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POSITION ON PROPOSED LEGISLATION

BILL: SB 0123 - Criminal Procedure – Petition to Reduce Sentence

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 3/26/24

The Maryland Office of the Public Defender respectfully requests that this Committee issue an unfavorable report on Senate Bill 0123 which will authorize an individual who is serving a term of confinement to petition a court to reduce the sentence under certain circumstances. As a formerly incarcerated individual, I believe this bill will go a long way in providing truth in rehabilitation and a substantive opportunity for restorative justice.

Under current Maryland law, once an individual is sentenced to the Department of Corrections, there exists only one opportunity for a sentence reconsideration. That is Maryland Rule 4-345 (e), which allows for individual to file for a sentence reconsideration within 90 days after the imposition of sentence in a circuit court.¹ Prior to 2004, an incarcerated individual could file for such relief at any time. However, in 2004, the Supreme Court of Maryland amended this

¹ Md Rule 4-345 (d) (1) states:

“*Generally*. Upon a motion filed within 90 days after imposition of a sentence (A) in the District Court, if an appeal has not been perfected or has been dismissed, and (B) in a circuit court, whether or not an appeal has been filed, the court has revisory power over the sentence except that it may not revise the sentence after the expiration of five years from the date the sentence originally was imposed on the defendant and it may not increase the sentence”.

rule by restricting the revisory power of the circuit court to modify such sentences to 5-years. Further, once a motion for modification is denied, the court loses revisory power.

An unintended consequence of the 2004 amendment, however, is the fact that individuals serving long sentences are met with resistance from sentencing judges who had just recently meted out the term of confinement. For example, an individual sentenced to 50 years has 5-years under the current Maryland rules to request a reconsideration of sentence. But because that individual has barely served 10% of that sentence, judges are likely to be resistant to entertaining such requests based on the belief that not enough time has been served to grant such relief. Stated otherwise, the longer the term of confinement initially meted, the less inclined sentencing judges are to reconsider such requests within 5-years.

This bill would allow individuals sentenced to long term sentences sufficient time to fully participate in programming and rehabilitation before making requests for sentence modification. This, in turn, will allow sentencing judges a greater period of incarceration from which to fairly evaluate such rehabilitation, and thus, fitness for earlier release into society. This bill will also help mitigate the current state of Maryland's parole release policies, which are unduly restrictive.

For a number of reasons, we urge an unfavorable report.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB 0123.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.
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