



AMERICAN UNIVERSITY

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Clinical Program

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Senate – Judicial Proceedings

**Testimony in Support of HB 853 FAVORABLE WITH AMENDMENTS - Postconviction Review –
Procedure to Reduce Duration of Sentence
(Maryland Second Look Act)**

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As a social justice advocate who has dedicated my legal career to disrupting the machinery of mass incarceration, I have had the honor of representing many men and women confined in Maryland's prisons for the last few decades. The Decarceration and Re-Entry Clinic at the American University Washington College of Law represents individuals before the Maryland courts, most of whom have served decades behind bars. Many of these individuals have been detained far beyond the point of having been successfully rehabilitated, long after achieving educational and vocational goals and way past the stage of being healed and reconciled from the harm they caused. Our clinic believes that every human being deserves a second chance and that every human being has redemptive value.

HB 853 authorizes an individual who is serving a term of confinement to petition a court to reduce the sentences under certain circumstances after the individual has served 20 years of their term of confinement. This bill does not guarantee release after twenty years in prison, it merely creates an avenue through the courts for an individual to petition the court for release.

We oppose the proposed amendments that eliminate individuals who are serving Life without the Possibility of Parole (LWOP) Sentences or those who are registered sex offenses. First, the nature of the offense is one of the factors that the court reviews in making resentencing decisions. In my experiences in representing several JRA eligible individuals before the Maryland Courts, every single judge reviews the nature of the offense in great detail. Secondly, this legislative body cannot ignore the fact that sentences in the state vary depending on the jurisdiction. In jurisdictions where individuals are more likely to be sentenced to LWOP for offenses that might result in parole-eligible sentences elsewhere, they should not be excluded merely because they were sentenced in a particular jurisdiction. Our clinic represents several individuals with varying

types of offenses and sentences, including those sentenced to serve LWOP sentences. Many of these individuals serve their time under a cloud of hopelessness. One such individual was recently released under the JRA and since his release he has been reunited with his family, working diligently, paying taxes and mentoring young people to deter them from making the mistakes he made which led to his incarceration. He says that his goal is to “be the mentor that was missing in his life during his own adolescence.” His contributions to his community would be void had it not been for legislative intervention and an opportunity to petition the court for release.

We support the opportunity for court review after the service of 20 years in prison. It is worth noting that most western democracies have few or no people serving life sentences, and research suggests that sentences of longer than twenty years are often not justified.¹ Excessive sentencing thwarts the correctional goals of rehabilitation and reintegration. Most correctional officials will confess that a population without hope is more challenging to prison operations and daily productivity. When prison doors are slammed shut, hopelessness prevails.

A person’s debt to society is not paid back simply because of the number of years a person spends in prison but are, instead, paid back through perpetual acts of human decency, love and successful community uplifting upon release. Many of the scores of individuals who I have represented and befriended through the years have proven that upon release they can live law-abiding lives and contribute greatly to the very communities that they once offended years ago. Individuals released pursuant to the *Unger* decision and those released pursuant to the Juvenile Restoration Act demonstrate that most people merely need an opportunity to live out their true purpose and the life they were intended to live before being sidetracked. Because of the overwhelming number of Black men and women captured in our encarceral system and held in Maryland prisons, our communities of color have suffered in their absence. Many can serve as a valuable resource upon their return as evidenced by those who have walked out of prison doors directly to serving their community. All people need is an opportunity and HB 853 merely creates an avenue for such.

We strongly support this bill and urge a favorable vote to foster hope and open an avenue for release for the men and women in our prisons who meet with criteria and demonstrate they are worthy of a sentence reduction based on rehabilitation – a basic premise of imprisonment.

¹ Marc Mauer and Ashley Nellis, *The Meaning of Life: The Case for Abolishing Life Sentences*, (2018).