

Metzgar_FAV_SB516

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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

**SB 516 Correctional Services-Murder-Diminution Credits
(Geraldine's Law) February 19, 2020**

Mr. Chairman, Mr. Vice Chairman, and Distinguished Members
of the Senate Judicial Proceedings Committee

I am Delegate Ric Metzgar from Legislative District 6,
Baltimore County. Thank you for the opportunity to express my
support today for SB 516 Correctional Services-Murder-
Diminution Credits (Geraldine's Law)

I sponsored HB 43 Criminal Procedure-Plea Agreement
Terms and the Violence Prevention Initiative Criteria which an
individual charged with a crime of violence will serve his/her
sentence imposed without reduction by diminution credits or
parole which cannot be modified by a plea agreement.

SB 516 prohibits the earning of diminution credits to reduce
the term of a confinement of an inmate who is serving a
sentence for murder in the first degree or murder in the second
degree in a State of local correctional facility.

Crime, particularly murder, is out of hand. People are afraid
to leave their homes because of the crime. SB 516 takes the
important step to stop repeated offenders from committing more
murders. I respectfully request a favorable report on SB 516.
Thank you for your time and consideration.

Duncanmom testimony-pic_FAV_SB516

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Position: FAV



Justice not

injustice

**Maryland's Justice – An Unbalanced System That Is *Fair for Some* –
*But NOT Equal for All***

This Could Have Been Your Mother!



MARYLAND'S APPLICATION OF THEIR JUDICIAL LAW IS TOO LENIENT!!!

ELIMINATE!! Maryland's Diminution Credits

***used to REDUCE TIME OF INCARCERATION on 1st & 2nd Degree
Heinous Felony Murder Cases***

**Justice Applied *Should* Represent the *Physical Act of the Violent
Crime* –**

Regardless of Race of Perpetrator or Age of Victim

She Was My Mother!!

I Want Fair & Equal Justice for her

LindaDuncanFlyer_FAV_SB516

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***ELIMINATE Maryland's Diminution Credits Applied Towards Time Served –
1st & 2nd Degree Heinous Murder Convictions***

**It's Time to *BALANCE* Maryland's
for All Victims**



Scales of



On January 13, 1990, our 67yr. old, 105 lbs. mom was murdered in her Suitland, Maryland home, and left to bleed out on her bed. The police report stated her throat was cut; she incurred over 30 stabbed wounds throughout her body; and the knife was left plunged in the side of her throat. She was gagged; and suffocated; and was found with the pillow still on her face. Thanks to a *DNA Cold Hit List'* - 15 years later (2005), while being booked in another state on a Breaking & Entering (B&E), mom's killer's DNA, was flagged as a *Cold Hit*. It was confirmed as a match to the DNA evidence found at our mom's murder crime scene. Maryland's law enforcement issued a warrant, and Michael Lamont Johnson, with priors of B&E and drugs, was finally going to pay for mom's violent-heinous death. Once completing his out of state incarceration (2007) for the B&E, Johnson was transported to Maryland, booked on five charges that included first degree murder and four charges of B&E including robbery with intent.

Johnson was offered an *Alford plea* and in return for accepting the plea, he received a split sentence- reducing life down to 40 years, with, parole (2025) upon servicing 50% (20 years). *Diminution Credits* was **NOT** mentioned during the hearing. So in early spring of (2015), we were stunned to received notice that our mom's killer was up for a parole hearing, after only serving less than 10 years of his sentence. And, that is when we learned about good behavior rewards known as **Diminution Credits**. These are credits used towards reducing time served despite the law, which states, 50% of the sentenced time must be served before parole can be offered. In addition, the time he served on his prior offense in the other state, was also credited towards time served in our mom's death!

FYI: Diminution Credits are **NOT** awarded in murder convictions for victims under the age of 16yrs.

This is **NOT FAIR and/or EQUAL JUSTICE for ALL - Just for some.**

Please, for once let us be a **'UNITED'** State of America, and

UNITE to ELIMINATE Maryland's Diminution Credits used towards early release- It's Against the Law!
Parole, Educational and Career Skills Training Programs should be enough of an incentive.

It's Time to STOP!

The Judicial Leniency and Misjustice of the Major Violent Crimes Committed in Maryland!!

