

**FAVORABLE WITH AMENDMENT
TESTIMONY FOR SENATE BILL 123**

TO: Members of the House Judiciary Committee

FROM: Center for Criminal Justice Reform; Criminal Defense and Advocacy Clinic,
University of Baltimore School of Law

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The University of Baltimore School of Law’s Center for Criminal Justice Reform (the “Center”) is dedicated to supporting community driven efforts to improve public safety and address the harm and inequities caused by the criminal legal system. The Criminal Defense and Advocacy Clinic (the “Clinic”) provides students with an opportunity to directly represent individuals charged with criminal offenses and develop a broad perspective on systemic issues in the criminal legal system. The Center and Clinic support Senate Bill 123 with amendments.

I. Unnecessarily long sentences are detrimental to public safety.

SB 123 promotes, rather than hinders, public safety. There is no evidence that unnecessarily long sentences deter people from engaging in criminal behavior.¹ Instead, certainty of apprehension—not severity of sentence—discourages people from engaging in crime.² Incarcerated people grow and change regardless of how old they were at the time of their offense. Accordingly, recidivism rates are extremely low for people released in their mid-40s or later.³ Furthermore, by creating an opportunity for resentencing, this bill would also very likely improve morale and behavior inside prisons, benefiting incarcerated people and corrections officers alike.⁴

II. Unnecessarily long sentences devastate families and communities across the socioeconomic spectrum, but they disproportionately impact communities of color.

¹ See U.S. DEP’T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, *Five Things About Deterrence*, <https://www.ojp.gov/pdffiles1/nij/247350.pdf>.

² Id.

³ In one study, only 4% of people convicted of violent crimes released between ages 45 and 54, and 1% released at 55 or older, were reincarcerated for new crimes within three years. Among people previously convicted of murder, those rates fell to 1.5% and 0.4%, respectively. J.J Prescott, et al., *Understanding Violent-Crime Recidivism*, NOTRE DAME LAW REVIEW, 95:4, 1643-1698, 1688-1690 (2018).

⁴ KEVIN SHARP & KEVIN RING, *Judges Should be Able to Take a ‘Second Look’ at Prison Sentencing*, USA TODAY (June 20, 2019, 5:22 PM), <https://www.usatoday.com/story/opinion/policing/2019/06/20/inmates-prison-reform-judges-sentencing-trump-policing-the-usa/1498072001/>.

Reducing unnecessarily long sentences, regardless of a person’s age at the time of his offense, is a critical component of addressing mass incarceration and mitigating racial disparities in our criminal legal systems. Data demonstrate that “there are stark racial and ethnic differences in the shares of people who are sentenced to and serving 10 years or more in prison, especially when comparing Black people and White people.”⁵ For example, “46% of the total number [of] people serving life or sentences of 50 years or more were Black” across the country in 2020.⁶ Racial disparities for children sentenced to long terms of imprisonment as adults in Maryland are also instructive here: 87 percent of those who became eligible for relief under the Juvenile Restoration Act (JRA) are Black.⁷ According to the Campaign for Fair Sentencing of Youth, this racial disparity is the worst in the entire nation.⁸

III. Senate Bill 123 would promote cost-savings and allow those funds to be allocated to effective public health and safety efforts.

The state prison population and expenses may be reduced via sentence reductions for incarcerated people with lowest-risk status. Successful applicants for SB 123 sentence modifications would be very low risk in light of their age, deteriorating health, and demonstrated self-rehabilitation achievements. Cost savings are especially likely because costs increase dramatically for older individuals in prison.⁹ Wasteful and unnecessary policies and practices—such as the ongoing incarceration of people who pose the lowest risk of reoffending—harm public safety by siphoning massive sums of money that could otherwise support programs that actually prevent crime. The cost savings that are likely to result from the passage of SB 123 would allow the reallocation of critical funds to assist with drug treatment, reentry and other rehabilitation programs for people at higher risk of engaging in criminal behavior.

IV. The successful implementation of the Juvenile Restoration Act bolsters confidence in the impact of SB 123.

Positive outcomes from the Juvenile Restoration Act (JRA), which this committee supported three years ago, underscore the types of impact that the passage of SB 123 would have on Maryland families and communities. Marylanders who were granted relief pursuant to the JRA have contributed to their families and communities since returning home by caring for sick family members, paying taxes, and dedicating their lives to repairing and preventing the types of harmful behavior that they engaged in as young people. Our communities are safer and healthier because of their contributions. This bill would be another significant step forward in allowing Maryland courts to take a meaningful look at the positive changes made over time by those serving lengthy sentences. Due to existing law only allowing consideration for a sentence modification within five

⁵ COUNCIL ON CRIMINAL JUSTICE, *How Long is Enough? Task Force on Long Sentences Final Report* (Mar. 2023), https://assets.foleon.com/eu-central-1/de-uploads-7e3kk3/41697/task_force_on_long_sentences_final_report.ecc1d701464c.pdf.

⁶ Id.

⁷ CAMPAIGN FOR THE FAIR SENTENCING OF YOUTH, *Juvenile Restoration Act (HB409/SB494)*, https://cfsy.org/wp-content/uploads/HB409_SB494_JuvenileRestorationAct_FACTSHEET-1.pdf.

⁸ Id.

⁹ MATT MCKILLOP & ALEX BOUCHER, *Aging Prison Populations Drive Up Costs*, THE PEW CHARITABLE TRUSTS, (Feb. 20, 2018), <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/02/20/aging-prison-populations-drive-up-costs>.

years of a sentence being imposed, no mechanism exists to remedy unnecessarily long sentences for individuals who are not a threat to public safety and when the interests of justice would be best served by a reduced sentence. There is an entire population of incarcerated Marylanders who are not eligible for relief under the JRA who have the same capacity for change, redemption, and positive impact. SB 123 would afford them that opportunity.

V. Senate Bill 123 should be amended in three critical ways.

First, consistent with the JRA, Senate Bill 123 should allow individuals to seek a reduction in sentence up to three times. Second, Senate Bill 123 should not require that an individual filing his second petition to reduce his sentence be 60 years or older. No similar requirement exists in the JRA. Third, individuals who are serving sentence for a violation of Md. Code Ann § 3-303 should not be barred from seeking a reduction in sentence. Individuals serving sentences for sex offenses, even rape, are capable of rehabilitation and deserve an opportunity to present their petition to a court.

For these reasons, we urge a favorable with amendment report on Senate Bill 123.