limitations and Reduction
(Juvenile Restoration Act)

To: Senator William C. Smith, Jr., Chair, and Members of the Judicial Proceedings Committee

From: Rashida Gordon

Date: March 12, 2020

Re: Previously Submitted Testimony in Support of the Juvenile Restoration Act, cross-filed as House Bill 1437

March 4, 2020

To Chairman Clippinger, Vice Chair Attabeary, and members of the Judiciary Committee,

If HB-1437 were to pass, it would be lifechanging for thousands of families. Prohibiting the court from sentencing juveniles to life sentences without the possibility of parole as well as providing methods for “juvenile lifers” to reduce their sentence would bring many families a sense of hope that their families can be reunited. My uncle is one of thousands, if not millions, of individuals that have went to prison as a juvenile with a life sentence with the possibility of parole and used their incarceration as a moment of growth and reflection on the error of their ways and to rehabilitate their character. They work to further their education, as well as providing companionship to family members and serving as mentors in hopes of preventing others from choosing the same path that they did. Additionally, it provides an incentive for juvenile lifers to better themselves in an attempt to be reintegrated into society thanks in large part to the major rehabilitation that occurred.

For these brief, yet monumental reasons, I urge a favorable vote on HB-1437.

Kind Regards,

/s/Rashida Gordon

TB_FAV_SB 1038

Uploaded by: Scott, Michael

Position: FAV

**Testimony *in Support* of Senate Bill 1038
Juveniles Convicted as Adults – Sentencing – Limitations and Reduction
(Juvenile Restoration Act)**

To: Senator William C. Smith, Jr., Chair, and Members of the Judicial Proceedings Committee

From: Tommy Bonilla

Date: March 12, 2020

Re: Previously Submitted Testimony in Support of the Juvenile Restoration Act, cross-filed as House Bill 1437

My name is Tommy Bonilla, #213-291. I am currently incarcerated at the Patuxent Institution. I would like to share with you the reasons why I support Bill HB 1437. I had to quit school at the age of 16 so I could get a job to help my mother because she has had three heart surgeries. I was in the eighth grade when I left school and started working full time at a catering company. I was 16 years old. I had to wake up everyday at 6am to go to work. Even though the work was hard, it felt good that I was able to help my mother. I was incarcerated at the age of 17 for this current offence. I am almost 49 years old and have been incarcerated for the past 31 years. I was a juvenile with no guidance, no education, and always hanging out with guys much older than me. I was truly influenced by my older peers. I come from a broken home. I have never lived with my father. I was raised by a single mother. I strongly believe that I should be resentenced because I was a juvenile, very immature, and I am certain that the record supports the fact that when this crime occurred, I was a shy 17 year old who was trying to gain the acceptance and credibility of my much older peers that I hung out with. Although it is rapidly surfacing for the public's eye what juveniles do when unattended and absent responsibility, I am here to tell you that the things juveniles do are not new. To the contrary, with the dawning of the digital age, these things are just coming to light. Like so many other youths that are wallflowers seeking acceptance with their more popular peers, I was so wrongly influenced. I had not even developed planning or decision making abilities beyond those typical to an adolescent. Guided by these peers, on this fateful night, I committed a crime which for the remainder of my life, I will be seeking forgiveness. That factor alone has changed how I live my life. For so many years, I have sought ways to allow those that were directly or indirectly victims to my crimes, know just how sorry and remorseful I really am. Unfortunately, because of political correctness and societal limitations, I am trapped into having words as my evidence. Words cannot describe nor do I think I am equipped to fully and completely express

just how sorry I am. I began to grasp the true dynamics of forgiveness and the need for it when I thought I was close to being granted me - forgiveness. Along with this understanding came deep levels of sadness and true remorse for all others directly or indirectly associated with the things attributed to my stupid behavior. At that point. I learned to think outside of myself and instead for others as well as recalling those terrible misconceptions of my past, which stagnated my growth and development, also triggers yet another level of remorse. Meanwhile, I have dedicated my life toward becoming more charitable in providing assistance and support to those who are less fortunate. The things that I hated the most, school and studying, have become one of my greatest preoccupations. I read almost constantly and have expanded my levels of employable skills. Once I addressed in the past my personal shortcomings and grew closer to becoming a resourceful man, I then sought out to see waht it is that I can do to help others.

During my many years of incarceration, I have learned to understand the true gravity of the hardships my actions have imposed in the past upon my family and friends. They have never forsaken me, and continue to this day, to love and support me. It is not a common thing in prison and I am fortunate to have their love and support.

I have participated and completed each and every program that is reasonably available to me. A few programs I have even operated in the capacity of a tutor or interpreter to other spanish speaking inmates. I have gone on to try locating affordable correspondence courses so that I can expand my horizons.

I will conclude this letter by saying, thank you for giving me this opportunity to enter your consciousness, even momentarily. I do hope that my reality offers you a thread of compassion to support Bill HB 1437.

Sincerely,

For Roy #213-291

UMB LAW_FAV_SB 1038

Uploaded by: Scott, Michael

Position: FAV

Testimony in Support of Senate Bill 1038
Juveniles Convicted as Adults – Sentencing – Limitations and Reduction
(Juvenile Restoration Act)

To: Senator William C. Smith, Jr., Chair, and Members of the Judicial Proceedings Committee

From: Alison DeMarco, Michael Scott, and Drew Tildon, Student Attorneys, Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law (admitted to practice pursuant to Rule 19-220 of the Maryland Rules Governing Admission to the Bar)

Date: March 12, 2020

We are student attorneys in the Youth, Education and Justice Clinic (“the Clinic”) at the University of Maryland Francis King Carey School of Law. The Clinic represents children who have been excluded from school through suspension, expulsion, and other means, as well as individuals who are serving life sentences for crimes they committed when they were children (“juvenile lifers”) and who are now eligible to be considered for parole. We write in support of Senate Bill 1038, which seeks to prohibit courts from sentencing children to life without parole and allows certain individuals who were sentenced to life in prison as juveniles to file a motion to reduce their sentence.

