

March 28, 2024 @ 1:00pm (House Hearing)

Delegate Luke Clippinger, Chair
Delegate J. Sandy Bartlett, Vice Chair
Maryland General Assembly
House Judiciary Committee
Room 101
House Office Building
Annapolis, MD 21401

RE: SB 123 – Criminal Procedure – Petition to Reduce Sentence (Md Second Look Act)
SUPPORT – FAVORABLE with AMENDMENTS

Please accept my written testimony in support of Senate Bill 123 (SB 123). I am testifying on behalf of the Family Support Network (FSN) and from my personal experience.

FSN is a network of individuals with incarcerated loved ones, returning citizens and advocates that support one another and serve as a voice for those behind the wall. I have the lived experience and remain near to those that are dealing with the daily challenges of having an incarcerated loved one. Most of the FSN returning citizens and those still serving are lifers or have life equivalent sentences.

My husband was incarcerated at 16 years of age and served 28 years and 8 months in Maryland prisons. In 1993, he was sentenced to two consecutive life sentences plus 23 years. Given his sentence he was not eligible for his first parole hearing until he had served 40 years at which time, he would have been 56 years of age. With all his post-conviction options exhausted and parole out of sight. We thought all was lost. However, after retaining private counsel in March 2017, a Motion to Correct an Illegal Sentence was filed and through that motion it was discovered that there was illegality in his sentence. Subsequently, his original sentence was modified to correct the illegality and through that action he was able to file a second Motion for Reconsideration. His initial Motion for Reconsideration was denied in 1999. After 25+ years of incarceration, the second Motion for Reconsideration was granted and a hearing was scheduled. My husband was not the lost 16-year-old teenager that was engulfed in a situation where he found himself at the wrong place, at the wrong time, with the wrong people. He was now a man in his mid-forties that had matured, committed himself to being a better person, engaged in developmental opportunities whenever possible and ultimately was no threat to public safety. His impeccable institutional record and demonstration of growth garnered the State's support and recommendation of release. On November 8, 2021, his sentence was reduced to time served and by the grace of God he became a free man on November 9, 2021. Since his release he maintains full employment, supports our family, and makes positive contributions to strengthening our community. None of this would have been possible without a Second Look, we both know how fortunate he is and that his case is an exception and not the rule. The one thing that he expresses that lingers over his mind the most is that he left behind so many deserving men that are just like him. He says those men are trapped in a system that has forgotten about them and has left them for dead. He proclaims often that he is not special and that the same "Second Look" that God blessed him with should be bestowed upon others.

Maryland incarcerates the highest percentage of Black people in the country (71% of Md's prison population is Black – 2x the national average). Maryland leads the nation in its level of incarcerated black men ages 18 to 24 by sentencing young Black men to the longest prison terms at a rate 25% higher than the next nearest state (Mississippi). How did this happen? Bias and discrimination against Black and Brown people with low income has been well documented at

every stage in Maryland's criminal legal system, to arresting and sentencing. It is my desire that you consider the legislation before you as a step in the right direction of fixing the systemic mass incarceration of Black and Brown men in Maryland (see Exhibit 1 from Racial Equity Impact Note). The extreme level of incarceration did not occur overnight by one specific action. It took years and incremental actions that had negative affects throughout the legal system to get here. To undo the injustices and address this crisis it is also going to take several actions over a period of years to achieve real justice reform. In 2021, the Juvenile Restoration Act (JRA) was passed but, it ended on the day it was signed as it was retrospective legislation. I implore you to build upon that to ensure we give those most deserving of a second look an opportunity to do so after having served 20 years in prison regardless of their age at the time of the offense.

We have been in communication with those behind the wall so they may also exercise their voices and participate in this legislative process. Please read their stories, lament the amount of time they have served and acknowledge that redemption is possible. Second chances are needed and necessary.

The current version of the bill now includes a harmful exclusionary amendment that makes people incarcerated for specific crimes ineligible for a second look, and I ask you to amend that language out of the bill. The nature of the offense is already a factor that a Judge shall consider in making their decision, and it should not exclude an individual from the opportunity for a hearing to demonstrate their rehabilitation. I am also asking that you resist any further amendments that exclude certain people from being eligible to petition the court for a second look.

On behalf of myself, FSN and the Md Second Look Coalition I hope that you will unequivocally support this bill and vote **favorably with amendments** on the **Maryland Second Look Act (SB 123)**.

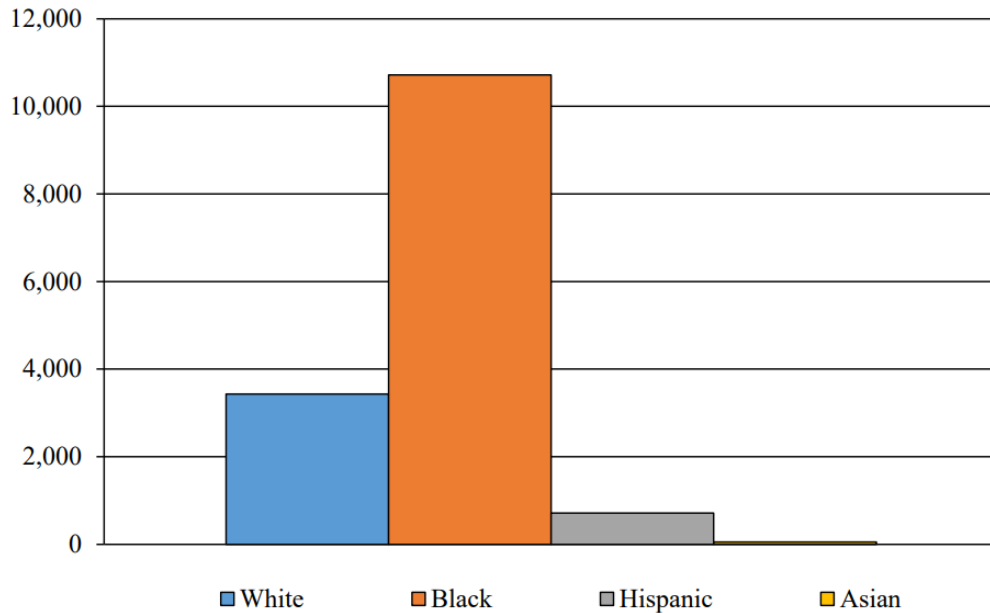
Respectfully,

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Exhibit 1
2023 Division of Correction Population Demographics



Source: Department of Public Safety and Correctional Services

Conclusion

The bill's provisions will give more convicted individuals access to the possibility of sentence reduction by a court. Regarding State's Attorney initiated petitions under the bill, it is unclear to what extent this provision will impact that population of convicted individuals that are not otherwise eligible for a post-conviction sentence review. Much of that impact will depend on the policy decisions of individual State's Attorneys. There is no historical data readily available that indicate the demographics of those individuals that have received post-conviction sentence reductions under existing law, nor is data available to determine the size of the eligible incarcerated population. This data could give some insight into the magnitude of the impact on various racial and ethnic groups. **However, despite the data limitations, it is reasonable to expect that the Black incarcerated population would likely experience the most significant impact given their overrepresentation in the State's incarcerated population.**