Dedicated to Our Mom ❤️

October 22, 1923 – January 13, 1990



We Love and miss you

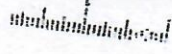
LindaDuncanphotos_FAV_SB516

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Position: FAV



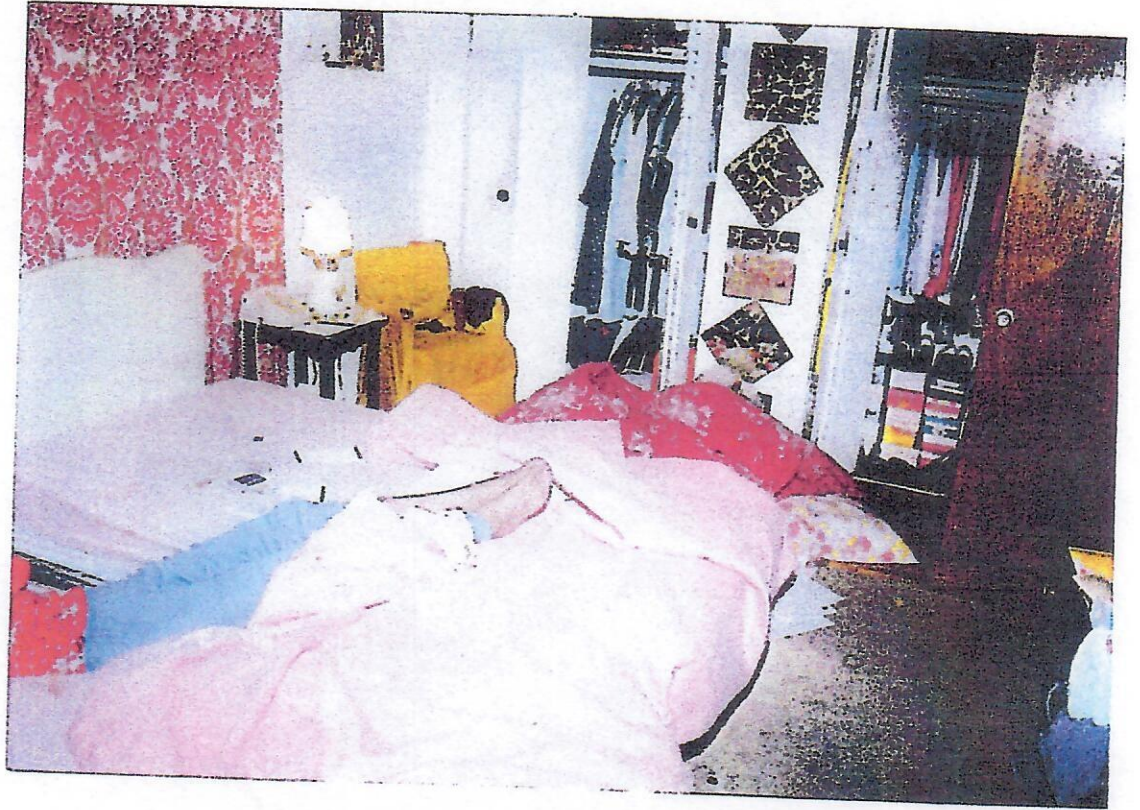
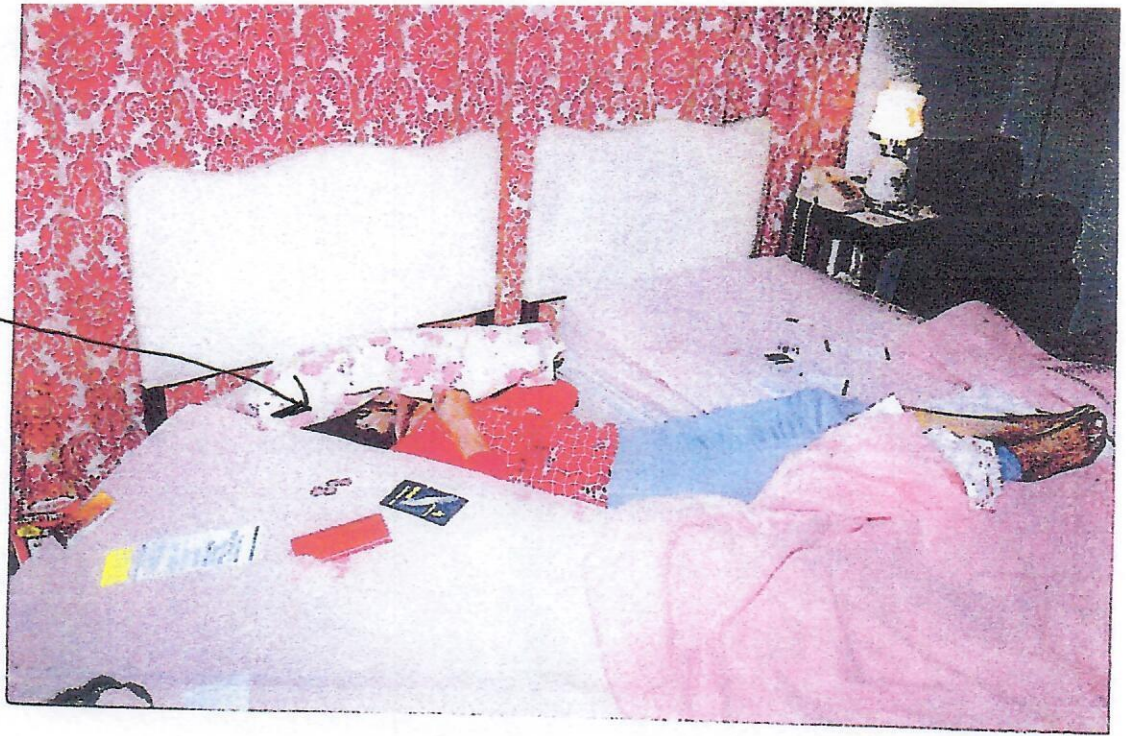
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knife left in neck