Over the decades, many children in Maryland have been sentenced to life in adult prisons without parole.¹ The United States Supreme Court has since declared mandatory life without parole sentences for juveniles to be unconstitutional.² In doing so, the Supreme Court relied on brain development science, which emerged subsequent to the trials, convictions, and sentencing proceedings that involved many of the juvenile lifers who continue to be incarcerated in Maryland’s prisons today.³ This science demonstrates that children are different than adults in ways that are critical to criminal sentencing, as their prefrontal cortex and limbic systems are underdeveloped, making them more impulsive and reckless than adults.⁴ Children have “less capacity for self-regulation in emotionally charged contexts,” are more vulnerable to negative peer pressure, and “have less ability than adults to make...decisions that require future orientation,” ultimately lessening a child’s moral culpability.⁵ Additionally, children who commit crimes are more likely to change over time, as their brain develops with age and as they mature.

Today, more than 300 juvenile lifers remain incarcerated in Maryland’s prisons, most of whom have served decades in prison and are now middle-aged. Among these individuals are our clients,

¹ John Yang, *In Maryland, Many Juvenile Offenders Languish in Prison Without Parole*, PBS (December 10, 2019 at 6:30 P.M.), <https://www.pbs.org/newshour/show/in-maryland-many-juvenile-offenders-languish-in-prison-without-parole>.

² *Miller v. Alabama*, 567 U.S. 460 (2012). See *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016), *as revised* (Jan. 27, 2016) (holding *Miller* to be retroactive).

³ *Miller v. Alabama*, *supra* note 2.

⁴ *Miller v. Alabama*, *supra* note 2, at 472 n.5.

⁵ NATIONAL RESEARCH COUNCIL, *REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL APPROACH* (2013). http://www.njjn.org/uploads/digital-library/Reforming_JuvJustice_NationalAcademySciences.pdf

each of whom have been incarcerated for nearly 30 years for crimes they committed as children. They continue to wait for a “meaningful opportunity” for parole. However, under current law, this opportunity does not exist. For our clients, as well as for so many others, parole is an unattainable dream, despite their maturation, aging, rehabilitation, and transformation over these decades in prison

Senate Bill 1038 seeks to move Maryland past the injustices of Maryland’s sentencing and parole system in two ways. First, the bill prohibits sentencing a juvenile to life without parole. Second, the bill provides juvenile lifers with an alternative means for release, thereby providing a meaningful opportunity for release.

The time is long overdue for Maryland to prohibit judges from sentencing individuals who committed their crimes as children to be sentenced to life without parole. Currently, twenty-three states and the District of Columbia have banned juvenile life without parole sentences for children.⁶ A couple of weeks ago, Virginia abolished life without parole sentences for juveniles and, effective July 1, 2020, will ensure that they will be eligible for parole after serving 20 years.⁷ Of the remaining states that allow children to be sentenced to life without parole, Maryland trails only Michigan, Louisiana, California, Florida and Pennsylvania with regard to the number of juvenile lifers who remain incarcerated.⁸ However, unlike Maryland, these states have made substantial reforms, ensuring that juvenile lifers have a reasonable opportunity for release.⁹

As a result, children in Maryland should not be sentenced to life without parole. Even youth who commit the most serious crimes have the capacity to change because of their developmental immaturity, impetuousness, and susceptibility to negative peer influences. They have a heightened capacity for change and rehabilitation, and most adopt law-abiding lifestyles as they mature.¹⁰

In addition to eliminating juvenile without parole, this bill also seeks to fulfill the Supreme Court’s mandate for a meaningful opportunity for release for juvenile lifers by allowing them to file a court motion to reduce their sentences after they have served 20 years in prison. In this way, SB 1038 recognizes that parole is essentially a mirage for juvenile lifers in Maryland.

The main reason why parole is an illusion for the vast majority of juvenile lifers is that Maryland is one of only three states in the United States that gives the Governor exclusive authority and unfettered discretion to accept or reject parole recommendations made by the Maryland Parole Commission. In fact, since Governor Hogan took office in 2015, the Maryland Parole Commission has vetted and recommended the release of 21 juvenile lifers. Governor Hogan has disapproved 18 of these recommendations.

⁶ JOSH RIVNER, THE SENTENCING PROJECT, JUVENILE LIFE WITHOUT PAROLE: AN OVERVIEW (February 25, 2020), <https://www.sentencingproject.org/publications/juvenile-life-without-parole/>. See also The Campaign for the Fair Sentencing of Youth, States that Ban Life Without Parole for Children (List updated February 24, 2020), <https://www.fairsentencingofyouth.org/media-resources/states-that-ban-life/>

⁷ Editorial Board, *Virginia Finally Recognizes that Children Jailed for Life Deserve at Least a Chance for Parole*, WASH POST, February 27, 2020; EQUAL JUSTICE INITIATIVE, VIRGINIA ABOLISHES LIFE WITHOUT PAROLE FOR CHILDREN, February 25, 2020, <https://eji.org/news/virginia-abolishes-life-without-parole-for-children/>.

⁸ THE SENTENCING PROJECT, *supra* note 6.

