

MargaretMartinBarry_FAV_SB817

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Position: FAV

**MARYLAND GENERAL ASSEMBLY
SENATE COMMITTEE ON JUDICIAL PROCEEDINGS
TESTIMONY IN SUPPORT OF SB 0817
MARCH 5, 2020**

Submitted by Genevieve Bresnahan, Russell Bruch, and Anna Washburn, Student Attorneys, Re-Entry Clinic at the American University Washington College of Law, with Professor and Clinic Director, Margaret Martin Barry.

We write today in support of SB 0817, legislation to remove the Governor from the parole process. We are currently law students working as student attorneys in the Re-Entry Clinic at the American University Washington College of Law. At the Re-Entry clinic, law students provide pro-bono parole assistance to people in prison in Maryland who were convicted of a crime as juveniles and sentenced to life with parole – “juvenile lifers”. At the Re-Entry Clinic, our clients have been in jail from twenty to over forty years for murders committed when they were as young as 14 years old. One of our clients did not commit the murder at all – but was present in the commission of the murder and – due to felony-murder – received the same sentence as the actual killer.

A life sentence is a severe punishment for any person. As the Supreme Court recognized in *Graham v. Florida*, however, a life sentence is especially harsh for a juvenile. As the Court pointed out, since they are so young when they begin their sentence, they will serve “on average more years and a greater percentage” of their life in prison than an adult with a life sentence.¹ Unfortunately, the current parole system in Maryland, where the Governor serves as the ultimate decision-maker, has resulted in a de facto life *without* parole sentence for many offenders, including juveniles, who demonstrably are ready to re-enter society.

This past November, Governor Larry Hogan granted parole to three juvenile lifers. It was the first time in 24 years that a juvenile lifer was granted parole. Still, only three juvenile lifers were paroled in this action – despite the fact that the Supreme Court held in 2012 that sentencing a minor to life without the possibility of parole was cruel and unusual and therefore unconstitutional. Furthermore, this action came as a result of legal pressure to conform with constitutional law. Still, there are currently more than 300 juvenile lifers in prison in Maryland, or fifteen percent of the 2000 lifers in prison in the state; several of these juvenile lifers are currently represented by the Re-Entry Clinic. One of our clients has been sent to the Governor twice with a recommendation of parole by the Maryland Parole Commission and has been rejected for parole by the Governor each time. This is so despite the explicit parallel factors with

¹ *Graham v. Florida*, 560 U.S. 48, 50 (2010). As for the punishment, life without parole is “the second most severe penalty permitted by law,” *Harmelin v. Michigan*, 501 U.S. 957, 1001, 111 (2001), and is especially harsh for a juvenile offender, who will on average serve more years and a greater percentage of his life in prison than an adult offender, see, e.g., *Roper v. Simmons*, 543 U.S. 551 at 572 (2005).

regard to juvenile lifers that each applies. This demonstrates that additional factors that should not be considered come into play at the Governor's office.

The Governor should not be the final say on whether a person is granted parole. Whether or not a person is granted parole should be based on the facts that indicate readiness for parole, including his or her record while incarcerated and evidence of rehabilitation. For any governor, however, no matter their political leanings, there is nothing but political risk involved in granting parole to any person. Even former Maryland Governor Parris Glendening, famous for his "life means life" speech, later admitted that this edict was "much more political than it should be."² According to the Baltimore Sun, a month after his "life means life" speech, Governor Glendening's approval rating increased by 16 points. In 2018, Governor Glendening regretted his stance.³ "If I was in office right now," he said, "I would [work] with the legislature to change that process including removing the governor from it."⁴

We would like to talk personally about some of the things we, along with our classmates, have experienced in our work. Most of our clients experienced very difficult childhoods often marked by significant abuse, at home and on the streets, abandonment, developmental challenges, hunger, and various other traumas. These experiences, combined with the science of adolescent brain functions, makes for a world in which children like our clients have little chance for success. Furthermore, our clients have served their time. When they plead life, they anticipated 15 years in prison if they worked hard to rehabilitate. Instead, they are serving 20, 30, 40 or more years - regardless of their efforts. This is inconsistent with their sentences and is simply unconstitutional as applied to juveniles.

Finally, beyond the inhumanity of keeping someone in prison in this hope-crushing system, it is a waste of money. One study estimates that in Maryland the cost per inmate is approximately \$46,000 per year.⁵ According to a 2015 report from the American Civil Liberties Union (ACLU) of Maryland, the detention of more than 2,000 individuals with life sentences costs the state more than \$70 million per year.⁶ However, a 2018 Justice Policy Institute report estimates that re-entry services would cost the government about \$6,000 per inmate per year.⁷

² Dan Rodricks, *Glendening: 'Life means Life' Absolutism Was Wrong*, Baltimore Sun (Feb. 20, 2011), <https://www.baltimoresun.com/opinion/bs-xpm-2011-02-20-bs-ed-rodricks-glendening-oped-20110220-story.html>.

³ Angela Jacob, *Governor Should Be Removed From Parole Process, Former Md. Gov. Says*, NBC News 4 Washington (March 8, 2018),

<https://www.nbcwashington.com/news/local/former-md-gov-says-should-be-removed-from-parole-process/163565/>.

⁴ *Id.*

⁵ *Building on the Unger Experience: A Cost-Benefit Analysis of Releasing Aging Prisoners*, OSI Baltimore (Jan. 2019),

<https://www.osibaltimore.org/wp-content/uploads/2019/01/Unger-Cost-Benefit3.pdf>.

⁶ *Still Blocking the Exit*, ACLU Maryland (Jan. 20, 2015),

<https://www.aclu-md.org/en/publications/still-blocking-exit>.

⁷ *The Ungers: Five Years and Counting*, Justice Policy Institute (Nov. 2018),

http://www.justicepolicy.org/uploads/justicepolicy/documents/The_Ungers_5_Years_and_Counting.pdf

This interminable isolation from family and community is also a waste of life. Juvenile offenders in particular have increased odds for rehabilitation, and Maryland's system of parole should be able to forgive and trust those who have properly rehabilitated and are ready to re-enter society. If they have done everything in their power to rehabilitate, and there is no evidence that they are the highly unusual offender who is decidedly incorrigible,⁸ there is no reason to keep them in prison.

The decision on whether or not a person is suitable for parole should be based on demonstrated rehabilitation – not politics. The time to act is now. This bill corrects a longstanding wrong that has made Maryland an outlier, one of three states that bring the governor into a process that should avoid political calculation. We therefore urge you to pass SB 0817, without amendment.

(noting that out of the 188 people released, only five have returned to prison for a violation of parole or a new crime, an overall recidivism rate of less than 3 percent).

⁸ *Graham supra* note 1 at 72.

Clark_fav_sb817

Uploaded by: Clark, Karen

Position: FAV



Unitarian Universalist Legislative Ministry of Maryland

Shared voices for liberal religious values in Maryland

Testimony in SUPPORT of SB 817– Correctional Services Parole- Life Imprisonment

To: Senator William Smith, Jr. and Members of the Senate Judicial Proceedings Committee

From: Karen Clark, Chair, Criminal Justice Task Force, Unitarian Universalist Legislative Ministry of Maryland

Date: March 5, 2020

I am Karen Clark, representing my state-wide faith group, the Unitarian Universalist Legislative Ministry of MD. We have supported this issue over the last several years because it aligns closely with our principles. When we say we believe in the inherent worth and dignity of all people, we mean ALL including the incarcerated. Especially the ones who have been sentenced to LIFE in prison WITH THE POSSIBILITY OF PAROLE.