Victim





LindaDuncantestimony_FAV_SB516

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Position: FAV



Geraldine Williams
October 22, 1923 – January 13, 1990
We Love You Mom
SB516

To Chairperson - Smith and Vice Chairperson – Waldstreicher; my sponsor - Senator Ready, and members of this committee, 'Thank You' for allowing me another opportunity to seek the committee's approval on Eliminating Diminution Credits used to Reduce Time to be Served on the major crimes of 1st & 2nd degree murder.

It is such a catastrophic experience to lose a loved one through the violent crime of murder; but to have to continually re-live the hurt and loss because you're notified the offender is eligible for early parole because of these so call "good behavior credits" is heart breaking and demeaning to the innocent loved-ones.

My brothers and I lost our 67yr.old mom through a home invasion, which resulted in her brutal murder (please refer to your handout for details). Through this horrible experience, I learned of Diminution Credits.

As a law abiding, tax paying citizen, their lives should not be valued in terms of the rules relative to a baseball game – three arrests and then you go to jail, **with benefits** (Dim Credits, Early Parole Hearings, etc.).

True Justice **doesn't start and end** with the apprehension and a trial; it is only the beginning. Justice should include the victim. Maryland's judicial system is an enabler. It is the most lenient state regarding major violent crimes, especially, murder.

It is time for you, the governing officials to focus on the **PHYSICAL ACT** of the crime; the **ACT of MURDER**; and **STOP** kowtowing to groups who only focus 'racial imbalance'. **No race, or persons of law enforcement, or personnel of associations and businesses should hold itself above the law.** The two are separate fields of focus.

Persons found guilty of the **PHYSICAL ACT of MURDER**, the judicial system has a sworn duty to enforce the rule of law regardless of the color of their skin. If you commit a crime you must serve the time as the law mandates.

This state needs to take a “**no-nonsense- no tolerance**” stance on violent crime. We have appropriate laws in place, but because of **Diminution Credits**, not only does it void the clear intent of the laws, it also heightens danger for society; and inmates focus on early release, with little to no effective rehabilitation or earnest remorse for their crime. Upstanding law-abiding citizens understand “good” behavior is a normal part of life that is expected in society, not something they are bribed to do by acting in the system’s favor.

SB516 Concerns / Amend to Change / Alternative to Change

➤ **Concern: 1 Diminution Credits**

Against the State’s Law Awarded Before Mandatory 50% of Time Has Been Served.

Currently, Maryland Law indicates 1st Degree Murder convictions with parole in their sentencing mandates offenders must first serve 50% of the given time before offering parole.

For example: An offender given a 40 yr. sentence with parole would need to serve at least 20 years to be eligible for their first parole hearing.

