

Bill Number: SB 123

Scott D. Shellenberger, State's Attorney for Baltimore County

Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION OF SENATE BILL 123
CRIMINAL PROCEDURE – POSTCONVICTION REVIEW – MOTION FOR
REDUCTION OF SENTENCE

I write in opposition to Senate Bill 123, Criminal Procedure – Postconviction Review – Motion for Reduction of Sentence that adds yet another post-conviction review to an already long list of post-conviction remedies that will force victims to court and prevents any finality to a criminal case.

Right after a jury or Judge finds a Defendant guilty, Maryland law currently permits numerous ways for a Defendant to challenge his conviction and sentence. Here are the current rights:

1. Motion for new trial
2. Motion to modify or reduce sentence (motion can be held for five years)
3. If the modification is based upon illegal sentence, fraud, mistake or irregularity, there is no time limit
4. Three Judge panel to reduce or modify
5. Appeal to the Court of Special Appeals
6. Ask for appeal to the Supreme Court
7. Post-Conviction (sometimes they get more than one)
8. Writ of Corum Nobis
9. Writ of Habeas Corpus
10. Writ of Actual Innocence
11. Motion to vacate judgement (passed last year)
12. Post-Conviction DNA testing
13. The parole system which can review a sentence more than once.

Based on the above list, this Bill will add yet another post-conviction remedy.

When does it end for victims of crime?

When can I look at the victim of a crime and say it is over?

It never ends and this bill will add one more event over which the Victim has no control.

The only thing different about this Bill is that the State's Attorney would have the power to request the reduction. Even when it is the State that is granted the power it is still a lack of finality for the victim and /or their family.

This type of power even when given to the State challenges the appropriateness of what a likely prior State's Attorney did and a prior judge imposed.

While the amended Bill limits the number of hearings to two it is still two to many.

I also appreciate not allowing these petitions to be filed in 1st degree rape cases, but why not murder cases as well.

The passage of this Bill is an attempt to replace the parole system which is designed for early release after years of serving a sentence.

I urge an unfavorable report.