

## Testimony in Support of SB 202 – Remove the Governor from Lifer Parole

*Submitted by*

**The Re-Entry Clinic at the American University Washington College of Law**

The **Re-Entry Clinic at the American University Washington College of Law** represents child offenders serving life sentences in Maryland prisons. Through its work, the Clinic is acutely aware of the impact that the Governor’s role in parole decisions has on its clients and their families. Thus, the Clinic strongly SUPPORTS passage of SB 202.

“Justice is the constant and perpetual will to allot to every man his due.”<sup>1</sup> As is, Maryland’s parole system does not serve the interests of justice. Parole is an “integral part of the penological system.”<sup>2</sup> It necessitates the allotment of freedom to men and women who have earned its due—namely, those who have already served decades in prison and have demonstrated their rehabilitation. However, the Governor’s intimate involvement in the parole process makes the likelihood of receiving a grant of parole, even in the most compelling cases, a short-lived fantasy.

In Maryland, a life sentence with the possibility of parole exists in name only. For years, the Governor’s role in Maryland’s parole system has transformed life sentences into life sentences without the possibility of parole. Per current law, a life sentence means eligibility for parole after approximately fifteen years in prison, but in reality, the Re-Entry Clinic routinely represents clients who have been in prison for twenty, thirty, forty, and more years whose likelihood of being granted parole is marginal at best.<sup>3</sup>

The Governor adds minimal insight to the parole process. Before Governor Glendening’s 1995 “life means life” proclamation,<sup>4</sup> four Maryland governors issued 181 parole orders over twenty-

---

<sup>1</sup> (quoting Domitius Ulpianus, ancient Roman jurist).

<sup>2</sup> *Morrissey v. Brewer*, 408 U.S. 471, 477 (1972).

<sup>3</sup> Md. Code Ann. § 7-301(d)(1).

<sup>4</sup> Ann E. Marimow, [https://www.washingtonpost.com/local/public-](https://www.washingtonpost.com/local/public-<i>Teens sentenced to life in prison say Maryland's parole system is unconstitutional</i></a>, WASH. POST (Feb. 6. 2018) <a href=)

five years.<sup>5</sup> In the twenty-three years that followed Glendening’s policy, just three parole grants were issued, each by Governor Larry Hogan and each to adult lifers who were teenagers at the time of their offenses.<sup>6</sup> While the Governor’s office has argued that his role in the parole process fosters greater accountability because it puts the final decision in the hands of an elected official who must answer to the voters, that argument, in addition to the lack of parole grants we have seen over nearly three decades, reveals what is painfully true—the Governor’s involvement is purely political.<sup>7</sup>

As one of only three states that requires approval from the Governor as part of the parole process,<sup>8</sup> the Governor’s involvement not only embroils politics into what should be an apolitical matter, it also fails to adhere to the United States Supreme Court’s declaration that “youth matters.”<sup>9</sup> It is now a widely-recognized legal principle that child offenders must be treated differently than their adult counterparts. Even so, today, four hundred child offenders sit in prisons in Maryland serving life sentences—87% of them have already served twenty years or

---

[safety/teens-sentenced-to-life-in-prison-say-marylands-parole-system-is-unconstitutional/2018/02/06/91f2dc72-0ab5-11e8-8890-372e2047c935\\_story.html](https://www.washingtonpost.com/news/energy-environment/wp/2018/02/06/91f2dc72-0ab5-11e8-8890-372e2047c935_story.html).

<sup>5</sup> John Yang, *In Maryland, many juvenile offenders languish in prison without parole*, PBS NEWS HOUR (Dec. 10, 2019), <https://www.pbs.org/newshour/show/in-maryland-many-juvenile-offenders-languish-in-prison-without-parole>.

<sup>6</sup> Hannah Gaskill, *Hogan Issues First Paroles for Juvenile Lifers in Decades*, NBC WASH. (Nov. 23, 2019), <https://www.nbcwashington.com/news/local/hogan-issues-first-paroles-for-juvenile-lifers-in-decades/2154790/>.

<sup>7</sup> Dan Rodricks, *Hogan starts to fix a parole system infected with politics*, The Baltimore Sun (Nov. 29, 2019), <https://www.baltimoresun.com/opinion/columnists/dan-rodricks/bs-md-rodricks-column-1201-20191129-qbp6t4gw15depaojv2jbnw3upu-story.html>.

<sup>8</sup> Cal. Const. art. 5, § 8 (noting California’s statute that requires governor’s approval for parole); Okla. Const. art. 6, § 10 (indicating Oklahoma’s statute that gives power to the governor to decide parole).

<sup>9</sup> *Miller v. Alabama*, 567 U.S. 460, 473 (2012).

more. Of them, the overwhelming majority are Black men.<sup>10</sup> This is true even though Maryland's Court of Appeals reiterated that a state must give juvenile defendants some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.<sup>11</sup>

These statistics tell us two things—the Governor's involvement in Maryland's parole process simultaneously endorses the State's title as a leading incarcerator of Black men and confirms the State's unwillingness to adhere to both United States and Maryland high court precedent. In its current form, Maryland's parole process provides no process at all—it serves only to ensure that most lifers will die in prison.

This summer, after a police officer in Minneapolis forced his knee into the neck of George Floyd for eight minutes and forty-six seconds, many said our country had reached a point of racial reckoning—a moment we must utilize to stare down hard truths.<sup>12</sup> Senate Bill 202 presents such a moment for Maryland.

At its core, parole is an opportunity for redemption. But the hard truth is, unless and until that opportunity is meaningful, redemption can never follow—neither for the most deserving of offenders nor for those perpetuating their incarceration.

We urge you to PASS Senate Bill 202.

---

<sup>10</sup> [Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland](https://www.justicepolicy.org/research/12702?utm_source=%2fMarylandYoungAdult&utm_medium=web&utm_campaign=redirect), JUSTICE POLICY INSTITUTE (Nov. 2019), [http://www.justicepolicy.org/research/12702?utm\\_source=%2fMarylandYoungAdult&utm\\_medium=web&utm\\_campaign=redirect](http://www.justicepolicy.org/research/12702?utm_source=%2fMarylandYoungAdult&utm_medium=web&utm_campaign=redirect) (revealing that 70% of Maryland's prison population is Black, which is more than double the national average, 32%).

<sup>11</sup> *Carter v. State*, 461 Md 295, 311 (2012).

<sup>12</sup> [Summer of racial reckoning](https://www.mprnews.org/story/2020/08/24/npr-special-summer-of-racial-reckoning), MPR News (Aug. 24 2020), <https://www.mprnews.org/story/2020/08/24/npr-special-summer-of-racial-reckoning>.