The application of Diminution Credits lessens the mandated time to be served to less than 50% or less. **Truth in Sentencing** needs to be enforced in **Major Crimes of Murder**. For such crimes of violence, parole should be enough of an incentive to demonstrate an honest change; which also can help lessen the **revolving door of repeat offenders**. **After all our love ones will never be paroled from death.**

I pray you will never experience the deep pain and void of loss of a loved one as result of murder; but picture discovering your spouse, partner, sibling/relative, or a close friend as the murdered victim. Would you feel they’ve received fair and equal justice, if you were notified their killer is now eligible for parole after serving only 8-10 yrs. of a 40-yr. sentence, that under law requires a mandatory time of 20 years; ***all due to these falsey earned- so called “good behavior credits”?***

1. Amend the Law to: Enforce Mandatory Time Serve

Eliminate Diminution Credits issued during the Mandatory Sentencing Time Frame, until after time served has reached the legally mandate first parole hearing.

Offenders must complete serving the State’s Mandatory Percentage (50% for 1st degree murder; and/or 30% to 40% for 2nd degree murder) on their sentence for the crimes of 1st and/or 2nd degree murder; and have their first parole hearing; they will **NOT be eligible to earn or use Diminution Credits to reduce their sentence until after the mandatory period of time.**

➤ **Concern: 2** **Age Discrimination**

For Offenders whose victims are **under the age 16 yrs** Diminution Credits are **DENIED** as a part of their sentencing.

What about the elderly, the handicapped or disabled, an expectant mother, victims of home invasions, or just a law-abiding citizen like yourself, suddenly attacked?

They can be just as vulnerable as a child or teen. **The value of justice should not depend on a victim's age.** The **ACT of Crime** is still the same; and, **NO** one life should hold more value than another's'. Nothing is fair or equal about this law for victims over 16yrs.

This is Discrimination of the law. And, Discrimination is AGAINST the law.

2. Amend the Law to: Remove Age Restriction and Diminution Credits

Sentencing involving **Major Crimes of 1st and/or 2nd Degree Murder**; or, with Intent, **REGARDLESS of the VICTIM'S AGE**, sentencing **Will NOT** include Diminution Credits during the duration of the offender's full incarceration of a conviction for the **ACT - MURDER.**

➤ **Concern: 3** **Separation of Classes**

Justice is less for Victims of Crimes Under State Laws, than for Victims of crimes Under Federal Laws – Relating to the Application of Diminution Credits in Major Crimes of Murder.

Governing Law Officials constantly speak of equality for all; yet, when it comes to justice; **SEPARATION of the CLASSES** is still very apparent in our so called **"Equal" Justice for All System.** Even today, with so much focus on 'Change', **Separation of the Classes** still exist.

Laws and the **"Equal Justice"** for **Major Violent Crime(s) of Murder**, **should be under the same umbrella of the law for all victims**, regardless of who has legal jurisdiction.

3. Amend the Law to: Change the State law to REFLECT Federal Law(s) to "Remove Diminution Credits used to Reduce Time Served" on 1st and 2nd Degree Murder Convictions

Heinous Violent Murder is a Major Capital Crime – the unlawful killing of another person without justification; and is considered to be the most serious crime a person can commit. The justice implemented should be the same and equal regardless as to whether it is under the State or Federal Jurisdiction(s),

.....

Murder is Murder! An Innocent Victim is an Innocent Victim

These victims, were law-abiding, contributing citizens, who have worked and paid taxes to both governments. Who have voted for federal officials and state officials like yourselves; and for fair and equal justice for all; which they thought included them. Instead, they are being denied their fair justice because they had the misfortune of being killed under a state where Justice has more compassion and leniency for their killers than for them-the victims.

An Alternative to the Change:

Change the name of “Diminution Credits” to “Incentive Credits”

Incentive Credits are earned as are Diminution Credits, BUT CANNOT be applied towards time served. Incentives Credits MUST ONLY be used **WITHIN the facility during incarceration.**

Incentive Credits may be earned while serving the State mandated mandatory time for the conviction of the Crime of Murder. In accordance with Maryland’s Law(s), Mandatory Completion of a designated Percentage, stated by law that is to be completed in the sentencing, as it applies to the **Act of Murder** (i.e. 50% or 40% or 30%). Incentive Credits would be used only within the facility during incarceration towards extra privileges such as: **longer family time, extra monetary credits applied on account (commissary), recreation, a favorite/special meal, birthday cake, choice of in-house jobs(depending on reason(s) for incarceration), longer yard time, extra movie day, etc.**

Once Mandatory time has been served and initial parole hearing, the inmate would then be eligible to start earning Diminution Credits during their remaining time left to serve; if credits are applicable to convicted crime or under State Law of incarceration.