⁹ *Id.*

¹⁰ *Miller v. Alabama*, *supra* note 2, at 479-480.

SB 1038 recognizes both that the current parole process is unfair and unjust to juvenile lifers, and that even if the parole process is reformed (by removing the Governor from the parole process) alternative methods of relief are necessary. Moreover, this bill understands that courts are better equipped to assess whether or not this subset of Maryland’s prison population should have the opportunity to have their sentences reduced in ways that would allow for release from prison. Indeed, courts are uniquely positioned to analyze and weigh the various factors set forth in SB 1038 for sentence reduction..

To be clear, however, providing juvenile lifers with the opportunity to file a sentence reduction motion does not in any way negate the fact that opportunities for release will continue to be narrow. First, the individual has to serve at least 20 years to file the motion. As a result, every individual eligible to file the motion will be approaching or will be well into middle-age. Second, in considering the motion, the Court must analyze a wide range of factors, including “any statement offered by a victim or a victim’s representative” as well as “any other factor the Court deems relevant.” Third, the process will be adversarial, with respective counsel making arguments specific to these factors. Fourth, courts will then decide which of the individuals who have filed these motions have earned, and therefore deserve, a sentence reduction. To grant such a motion, the Court will have to ultimately conclude *both* that “the individual is not a danger to the public” and that “the interest of justice will be better served by a reduced sentence.” Thus, the Court will have to conclude that the individual has rehabilitated, reformed, and transformed.

Urgently, SB 1038 would also help lessen the racial injustices that plague Maryland’s prison system. The injustice of Maryland incarcerating more than 300 juvenile lifers is exacerbated by the facts that Maryland has the most racially disproportionate prison population in the United States and that the racial disparity worsens the longer individuals are incarcerated. Specifically, over 70% of Maryland’s prisoners are black¹¹ (which more than doubles the national average of 32%¹²) and of those individuals who have been incarcerated for more than ten years, nearly 80% are black.¹³ In light of these shocking realities, providing a meaningful opportunity for release to juvenile lifers is a matter of racial justice. SB 1038, if enacted, would provide Maryland the opportunity to lessen these disparities.

Aside from important justice considerations, the financial costs of incarceration are significant. Housing individuals for a life sentence requires decades of public expenditures—as of 2015, Maryland spent an average of \$44,601 per inmate annually.¹⁴ For instance, a 50-year sentence for a 16-year-old will cost approximately \$2.3 million. Therefore, keeping individuals incarcerated for so long, despite their rehabilitation and transformation, requires enormous financial costs.

¹¹ JUSTICE POLICY INSTITUTE, RETHINKING APPROACHES TO OVER INCARCERATION OF BLACK YOUNG ADULTS IN MARYLAND, 8 (November 2019), http://www.justicepolicy.org/uploads/justicepolicy/documents/Rethinking_Approaches_to_Over_Incarceration_MD.pdf.

¹² *Id.* at 7

¹³ *Id.*

¹⁴ VERA INSTITUTE OF JUSTICE, PRISON SPENDING IN 2015, 8 (May, 2017) <https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends-prison-spending>.

SB 1038 understands that children are inherently different than adults and that every child sentence to life imprisonment should have a meaningful opportunity for release. If enacted, SB 1038 would join Maryland with the other states that have turned away from the draconian, scientifically unsound, and unfair practice of sentencing children to life without parole, and would also provide juvenile lifers a meaningful opportunity for release by allowing them to file a court motion to reduce their sentences. For these reasons, we ask the Senate Judicial Proceedings Committee to issue a favorable report.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.

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Position: FAV



The **CAMPAIGN** for the
FAIR SENTENCING
of **YOUTH**

BILL: SB 1038

TITLE: Juveniles Convicted as Adults – Sentencing – Limitations and Reduction (Juvenile Restoration Act)

DATE: March 12, 2020

POSITION: SUPPORT

COMMITTEE: Senate Judicial Proceedings Committee

CONTACT: Preston Shipp (pshipp@fairsentencingofyouth.org)

Chair Smith, Vice Chair Waldstreicher, and distinguished members of the Judicial Proceedings Committee:

The Campaign for the Fair Sentencing of Youth respectfully submits this testimony for the official record to express our **SUPPORT for SB 1038**. We are grateful to Senator Sydnor for his leadership in sponsoring this bill and appreciate the Maryland Legislature’s commitment to abolishing life imprisonment for people who were under the age of 18 when they committed their crimes. We urge the Legislature to enact SB 1038 because it will provide opportunities for release to people who, despite their youth, became involved in the adult criminal justice system, which is an important step in upholding the constitutional and human rights of young people in Maryland.

The Campaign for the Fair Sentencing of Youth (“CFSY”) is a national coalition and clearinghouse that coordinates, develops, and supports efforts to implement age-appropriate alternatives to the extreme sentencing of America’s youth with a focus on abolishing life-without-parole and life-equivalent sentences for all children. We collaborate with policymakers, national and community organizations, and individuals directly impacted by these policies to develop solutions that keep communities safe while providing opportunities for children to reintegrate into society after demonstrating rehabilitation.

Prior to working for the CFSY, I spent several years working as a prosecutor in the Tennessee Attorney General’s Office. Serving as a prosecutor gave me a unique perspective on the criminal justice system. I have seen things the system does well, and I have witnessed aspects where there is a great deal of room for improvement. One of the most glaring areas in need of reform is juvenile sentencing.