We urge you to support this bill, because it applies to a segment of the prison population that are not, for the most part, getting the opportunity for parole even when the parole board reviews their record and deems them qualified. This is already an injustice to their rights. However, when the governor is required to make that final decision, it adds an additional layer of politics, because they naturally consider how it may affect their ratings or next election. This should NOT be a factor in this type of decision.

The parole board (which is appointed by the governor) needs to be able to do their job and evaluate the qualifications of the person seeking parole. Parole boards are noted to do a thorough investigation in this evaluation. It also allows for victim input by personal appearances or written statements. Maryland is still only one of three states that has the governor involved in this process.

Last fall I attended a fundraiser by a Lobby group whose key -note speaker was MD US Congressman Jamie Raskins, who formerly served as a MD state Senator for nine years. While talking about the different types of legislation, he said that certain issues seemed **impossible** to change (like the death penalty and marriage equality) but as they linger in the legislative process over the years – they eventually become

inevitable. SB 817 Lifers Parole is such a bill. It has been kicked down the road for many years.

The time is past due to honor the inherent worth and dignity of those citizens serving LIFE WITH THE POSSIBILITY FOR PAROLE. It is time for it to be as Jamie Raskins says **INEVITABLE.** The Unitarian Universalist Legislative Ministry asks for a **FAVORABLE vote.**

Thank you all for your service.

Karen "Candy" Clark
UULM-MD Criminal Justice Task Force Leader

Greco_FAV_SB 817

Uploaded by: Greco, Vince

Position: FAV

SUPPORT SB 817

Mr. Chairman and Honorable Members of the
Senate Judicial Proceedings Committee

My name is Vincent Greco and I am a retiring citizen after spending 34 years in the Maryland prison system for felony murder. I have also been on parole and probation for the past 5½ years. I do not wish to repeat the testimony and facts behind the concept of this Bill. I know they will be presented and most on this committee know them. Let me just share my experience.

I was sentenced as a primary in a very serious felony-murder case in 1981. When sentenced, the Judge informed me that I would be eligible for parole and a possible modification of my sentence if I became “rehabilitated and made such an example of myself that it would convince the parole board and Governor to parole me and/or convince him to modify my sentence.” I set out to do just that (as many of the “lifers did and have who are still caught up in this political process of parole”).

I entered prison as a psychologically disturbed young adult with only an 8th grade education. Within months, I was able to enter into intensive psychological treatment and continued with this for over a decade while it was available. I also attained a GED and a Bachelor’s degree within my first 8 years. I went on to attain a Master’s Degree from University of California (a degree signed by Governor Jerry Brown).

I also involved myself in many social work programs and community outreach initiatives. I became a facilitator in both the Alternatives to Violence project and other re-socialization programs. I assure you that there are many other Lifers who have achieved the same or similar accomplishments!

I went before the parole commission several times and, while told my achievements and even apparent rehabilitation was admirable, I would not be paroled and, due to the nature of my crime, I would probably never be paroled. Finally, after presenting my case to my sentencing judge—including the facts concerning parole, including that Governors in Maryland were saying “Life means Life,” and even if that changed I would not be a good candidate because I was the primary in a very serious crime, the Judge reduced my sentence to Life all but 50 years and I received a mandatory release in November 2014.

While Governors Ehrlich and Hogan have paroled several Lifers, it is far short of the number recommended by the Parole Commission and vetted by the Governors’ staff. It is imperative to depoliticize this antiquated aspect of the Criminal Justice system. Frankly, Ladies and Gentlemen, it could almost be equated to the Governor having the final answer in sentencing.

I implore you to give a favorable recommendation to this Bill and to also encourage your colleagues in the Senate to pass this Bill. Thank you.

Respectfully,
Vincent Greco,
Member, Executive Committee, Maryland Alliance for Justice Reform
Board Member, Out For Justice
Member, Maryland Prisoner’s Rights Committee
Citizen of Maryland

Green_fav_sb817

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Position: FAV

MD CURE

P.O. Box 1541, Millersville, MD 21108

Maryland Citizens United for the Rehabilitation of Errant

March 5, 2020

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SENATE JUDICIAL HEARING MARCH 5, 2020 ANNAPOLIS, MARYLAND 21401

PLEASE SUPPORT SB 817

Good afternoon Ladies and Gentleman, as a mother of a Lifer, and an advocate for positive change in the Criminal Justice System, I respectfully ask that this committee use the data and statistics and fact checking to get "smart on crime" and cross the aisles to come together to fix this broken system and do the right thing!

Allow the PROFESSIONAL Appointed Parole Board to do their job! Take POLITICS out of the Criminal Justice System, understand the suffering from BOTH sides, there are no winners in none of this!

I, wish to thank all the sponsors on record for their support of this bill, we will not forget! In conclusion, Tax payers money can be put to better use, than warehousing people into old age, to keep our community safe!

Sincerely, Lea Green

funds efforts with government entities, private organizations, and the community to advance public safety, reduce crime and juvenile delinquency, and serve victims.

Will this work?

By comparison, over a seven year period, Georgia's legislature has implemented over a dozen critical pieces of legislation directed at making their State both fairer and safer. Like Maryland's comprehensive Justice Reinvestment Act of 2016, Georgia based its initiatives on creating a special council on Criminal Justice Reform for Georgians. As Georgia's Republican governor put it a few years ago: "For violent and repeat offenders, we will make you pay for your crimes. For other offenders who want to change their lives, we will provide the opportunity to do so with Day Reporting Centers, Drug, DUI and Mental Health Courts and expanded probation and treatment options." Changes in Georgia's laws are expected to avert the projected 8 percent increase in the prison population and the associated cumulative cost of \$264 million.

Across the nation, no fewer than 17 states have shifted resources away from prison construction in favor of treatment and supervision as a better means of reducing recidivism. For example in Kentucky, new legislation has reserved prison beds for the most serious offenders and re-focused resources on community supervision and evidence-based programs. As a result, the state is projected to reduce its prison population by more than 3,000 over the next 10 years—saving more than \$400 million.

And finally we want to point at Baltimore's own success story. Safe Streets is an evidence-based violence prevention and interruption program that works to reduce shootings and homicides in high violence areas. Safe Streets is based on the premise that violence is a disease that can be prevented using disease-control methods. Safe Streets helps to provide young people with alternatives to a life of crime and violence, and has significantly reduced shootings and homicides in the targeted areas where it has been implemented. A recent report authored by Daniel Webster, Johns Hopkins Center for Gun Policy and Research (May 2016), found the largest effects on nonfatal shootings were attributed to Safe Streets.