Summary:

- Diminution Credits are not an effective way to ensure the safety of the public. It is an easy means to a felons’ ends to gain early release.
- Although Diminution Credits were designed for the offender, the application of credits are used to reduce time served is meaningless. Learning how to cheat the system by faking expected behavior change(s) to gain an undeserved rush to freedom.
- And this, is what takes away the” Fair or Equal Justice” for our victims.

Please, for once be a ‘United’ Judicial Committee within this State of America.

Parole, Earned Extra Incentives used within the Facility during Incarceration, Education, and Career Training Programs should be enough of an incentive.

It is time to STOP!

**This Judicial Leniency and Misjustice in Major Violent Crimes of Murder in
Maryland!!**

MdCrimeVictims_FAV_sb 516

Uploaded by: Senator Ready, Senator Ready

Position: FAV

Maryland Crime Victims' Resource Center, Inc.



Continuing the Missions of the Stephanie Roper Committee and Foundation,

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TESTIMONY OF KURT WOLFGANG, EXECUTIVE DIRECTOR, REGARDING HB1265 and SB 516

It is an honor to represent the Maryland Crime Victims' Resource Center in providing testimony on these bills. 38 years ago, I first testified before this Committee regarding a similar subject. At that time, as a law student, I identified 13 mechanisms within Maryland law to diminish someone's sentence after it had been first established by the judge. I did not reconstruct that research for today. However, I know that there have been several mechanisms added since that time, and I am aware of none having been deleted since that time. So let me provide you the first observation from the perspective of a crime victim: allowing credit for good behavior, for work performed, for education accomplished, to someone who has strangled, suffocated, or drained the blood out of another human being is a horrific and uncivilized act that devalues the life of the innocent victim. This is a feeling that is virtually universal among the families of murder victims. It is a feeling that I hope you will never experience. I invite you to invoke your God-given empathetic abilities and feel vicariously through the many victims whom you will find amongst your constituency. May God forbid that it ever happens to a loved one of yours, but if and when it does there will be no need for me to ask you to empathize. This perspective will be your perspective. Perhaps the most poignant position of the survivors of homicide is that these acts of leniency and kindness that are shown toward the murderer of their loved ones lacks moral symmetry. This is so because nothing can be done to give the victim or their family one day of parole.

Let me move to the next point I would like to bring to your attention. There are five identified reasons or theories for criminal punishments: general deterrence, specific deterrence, incapacitation, rehabilitation, and retribution. Generally speaking, four of these five recognized theories all pull in one direction. The longer the sentence given, the more general deterrence, specific deterrence, incapacitation, and retribution are served. The outlier, of course, is rehabilitation.

General deterrence is the concept that the penalty should be sufficiently harsh so as to deter others from committing a similar offense. Specific deterrence applies the same theory to the individual criminal involved. Incapacitation is not concerned with the decision-making ability of the criminal. The concept of incapacitation is that when the criminal is isolated from society in prison, he or she is physically incapable of inflicting another damage to society, generally speaking.

Retribution is perhaps the least well explained concept by the term that is assigned to it. The term alone conjures inaccurate connotations of revenge. Revenge is not the legitimate point of retribution. There are several societal imperatives involved seeing that criminal defendants receive sufficient punishment commensurate with the crime that he or she has committed. The first of these imperatives is the need to ensure that aggrieved and suffering victims do not take the law into their own hands due to the unfairness of lenient sentences. This concept I think can be fleshed out a little bit better by indicating that the criminal justice system must recognize the seriousness of the damage done to people and families by violent crime.

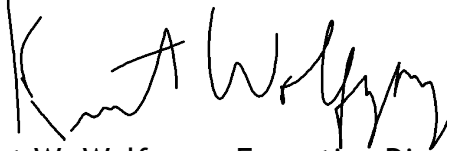
The next imperative involved is the concept of societal respect for the criminal justice system. Without that respect, otherwise law-abiding citizens fail to report crimes, fail to cooperate with the police, fail to cooperate as witnesses, fail to report for jury duty, and become only unwilling participants in the criminal justice system. I believe that this condition is already to some degree afoot in our society. This is so because our societal concept of appropriate punishments is so far out of step with the punishments that are being handed out within the criminal justice system. Perhaps in our democracy, it's more appropriate for me to reverse that last sentence: the punishments that are being handed out by the criminal justice system are so far out of step with the punishments expected by the Sovereign of this state: the people.