In the 1980s and 1990s, tough-on-crime rhetoric was widely employed at the federal level and

trickled down to the states. The term “superpredator” was coined to describe a new kind of mythical young criminal, incapable of remorse or rehabilitation. As a result of this flawed logic, which has since been debunked and repudiated by its former proponents, policies were enacted that led increasing numbers of children to be tried as adults and given extreme sentences. These failed policies have resulted in the United States being the only country in the world in which a child may be sentenced to die in prison. Under this framework, we betray some of our best and most cherished values, such as our belief in redemption and second chances and our concern for the well-being and positive development of all children. Rather than invest in the rehabilitation of children who caused harm, we effectively told them with these policies that it did not matter what they did over the next ten, fifteen, twenty, or thirty years. There was no hope for them. They were thrown away based on the worst moment of their young lives without regard for the great potential that young people have to make positive change.

United States Supreme Court Decisions

Fortunately, throughout the last decade, the United States Supreme Court has repeatedly concluded that children are constitutionally different from adults for the purpose of criminal sentencing, and our policies must take these fundamental differences into account. In *Roper v. Simmons* (2005), the Court struck down the death penalty for children, finding that it violated the 8th Amendment’s prohibition against cruel and unusual punishment.¹ The Court emphasized empirical research demonstrating that children are developmentally different than adults and have a unique capacity to grow and change as they mature.² In *Graham v. Florida* (2010), the Court struck down life-without-parole sentences for non-homicide offenses, holding that states must give children a “realistic opportunity to obtain release.”³ In *Miller v. Alabama* (2012), the Court struck down life-without-parole sentences for most homicide offenses, and ruled that sentencing courts must “take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison” any time a child faces a potential life-without-parole sentence.⁴

In January 2016, the Supreme Court ruled in *Montgomery v. Louisiana* that its *Miller v. Alabama* decision applies retroactively to individuals serving life without parole for crimes they committed while under age eighteen. As the Supreme Court explains in *Montgomery*, the *Miller* decision “did more than require a sentencer to consider a juvenile offender’s youth before imposing life without parole; it established that the penological justifications for life without parole collapse in ‘light of the distinctive attributes of youth.’”⁵ Additionally, considering youth-related mitigating factors at the time of sentencing may be insufficient to protect against unconstitutional sentences if judges improperly evaluate an individual’s capacity for rehabilitation. The Court held that “[e]ven if a court considers a child’s age before sentencing him or her to a lifetime in prison, that sentence still violates the Eighth Amendment for a

¹ *Roper v. Simmons*, 543 U.S. 551 (2005).

² *Id.*

³ *Graham v. Florida*, 130 S. Ct. 2011 (2010).

⁴ *Miller v. Alabama*, 132 S.Ct. 2455 (2012).

⁵ *Montgomery v. Louisiana*, No. 14-280, slip op. at 16 (2016), http://www.supremecourt.gov/opinions/15pdf/14-280_4h25.pdf

child whose crime reflects “unfortunate yet transient immaturity.”⁶ For the vast majority of children, life without parole will be an unconstitutional sentence. The Court notes that “*Miller* did bar life without parole, however, for all but the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility...*Miller*’s conclusion that the sentence of life without parole is disproportionate for the vast majority of juvenile offenders raises a grave risk that many are being held in violation of the Constitution.”⁷ By preserving life-without-parole sentences for children, states expose themselves to *Miller* and *Montgomery* violations each time a child is charged with murder. Based on juvenile brain science and the demonstrated potential all children have for rehabilitation, the Campaign believes it is impossible for courts to accurately predict which children are “irreparably corrupt.”

SB 1038 takes the crucial steps of abolishing life without the possibility of parole for children, providing meaningful opportunities for review after serving a term of years, and setting forth the factors particular to youth to be considered at the time of the review.

Demographics of Youth Serving Life Without Parole

By sentencing youth under eighteen to life in prison without parole, we as a society are condemning children to die in prison. We throw them away for the rest of their lives for their worst adolescent acts rather than allowing them to demonstrate their capacity to grow and change. These children are regularly victims themselves long before becoming perpetrators of violence. Nationally, almost 80 percent of these youth witnessed violence in their homes and over half experienced violence weekly in their own neighborhoods.⁸ Half were physically abused and 20 percent were sexually abused.⁹ In addition to failing to protect these children before they commit crimes, the criminal justice system also fails to treat these children fairly at sentencing. Nationally, African American youth are sentenced to life in prison without parole at a per capita rate of ten times that of their White counterparts for the same crime.¹⁰ While most expect that the harshest penalty is reserved for the most severe offenders, almost two-thirds of youth sentenced to life in prison without parole were involved in the criminal justice system for the first time.¹¹ A quarter of those serving this sentence were convicted of felony murder, in which they had no intention to kill anyone.¹²

⁶ *Id.* at 16-17.

⁷ *Id.* at 20.

⁸ Ashley Nellis, The Sentencing Project (2012). *The Lives of Juvenile Lifers*. Available at http://sentencingproject.org/doc/publications/jj_The_Lives_of_Juvenile_Lifers.pdf

⁹ *Id.*

¹⁰ Human Rights Watch (2008). Submission to the Committee on the Elimination of Racial Discrimination. <http://www.hrw.org/en/reports/2008/02/06/submission-committee-elimination-racial-discrimination-0>

¹¹ Amnesty International & Human Rights Watch (2005), *The Rest of Their Lives: Life without Parole for Child Offenders in the United States*. Available at <http://www.hrw.org/reports/2005/us1005/TheRestofTheirLives.pdf>

¹² *Id.*

Adolescent Developmental Research

Empirical research has demonstrated that adolescent brains are not fully developed. As many parents and educators could verify from personal experience, the adolescent brain does not fully mature until the mid-to-late twenties. Compared to adults, youth are less capable than adults in long-term planning, regulating emotion, impulse control, and the evaluation of risk and reward.¹³ Additionally, youth as a whole are more vulnerable, more susceptible to peer pressure, and heavily influenced by their surrounding environment, which they rarely can control.¹⁴ The majority of our laws reflect adolescents' diminished decision-making capacity, including limiting children's right to vote, prohibiting them from purchasing alcohol or tobacco, and preventing them from entering into contracts, yet our criminal laws uniquely treat them as adults.

