



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: House Bill 853 – Maryland Second Look Act

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: March 21, 2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 853.

In 2021, the General Assembly passed the Juvenile Restoration Act. That Act, specifically Criminal Procedure Article (CP) § 8-110, allows people who were incarcerated for at least 20 years for a crime that occurred when they under 18 years of age to file a motion for reduction of sentence. After a hearing, the court may reduce the sentence or sentences *only if* it determines “that the individual is not a danger to the public and the interests of justice will be better served by a reduced sentence or sentences.”

House Bill 853 expands CP § 8-110 to also allow people who were 18 to 24 years old (sometimes called “emerging adults”) at the time of the crime to file such motions after 20 years. The rationale for adding this age group is that the parts of the brain responsible for decision making, risk evaluation, emotional regulation, and impulse control do not mature until the mid-20s. Permitting this group to file motions for reduction of sentence after serving a 20 years is consistent with science and experience showing that emerging adults who commit serious crimes are nonetheless capable of rehabilitation and redemption.

The current version of House Bill 853 makes emerging adults ineligible to seek a sentence reduction if they have been convicted of a sex offense or if they have a sentence of life without the possibility of parole. These carve-outs are not evidence-based. People with sex offense convictions are just as capable of growth and rehabilitation as other incarcerated individuals. And in the absence of legal standards to guide a court’s discretion, whether a person is sentenced to life without parole often depends on the policy of the State’s Attorney in office at the time, which judge is assigned to the case, whether the defendant opted for a trial or pled guilty, and other factors unrelated to the severity of the crime or the defendant’s prospects for rehabilitation.

The Office of the Public Defender supports broad second look laws without carve-outs because we have witnessed the remarkable rehabilitative potential of our clients. We’ve watched with awe and pride as they’ve come home from prison and become a force for good in their communities. If this Committee believes it is feasible for the General Assembly to pass this bill this year without the

present carve-outs, we urge it to do so. If not, however, we hope the Committee and the Senate will nonetheless vote in favor of this bill. Even with the present carve-outs, it has been estimated that it will make an additional 350 people eligible to seek reduced sentences. For those individuals and their families, this opportunity could be life changing.

Opponents to this legislation generally raise three points:

- First, they argue that this bill is unnecessary because there are a number of other procedural vehicles to challenge a conviction or sentence in court. This is incorrect. The procedural vehicles they cite require a showing of legal error, illegality, or newly discovered evidence, or they are time-limited so that they are no longer available when a person has served long enough to demonstrate significant rehabilitation. None of them authorize a court to reduce a legal sentence of a person convicted of a crime that occurred when they were 18 or older after enough time has passed for the person to show that they have been rehabilitated.
- Second, they argue that the Parole Commission, not the courts, should decide whether a person should be released. There are several significant problems with this argument. There are years-long delays in the parole process for lifers. At parole hearings, incarcerated individuals cannot call witnesses, present expert testimony, or be assisted by counsel. Additionally, the appallingly high and disproportionate rates at which Black people are incarcerated in Maryland is an urgent crisis that cries out for expansion of ways to get rehabilitated people out of prison.
- Third, opponents note that participating in these hearings can be hard on victims and victims' family members. That is unfortunately true. But it is important to remember a few things. First, the State's Attorney is only required to notify the victim or victim's representative if they have requested notification. A victim or victim's representative is never required to request notification. If notified, they are never required to appear for the hearing. If they appear, they cannot be required to speak. If they decide to submit an impact statement, they may do so in writing or in person. Second, the reality is that for as long as a person is imprisoned, they will seek opportunities to be released. It is human nature to try to get out of a cage. Only two things will stop a caged person from trying to regain their freedom: release from incarceration, or death. When a rehabilitated, non-dangerous person is released, the hearings usually end.

Given the severe racial disparities present in Maryland's prisons, this is also a racial justice bill. House Bill 853 provides a critical opportunity to move towards ending mass incarceration and remedying racial disparities without compromising public safety. In fact, such releases would make Maryland safer. It would reduce the demands on prison staff, who (as has been recently reported) are stretched dangerously thin, by reducing the sheer number of incarcerated persons they need to supervise. It would also permit the State to take money and resources it now wastes on imprisoning non-dangerous individuals and reallocate it to programs and initiatives that actually make us safer. Additionally, many of the people who have been released under JUVRA and *Unger* have become forces for good in their community, as volunteers, violence interrupters, youth mentors, reentry specialists, and more.

House Bill 853 provides an opportunity for the court to take a second look at individuals. It is not a “get-out-of-jail-free card.” It is an opportunity for a defendant to demonstrate their worthiness of a second chance.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on House Bill 853.

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

**Authored by: Lila Meadows & Brian Saccenti
Decarceration Initiative
Maryland Office of the Public Defender
lila.meadows@maryland.gov
brian.saccenti@maryland.gov**