This brings me to the next point. Whether you represent the most conservative district within the state, or the most progressive, I promise you that your constituents believe and expect that when someone receives a life sentence, that they will spend the rest of their natural life in prison. The concept of diminishing that life sentence because of good behavior or other institutional incentive is absolutely horrifying and repugnant to law-abiding citizens. The very notion tears at the fabric of our criminal justice system by bringing disrepute and scorn into a system that affords that which the overwhelming majority within the democratic process would never tolerate. I challenge each of you to ask your constituents and supporters for their opinion on the subject while they may not be able to talk to you about general and specific deterrence, they will talk to you about their common sense concepts of sequestering permanently those whose judgment is so warped as to have warranted a life sentence.

The last point I would like to bring to your attention is that the current practices make it utterly impossible for defendants, victims, judges, attorneys, to have anything other than a vague notion as to the meaning and value of a life sentence. Let me state that again: over my 30 some years of law practice and even more years of observation, I have come to know that the complexity of our system with the many means of diminishing a criminal sentence leads to the fact that very few judges even can understand when someone will be eligible for release given a life sentence. This shocking chaos within the system must change. The passage of this bill moves the situation significantly toward truth in sentencing.

Truth in sentencing is also a concept which nearly 100% of your constituency favors in my humble opinion. Our organization has taken the position for 38 years that a life sentence should result in a mandatory minimum of 25 years of actual time served before parole eligibility of any kind. Even that concept, I suggest to you, is out of step, and too lenient, as compared to the vast majority opinion of your law-abiding constituents.

Maryland Crime Victims' Resource Center, on behalf of the hundreds, and perhaps thousands of murder victims and their families whom we have represented over the past 38 years beseech you to pass this common sense legislation that takes a giant step toward bringing the law into sync with the will of the people. We thank the sponsors of these bills for empathizing with both the victims and with their law-abiding constituents.

A handwritten signature in black ink, appearing to read 'Kurt W. Wolfgang', written in a cursive style.

Kurt W. Wolfgang, Executive Director

About our organization:

The Maryland Crime Victims' Resource Center, Inc., formerly known as the Stephanie Roper Committee and Foundation, was formed in 1982 to champion the cause of justice for crime victims. Every year since that time, the organization has appeared before this committee seeking just solutions for victims of crime. We have championed and authored more than one hundred laws to date. Through the tireless efforts of our founders, the late Captain Vince and Roberta Roper, and a dedicated cadre of others, the organization is internationally recognized as a leader in assisting crime victims.

Mr. Wolfgang was one of the original founders of the organization, and lobbied for the original bills sought on behalf of the Stephanie Roper Committee in Annapolis. He served as an Assistant State's Attorney in Prince George's County, as Director of Intergovernmental Affairs to the National District Attorney's Association, and served on the Board of Directors of MCVRC for many years.

Ready_FAV_SB516

Uploaded by: Senator Ready, Senator Ready

Position: FAV

JUSTIN READY
Legislative District 5
Carroll County

Judicial Proceedings Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 19, 2020

SB 516 Correctional Services – Murder – Diminution Credits (Geraldine’s Law)

Chairman Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee,

Senate Bill 516 will disallow inmates currently serving a sentence for either 1st or 2nd degree murder the ability to use diminution credits towards reducing their term of confinement.

As most of you know, diminution credits are credits earned to reduce an inmate’s term of confinement for good conduct, work tasks, education, and special projects or programs.

There are already other groups of inmates who do not receive such credits:

- Those serving a sentence for first or second degree rape or sexual offense against a victim under age 16.
- An inmate who is serving a repeat sentence for a third-degree sexual offense against a victim under age 16.
- An inmate imprisoned for a lifetime sexual offender supervision violation.

Convicted murders should be added to this list.

Today you will hear testimony from Linda Duncan. Her 67 year old mother was brutally murdered during a burglary in her home. During the burglary, Geraldine Williams was smothered, gagged, and stabbed to death. After 15 years, Ms. William’s killer was caught, but as a result of a plea agreement and diminution credits, he became eligible for parole after 10 years.