Additionally, because the adolescent brain is still developing, children possess a unique capacity for change. The majority of children who commit crimes outgrow their delinquency behavior,¹⁵ which means long prison sentences without parole eligibility prematurely gives up hope for many youth who would likely grow to be contributing members of society. Many individuals who were sentenced to lengthy prison terms as youth currently contribute meaningfully to society by mentoring at-risk youth and helping individuals transition back to society after incarceration. CFSY's Incarcerated Children's Advocacy Network ("ICAN") was created by and is composed of formerly incarcerated youth that are living testimonies of young people's capacity for change.¹⁶

National and International Perspective

Sentencing children to die in prison directly violates Article 37 of the United Nations Convention on the Rights of the Child, which prohibits the use of "capital punishment and life without the possibility of release" as sentencing options for people younger than 18.¹⁷ The United States is the only country in the world that has not yet ratified this treaty.¹⁸ One of the main reasons for its refusal to do so is it still sanctions life-without-parole sentences for children.

Maryland currently has the opportunity to join the growing number of states who have banned the practice of sentencing children to die in prison and are committed to giving youth a second chance. In the last seven years, states as diverse as Texas,¹⁹ West Virginia,²⁰ Hawaii,²¹ Wyoming,²² Delaware,²³ Massachusetts,²⁴ Connecticut,²⁵ Vermont,²⁶ Nevada,²⁷ Utah,²⁸ South Dakota,²⁹

¹³ Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty, Laurence Steinberg and Elizabeth Scott, *American Psychologist*, December, 2003.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Incarcerated Children's Advocacy Network, <http://fairsentencingofyouth.org/incarcerated-childrens-advocacy-network/>

¹⁷ U.N. Convention on the Rights of the Child, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

¹⁸ *Id.*

¹⁹ S.B. 2, 83rd Leg., Special Sess. (Texas 2013).

²⁰ HB, 4210, 81st Legislature, 1st Sess. (W. Virg. 2013).

²¹ H.B. 2116, 27th Leg. (Hawaii 2014).

²² H.B. 23, 62nd Leg., Gen. Sess. (Wy. 2013).

Iowa,³⁰ Oregon,³¹ the District of Columbia,³² and as of last month, Virginia, have eliminated the practice of sentencing children to die in prison. Maryland can look to these states as examples of how to hold youth accountable for serious crimes in age-appropriate ways, acknowledging youth's potential to make dramatic positive change.

National organizations have expressed strong opposition to life-without-parole sentences for juveniles. The American Bar Association passed a resolution calling for states to eliminate life without parole as a sentencing option for youth, both prospectively and retroactively, and to “provide youthful offenders with meaningful periodic opportunities for release based on demonstrated maturity and rehabilitation.”³³ The American Correctional Association, American Probation and Parole Association, and the National Association of Counties have passed similar resolutions.³⁴ Organizations including the American Psychological Association, the National Association of School Psychologists, the National Association of Social Workers, and the National Parent Teacher Association support ending life without parole for youth.³⁵

Costs to Society and Victims

In addition to the human rights and constitutional concerns for Maryland to enact SB 1038, the state must also consider the financial impact and loss of human capital. In the United States, it costs approximately \$2.5 million to incarcerate a child for the duration of his or her life.³⁶ In contrast, a child with a high school education who is paroled after serving ten years could potentially contribute \$218,560 in tax revenue.³⁷ With a college degree, a formerly incarcerated child can potentially contribute \$706,560 in tax revenue over his or her lifetime.³⁸ These estimates do not include the contributions that these individuals will make to the local economy, support for their families, and the impact they can have on future generations as role models for

²³ S.B. 9, 147th Gen. Assemb., Reg. Sess. (Del. 2013).

²⁴ H 4307, 188th Gen. Court (Mass. 2014).

²⁵ S.B. 796, 2015 Reg. Sess. (Conn. 2015).

²⁶ H. 62, 2015 Reg. Sess. (Vt. 2015).

²⁷ A.B. 267, 78th Leg., Gen. Sess. (Nv. 2015).

²⁸ H.B. 405, 61st Leg., Gen. Sess. (Ut. 2016).

²⁹ S.B. 140 2016 Reg. Sess. (SD. 2016).

³⁰ *Iowa v. Sweet*, No. 14-0455 (Iowa May 27, 2016).

³¹ S.B. 1008, 80th Leg. Assemb., Reg. Sess. (Or. 2019).

³² Comprehensive Youth Justice Amendment Act of 2016, B 21-0683; pending U.S. Congressional Review.