Clearly, incarceration is not the answer in every criminal case. Maryland can and should stay the course with Justice Reinvestment policies of reducing incarceration, increasing rehabilitation, and using taxpayer savings to treat drug addicts and create more opportunities for honest employment in our communities! With the Governor's participation, the GOCCP can organize a broad comprehensive strategy to implement a multifaceted program of smart solutions. We can do this.

Learn More!

Kamala Harris, Smart on Crime, Chronicle Books; First edition (October 7, 2009)
Department of Justice, Smart on Crime, Reforming the Criminal Justice System for the 21st Century
Democracy Journal, Smart on Crime, Spring, 2013
Garrick L. Percival, Smart on Crime: The Struggle to Build a Better American Penal System, July 28, 2015
Freedom Works, Peach State Justice: Successes of Smart on Crime Policies in Georgia, 12/2017
Abell Foundation, Safe Streets Baltimore, 2017
Pew Charitable Trusts, 2012 Georgia Public Safety Reform, 7/2012
Pew Charitable Trusts, Public Safety in Maryland, 7/2015
Pew Charitable Trusts, Maryland's 2016 Criminal Justice Reform, 11/2017

The Maryland Alliance for Justice Reform (MAJR) is a nonpartisan association of over forty community organizations and churches with members in every part of the state, formed to support justice reinvestment. Individual supporters include judges, attorneys, corrections professionals, as well as returning citizens, victims, and service providers.

Links in this document can be activated by going to <http://www.ma4jr.org/smart-on-crime-2/>

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Position: FAV



**Testimony for the Senate Judicial Proceedings Committee
March 5, 2020**

SB 817 Inmates - Life Imprisonment - Parole Reform

SUPPORT

We write with strong support for the legislation to remove the Governor from parole for people serving parole-eligible life sentences. Our members are personally impacted by this important legislation and the need to correct the decades of neglect of Maryland's parole system for people serving parole-eligible life sentences.

The Lifer Family Support Network is made up of family members of people serving life sentences. Collectively, our loved ones have spent centuries behind bars due to Maryland's broken parole system. We are mothers, wives, brothers, friends, or chosen family — people who happen to be the closest thing to a blood relative that someone serving a life sentence may have.

We provide moral, emotional and financial support. We endure dehumanizing and humiliating policies on visiting, expressing affection, and just trying to stay in touch. We help our loved ones try to stay connected in some way with hope, with the outside world, and with the will to do good and be good. We help them process the consequences of their actions, and to take responsibility, and to grieve when they lose people they love. We are their proxies in the outside world, for better and for worse.

We deal every day with our loved ones. We accept — as we should — that our loved ones have hurt others, sometimes irreparably. And we do their time with them, day for day, as they try to atone for those wrongs, to develop themselves, and to progress despite being housed in a system with less and less actual programming and more and more absurd rules.

What we cannot accept is how the State can impose a sentence that pretends to offer the possibility of parole, but in reality, makes it so that almost no one can obtain it. Every day that a person who has turned him or herself around is a day that they cannot be contributing to their family or their community. It is a day that they cannot spend making change in their community or proving what they know to be true: that they are not the same person they were decades ago.

Most importantly, each of those days is something taken from us, the people who need them home the most for our lives to feel truly complete.

We will not recite all the facts and statistics that support this legislation — you have them. But we hope our testimony helps you understand how urgent this issue is for the thousands of family members of lifers across Maryland, all of whom are your constituents.

Respectfully,
Martina C. Hazelton
Lifer Family Support Network
familysupprntwrk@gmail.com

SoniaKumar_FAV_SB817

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Position: FAV



**Testimony for the Senate Judicial Proceedings Committee
March 5, 2020**

SB 817 Inmates - Life Imprisonment - Parole Reform

SONIA KUMAR
STAFF ATTORNEY

SUPPORT

The ACLU of Maryland supports SB 817, which would bring Maryland into line with other states by giving the final say on parole for individuals serving parole-eligible life sentences to the Parole Commission.

The process for earning a recommendation for parole from the Maryland Parole Commission is itself extremely long and rigorous. An individual must serve many years before he or she can even be considered by the Parole Commission. After an initial hearing before two commissioners, parole candidates are subjected to an intensive risk assessment, reconsideration by the two-person panel, and, if successful, a vote by the entire Parole Commission. Only a tiny fraction of people serving life sentences make it through this process, which typically takes at least two years, and which invites opportunity for victim input at any stage.

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Currently, Maryland is one of only three states in the country that adds an additional political step, requiring the Governor to personally approve parole for any individual serving a parole-eligible life sentence.¹ Ever since the 1990s, Maryland Governors have essentially refused to parole lifers regardless of individual merit and despite the fact that these individuals were sentenced with an understanding that, if they earned it, they would have a meaningful chance to live outside prison walls.

Maryland's current practice politicizes the parole process and disregards both the intent of the judges who sentence individuals to parole-eligible sentences and the expertise of the Parole Commission.

Maryland law is supposed to treat life and life without parole sentences differently. In Maryland, more than 2,000 individuals are serving sentences of life with the possibility of parole, including nearly 300 whose offenses were committed at age 17 or younger and 400 people who are now 50 years or older. (An additional 300 people are serving life without parole sentences; this bill does not affect them). Individuals serving life with parole were sentenced with the understanding that, if they demonstrated their rehabilitation, one day they would receive meaningful consideration for release.

But in the 1990s, Maryland Governors instituted a policy of denying lifers parole, regardless of individual merit, essentially changing their sentences to life without

¹ The other states are California and Oklahoma.

parole.² This policy has become so entrenched that until very recently, *no lifer had been paroled by a Governor in Maryland in nearly a quarter of a century*—during the tenure of several different Governors—no matter how thoroughly he or she had been rehabilitated.³ Thanks to enormous public pressure and legal action in the courts, the current administration has allowed a handful of lifers to be paroled. But these actions show what people serving life sentences and their supporters have said for years: That whether people obtain their freedom on parole in Maryland is driven by politics, not merit. Marylanders who turn their lives around should have the right to earn parole. It should not depend on who is Governor – not now, and not in the future.

Moreover, under the current administration, the majority of lifers recommended to the Governor are still denied, many of whom are in their 50s and 60s. Many lifers have now spent three or four decades doing everything within their power to make things right – being model prisoners, holding jobs, mentoring younger prisoners, and more, only to be denied any hope of release. Maryland is spending millions of dollars incarcerating people who have demonstrated that they can safely return to their communities.

In 2011, the Maryland General Assembly expressed its opposition to this senseless approach and attempted to craft a compromise by passing legislation that required the Governor to act on Parole Commission decisions within 180 days after Commission approval. But it is clear that this step was not sufficient to take the politics out of parole: then-Governor O'Malley simply denied the application of the dozens of cases on his desk. Little has changed under the current Governor.

This bill seeks to bring Maryland into line with other states—most states routinely parole lifers who are serving parole-eligible sentences. SB 817 makes no changes to the parole process except to take some of the politics out of parole by giving the final decision to the Parole Commission instead of the Governor. It does not guarantee the release of any person. In fact, the bill makes no change to parole eligibility, the time individuals must serve before being considered, or the rigorous, multi-step process that the Parole Commission uses to evaluate people for parole, including the seriousness of the offense, victim impact, and psychological assessments. The current practice of the Parole Commission is to recommend people serving life-with-parole sentences for parole only in the rarest of cases.⁴

² In the years prior, Governors routinely paroled lifers. Between 1969-1995, 181 lifers were paroled.

