Bill Number: SB 202
Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed

WRITTEN TESTIMONY OF SCOTT SHELLENBERGER, STATE'S ATTORNEY FOR BALTIMORE COUNTY, IN OPPOSITION TO SENATE BILL 202, CORRECTIONAL SERVICES - PAROLE LIFE IMPRISONMENT

I write in opposition of Senate Bill 202 which would remove the Governor from the decision on whether or not to grant parole to those serving a life sentence.

I view the need for the Governor to sign off on the parole of a "lifer" as a way of making sure that the person who makes the weighty decision of when a lifer is released, is a person directly accountable to the citizens of this State. In addition, since the Parole Board is an agency of the Executive Branch should not the Chief Executive of that branch have the final say when it comes to lifers?

In Maryland, a defendant can receive a life sentence for first degree murder, first degree rape, and first degree sex offense. In reality, few defendants receive this sentence and, therefore, it is usually imposed for a basic and very good reason - it was the appropriate punishment for an outrageous crime that was committed. That crime typically is first degree murder. The Defendants we are talking about today are the worst of the worst.

As the State's Attorney for Baltimore County, every day my Assistants and I are asked by the victims of crime, "How much of the sentence just imposed will the defendant actually have to serve?" We can never answer that question because Maryland does not have truth in sentencing. Between the accumulation of good time credits, diminution credits and parole eligibility, how long a defendant will actually spend in jail is a mystery. In fact, the Federal system has already recognized this shortcoming and does not have any parole at all. At least when it came to a life sentence for first degree murder, I have been able to look into the eyes of the victim's family members and say, "life means life" in this State, unless the Governor approves of the release. Since 1995, it has brought great solace to the surviving family members. If the Legislature passes Senate Bill 202, which would remove the Governor from the process, I will not even be able to say "life means life" for murder, unless the Governor says otherwise.

Please remember there are already actions that you have taken that have improved this area of the law. In 2011, you passed a law that says the Governor cannot handle the Parole Board's recommendations on lifers by inaction. Now a Governor must affirmatively do something within 180 days or the decision of the Parole Board goes into effect. That was a good move. Before that, many Governors just ignored the parole decision.

In addition, because of the Court of Appeals ruling in Unger there are approximately 250 lifers, whose sentences date back to the 1970's and early 1980's, who have gotten new trials and to my knowledge, most have been released.

Because of the Supreme Court's rulings in Miller and Montgomery, the Maryland Parole Commission has decided to give each of the 270 lifers who committed their crimes when they were a juvenile, a parole hearing. At this parole hearing the Commission will consider the factors the Supreme Court outlined in the Miller case. Miller created tough standards that must be met. Therefore, another group of lifers are having their cases reviewed.

Action taken by Governor Ehrlich started some parole of lifers. Governor Hogan has paroled 26 people serving life sentences whether by approving parole or allowing it to go into effect. He has commuted the sentences of 22 inmates serving life and granted medical parole to 7. This means life does not always mean life. This means the current system is working. The Governor's office regularly reaches out to me to ask for my offices' opinion on lifers that they are considering. In fact, Governor Hogan's Administration takes these investigations quite seriously. I am always asked about the facts of old cases from the 1980's and 1990's and I know my fellow State's Attorneys are responding to the same requests.

In addition to this, Governor Hogan has issued an executive order requiring that holders of this office consider additional factors in determining whether to grant parole for a juvenile offender, including the person's age at the time the crime was committed, the "lesser culpability of juvenile offenders as compared to adult offenders," and the degree to which the individual has matured and demonstrated rehabilitation since the crime.

Senate Bill 202 does increase the first parole hearing eligibility from 15 years to 20 years which is an improvement over the current system. Yet this is not enough. It makes no sense that if you get 40 years for second degree murder, you get a parole hearing at 20 years less good time credits.

That means a Defendant serving life for 1st Degree Murder gets a parole hearing at approximately 17 years in and so does a Defendant serving 40 years for 2nd degree murder. These hearing dates should be different to reflect the length of the sentence and the seriousness of the crime.

Let's ensure that when paroling the most serious offenders, the person making this decision is a person who is accountable to the citizens of this state. When the Governor respects the will of the people in this most weighty of decisions true justice is served.

Please give Senate Bill 202 an unfavorable report.