³³ Resolution 107C, American Bar Association (Feb. 2015). Available at <http://fairsentencingofyouth.org/resolutions-against-life-without-parole/>

³⁴ Resolution 2014-1, American Correctional Association (Aug. 2014); Resolution, National Association of Counties (July 2014); Resolution, American Probation and Parole Association (Feb. 2015). All available at <http://fairsentencingofyouth.org/resolutions-against-life-without-parole/>

³⁵ Official Supporters to the Statement of Principles for the Campaign for the Fair Sentencing of Youth. Available at <http://fairsentencingofyouth.org/about/who-we-are/>

³⁶ *The Mass Incarceration of the Elderly*, ACLU, June 2012. Available at: https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf

³⁷ *The Fiscal Consequences of Adult Educational Attainment*, National Commission on Adult Literacy. Retrieved from: <http://www.nationalcommissiononadultliteracy.org/content/fiscalimpact.pdf>

³⁸ *Id.*

at-risk youth. Criminal justice reform is sound policy that protects public safety while allowing formerly incarcerated youth to tangibly repay society with positive contributions.

Finally, the CFSY has deep concern for those who bear the greatest costs of any criminal justice policy—the loved ones of victims who have died due to violence. Our hearts go out to those who have been hurt by youth and we work closely with victims' family members who engage in restorative justice efforts to promote healing. We recognize that in many communities, families may have both loved ones hurt by violence and loved ones incarcerated for committing violent acts. We strongly encourage that the costs saved be redirected to improve support services for victims and their families and improve violence prevention programs.

Closing

Our criminal justice system serves complementary functions of protecting the community from safety threats, ensuring justice for victims, and rehabilitating incarcerated individuals to rejoin society as productive contributors. SB 1038 achieves all three of these goals. And critically, no single act as a teenager should destine a person to die in prison with no meaningful opportunity to review the sentence and determine whether the individual has experienced rehabilitation. We ask you to give these youth the opportunity to demonstrate that they can change for the better.

Thank you,

Preston Shipp
Senior Policy Counsel
The Campaign for the Fair Sentencing of Youth

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Position: FAV

TESTIMONY IN SUPPORT OF SENATE BILL 1038

**Chairman William C Smith, Jr
And Judicial Proceedings Committee**

I have been representing juveniles charged as adults for the past twenty years. I write in strong support of Senate Bill 1038. It is relevant and necessary and follows the trends of emerging community values :

- ***Courts, both Maryland and the Supreme Court, and the scientific community recognize that juveniles are not simply smaller adults. Their brains aren't fully formed, they are more prone to recklessness, impulsivity, peer pressure and environmental forces**
- **.The same traits that pre-dispose juveniles to commit crimes are transient, and as the juvenile matures, the likelihood of repating the same behavior lessens.**
- **Twenty two other states have already banned life without parole for juveniles, including neighboring Virginia**
- **Children as young as 13 years old are being sentenced as adults. Judges sentencing these young people to mandatory minimum sentences should have the discretion to determine if such a sentence is warranted because:**
 - **Often juveniles are subject to the mandatory minimum because of the actions of older codefendants, such as the older codefendant having a gun in committing a robbery or drug distribution. As a conspirator, the juvenile faces the mandatory five years without the possibility of parole.**
 - **The Department of Corrections has less programming , is filled with more hardened**

TESTIMONY IN SUPPORT OF SENATE BILL 1038

criminals and impedes positive development of the juvenile. Thus, mandatory longer sentences limit education and rehabilitative opportunities

- Many of the juveniles have emerged from traumatic childhoods riddled with abuse and neglect. Such violent environments contributed to the youths criminal conduct and mitigates against mandatory minimums.
- Because the juvenile traits such as impulsivity and recklessness are transient, justice warrants consideration of the maturing youth as his brain develops long after sentencing.
- The current sentencing guidelines offer no guidance for sentencing juveniles. The guidelines allow the judge to consider negative juvenile behaviors, such as prior delinquencies, but offers no guidance in considering a defendants youth, lack of fully formed brain and other scientific juvenile traits.
- Senate Bill 1038 is the first bill to address the difference between juveniles and adults in sentencing. Courts have expressed the desire for such legislature.
- Senate Bill 1038 encompasses growing societal views that juveniles are different and should be treated differently in they are forced into adult courts.

I urge you to pass this legislation and join the other states that have done so.

Thank you,

Mary Kay Siegfried

Juvenile Supervisor, Office of Public Defender
Montgomery County Maryland

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Position: FAV



TESTIMONY BY Tyrone Walker
Associate, for Justice Policy Institute

**SENATE BILL 1038, JUVENILES CONVICTED AS ADULTS- SENTENCING- LIMITATIONS
AND REDUCTION (“JUVENILE RESTORATION ACT”)**

SENATOR WILLIAM C. SMITH Jr., CHAIRPERSON
MARYLAND SENATE JUDICIARY COMMITTEE

Thursday, March 12, 2020, 1:00 p.m.

Room 100, House Office Building

11 Bladen Street

Annapolis, MD 21401

Thank you, Chairperson Smith and other Committee members, for allowing me to testify at this hearing in support of SB 1038 Juvenile Restoration Act.

I speak to these issues as someone who has been directly impacted by the criminal justice system and stand here today, testifying because of a second look mechanism in a neighboring jurisdiction. The Incarceration Reduction Amendment (IRAA) Act of Washington D.C., a provided me a second opportunity at life. The IRAA allows individuals whose crime occurred prior to their 18th birthday to apply for a resentencing hearing after having served 15 years in prison. One important note: I urge the Committee to consider amending the Juvenile Restoration Act to allow eligibility at 15 years, which is consistent with the IRAA and the recommendations of the American Legal Institute’s Model Penal Code. I speak for the many people in DC who have been released under IRAA and are now working and contributing to public safety in their community.

It would be an injustice for me to tell my story without recognizing the harms done to individuals and society. I cannot change the great tragedy that I committed, and the hurt that I caused that family to endure. From the depth of my being, I am sincerely apologetic for what I have done. I am fully and completely responsible for the actions I made. I made a terrible decision, I made the worse mistake of my life, and I have learned from it.