³ A handful of individuals' sentences have been commuted in the last two decades, meaning that the Governor reduced their sentence. There are no standards governing commutations and no requirement of continuing supervision by the Courts. In contrast, a person who is paroled from a life sentence remains under supervision.

⁴ In response to a 2018 Public Information Act request, the Parole Commission indicated it had recommended less than ten people for parole—out of more than 2,000—in the last ten years. An additional number of people have been recommended for commutations, averaging to about 4 per year, depending on the year.

SB 817 seeks to take the politics out of parole by leaving the decision to parole up to the Parole Commission. This change will not open any floodgates. It simply makes it possible for people with parole-eligible sentences to be released *if* the Parole Commission makes the decision to recommend them after its extensive vetting—the way the system is supposed to work.

For these reasons, we urge you to issue a favorable recommendation for SB 817, with the aforementioned amendment.

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MARYLAND

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Position: FAV

Favorably for Senate Bill 817; Parole – Life Imprisonment

Chairman Smith and Members of the Senate Judicial Proceedings Committee

March 5, 2020

Two Former Governors, Robert Ehrlich, and Parris Glendenning both concur that Maryland's parole system has become too political, and in need of reform. Mr. Glendenning instituted the 'Life means Life' policy, and Mr. Ehrlich commuted five (5) sentences while in office. Few People serving a parole eligible life sentence has been paroled out right since 1993. Mr. Glendenning did not parole any during his 8 years in office; Mr. Ehrlich commuted 5 sentences during his 4 years in office; and former Governor O'Malley did not parole any during his 8 years in office, maintaining the Glendenning policy. The current administration has taken some action, but the parole system remains political.

The Maryland parole system has not been operating according to legislative intent for over 25 years. When legislators established the parole commission, requiring the governor's signature, there were less than 300 people serving parole eligible life sentences, and they were released in less than 20 years. There are now over 2600 people requiring a governor's signature for release.

Two significant incidents are note worthy to understand changes in the criminal justice system landscape: Willie Horton, responsible for derailing former governor Michael Dukakis presidential bid; and Rodney Stokes, responsible for former Governor Glendenning's 'life means life' policy in Maryland.

The statute and legislative intent functioned as intended until the Horton, and Stokes incidents: During Governor Marvin Mandel's terms in office (1969) 92 people were paroled; during Governor Harry Hughes term in office (1979) 64 people were paroled; during Governor William Donald Schaefer's term in office (1987), 25 people were paroled. Few people have been paroled out right since Glendenning's 'Life means Life' policy in 1993.

Some rationales often used in denials are nature of the offense, and threat to public safety. Ironically, in 2013 people who were serving parole eligible life sentences began being released under the Unger decision by the Maryland Court of Appeals. This decision mandated that anyone tried by a jury trial before 1980 were entitled to new trials. Since May of 2013, over 200 people who were formerly serving parole eligible life sentences have been released. Recidivism for those released during the Mandel, Hughe, and Schaefer administrations (181) are less than 6%, and for those release under the Unger decision (200) are even less.

The fiscal note for legislation introduced in 2018 to address this issue did not increase the budget; in fact it decreases it. The fiscal note also stated that in 2017 DPSCS had an intake of 52 inmates with life sentences, (35 with parole and 17 without). The intake of inmates with split life sentences was 49, a total of 111. This is just for one year of inmates coming into Maryland prisons that a governor would have to approve releases. From a fiscal perspective, any governor should be encouraging passage of legislation of this nature, as it relieves any governor of the redundancy, or a denovo of parole commissioner functions. Decisions of this nature must be in the hands of parole commissioners who are experts in this field; that use a thorough process, vetting individuals for decades or more.

The current parole scheme, as it exists, has no incentive built into the system. Judge Motz once said, 'Hope and the longing for reward lay at the heart of every human endeavor, in its absence there is no reason for anyone to change.' The system originally had a parole expectance built into it: Starting at maximum security, progressing to medium, minimum, prelease, work release, family leaves, and eventually paroled. The spirit of the process has been broken.

It would have cost the state 7,144,000 dollars a year to continue to warehouse the 188 people released under the Unger decision. It saved 35,720,000 in the first 5 years since their release. It cost approximately 38,000 a year per pensioner to warehouse; at 38,000 X 2600 it costs 98,800,000 a year. The state has spent 494,000,000 in the 5 years since the Unger's had been release.

We encourage you to vote favorably for SB-817

Walter Lomax, Executive Director, Maryland Restorative Justice Initiative

LilaMeadows_FAV_SB817

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Position: FAV

March 5, 2020

Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: Response to the Governor's Office of Crime Prevention, Youth, and Victim Services' Position on Senate Bill 817

Dear Chairman Smith, Vice Chair Waldstricher, and Members of the Committee:

It has come to our attention that in its position opposing Senate Bill 817, the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) has made several representations regarding Maryland's parole system that are inaccurate with respect to parole eligibility and the Governor's constitutional authority.

GOCPYVS misunderstands parole eligibility under current law. Its letter states that individuals serving determinate sentences are eligible for parole after serving a quarter of their sentences and that individuals sentenced to life in prison for first-degree murder are parole eligible after serving 25 years. Only individuals who are convicted of non-violent crimes are eligible for parole after serving one quarter of their sentence.¹ Individuals who were convicted of violent crimes are required to serve half of the sentence before reaching eligibility.² Senate Bill 817 does not affect parole eligibility for any individual serving a determinate sentence governed by those section's of Maryland's code. With respect to individuals serving life sentences, currently the statute sets eligibility at 15 years minus the application of diminution credits for most individuals.³ Only if the state sought the death penalty or life without the possibility of parole in the course of the trial is parole eligibility set at 25 years.⁴ Apart from the distinction between non-violent and violent offenses, there is no separate distinction related to first-degree murder. All life sentences, regardless of the offense, fall into the above eligibility scheme.

GOCPYVS's statement also calls into question whether Senate Bill 817 interferes with the Governor's right enumerated in Article II, Section 20 of the Maryland Constitution powers to grant reprieves and pardons. It does not. Senate Bill 817 does not disturb the Governor's constitutional authority to commute an individual's sentence or grant a pardon. Senate Bill 817 simply removes the Governor's involvement in the parole process, a process that is statutorily governed.

For too long the Governor's involvement in the parole system has resulted in the systemic denial of even the most meritorious cases. We urge the committee to report favorably.

