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**Testimony In SUPPORT of HB – 853– Postconviction Review –
Procedure to Reduce Duration of Sentence (Maryland Second Look Act)**

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My name is Shaina Varghese, and I am a third-year law student at the American University Washington College of Law testifying as a student-attorney on behalf of the Decarceration and Re-Entry Clinic in support of House Bill 853. Our clinic represents men and women who have served decades in Maryland prisons before the courts and before the Maryland Parole Commission.

It is well known that the United States of America is the world's leader in mass incarceration, with our country's prison population increasing by 500% over the last forty years.¹ This phenomenon exists despite the fact that crime, in particular violent crime, has been significantly declining over the past several decades.² This mass increase in incarceration is a direct result of sentencing law rather than the reality of crime rates in the community. Maryland is a national leader in perpetuating mass incarceration. Maryland's prison rates have increased drastically over the last 40 years³, with the state incarcerating a higher percentage of its citizens than almost any democratic country on earth.⁴

The most obvious drawback of this phenomenon is the financial strain Maryland's incarceration rate has on Maryland taxpayers. Maryland has one of the highest costs per incarcerated individual in the country, spending approximately 114,000 dollars per incarcerated individual per year, which is one of the highest rates in the country.⁵

¹ The Sentencing Project, *Trends in U.S. Corrections*, at 2 (June 2019),
<https://www.ala.org/sites/default/files/aboutala/content/Trends-in-US-Corrections.pdf>.

² John Gramlich, *What the Data Says About Crime in the U.S.*, Pew Research Center (Apr. 24, 2024)
<https://www.pewresearch.org/short-reads/2024/04/24/what-the-data-says-about-crime-in-the-us/> (reporting that per the Bureau of Justice statistics, the U.S. violent and property crime rates each fell 71% between 1993 and 2022).

³ *Maryland's Prison and Jail Incarceration Rates, 1978-2022*, Prison Policy Initiative (April 2024)
https://www.prisonpolicy.org/graphs/jails2024/MD_incarceration_rates_1978-2022.html.

⁴ Department of Public Safety and Correctional Services Operating Budget Analysis (2024),
<https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2024fy-budget-docs-operating-Q00B-DPSCS-Corrections.pdf>;
Emily Widra, *States of Incarceration: The Global Context 2024*, Prison Policy Initiative (June 2024)
<https://www.prisonpolicy.org/global/2024.html>.

⁵ Bruno Venditti, *Mapped: U.S. States by Cost Per Prisoner*, Visual Capitalist (June 9, 2024)
<https://www.visualcapitalist.com/cost-per-prisoner-in-us-states/>.

An even more troubling result of Maryland's mass incarceration crisis is its perpetuation of racism. The racial disparity in Maryland in prisons is higher than any other state and double the national average, with more than 70 percent of Maryland's prison population composed of Black individuals.⁶ In comparison, the national average of Black individuals incarcerated is 32 percent, and Black individuals make up only 31 percent of Maryland's population.⁷ These racial inequalities have a disproportionate effect on individuals serving long sentences; nearly 8 in 10 people who were incarcerated between the ages of 18 to 24 years old and have served 10 or more years in a Maryland prison are Black.⁸

House Bill 853 is a promising solution to Maryland's mass incarceration crisis.⁹ While our clinic firmly believes that all individuals are capable of rehabilitation and therefore all individuals should be given an opportunity to be considered under this bill, this bill provides many individuals a pathway to request judicial review of their sentence. The bill is not a "get out of jail free card"; rather, the bill allows for individuals who have been rehabilitated and have transformed their lives after decades in prison to have a meaningful avenue for release. Currently in Maryland law, a judge can only consider a motion for reconsideration of a sentence for 5 years from the sentencing date before issuing a decision. As a result, there is currently no mechanism for individuals serving lengthy sentences to petition for judicial sentence review based on demonstrated, long-term rehabilitation. As a result, not only will House Bill 853 address Maryland's mass incarceration crisis, but it will also incentivize individuals to demonstrate personal growth and rehabilitation with this new pathway for well-deserved sentence reduction.

House Bill 853 is supported by the success of Maryland's Juvenile Restoration Act, along with data from the *Unger* population. In 2021, Maryland's legislature passed the Juvenile Restoration Act.¹⁰ The statute allows for individuals who have served at least 20 years of a sentence for a crime that occurred when they were under the age of 18 to file a motion for reduction of sentence. 24 individuals were released through the Juvenile Restoration Act in its first year; as of October 2022, none of these 24 individuals were charged with a new crime or found to have violated probation.¹¹

In addition, the *Unger* population is particularly instructive here.¹² After the Maryland Court of Appeals held that improper jury instructions invalidated the life with parole sentences of 235 people, 192 of them were released. The average age of these individuals when sentenced was 24, and they spent an average of 40 years behind bars. Since their release, less than 4 percent have returned to prison; in addition, it is estimated that the release of these individuals has saved Maryland 185 million dollars. This is a real-life case study, proving individuals who have served

⁶ *Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland*, Justice Policy Institute, at 3 (Nov. 2019), https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/Rethinking_Approaches_to_Over_Incarceration_MD.pdf.

⁷ *Id.*

⁸ *Id.*

⁹ H.B. 0853, 2025 Gen. Assemb., Reg. Sess. (Md. 2025).

¹⁰ Md. Code, Crim. Proc. § 8-110.

¹¹ See Maryland Office of the Public Defender, *The Juvenile Restoration Act Year One — October 1, 2021 to September 30, 2022* (Oct. 2022), https://opd.state.md.us/_files/ugd/868471_e5999fc44e87471baca9aa9ca10180fb.pdf.

¹² The Justice Policy Institute, *The Ungers, 5 Years and Counting: A Case Study in Safely Reducing Long Prison Terms and Saving Taxpayer Dollars* (Nov. 2018), https://justicepolicy.org/wp-content/uploads/2021/06/The_Ungers_5_Years_and_Counting.pdf.

lengthy sentences have low rates of recidivism; rather, releasing them is in the best interests of the state of Maryland in both promoting justice and saving taxpayer dollars.

With both Maryland's Juvenile Restoration Act and the *Unger* population proving the positive benefits of sentence review for individuals who have served lengthy sentences, the relief requested in this bill is not based on theory. Rather, it is based on concrete data with proven success with individuals in our state. As a result, we implore the legislature to vote in favor of House Bill 853 to make this vision of justice and second chances a reality.

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