I respectfully request a favorable report on Senate Bill 516

Seaton_FAV_SB516

Uploaded by: Senator Ready, Senator Ready

Position: FAV

Dear Senators,

Please pass SB0516 Correctional Services – Murder – Diminution Credits (Geraldine's Law)

Who knew that in Maryland, if an incarcerated offender works 2 part-time jobs a day, in the Department of Corrections, instead of one fulltime job, they can earn twice the amount of diminution credits? This explained why McDonald Abraham III, convicted of 2nd degree murder, and illegal use of a handgun, had his release date changed five times over his last two years of incarceration. My family believes that this is ridiculous, and another slap in the face by our Justice System.

McDonald Abraham, convicted of paying for our daughter Stacey's murder, was released from the DOC on October 19, 2019, after serving 10 years and 10 days, of his 15-20 years sentence. His release date changed 5 times during his last year of incarceration, moving up 5 different times. Two years ago, we were told the release date was February 2020. And, what is the first thing he had done? He had his video impact statement that we made, and was accepted by the defense and the judge, sealed. We were never notified. How was this allowed to happen???

Our daughter Stacey Lynne Seaton was murdered on June 1, 2005. Shot in the back of the head, in Bowie, Md in a Murder for Hire, she was left to die all alone, to be found by her 16-year old best friend. Only 18 days from her 18th birthday, Stacey was stalked for a week, not only by the people looking to kill her, but also by the person who testified for paying for her murder.

In a case where everyone knew who was responsible for having Stacey killed, my family was ruthlessly mocked by Abraham, for our efforts to get Justice. The pain of waiting over 4 years for an arrest, was matched only by the pain of the comments McDonald Abraham made electronically on an electronic guest book. Comments such as "Gale, you're a fat, lazy, welfare mom", "Stacey was a drug dealing runaway prostitute, and society is better off that she's dead", and "The police are busy solving real crime" are just several of the painful comments Abraham made. These comments were tracked to computers used in his parents' house and work, where Abraham sometimes helped his father.

In 2011, Florida arrested Jarvis Tyler, for the manufacturing and distribution of Crystal Methamphetamines, and handgun violation. They took his DNA, and submitted it into CODIS, and it came back to a match of the DNA on a cigarette butt that was flicked at Stacey's head. Jarvis Tyler was extradited to Maryland, where Abraham promptly agreed to testify against him, in exchange for an extremely lenient sentence (30 years for murder, 20 years for handgun violation). After parole and diminution credits were applied, that meant Abraham was eligible for parole at 7 ½ years.

Jarvis Tyler immediately offered to plead guilty in exchange for a 40-year sentence, and the willingness to testify against 3 other co-conspirators. Until.... His defense attorney listened to a

recording of Abraham, incarcerated, and another co-conspirator, discussing the “really sweet deal Abraham got to testify against Jarvis Tyler. Then Tyler changed his mind and wanted the same “really sweet deal.”

Which is the best option for sentencing a man charged with accepting \$400 in cash, and \$200 in marijuana to kill a 17-year old? We believe Life Without Parole is appropriate. According to Abraham’s testimony, Jarvis tried to back out, so Abraham threatened him. Abraham reminded him he already got the money and gun, but Tyler wouldn’t get the drugs, “until it was done.” Well, it was done – at 2:57 p.m. on June 1st, 2005.

....Our choices for Tyler were, go to trial, with the only physical evidence being DNA on a cigarette butt next to Stacey’s head, or give him the same lenient sentence for murdering a 17-year old pregnant girl. We went to trial, where Jarvis Tyler was found Not Guilty, within an hour – largely because the jurors did not either like or believe Abraham. Tyler walked, even though the only defense offered by his attorney, was proven to be a lie.

Abraham was the only person, of at least 5 people involved in Stacey’s murder. And, due to the lenient sentencing conditions, he received 15-50 years, which we were unaware meant 15 years, take away half of that, for parole, and diminution credits applied ahead of time. He was eligible for parole at 7 1/1 years.

Abraham was denied parole, due to his refusal to accept responsibility for Stacey’s death, and for the heinousness of the crime. His parole testimony included “routinely having sex with 13 and 14-year olds” as his alibi was “having sex” with a just turned 14-year old girl.

Now he’s out, living in my city, and I believe it’s just a matter of time, before he’s reincarcerated, as he refuses to take responsibility for his actions.

Please ensure convicted murderers serve the sentence they receive, it is the right thing to do. Thank you.

