



Written Testimony of Celeste Trusty
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In Support of SB 123
Maryland House Judiciary Committee
March 26, 2024

I would like to thank the Chair, Vice-Chair, and members of the House Judiciary Committee for the opportunity to provide written testimony in support of SB 123, a bill that would allow opportunities for most incarcerated people who are age 60 or older or have served at least 20 years of their sentence to petition the court for a reduction of their sentence. **FAMM supports SB 123 and urges the Committee to report favorably on this crucial piece of legislation.**

FAMM is a nonpartisan, nonprofit organization that advocates sentencing and prison policies that are individualized and fair, protect public safety, and preserve families. Creating and expanding access to “second look” mechanisms - pathways to review the appropriateness and necessity of a person’s continued incarceration - is among FAMM’s top priorities across the country. SB 123 would establish an avenue for a second look at the sentences of people who are aging or have served decades behind prison walls by creating an opportunity for people to ask the court to weigh the public benefit of their continued incarceration versus release into the community.

SB 123 would require the court to consider each person’s age at the time of the offense, and family and community circumstances prior to entering prison, including any history of trauma, abuse, or involvement in the child welfare system. The court would also consider evidence of maturity and rehabilitation, including institutional history of involvement in programming, and disciplinary infractions. Additionally, the nature of the offense and the person’s level of involvement, as well as any victim input would also be



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included in the court's decision-making process. This mechanism will not apply to people convicted of violations of § 3-303 of the Criminal Law Article (rape in the first degree). While FAIMM remains supportive of this legislation - we note that ideal second look mechanisms would review each petition based on their individual merit and not include blanket exclusions based on offense.

By providing a rebuttable presumption that people who have served more than 30 years in prison or are over age 60 are not a risk to public safety, the provisions included in SB 123 reflect commonly accepted evidence that as people age, they tend to mature out of behaviors that contribute to crime and risk to public safety.¹ Each of these factors would be carefully considered by the court to determine the outcome of every decision. Time and time again, FAIMM meets people who have served lengthy terms of incarceration and have demonstrated readiness to return to the community. Yet for many of these people, there is a dearth of opportunities to do so. Second-look efforts have proven highly successful in many jurisdictions at the federal and state levels, including here in Maryland.

The Unger v. Maryland case is a prime example of how the larger Maryland community has and will continue to benefit from second look opportunities for people sentenced to excessive terms of incarceration.² The Unger decision led to the release of around 200 people who were sentenced to life in prison in Maryland after being convicted of offenses committed as emerging adults. There has been a nominal recidivism rate of less than 1% for this group.³ Because the cost of incarceration rises dramatically as people age in prison, the release of this group of people is estimated to have already saved Maryland taxpayers \$185 million in unnecessary incarceration costs, with an estimated taxpayer savings of more than \$1 billion over the coming decade due to this singular second look effort.⁴

SB 123 would build on the successes of people like the "Ungers." It would free up precious taxpayer resources for investment elsewhere in our communities, instead of in maintaining an ineffective sentencing scheme that has placed Maryland atop the list of worst racial disparities among prison populations nationally. The rate of incarceration for Black Marylanders is greater than

¹ Prescott, J.J., Pyle, B., and Starr, S.B. (2020). Understanding Violent-Crime Recidivism. *Notre Dame Law Review*, 95:4, 1643- 1698, 1688. <http://ndlawreview.org/wpcontent/uploads/2020/05/9.-Prescott-et-al.pdf>.

² https://mgaleg.maryland.gov/cmte_testimony/2020/jud/3942_03062020_12133-993.pdf

³ https://justicepolicy.org/wpcontent/uploads/2021/06/The_Ungers_5_Years_and_Counting.pdf

⁴ https://justicepolicy.org/wpcontent/uploads/2021/06/The_Ungers_5_Years_and_Counting.pdf

double the national average.⁵ Maryland also tops the country for rates of Black people sentenced to incarceration between ages 18 and 24 who have already served 10 years or more in prison.⁶ SB 123 would help address these glaring racial disparities among Maryland's prison population, and, like the overwhelming taxpayer benefit resulting from the Unger decision, allow precious taxpayer resources to be reallocated from incarceration to investing in things Maryland's communities really need.

Thank you for considering FAMM's input on SB 123, a necessary piece of legislation for Maryland. We ask that you vote in support of SB 123. Please do not hesitate to reach out to me at ctrusty@famm.org or 267-559-0195 with any further questions.

⁵ <https://www.baltimoresun.com/2019/11/06/report-proportion-of-maryland-black-prisonpopulation-is-more-than-double-the-national-average-of-32/>

⁶ https://justicepolicy.org/wpcontent/uploads/justicepolicy/documents/Rethinking_Approaches_to_Over_Incarceration_MID.pdf