

Testimony Concerning House Bill 853
Postconviction Review – Procedure to Reduce Duration of Sentence (Maryland Second
Look Act)
Position: Favorable with Amendments

To: Senator Will Smith, Chair, and Members of the Senate Judicial Proceedings Committee

From: Rianna Mukherjee, Student Attorney, Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law (admitted to practice pursuant to Rule 19-220 of the Maryland Rules Governing Admission to the Bar)

Date: March 21, 2025

I am a student attorney in the Youth, Education, and Justice Clinic (“Clinic”) at the University of Maryland Francis King Carey School of Law. The Clinic represents children who have been excluded from school through suspension, expulsion, or other means, as well as individuals who have served decades in Maryland prisons for crimes they committed as children and emerging adults. The Clinic supports House Bill 853 and respectfully urges the committee to issue a favorable report with amendments. Specifically, we ask the Committee to amend the bill back to its original version, so that more individuals are eligible to file a court motion to reduce their sentence after they have served at least 20 years.

Research shows that recidivism drops at high rates as people age.¹ In a 2021 study, the United States Department of Justice’s Bureau of Justice Statistics (“BJS”) examined data from 24 states between 2008 and 2018.² BJS found that released individuals aged 24 or younger were substantially more likely to be arrested than those aged 40 or older.³ Consistent with this research, in 2021, the Maryland General Assembly passed the Juvenile Restoration Act, allowing individuals who received life sentences as minors to petition a court for a reduction of sentence.⁴ While the Juvenile Restoration Act has been successful,⁵ Maryland continues to deny people who were convicted for crimes committed when they were at least 18 years of age and who have

¹ MD. DEP’T OF PUB. SAFETY AND CORR. SERVICES, RECIDIVISM REPORT 14-15 (Nov. 15, 2022) (demonstrating that recidivism rates in Maryland decrease dramatically with older age and when individuals have served longer sentences) https://dpscs.maryland.gov/publicinfo/publications/pdfs/2022_p157_DPSCS_Recidivism%20Report.pdf.

² LEONARDO ANTENANGELI & MATTHEW R. DUROSE, U.S. DEP’T OF JUST., BUREAU OF JUST. STAT., RECIDIVISM OF PRISONERS RELEASED IN 24 STATES IN 2008: A 10-YEAR FOLLOW-UP PERIOD (2008-2018) 1 (2021), https://bjs.ojp.gov/BJS_PUB/rpr24s0810yfup0818/Web%20content/508%20compliant%20PDFs.

³ *Id.* at 2.

⁴ Md. Code Ann., Crim. Proc. § 8-110.

⁵ *See generally* MD. OFF. OF THE PUB. DEF., 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.

been incarcerated for decades the opportunity to petition a court for a reduction of sentence—failing to fully recognize that people change over decades.

Our clients, who have all served decades in prison, have changed and grown dramatically as they have aged. They have earned high school diplomas and college degrees. They have had meaningful careers, including training service animals to aid individuals with disabilities and building furniture for state institutions. They have earned myriad certificates and awards. They have nurtured family relationships, mentored youth and adults, and positively benefited people inside and out of the prison system. They are deeply remorseful for the crimes they committed decades ago and dedicated to positively impacting and enhancing public safety in our communities if released. They, and many others, deserve the opportunity to be considered for sentence reconsideration.

Also, passing HB 853 is a crucial step in decreasing the disproportionate incarceration of Black people in Maryland. Here, over 70% of incarcerated people are Black, even though Black people make up 31% of the population.⁶ Notably, disparities are the highest for people incarcerated as “emerging adults” (18-24) serving long sentences. According to the Justice Policy Institute, “[n]early [8] in 10 people who were sentenced as emerging adults and have served 10 or more years in a Maryland prison are Black. That is the highest rate of any state in the country.”⁷ Understanding the racialized mass incarceration crisis in Maryland, the Maryland Attorney General and the Maryland Public Defender forged a historical collaboration—the Maryland Equitable Justice Collaborative (“MEJC”)—that is committed to addressing these disparities. Notably, on March 13, 2025, the MEJC published its report and recommendations.⁸ The MEJC set forth 18 recommendations, one of which is that the Maryland General Assembly expand second look laws to “allow[] courts to revisit cases and evaluate whether continued incarceration serves the interests of justice and public safety.”⁹

Moreover, incarcerating people for decades is an expensive use of taxpayer dollars. At a time when legislators, other elected officials, and Marylanders are increasingly concerned about the State’s structural budget deficit, HB 853 offers a means for Maryland to be fiscally responsible. Maryland spends on average \$862,096,200 every year incarcerating people.¹⁰ These incarceration costs only increase as people age.¹¹ Thus, allowing people who have

⁶ JUST. POL’Y INST., RETHINKING APPROACHES TO OVER INCARCERATION OF BLACK YOUNG ADULTS IN MARYLAND 1, 2 (Nov. 2019), https://justicepolicy.org/wp-content/uploads/2022/02/Rethinking_Approaches_to_Over_Incarceration_MD.pdf.

⁷ *Id.* at 4.

⁸ MD. EQUITABLE JUST. COLLABORATIVE, BREAKING THE 71%: A PATH TOWARD RACIAL EQUITY IN THE CRIMINAL LEGAL SYSTEM (2025), https://www.marylandattorneygeneral.gov/reports/MEJC_Report.pdf.

⁹ *Id.* at 57.

¹⁰ MARYLAND MANUAL ONLINE, MARYLAND AT A GLANCE (in FY 2023, the monthly cost of room and board, and health care per incarcerated individual was \$4,970, and the average daily number of sentenced incarcerated individuals in Maryland was 14,455) <https://msa.maryland.gov/msa/mdmanual/01glance/html/criminal.html>.

¹¹ Emily Widra, *The Aging Prison Population: Causes, Costs, and Consequences*, PRISON POL’Y INITIATIVE (Aug. 2, 2023), <https://www.prisonpolicy.org/blog/2023/08/02/aging/>.

rehabilitated the opportunity to petition a court for sentence reconsideration that could lead to their release will reduce the financial burden on Maryland taxpayers.

For these reasons, the Clinic respectfully asks the Senate Judicial Proceedings Committee to issue a favorable report with amendments.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.