



# RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES  
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2024 Session  
SB0123

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## Criminal Procedure - Petition to Reduce Sentence

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### Bill Summary

This bill allows an individual to file a petition to reduce their sentence if they have served at least 20 years of their term of confinement and at least 3 years have passed since the court decided any previous petition filed by the individual under the bill. After consideration of specified factors and a hearing, the court may reduce the petitioner's sentence if it finds that the individual is not a danger to the public and the interests of justice will be better served by a reduced sentence. There is a rebuttable presumption that a petitioner is not a danger to the public if they are at least 60 years old and have been confined for 30 years or more. A court may not increase the petitioner's sentence, and the right to seek a sentence reduction may not be waived. The bill establishes additional procedural requirements.

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### Racial Equity Impact Statement

The bill applies to incarcerated individuals serving at least a 20-year term of confinement as well as other incarcerated individuals for whom a State's Attorney has initiated a petition for reduction of sentence on their behalf. The provisions of the bill potentially cover a significant portion of the incarcerated population, as almost 40% of those currently incarcerated in Maryland are serving a sentence of 15 years or more, but the specific impacts would depend on the extent to which eligible individuals or State's Attorneys file petitions under the bill. Historical data on sentence reduction activity by the courts and more specific data on sentence lengths for the incarcerated population would assist in estimating the bill's impacts but is not readily available. The State's disproportionately high incarceration rate for Black individuals suggests that the bill could potentially impact these individuals to the greatest extent.

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## Analysis

This bill allows for an incarcerated individual to petition the court for a reduction of their sentence if that individual has served at least 20 years of their term of confinement and at least 3 years have passed since the court decided any previous petition filed by the individual under the bill. There is a three-petition limit per sentence. The bill also allows a State's Attorney to file a motion for the reduction of a sentence on behalf of an incarcerated individual who is ineligible to file a petition under the bill.

The court must hold a hearing on the petition or motion and consider a number of factors when determining whether to reduce a sentence. There is a rebuttable presumption that a petitioner is not a danger to the public if the petitioner is at least age 60 and has been confined for 30 years or more.

Current law allows a variety of options for a person convicted of a crime to have their sentence reviewed but most opportunities, except for instances of an illegal sentence, fraud, mistake, or other irregularity, expire after a specified time period has elapsed.

### *Impacts of the Bill*

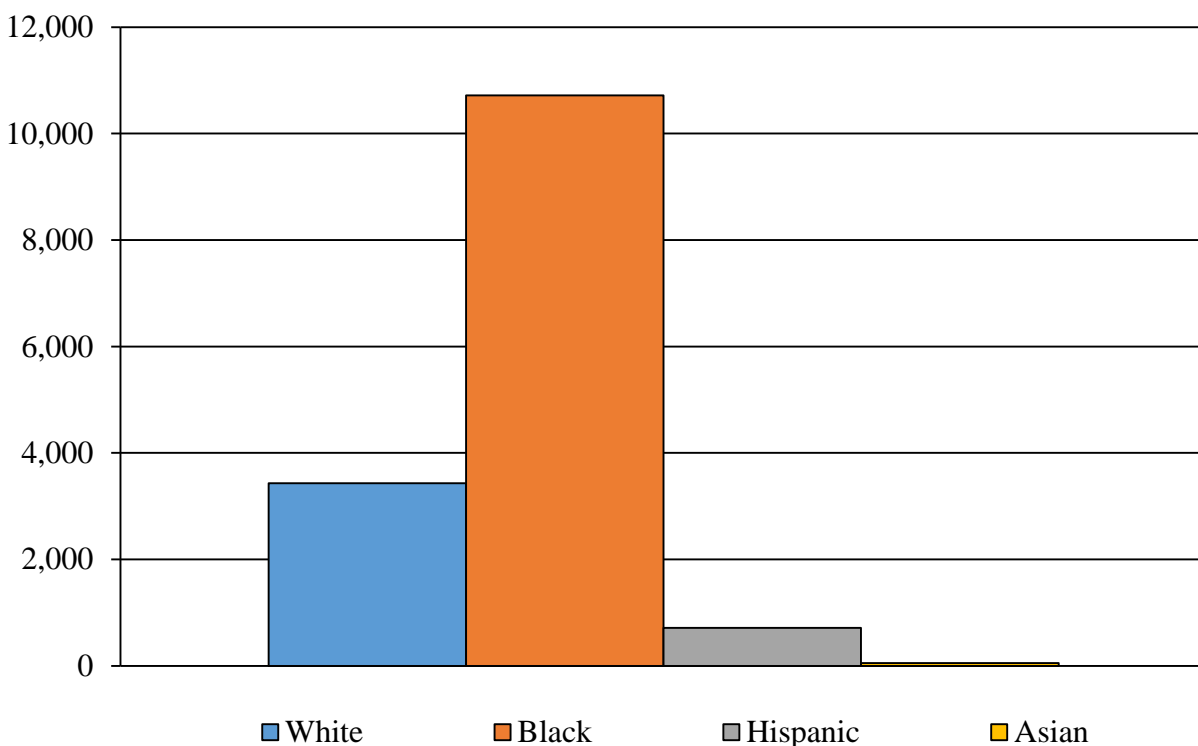
Several states have proposed and/or passed so-called "second look" bills or similar legislation which have statutorily granted state's or district attorneys, or some other named representative of the state, the authority to file a motion in the courts to consider post-conviction resentencing. The procedural provisions of those statutes are similar to those contained in the bill.