Sincerely,

Lila Meadows, Esq.
Gender Violence Clinic
University of Maryland School of Law

¹ MD Code, Correctional Services, § 7-301(b)

² MD Code, Correctional Services, § 7-301(c)(1)(i)

³ MD Code, Correctional Services, § 7-301(d)(1)

⁴ MD Code, Correctional Services, § 7-301(d)(2)

Moyd_FAV_SUP 817

Uploaded by: Moyd, Olinda

Position: FAV

Support SB 817 - Governor Out of Parole Bill



MOYDLAW

Testimony by Olinda Moyd, Esq. Before the Senate Judicial Proceedings Committee

My name is Olinda Moyd and I am a Prisoner's Rights and Parole attorney. When I began my legal career in 1985 at the National NAACP Office, I had the distinct pleasure of instituting one of the first NAACP Chapters behind the prison walls, at the Maryland State Penitentiary. It was there that I met many of the men serving life sentences in DOC. My volunteer activities in Maryland prisons have continued since then, as a teacher through the Coppin State University prison program, as a legal advisor to inmate self-help groups and currently as a supervisor of Georgetown Law students who teach legal writing to men and women in Jessup. What's astonishing is that many of the persons who I met 35 years ago still sit behind bars hanging on to the hope that one day they can be released onto parole. It is this hope that gives their lives meaning.

A sentence of **life with the possibility of parole** is a sentence that leaves room for hope. This sentence that was imposed by a Maryland court judge should not subsequently be switched into a life without the possibility of parole sentence due to the political climate. This is not what the judge intended at the time of sentencing. Even Governor Glendening admitted that his statement "life means life" made parole for lifers more political than it should be. It is time for this to change.

The Maryland Parole Commission should be trusted to make parole decisions for lifers just like they do in all other cases. These individuals, who are appointed by the Governor, develop an expertise and thoroughness in carefully considering the statutory factors – circumstances surrounding the crime; the physical, mental and moral qualification of the inmate; the progress of the inmate during confinement; a drug and alcohol report; a risk assessment score; an updated victim impact statement; transcripts from the court at time of sentencing; etc - for parole review in each case. They conduct hearings routinely and have developed the skill to be objective and deliberate in their decision-making process. Maryland tax dollars pay for them to do their job and there is no reason why they should not be trusted to use this same level of expertise in making parole decisions for lifers. I have conducted only one parole hearing before the Maryland Parole Commission (100% success rate), but have spent the last 17 years of my career as a managing attorney practicing before the U.S. Parole Commission. I am also a member of the Association of Paroling Authorities International, Inc. and I know first-hand, how serious paroling authorities take their decision-making responsibilities.

The impact of an aging prison population can be devastating on the aging individuals and on the institutional infrastructure. The average age for persons serving life sentences in Maryland is 60 years old. Having just reached this milestone, I can testify that my physical body is not the same as it was 35 years ago. I have watched these men and women age inside these cages with limited medical resources and I see first-hand the toll that aging in prison takes on their physical and mental beings. The average length of time that most of them have served is 25 years. The costs to house persons serving life sentences is estimated to be \$35,000 per year and can go up to \$50,000 per year as they age. Furthermore, the physical infrastructure of DOC cannot adequately house aging prisoners. Aging prisoners require lower bunks or handicapped-accessible cells for those who have limited mobility and have difficulties navigating institutions with uneven terrain, narrow sidewalks and no elevators. Let's also remember that although these individuals were not issued death sentences, many Maryland lifers have died in prison while awaiting parole.

The research and experiences of the Unger group of men and women have provided guidance on what parole looks like for Maryland lifers. The lifers who have been released in recent years pose a low risk of recidivism and have returned to the community without compromising public safety. Last year I organized a panel of former Maryland lifers who presented their personal stories at national conferences before parole authorities and defense attorneys and it was impactful to hear from men and women who are influencing the community in a positive way just because they were given a second chance at parole (based on court decision).

We are asking that every person serving a life with the possibility of parole sentence be given a meaningful opportunity for parole that fosters hope. Please vote to pass this bill.

Thank you for this opportunity to appear before you.

Olinda Moyd, Esq.
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Bowie, MD 20717
301.704.7784

SentencingProject_FAV_SB817

Uploaded by: Porter, Nicole

Position: FAV



March 3, 2020

Chairman Luke Clippinger
House Judiciary Committee
House Office Building, Room 101
Bladen St., Annapolis, MD 21401

Chairman William C. Smith
Senate Judicial Proceedings
Miller Senate Office Building
Bladen St., Annapolis, MD 21401

RE: The Sentencing Project Supports House Bill 1219 and Senate Bill 817

Dear Chairman Clippinger and Chairman Smith:

The Sentencing Project, a national criminal justice research and advocacy organization, applauds **House Bill 1219/Senate Bill 817** which eliminates the governor's approval requirement for parole recommendations of life-sentenced prisoners by the Maryland Parole Commission (MPC) who have served 20 years in prison. Maryland is one of only a few states that impose such a requirement.¹

The excessively lengthy incarceration of persons sentenced to life prison terms — even for violent crimes—is counterproductive, costly, and inhumane. To remedy this problem, Maryland lawmakers should enact **HB 1219/SB 817** and consider parole for persons who have served 20 years in prison. This policy shift is grounded in humanitarian and public-safety concerns.

Life sentences ruin families and tear apart communities; they deprive the person of the chance to turn his or her life around. It is widely accepted that individuals “age out” of crime, and that this occurs at a surprisingly young age. As is true of all adults, incarcerated persons mature in prison as they age and develop a longer-term vision for their lives. Research by leading criminologists Alfred Blumstein and Kiminori Nakamura validates that an 18-year-old arrested for robbery is no more likely to be arrested for this crime by the age of 26 than anyone in the general population. Each successive year of incarceration after this decline sets in produces diminishing returns for public safety.²

Maryland incarcerated 19,994 prisoners in 2016.³ At the end of 2016, there were 3,141 persons in state prisons serving life sentences. Of that number, 681 persons were serving split-life sentences in which the life sentence is suspended for a fixed term of years. Approximately 9.8% of Maryland's prison population is serving a parole-eligible life term, including those with all but a fixed term of years suspended.⁴

House Bill 1219/Senate Bill 817 would authorize parole eligibility following the approval of MPC. In recent years, Oklahoma, which imposes a similar policy made changes in policy and practice. In 2012,

¹ Ghandnoosh, N. *Delaying a Second Chance: The Declining Prospects for Parole on Life Sentences* (2017). Washington, DC: The Sentencing Project. Retrieve <http://www.sentencingproject.org/publications/delaying-second-chance-declining-prospects-parole-life-sentences/>

² Mauer, M. *A 20-Year Maximum for Prison Sentences* (2016). Washington, DC: *Democracy Journal*. Retrieve <https://democracyjournal.org/magazine/39/a-20-year-maximum-for-prison-sentences/>

³ Carson, E. *Ann. Prisoners in 2016* (January 2018). Washington, DC: U.S. Department of Justice. Retrieve: <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6187>

⁴ HB 303 Department of Legislative Services Fiscal and Policy Note (2015). Retrieved here: <http://tinyurl.com/oc51vcd>
Ghandnoosh, N. *Delaying a Second Chance: The Declining Prospects for Parole on Life Sentences* (2017). Washington, DC: The Sentencing Project. Retrieve <http://www.sentencingproject.org/publications/delaying-second-chance-declining-prospects-parole-life-sentences/>

Oklahoma voters approved a ballot measure that changed the role of the governor in approving state parole board decisions; the ballot initiative passed with 59% voter approval.⁵

