



**Testimony for the House Judiciary Committee  
February 25, 2020**

**HB 831 Criminal Law - Attempt to Commit Second-Degree Murder -  
Penalty (Justice Reinvestment Act - Modification)**

TONI HOLNESS  
PUBLIC POLICY DIRECTOR

**UNFAVORABLE**

AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION OF  
MARYLAND

MAIN OFFICE  
& MAILING ADDRESS  
3600 CLIPPER MILL ROAD  
SUITE 350  
BALTIMORE, MD 21211  
T/410-889-8555  
or 240-274-5295  
F/410-366-7838

FIELD OFFICE  
6930 CARROLL AVENUE  
SUITE 610  
TAKOMA PARK, MD 20912  
T/240-274-5295

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS  
JOHN HENDERSON  
PRESIDENT

The ACLU of Maryland opposes HB 831, which raises the maximum penalty for second-degree murder from 30 to 40 years of incarceration.

**Enhanced sentences are expensive and yield little or no public safety returns**

Enhanced sentences require that the state expend unjustified resources housing persons who may otherwise be appropriate for release. Maryland currently expends on average \$3,800 per month per inmate in state facilities. A few years ago, the General Assembly passed the Justice Reinvestment Act in an effort to curb the bloated prison population while maintaining public safety. HB 831 potentially undermines the progress and savings under the JRA, which the state is only just beginning to realize.

Moreover, no evidence indicates that there is a public safety benefit to increasing sentence lengths. Indeed, the evidence shows that more severe sentences do not deter crime more effectively than less severe sentences.<sup>1</sup> In researching the correlation between severe sentences and crime deterrence, Professors Durlauf & Nagin found that the marginal deterrent effect of increasing already lengthy prison sentences is modest at best and evidence suggests the possibility of a negative criminogenic effect from imprisonment.<sup>2</sup>

In its final report to the General Assembly, the Justice Reinvestment Coordinating Council noted:

A growing body of criminological research demonstrates that prison terms are not more likely to reduce recidivism than noncustodial sanctions. For some offenders, including drug offenders, technical violators, and first-time offenders, studies have shown that prison can actually increase the likelihood of

<sup>1</sup> Durlauf & Nagin, *Imprisonment and Crime: Can Both Be Reduced?*, 10 CRIMINOLOGY & PUBL. POL'Y, 13, 37-38 (2011)

<sup>2</sup> *Id.*



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recidivism. There is also growing evidence that, for many offenders, adding days, months, or years to prison sentences has no impact on recidivism.<sup>3</sup> (*internal citations omitted*)

**Harsh criminal penalties are disproportionately levied against communities of color**

Enhanced sentences, such as the one being proposed in HB 831 have historically been levied disproportionately against persons of color. In Maryland, African Americans make up only 30% of the general population, but over 70% of the incarcerated population. Until the state can identify causes of and begin to undo the racial disparities that permeate every dimension of the criminal legal system, we strongly discourage this body from enacting new or enhancing existing criminal penalties.

For the foregoing reasons, the ACLU of Maryland respectfully urges an unfavorable report on HB 831.

<sup>3</sup> Maryland Justice Reinvestment Coordinating Council—Final Report (December 2015).