A State's Attorney petitioning the court on behalf of a convicted individual may argue that the individual has been rehabilitated or that outside factors not present or not considered at the time of sentencing merit a reconsideration of the individual's sentence. Some of those outside factors have been detailed by the Office of the Public Defender and the Maryland State Bar Association, which include cases (1) where there may have been disproportionate or unequal sentences based on external factors unrelated to the case in question, such as the race of the defendant or the victim; (2) when an incarcerated person has made significant rehabilitative progress and would no longer pose a risk to public safety; or (3) when there have been significant changes in the way specific crimes are enforced, as is the case for many drug offenses.

Due to existing racial disparities in the criminal justice system, this bill would offer another avenue to address past practices that may have created or perpetuated existing racial disparities. The Department of Public Safety and Correctional Services' Division of Correction's fiscal 2023 inmate characteristics report shows that out of the nearly 15,000 incarcerated individuals in Maryland, Black individuals comprise approximately 10,700, or 71.5%, of that total (see **Exhibit 1**). This data shows that Black individuals are more than twice as likely to be incarcerated in Maryland compared to their proportion of the State's population (29%) and are more than five times as likely to be incarcerated compared to white individuals.

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**Exhibit 1**  
**2023 Division of Correction Population Demographics**



Source: Department of Public Safety and Correctional Services

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**Conclusion**

The bill's provisions will give more convicted individuals access to the possibility of sentence reduction by a court. Regarding State's Attorney initiated petitions under the bill, it is unclear to what extent this provision will impact that population of convicted individuals that are not otherwise eligible for a post-conviction sentence review. Much of that impact will depend on the policy decisions of individual State's Attorneys. There is no historical data readily available that indicate the demographics of those individuals that have received post-conviction sentence reductions under existing law, nor is data available to determine the size of the eligible incarcerated population. This data could give some insight into the magnitude of the impact on various racial and ethnic groups. However, despite the data limitations, it is reasonable to expect that the Black incarcerated population would likely experience the most significant impact given their overrepresentation in the State's incarcerated population.

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**Information Sources:** American Civil Liberties Union; Office of the Public Defender; Maryland State Bar Association; Department of Public Safety and Correctional Services; Department of Legislative Services

**Analysis by:** Rafael Regales

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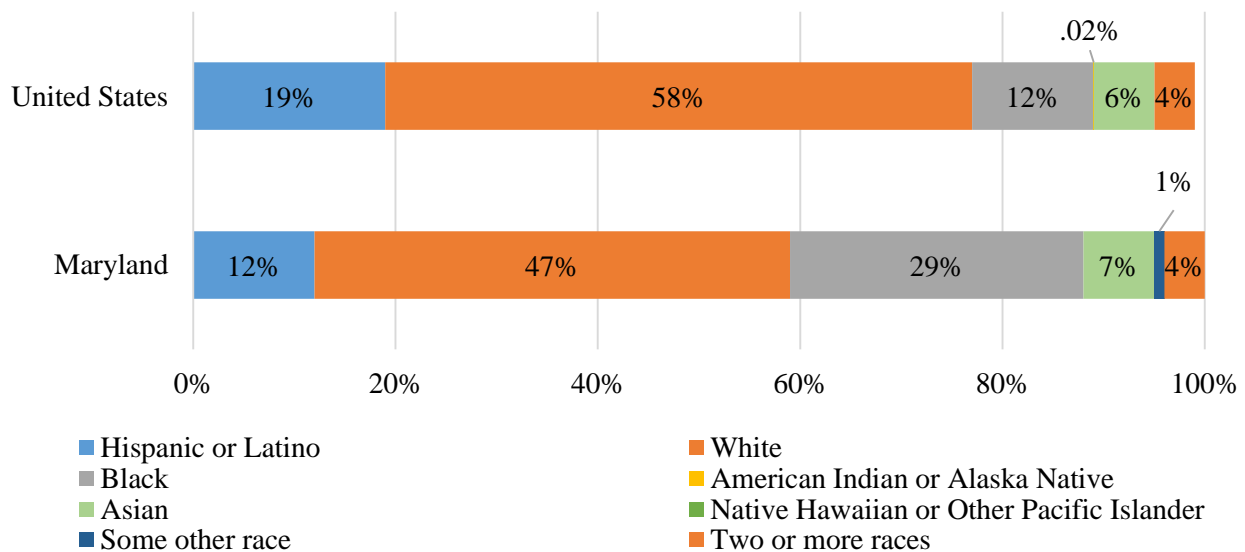
## Appendix – Maryland Demographics

### *Race and Ethnicity of the Maryland Population*

Maryland’s 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland’s racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as “other” and “multiracial” (*i.e.*, two or more racial identities), which total 5% of the State’s population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report “white” as their racial group. Despite this decrease, non-Hispanic whites remain the largest race demographic group in the State at 47% of the State’s population.

Compared to the U.S. population overall, Maryland’s population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% of the national population. In both the State and national populations, the largest shares of the non-white population are individuals who are Black, with 29% of the State population identifying only as Black and another 2.5% identifying as Black in combination with some other race. Maryland’s Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State’s overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State’s population identified as Hispanic or Latino compared to 19% of the U.S. population.

**Exhibit 1**  
**U.S. and Maryland Population by Race and Ethnicity**  
**2020**



Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.