While I express my feelings towards the victims I hurt, I am not here today to receive any empathy or sympathy for the actions I took 26 years ago. I am here to educate the council that someone’s worst

failing in their lives is not indicative of someone's future action; and I am an example of an individual's capacity to grow and mature.

I was born and raised in Washington, D.C. I was an uneducated, unstructured, foolish, immature, and a reckless 17-year-old in June 1992. I made one of the worse mistakes of my life. I didn't wake up nor was planning for that to happen that day, but I fired a gun that killed another human being. I was arrested on March 26, 1994.

Upon my arrest, I was placed at the D.C. jail as a 19-year-old. I still had not grasped the severity of my crime, and I was living in denial of what I had done. I was not able to understand that I was going to spend the remainder of my life in a prison cell.

While being housed there, it was clear that much of the population had similar backgrounds to myself, raised in a dysfunctional neighborhood surrounded by experiences of violence, drugs, and physical abuse. Most retained a child-like mind, full of impetuosity and immaturity.

I shared that because I was a codefendant in my case with my brother (who has since passed) who was 18 years old, and my cousin who was 21 years old. While growing up I never looked at either one of them of being adults in our relationship. We grew up in the same household, we slept in the same bed, we shared the same socks and had similar experiences with neighborhood discord. How we viewed the world and our personal mental development were all the same, but how the justice system perceived us was significantly different. In this setting, there is no magical difference between me, a 17-year-old, my brother, an 18-year-old, and my cousin, a 21-year-old.

My rehabilitation was spent over the 9,019 days, or 24 years 8 months and 15 days, or 216,456 hours in prison for the crime that I take complete responsibility for. During that time, I spent it deliberately focused on becoming a better person, son, sibling, father, grandfather, community member and a better man for our society. I went through the early years of my life trying to find *the real me*. It was buried deep within me, but I didn't know how to bring him out and cultivate him in a nourishing way, so he remained lost to me until I met a mentor. Mr. Lucius F. McCoy-Bey Sr. taught me and encouraged me with his constant tutoring and mentoring for 2 years before he was released. He instilled in me a hope of a new life through increasing my capacity of knowledge, wisdom, and understanding. Through personal growth, dreams and aspirations could become a new tangible lifestyle.

Acting on the encouraging words of my mentor, I entered the education class with a vigor and drive to succeed. I earned my GED when I was 23 years old and continued to explore what I wanted to do with my life. I worked to navigate my way in the world even though I was in prison. Those moments of uncertainty were painful, but I kept pushing. At the age of 25, I enrolled in Allegheny College and earned a degree in business. After jump starting my life, I began reaching out to others who needed help growing in their education through tutoring those in GED course to simply learning how to read. To further my impact, I started many training programs for the aging prison population and a host of other programs for those in need of improving their lives. I took what I learned from my mentor and expanded it to as many individuals I could to be a better person in society, in and out of the prison.

After years of reconfiguring my life, I was eventually released on December 4, 2018 after my motion for IRAA was granted. I have continuously stayed the course of my rehabilitation by completing the Pivot Program at Georgetown University McDonough School for Business, this is an Entrepreneurship and Internship curriculum course offered to returning citizens in the District of Columbia. This model of programming is uniquely developed to those who wish to start their own business or provided the skills and opportunities to work in an existing business with livable wages. I entered this program the day I was released from D.C. Jail. When I reported to class, I had the outlook of being a better citizen for our community and I have excelled at making those changes a reality and showing all that my rehabilitation process reflects the man I have matured into. During that time, I was also an intern at the Justice Policy Institute. Since then, I have joined JPI full-time as an Associate, helping advocacy and research efforts to effectively change policy within the criminal justice system.

This reentry support has allowed me to smoothly reintegrate into the community in a meaningful way. However, this proposed Maryland legislation would limit reentry support to people like me, who were convicted as a juvenile. Everyone returning home after years of incarceration, regardless of their entering age, needs the types of wrap-around services in the community, that would allow for a successful transition. I urge the Committee to consider expanding reentry support to all individuals who benefit from the Juvenile Restoration Act.

I am in support of the Maryland's Juvenile Restoration Act. Like myself, others in Maryland have gone through life in prison knowing that they have made a fatal mistake but have spent their time rehabilitating and rethinking their next steps. Give them the same opportunity to prove that they deserve to be back into society. Had IRAA not been passed in D.C., I would not be here right now. The Juvenile Restoration Act would permit individuals like me to reintegrate to society and allow for the resources allocated to their incarceration be devoted to efforts that would contribute to public safety in far more meaningful ways.

I would like to thank you in advance for your most valued time and kind consideration for hearing my testimony in support of passing the SB 1038 Juvenile Restoration Act.

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Position: FAV



TESTIMONY BY Tyrone Walker
Associate, for Justice Policy Institute

**SENATE BILL 1038, JUVENILES CONVICTED AS ADULTS- SENTENCING- LIMITATIONS
AND REDUCTION (“JUVENILE RESTORATION ACT”)**

SENATOR WILLIAM C. SMITH Jr., CHAIRPERSON
MARYLAND SENATE JUDICIARY COMMITTEE

Thursday, March 12, 2020, 1:00 p.m.

Room 100, House Office Building

11 Bladen Street

Annapolis, MD 21401

Thank you, Chairperson Smith and other Committee members, for allowing me to testify at this hearing in support of SB 1038 Juvenile Restoration Act.

