

Bill: HB-853

Position: Unfavorable

Contact: Theresa Darvish

Members of the Maryland House of Representatives:

My name is Theresa Darvish and my family and I are lifetime residents, taxpayers and law-abiding citizens of Maryland and the United States of America. I am here to oppose HB-853.

I am a single parent. My adoring son, and only child, was brutally murdered 12/23/2021. The criminal process of enduring the investigation, murderer's arrest, pre-trial, trial, conviction, sentencing and now automatic appeal processes has been excruciating brutal mentally, physically and spiritually. The convicted felon of my son's murder was committed to 40 years incarceration for the Murder-Second Degree and an additional 20 years incarceration for Felony use of a Firearm; to be served consecutive to the murder charge. These incarceration sentences are in addition to time sentenced (and currently serving) for other violent crimes by this same convict. In fact, this convict has a **lifetime** career criminal record.

Assisting me through my nightmare included the Maryland Crime Victims Resource Center who notified me of this senseless, extraordinary and unprecedented proposed HB-853.

The thought of resentencing is horrendous. A jury of an offender's peers determined the offender guilty and a Judge issued an incarceration sentence within the available sentencing guidelines available at the time of sentencing. Yet now, these convicts want to have reconsideration of their sentence if they have served a minimum of 20 years. Or because they turned 60? And this HB853 is **retroactive** to sentences imposed prior to the passing date of this HB853. But we cannot retroactively go back and resentence these convicts to more time??

I have serious dispute with this contentious HB853 which is rampant with ambiguous procedures and measures at best. Additionally, I am offended that the Convict is constantly referred to as the "Individual" in the entire context of the proposed HB853. That label can be misleading as to who is the "Individual". Call the person what they are → the convict. An individual is one that exists as a distinct entity. Convicts in prison are not unique, they are all criminals. I'll even accept the convict to be referred to as the "petitioner" throughout the text of this HB853.

Subtitle 5(A) – states "Individual" confined at least 20 years may petition for reduction of sentence – regardless of the original sentence term ordered by an Official Judge at original sentencing. And again every 5 years afterwards. And HB-853 gives authority to State's Attorney from offender's original County may petition for a motion to reduce sentence(s) if the "individual" has not yet even served 20 years. I oppose entire context of this paragraph.

Subtitle 5(B) – states the Court (or the State) will determine the if "Individual" is eligible to file a petition for reduction. This paragraph also states the victim's family will receive notification of this petition. Now we are victimized yet again in addition to the parole requests. And what if I am dead and no one is left to speak for the victim? Stipulates the "Petitioner" can file and then they may ask for "continuation" if the "Petitioner" is busy? What if the victim's family is busy? The victim may not request a continuance.

Section 1:

Subtitle 5(C) - the court decision is based on the following:

- The “Individual’s Age at the time of offense – diminished culpability of youth & emerging Adults” ← My concern is at the time of resentencing or the time of the crime and conviction ← no quantifiable, ranking or computable requirements being referenced -- if diminished culpability was at of the crime and not brought into evidence at trial, why is this “claim” permitted 20 years later – Emerging adult refers to ages 18-29. If convict is over 29, is this ignored.
- “Nature of the Offense, history & characteristics of the “Individual”” ← It is troublesome no quantifiable, ranking or computable requirements being referenced to specific nature of offense, history & characteristics of the individual
- “Individual substantially complied with the rules of the institution” ← This is very vague. What is substantial? Again, no quantifiable, ranking or computable requirements being referenced to “Substantial Compliance”
- “Address “Individual’s” participation in education, vocation or other program” ← the convict that murdered my son failed the G.E.D. three times now since incarcerated. G.E.D. completion is a mandatory requirement for his institution ← Again, no quantifiable, ranking or computable requirements being referenced to “Participation”
- ““Individual” has demonstrated maturity, rehabilitation, fitness to reenter society **sufficient** enough to justify sentence reduction” ← This is so broad with no quantifiable, ranking or computable requirements being referenced to “Sufficient” – what is the definition of sufficient – what is definition of rehabilitated – Who determines what is “sufficient and/or adequate”
- Any statement offered by victim ← what if I am dead
- Report of physical, mental or behavioral exams ← who picks the Health Official? As the victim, may I pick the Health Official?
- “Individual’s” family & Community circumstances at the time of the offense (including history of trauma, abuse or involvement in child welfare system ← Again, no quantifiable, ranking or computable requirements being referenced to “Circumstances” – This HB853 is suggesting entering evidence not presented at trial for the conviction or sentencing – Who will investigate the authenticity of any of these statements – does this “assume” an incarcerated convict that was a participant in “a child welfare system” is exempt from responsibility of his crimes? This statement assumes a child involved in child welfare as a participant should be exempt from responsibility for committing crimes and murder?
- “Individual’s” extent of their role in the offense ← Again, no quantifiable, ranking or computable requirements being referenced to “Extent of Role” – if the convict was the only offender, does that then stipulate they are not eligible for HB-853?
- “Other factors the Court Considers Relevant” ← this is definitely indefinite and not providing quantifiable, rankable or computable measurements – So this stipulation states the new Judge can ignore everything above and choose their own factors to release a convict early?
- Judge may reduce sentence or sentences imposed after HB-853 hearing ← what about consecutive sentences – are those being erased?
- “Individual” has served 30 years and is @ least 60 years old → there is a presumption the “Individual” is no longer a danger to the public ← pure speculation and implies no hearing required and all above stipulations are negated

Subtitle 5(D) – The resentencing Judge can ignore requirements (which were never defined) if “Individual” did not have access to rehabilitative programs – Every penal institution have programs available.

I oppose entire context of this Section 1.

Section 2:

“Individuals” sentenced prior to effective date of this act are eligible to Petition for Resentencing under HB-853. ← however, the original sentence may not be modified to be increased ← if this somehow passes, HB-853 effective date should be for crimes (not convictions) committed post effective date of HB-853.

I oppose the entire Section 2.

This HB853 offers no consistency, no quantifiable, ranking or computable requirements being referenced in any of the paragraphs, stipulations and obligations for consideration. All are ambiguous at best. This HB853 entirely undermines and damages the very essence, spirit and principles of the Maryland Law and the Maryland Judiciary System.

To the Sponsors of HB-853, please put yourselves in the shoes of the victim and victim’s families for one day. Live my life for one day. Bury your only child because they were senselessly and brutally murdered. Seven bullets to the chest. Figure out grief that never ends. Comprehend my sentence, life without son. It is not natural for a mother to bury a son. My son will never return to his home. No murderer should be given a free ride home.

I oppose the entire HB853. Please dismiss HB-853. Please leave it to God once a murderer has been fairly convicted and sentenced within the Maryland Judiciary System.

Respectfully,

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