House Bill 1219/Senate Bill 817 is a measured approach that will help state lawmakers address an imbalance in Maryland's sentencing policy while maintaining public safety. The proposed policy change does not guarantee release for parole eligible lifers; the bill streamlines the process in an effort to improve efficiency. The bill would recognize the leadership and expertise of parole board members in approving applications for release. Recommended policies for parole board membership include staffing by members who have a background in corrections or relevant social services in order to best assess suitability for release.⁶

Most parole eligible lifers have committed serious offenses. However, most serious crime is situational, due to a complex combination of conflict, exposure to violence, and accelerants like drugs and alcohol. Studies of recidivism rates among lifers, while few in number, consistently suggest that returns to prison for a new offense are relatively low.⁷ More than 250 Maryland residents successfully reentered the community under *Unger v. Maryland* following long prison terms.⁸

This research calls into question the accuracy of public safety arguments in support of lengthy terms of imprisonment. A 2004 analysis by The Sentencing Project found that individuals released from life sentences were less than one-third as likely to be rearrested within three years as all released persons.⁹ More recently, a 2011 California-based study tracked 860 people convicted of homicide and sentenced to life, all of whom were paroled beginning in 1995. Longitudinal analysis of their outcomes finds that in the years since their release, only five individuals (less than 1%) have been returned to prison or jail because of new felonies.¹⁰ The Unger releasees have a reported 3% recidivism report which is substantially lower than the 40% recidivism rate for other persons released from Maryland prisons.¹¹

Passage of **House Bill 1219/Senate Bill 817** will improve the state's parole release process. Parole policies that limit an opportunity for meaningful release ignore the potential for rehabilitation. Sentencing practices should recognize the possibility for personal growth among persons convicted of serious offenses.

The Sentencing Project urges members of the House Judiciary Committee and Senate Judicial Proceedings Committee to pass **House Bill 1219/Senate Bill 817**.

Sincerely,



Nicole D. Porter

cc: House Judiciary Committee
Senate Judicial Proceedings

⁵ Oklahoma Governor in the Parole Process Amendment, State Question 762 (2012)

⁶ Nellis, A., *Life Goes On: This Historic Rise of Life Sentences in America* (2013). Washington, DC: The Sentencing Project. Retrieved here: <http://tinyurl.com/nyklyca>

⁷ Weisberg, R. Mukamal, D., & Segall J.D (2011). *Life in Limbo: An Examination of Parole Release for Prisoners Serving Life Sentences with the Possibility of Parole in California*. Stanford, CA: Stanford University.

⁸ Editorial (2019) "[Success of 'Unger' inmates shows wisdom of not keeping seniors in prison](#)" *Baltimore Sun*.

⁹ Mauer, M, King, R.S., & Young, M. (2004). *The Meaning of 'Life': Long Prison Sentences in Context*. Washington, DC: The Sentencing Project.

¹⁰ Weisbergh, R. Mukamal, D. & Segall, J.D. (2011). *Life in Limbo: An Examination of Parole Releases for Prisoners Serving Life Sentences with the Possibility of Parole in California*. Stanford University: Stanford Criminal Justice Center.

¹¹ *Id.* "[Success of 'Unger' inmates shows wisdom of not keeping seniors in prison](#)" *Baltimore Sun*.

FAMM_FAV_SB817

Uploaded by: Price, Mary

Position: FAV



**Written Statement of Mary Price
General Counsel, FAMM
Before the Senate Judicial Proceedings Committee
SB 817
March 5, 2020**

I thank Chair Smith and the members of the committee for considering this statement in support of SB 817. **FAMM supports SB 817 because it would provide a meaningful opportunity for parole for people sentenced to life, and allow the state to remedy sentences that do not promote public safety or reflect an individual's rehabilitation.**

FAMM is a nonpartisan, nonprofit organization that advocates sentencing and prison policies that are individualized and fair, protect public safety, and preserve families. We advocate sentences that are proportionate, and sufficient but of no greater length than necessary to meet the purposes of punishment and secure public safety. We are pleased to see the General Assembly consider SB 817, which would provide people sentenced to life with a genuine opportunity to secure release through parole after serving a significant amount of time incarcerated, even in the absence of the governor's approval.

For nearly 25 years, Maryland's governors have not exercised the discretion the other two branches expected and that justice requires. Instead, each governor, starting with Gov. Parris Glendening, has categorically refused parole to any otherwise eligible prisoner serving a life sentence – with the exception of a handful of grants of parole in November 2019 from Governor Larry Hogan.¹ This practice of categorically denying parole to individuals sentenced to life in prison offends the legislature's commitment to the exercise of individualized discretion in parole decisions and does not promote public safety or reflect an individual's rehabilitation.

SB 817 will make the public safer because it aligns with a growing body of research that shows that recidivism rates decline with age. In what criminologists have identified as an "age-crime curve," the risk of recidivism drops after a person reaches late adolescence and continues to decline when a person reaches early adulthood. No one is safer when individuals who pose no risk to the public remain in prison. Extending parole eligibility to lifers would provide Maryland the mechanism to recognize individuals who are serving ineffective and excessive sentences, and safely remedy them. The public is not safer when people stay in prison far past the point at which they cease to pose a threat to others.

Furthermore, FAMM believes that our sentencing laws should reflect people's capacity to change. We understand that people are sentenced to life for serious offenses. But for many,

¹ Ann Marimow & Eric Cox, *Gov. Larry Hogan Granted Parole to People Sentenced as Teenagers, Rekindling Calls for Parole Reform*, Wash. Post, Nov. 30, 2019, https://www.washingtonpost.com/local/legal-issues/gov-larry-hogan-granted-parole-to-people-sentenced-as-teenagers-rekindling-calls-for-parole-reform/2019/11/30/015d788c-107d-11ea-9cd7-a1becbc82f5e_story.html.



prison is a time of reflection, growth, and improvement. A life sentence with the possibility of parole embodies the belief that some who have served a substantial amount of time and used that time to reflect, grow, learn skills, and turn their backs on crime can return to and abide peacefully in the community. Indeed, a meaningful possibility of parole encourages such rehabilitation. Therefore, it's vital that our laws recognize people's capacity to mature and evaluate the appropriateness of continued incarceration.

We know from individuals who have been released under the landmark *Unger* ruling in Maryland that people can return home early from prison and live peacefully in their communities. As of year-end 2019, nearly 200 people had left prison after meticulous, individualized reviews of their cases by states' attorneys. Recidivism among this community is vanishingly small. Public safety was not compromised by releasing them.

Additionally, SB 817 provides a meaningful yet reasonable solution to address the current practice that categorically denies parole to lifers. The bill does not require or guarantee parole eligibility. It merely gives individuals a meaningful chance at parole and the opportunity to demonstrate their rehabilitation and readiness for reentry after a substantial period of incarceration.

For the reasons outlined above, FAMM urges the committee to support and advance SB 817. Please feel free to contact us at mprice@famm.org with additional questions. Thank you for considering our views.

MAJR_FAV_SB 817

Uploaded by: Rhudy, Bob

Position: FAV

SUPPORT SB 817 - GOVERNOR OUT-OF-PAROLE BILL



Testimony of Phil Caroom & Bob Rhudy for MAJR exec.com.