I speak to these issues as someone who has been directly impacted by the criminal justice system and stand here today, testifying because of a second look mechanism in a neighboring jurisdiction. The Incarceration Reduction Amendment (IRAA) Act of Washington D.C., a provided me a second opportunity at life. The IRAA allows individuals whose crime occurred prior to their 18th birthday to apply for a resentencing hearing after having served 15 years in prison. One important note: I urge the Committee to consider amending the Juvenile Restoration Act to allow eligibility at 15 years, which is consistent with the IRAA and the recommendations of the American Legal Institute’s Model Penal Code. I speak for the many people in DC who have been released under IRAA and are now working and contributing to public safety in their community.

It would be an injustice for me to tell my story without recognizing the harms done to individuals and society. I cannot change the great tragedy that I committed, and the hurt that I caused that family to endure. From the depth of my being, I am sincerely apologetic for what I have done. I am fully and completely responsible for the actions I made. I made a terrible decision, I made the worse mistake of my life, and I have learned from it.

While I express my feelings towards the victims I hurt, I am not here today to receive any empathy or sympathy for the actions I took 26 years ago. I am here to educate the council that someone’s worst

failing in their lives is not indicative of someone's future action; and I am an example of an individual's capacity to grow and mature.

I was born and raised in Washington, D.C. I was an uneducated, unstructured, foolish, immature, and a reckless 17-year-old in June 1992. I made one of the worse mistakes of my life. I didn't wake up nor was planning for that to happen that day, but I fired a gun that killed another human being. I was arrested on March 26, 1994.

Upon my arrest, I was placed at the D.C. jail as a 19-year-old. I still had not grasped the severity of my crime, and I was living in denial of what I had done. I was not able to understand that I was going to spend the remainder of my life in a prison cell.

While being housed there, it was clear that much of the population had similar backgrounds to myself, raised in a dysfunctional neighborhood surrounded by experiences of violence, drugs, and physical abuse. Most retained a child-like mind, full of impetuosity and immaturity.

I shared that because I was a codefendant in my case with my brother (who has since passed) who was 18 years old, and my cousin who was 21 years old. While growing up I never looked at either one of them of being adults in our relationship. We grew up in the same household, we slept in the same bed, we shared the same socks and had similar experiences with neighborhood discord. How we viewed the world and our personal mental development were all the same, but how the justice system perceived us was significantly different. In this setting, there is no magical difference between me, a 17-year-old, my brother, an 18-year-old, and my cousin, a 21-year-old.

My rehabilitation was spent over the 9,019 days, or 24 years 8 months and 15 days, or 216,456 hours in prison for the crime that I take complete responsibility for. During that time, I spent it deliberately focused on becoming a better person, son, sibling, father, grandfather, community member and a better man for our society. I went through the early years of my life trying to find *the real me*. It was buried deep within me, but I didn't know how to bring him out and cultivate him in a nourishing way, so he remained lost to me until I met a mentor. Mr. Lucius F. McCoy-Bey Sr. taught me and encouraged me with his constant tutoring and mentoring for 2 years before he was released. He instilled in me a hope of a new life through increasing my capacity of knowledge, wisdom, and understanding. Through personal growth, dreams and aspirations could become a new tangible lifestyle.

Acting on the encouraging words of my mentor, I entered the education class with a vigor and drive to succeed. I earned my GED when I was 23 years old and continued to explore what I wanted to do with my life. I worked to navigate my way in the world even though I was in prison. Those moments of uncertainty were painful, but I kept pushing. At the age of 25, I enrolled in Allegheny College and earned a degree in business. After jump starting my life, I began reaching out to others who needed help growing in their education through tutoring those in GED course to simply learning how to read. To further my impact, I started many training programs for the aging prison population and a host of other programs for those in need of improving their lives. I took what I learned from my mentor and expanded it to as many individuals I could to be a better person in society, in and out of the prison.

After years of reconfiguring my life, I was eventually released on December 4, 2018 after my motion for IRAA was granted. I have continuously stayed the course of my rehabilitation by completing the Pivot Program at Georgetown University McDonough School for Business, this is an Entrepreneurship and Internship curriculum course offered to returning citizens in the District of Columbia. This model of programming is uniquely developed to those who wish to start their own business or provided the skills and opportunities to work in an existing business with livable wages. I entered this program the day I was released from D.C. Jail. When I reported to class, I had the outlook of being a better citizen for our community and I have excelled at making those changes a reality and showing all that my rehabilitation process reflects the man I have matured into. During that time, I was also an intern at the Justice Policy Institute. Since then, I have joined JPI full-time as an Associate, helping advocacy and research efforts to effectively change policy within the criminal justice system.

This reentry support has allowed me to smoothly reintegrate into the community in a meaningful way. However, this proposed Maryland legislation would limit reentry support to people like me, who were convicted as a juvenile. Everyone returning home after years of incarceration, regardless of their entering age, needs the types of wrap-around services in the community, that would allow for a successful transition. I urge the Committee to consider expanding reentry support to all individuals who benefit from the Juvenile Restoration Act.

I am in support of the Maryland's Juvenile Restoration Act. Like myself, others in Maryland have gone through life in prison knowing that they have made a fatal mistake but have spent their time rehabilitating and rethinking their next steps. Give them the same opportunity to prove that they deserve to be back into society. Had IRAA not been passed in D.C., I would not be here right now. The Juvenile Restoration Act would permit individuals like me to reintegrate to society and allow for the resources allocated to their incarceration be devoted to efforts that would contribute to public safety in far more meaningful ways.

I would like to thank you in advance for your most valued time and kind consideration for hearing my testimony in support of passing the SB 1038 Juvenile Restoration Act.