Respectfully,

Gale & Michael Seaton

Caroom_UNF_SB 516

Uploaded by: Caroom, Phil

Position: UNF

Support SB 516 - Diminution Credits

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Will Smith and Senate Judicial Proceedings Committee

FROM: Phil Caroom, MAJR Executive Committee

DATE: February 19, 2020

Md. Alliance for Justice Reform ([MAJR-www.ma4jr.org](http://www.ma4jr.org)) opposes SB 516.

While apparently intended to promote public safety by lengthening incarceration for those convicted of homicide charges, MAJR is concerned that the opposite could result.

Maryland's statutory and regulatory system for diminution credits already is designed to reward those who comply with prison rules and who actively participate in activities designed to rehabilitate them. The same system already has a mechanism to cancel diminution credits for serious infractions that indicate an inmate is not rehabilitated.

Moreover, the blanket exclusion of diminution credits for everyone convicted of 1st or 2nd degree murder would include the substantial percentage of inmates who were convicted under Maryland's legal fiction of "felony-murder"—that is, they themselves did not perpetrate any homicide, may not have possessed a weapon, and may not have intended any homicide. See <https://www.ma4jr.org/felony-murder-rule/>. This felony-murder fiction disproportionately effects those charged as juveniles and women, according to studies. Id.

PLEASE NOTE: Phil Caroom offers this testimony for Md. Alliance for Justice Reform and not for the Md. Judiciary.

Holness_ACLU_UNF_SB 516

Uploaded by: Holness, Toni

Position: UNF



Testimony for the Senate Judicial Proceedings Committee

February 19, 2020

SB 516 Correctional Services – Murder – Diminution Credits (Geraldine’s Law)

TONI HOLNESS
PUBLIC POLICY DIRECTOR

UNFAVORABLE

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FOUNDATION OF
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WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS
JOHN HENDERSON
PRESIDENT

The ACLU of Maryland opposes SB 516, which would prevent persons incarcerated for murder in the first or second degree from earning diminution credits.

Diminution credits help to maintain safety in correctional facilities

The possibility of earning enough credits to be released early incentivizes prisoners to comply with facility rules. As the chair of the Parole Commissioner recognized, “[Parole] is a reward for good behavior and lowers the threat of violence on our prison staff. If you were a lifer and knew you could never get out, you could do what you wanted to. Parole is the primary reason inmates adjust to prison.” Courts have recognized this incentive as well—good conduct credits are a behavioral incentive and a means of reducing prison overcrowding. *Stouffer v. Staton*, 152 Md.App. 586, 592 (2003).

In fact, according to the Fiscal and Policy Note accompanying a previous iteration of this bill, the Department of Public Safety and Correctional Services relies heavily on diminution credits in order to maintain safety:

DPSCS advises that it uses an inmate’s ability to earn diminution credits as an incentive to encourage good behavior and participate in rehabilitative programs and/or work programs. By eliminating the applicability of diminution credits for inmates serving a life sentence, DPSCS advises that it loses the ability to modify inmate behavior. In addition, DPSCS advises that the elimination of diminution credits could decrease the number of inmates who are working or participating in programming and increase institutional violence.¹

Diminution credits may reduce prison costs

Diminution credits allow persons convicted and imprisoned to earn early release through good behavior and engaging in productive activities inside.

¹ SB 210 Correctional Services - Murder - Diminution Credits, Fiscal and Policy Note (2018).



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Maryland spends an estimated \$38,383 per prisoner annually.² Other states have recognized and capitalized on the cost savings of earned credit programs—the New York Department of Corrections saved \$369 million from 1997–2006 due to sentence reductions. Washington State also reported saving an average of \$7,179 per inmate due to earned credit programs.³

Diminution credits have the potential to reduce recidivism

A recent study by the National Conference of State Legislators found that states with earned credit programs actually report lower recidivism rates than states that do not have similar programs.⁴ For example, Wisconsin found that 17% of inmates released early recidivated after the first year, as compared with 28% of those who recidivated after serving the full mandatory sentence.⁵

For the foregoing reasons, we urge an unfavorable report on SB 516.

² Vera Institute of Justice, *The Price of Prisons, what incarceration costs taxpayers: Maryland* (Jan. 2012).

³ National Conference of State Legislators, *Cutting Corrections Costs: Earned Time Policies for State Prisoners* (July 2009).

⁴ *Id.*

⁵ *Id.*