March 5, 2020

For more than 20 years, Maryland governors refused over 2,000 inmates another chance, although Parole Commissioners recommended parole for many, although many such inmates were sentenced as juveniles, and although many such inmates now are frail and elderly. See <http://www.abell.org/publications/still-blocking-exit>. Reasons to change this:

- 1) **Governors in 47 other states do not have veto power over the parole process (the other two are California & Oklahoma);**
- 2) **Life sentences with possible parole, under Maryland statutes, legally and morally are different than “life without parole” sentences—but Governors’ actions for years nullified these parole statutes by fiat;**
- 3) Removal of Maryland’s Governor from parole decisions will immunize him from political, *Willie-Horton*-based concerns;
- 4) **Maryland parole commissioners, mostly with law-enforcement background and all appointed by the Governor, are carefully trained and make appropriate parole decisions without political pressure through applying scientific analysis and professional discretion to permit supervised parole-release only for parolees who will pose no risk to public safety;**
- 5) **Elderly life-sentenced inmates cost two to three more than the normal \$40,000 per year per person due to extensive medical costs – and these taxpayer funds that better could be used to treat & rehabilitate youthful offenders who may continue to pose a risk to our communities without treatment;**
- 6) Juvenile-offense life-sentenced inmates, under U.S. Supreme Court decisions, neurological-science, and common sense, deserve to be judged under a different standard than mature adults; &
- 7) Although the current Governor has approved a handful of paroles for those with life-sentences (as a “lame-duck Governor”), current Maryland law would permit any future Governor again to cancel all hope for thousands of legally-eligible parole candidates.
- 8) As demonstrated by Maryland’s Unger population and national statistics, the likelihood of recidivism for elderly inmates drops to approximately 1% so no real public safety issue would be posed by this legislation, particularly with the scientific-screening now used by Maryland’s Parole Commission.
- 9) Most important, this moral reason: Governors’ uniform parole rejection of every individual with a life sentence deprives every individual of hope. **David Blumberg, chair of Md.’s Parole Commission has stated that such absence of hope may increase the “threat of violence” to correctional officers as young lifers have no incentive to behave.**

MaryScott_FAV_SB817

Uploaded by: Scott, Mary

Position: FAV

IN SUPPORT OF Senate Bill-817

To: Senate Judicial Proceedings Committee

From: Mary Scott on behalf of the Gender Violence Clinic, University of Maryland Carey School of Law

Date: March 5, 2020

Re: Written Testimony in Support of Senate Bill 817

The University of Maryland School of Law Gender Violence Clinic represents many women charged with crimes that occurred while they were experiencing unspeakable violence in their relationships, their homes, and their communities. Many are serving life sentences with the possibility of parole.

For all of our clients serving life sentences, both their first and second hearings result in either a denial of parole outright or a rehearing for parole in 5-7 years. At this point these women have been incarcerated for at least 25 years. A few of our clients are able to progress in the parole process on their third hearing – they receive the approval of two parole commissioners; they wait for up to two years to receive a risk assessment from the one provider in Maryland assigned to complete them; and then receive the approval of a majority of all the parole commissioners. Finally, their parole file and risk assessment are sent to the Governor.

Once a client's parole materials are sent to the Governor, they go into what we refer to as the "black box." Neither we as the attorneys nor our clients will ever know what the Governor's team considered; what additional materials they gathered; who they spoke to; why the decision was made to deny parole; nor what our clients can do to improve their chances of parole when they inevitably end up back on the Governor's desk the second and third time. According to our clinic's records, since 1995, the Governor has granted only 6 people parole. Six people over the course of 25 years, since Governor Glendening instituted his "life means life" policy – a policy he later admitted was wrong and was driven by politics rather than any hard evidence. The liberty and freedom of these human beings, who have been punished for three or more decades, should not be poisoned by polls and politics. In many cases, our clients agreed to pleas for life with the possibility of parole because of that possibility. But six people out of an untold number in the past 25 years is not a possibility – it's an impossibility. Nearly every other state with a parole system has devised a structure to safely release those serving life sentences who have been rehabilitated without the governor's involvement. There is no reason why Maryland cannot do the same.

One of our clients, Eraina Pretty, has been incarcerated since 1978 and is the longest serving woman in Maryland prison. Eraina grew up in an abusive household and was in an abusive relationship when her boyfriend convinced her to participate in a robbery when she was 18. After Eraina left the scene, her boyfriend shot the store owner. Facing the death penalty, Eraina took a plea for life with the possibility of parole. At that time, everyone involved in her case – Eraina, the attorneys, and the judge – expected she would serve approximately 20 years. Instead, Eraina has been through five parole hearings and been denied by the Governor twice. Eraina has now spent more than two-thirds of her life in prison; we ask you to help her spend at least one day free from abuse and incarceration.

We urge the committee to report favorably on Senate Bill 817.

Baranauskas_UNF_SB817

Uploaded by: baranauskas, andy

Position: UNF



GOVERNOR'S COORDINATING OFFICES

Community Initiatives • Service & Volunteerism • Performance Improvement
Crime Prevention, Youth, & Victim Services • Small, Minority, & Women Business Affairs
Banneker-Douglass Museum • Volunteer Maryland • Deaf & Hard of Hearing

FROM THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES

Chair William C. Smith Jr.
Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

March 5, 2020

Senate Bill 817: Correctional Services- Parole- Life Imprisonment

Position: Oppose

Dear Chair Smith and Members of the Committee,

The Governor's Office of Crime Prevention, Youth, and Victim Services is providing this letter of opposition towards Senate Bill 817: Correctional Services- Parole- Life Imprisonment

Senate Bill 817 makes alterations to the existing parole process in Maryland. Under current law, the Maryland Parole Commission has the power to authorize the parole of an inmate in Maryland. Following a recommendation by the Parole Commission, the Governor has the ability to approve or disapprove of the recommendation to grant parole.

An individual who is sentenced to a term of incarceration is entitled to a parole hearing after serving one-fourth of the term. However, if a person is serving a sentence for a third or subsequent felony drug crime, or for a crime of violence, the individual is not eligible for parole consideration until the person has served 15 years. If the individual is sentenced to life imprisonment for first degree murder, the person is not eligible for parole until the person has served 25 years.

Senate Bill 817 creates new statutory provision for parole for convictions of crimes committed after October 1, 2020. Under this new provision, individuals who are sentenced to life

imprisonment would be eligible for parole after 20 years. Additionally, HB 1219 removes the Governor's ability to approve/disapprove the recommendation for parole made by the Maryland Parole Commission.

Article II, Section 20 of the Maryland Constitution gives the Governor the power to grant reprieves and pardons for offenses against the state. House Bill 1219 interferes with the Chief Executive's ability to carry out this power designated to the office. Violent offenders who are sentenced to life imprisonment would be able to be paroled without the approval of the Governor. Allowing the Governor to review the final recommendations of the Parole Commission is an important safeguard to releasing criminals who have been sentenced to life imprisonment.

For reasons stated above, the Governor's Office of Crime Prevention, Youth, and Victim Services oppose House Bill 1219.

Sincerely,

A handwritten signature in black ink, appearing to read 'V. Glenn Fueston, Jr.', with a stylized, cursive script.

