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## **POSITION ON PROPOSED LEGISLATION**

**BILL: HB0734 – Correction Services. – Real Time for Real Crime**

**FROM: Maryland Office of the Public Defender**

**POSITION: Unfavorable**

**DATE: 2/18/25**

My name is Benoit Tshiwala, paralegal with the Office of the Public Defender's Appellate Division. The Office of the Public Defender urges an unfavorable report on House Bill 734 to prohibit the earning of diminution credits for reducing the term of confinement of persons serving a sentence for first- and second-degree murder, or other crimes of violence in a State and local correctional facility. As a formerly incarcerated person myself who served 21 years (and one of several who have benefited from the deterrent effect of diminution credits), this bill eviscerates any hope for positive reentry into society.

Under long-standing Maryland law, incarcerated persons generally have been able to earn diminution credits that serve to reduce the length of incarceration. Such credits may be earned through good behavior, work, and educational program assignments. Good conduct credits encourage positive institutional behavior, while also mitigating overcrowding. House Bill 734 undermines every policy interest underlying the awarding of diminution credits. However, I would like to address two specific policy interests from the vantage point of my experiences as a formerly incarcerated person: deterrence and correctional staff safety.

First, this bill greatly disincentivizes positive institutional behavior by incarcerated persons. I served most of my sentence at what was widely considered to be one of the most

dangerous prisons in America, the now-defunct Maryland House of Corrections (infamously known as “The Cut”). To put it mildly, it was a predator or prey environment, and protecting yourself from bodily harm was fundamental to survival. Many didn’t make it out alive. At the beginning of my incarceration in 1998, I was quite disruptive, getting infractions (“tickets”) for fights, disrespecting and insulting officers. As a result, I was finally placed on administrative segregation and transferred out of The Cut to the Annex (a second-tier maximum security prison) in 2001.

The prospect of losing my “good time” and being unable to work for diminution credits compelled me to change my behavior and focus on my rehabilitation and education. Although at the time, it was likely I could spend a significant part of my life in prison, retaining and earning diminution credits refocused me. In fact, I would not incur a single infraction for the next 18 years. During that period, I earned an associate’s degree in Sociology from Ohio University as well as a Paralegal Certificate from Howard County Community College. This, in turn, opened up professional avenues for me upon my release that would have been closed off to me had I not changed behavior, such as working at the Office of the Public Defender. I had also witnessed many fellow incarcerated men be more deliberative before deciding to act detrimentally for fear of losing diminution credits.

Secondly, the prospect of losing diminution credits literally saves lives. This included the lives of correctional staff. I found my interactions with correctional staff to be more cordial, as my respect for authority improved. In fact, I have found that when correctional staff perceive a person in their custody to be in compliance with institutional rules, many of them feel a bit safer and more willing to actually facilitate positive behavior. This bill, on the other hand, will only exacerbate

an already violent work environment for correctional staff and the general population at state correctional facilities.

Finally, this Bill appears to further a recent trend towards the rollback of all diminution credits for persons convicted of violent crimes generally. This could be more dangerous to the public in the long run. Rather than revoking diminution credits, there should be more focus instead on rehabilitation and educational resources for incarcerated persons. Bottom-line, I (along with several of my formerly incarcerated brothers) am living proof that diminution credits have a substantial deterrent effect on violence and bad behavior in prison. We are out here making a difference and giving back to society. We also serve as the embodiment of what is possible when you positively change your behavior. Our success encourages those we left behind to do likewise. The reality is that the vast majority of incarcerated people are or will be released into society. We should not abandon ‘carrots’ in favor of only ‘sticks’ when incentives that diminution credits provide have a direct positive impact on the behavior of people behind bars.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on HB 734.**

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

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