V. Glenn Fueston, Jr.
Executive Director
Governor's Office of Crime Prevention, Youth, and Victim Services

For all inquiries, please contact
Andy Baranauskas, Legislative Affairs Manager
410-855-2538
Anthony.Baranauskas@maryland.gov

SHELLENBERGER_UNF_SB817

Uploaded by: Shellenberger, Scott

Position: UNF

Bill Number: SB817

Scott D. Shellenberger, State's Attorney for Baltimore County

Opposed

WRITTEN TESTIMONY OF SCOTT SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY, IN
OPPOSITION TO SENATE BILL 817,
CORRECTIONAL SERVICES - PAROLE
LIFE IMPRISONMENT

I write in opposition of Senate Bill 817 which would remove the Governor from the decision on whether or not to grant parole to those serving a life sentence.

I view the need for the Governor to sign off on the parole of a "lifer" as a way of making sure that the person who makes the weighty decision of when a lifer is released, is a person directly accountable to the citizens of this State. In addition, since the Parole Board is an agency of the Executive Branch should not the Chief Executive of that branch have the final say when it comes to lifers?

In Maryland, a defendant can receive a life sentence for first degree murder, first degree rape, and first degree sex offense. In reality, few defendants receive this sentence and, therefore, it is usually imposed for a basic and very good reason - it was the appropriate punishment for an outrageous crime that was committed. That crime typically is first degree murder. The Defendants we are talking about today are the worst of the worst.

As the State's Attorney for Baltimore County, every day my Assistants and I are asked by the victims of crime, "How much of the sentence just imposed will the defendant actually have to serve?" We can never answer that question because Maryland does not have truth in sentencing. Between the accumulation of good time credits, diminution credits and parole eligibility, how long a defendant will actually spend in jail is a mystery. In fact, the Federal system has already recognized this shortcoming and does not have any parole at all. At least when it came to a life sentence for first degree murder, I have been able to look into the eyes of the victim's family members and say, "life means life" in this State, unless the Governor approves of the release. Since 1995, it has brought great solace to the surviving family members. If the Legislature passes Senate Bill 817, which would remove the Governor from the process, I will not even be able to say "life means life" for murder, unless the Governor says otherwise.

Please remember there are already actions that you have taken that have improved this area of the law. In 2011, you passed a law that says the Governor cannot handle the Parole Board's recommendations on lifers by inaction. Now a Governor must affirmatively do something in 180 days or the decision of the Parole Board goes

into effect. That was a good move. Before that, many Governors just ignored the parole decision.

In addition, because of the Court of Appeals ruling in Unger there are approximately 250 lifers, whose sentences date back to the 1970's and early 1980's, who have gotten new trials and to my knowledge, most have been released.

Because of the Supreme Court's rulings in Miller and Montgomery, the Maryland Parole Commission has decided to give each of the 270 lifers who committed their crimes when they were a juvenile, a parole hearing. At this parole hearing the Commission will consider the factors the Supreme Court outlined in the Miller case. Miller created tough standards that must be met. Therefore another group of lifers are having their cases reviewed.

Action taken by Governor Ehrlich started some parole of lifers. Governor Hogan has paroled 19 people serving life sentences whether by approving parole or allowing it to go into effect. He has commuted the sentences of 21 inmates serving life and granted medical parole to four. This means life does not always mean life. This means the current system is working. The Governor's office regularly reaches out to me to ask for my offices' opinion on lifers that they are considering. In fact, Governor Hogan's Administration takes these investigations quite seriously. I am always asked about the facts of old cases from the 1980's and 1990's and I know my fellow State's Attorneys are responding to the same requests.

In addition to this, Governor Hogan last year issued an executive order requiring that holders of this office consider additional factors in determining whether to grant parole for a juvenile offender, including the person's age at the time the crime was committed, the "lesser culpability of juvenile offenders as compared to adult offenders," and the degree to which the individual has matured and demonstrated rehabilitation since the crime.

Senate Bill 817 does increase the first parole hearing eligibility from 15 years to 20 years which is an improvement over the current system. Yet this is not enough. It makes no sense that if you get 40 years for second degree murder, you get a parole hearing at 20 years less good time credits.

That means a Defendant serving life for 1st Degree Murder gets a parole hearing at approximately 17 years in and so does a Defendant serving 40 years for 2nd degree murder. These hearing dates should be different to reflect the length of the sentence and the seriousness of the crime.

Let's ensure that when paroling the most serious offenders, the person making this decision is a person who is accountable to the citizens of this state. When the Governor respects the will of the people in this most weighty of decisions true justice is served.

Please give Senate Bill 817 an unfavorable report.

GovernorsOffice_UNF_SB817

Uploaded by: Sullivan, Cara

Position: UNF

**STATE OF MARYLAND
OFFICE OF THE GOVERNOR**



LAWRENCE J. HOGAN, JR.
GOVERNOR

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(410) 974-3901
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March 5, 2020

Chairman Smith, Vice Chairman Waldstreicher, Members of the Committee
Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, MD 21401

Senate Bill 817 – Correctional Services – Parole – Life Imprisonment

POSITION: Oppose

Dear Chairman Smith, Vice Chairman Waldstreicher, Members of the Committee:

I am writing to you to provide information about and to respectfully oppose Senate Bill 817. This bill would remove the Governor's oversight of the Maryland State Parole Commission's decisions to parole those who are sentenced to life imprisonment.

1. Governor Hogan's approval of paroles and commutations. Governor Hogan takes his executive parole and clemency responsibilities very seriously. During his term, Governor Hogan has paroled 19 people serving life sentences, either by approving the parole or allowing it to go into effect by not taking action. He has also approved or allowed four medical paroles to individuals serving life sentences. In addition, the Governor has now commuted life sentences of 21 inmates, resulting in early release from incarceration. There is no reasonable justification for removing gubernatorial oversight from the parole process at this point given the diligent and proper consideration that Governor Hogan has given these matters. During the course of eight years, the prior governor granted two medical paroles and three commutations.

2. Current arrangement provides important accountability for Marylanders. The Governor's oversight duty in the current system makes policy on these sensitive issues responsive to the people. One elected official is accountable to the voters for the parole of offenders who committed heinous murders and attempted murders. An appointed group such as the Parole Commission is less accountable for its exercise of such authority.

3. Governor Hogan, the Department of Public Safety and Correctional Services, and the Commission have been working to improve the parole process. There is litigation pending in the U.S. District Court for the District of Maryland involving certain parole issues for inmates who were sentenced to life imprisonment for crimes committed when they were juveniles.

While that litigation is still pending, and apart from that litigation, the Hogan Administration, its Department of Public Safety and Correctional Services, and the Commission have been working to improve the system for all inmates with life sentences in a number of important ways.

First, the Commission has adopted regulations to confirm that its existing practices are consistent with recent U.S. Supreme Court and other federal-court decisions, expressly providing that parole authorities are to consider a juvenile offender's age at the time of the crime, demonstrated maturity, and subsequent rehabilitation.

Second, Executive Order 01.01.2018.06 now provides that the Governor will consider all applicable statutory and regulatory factors in making parole decisions.

Third, the Commission's process for psychiatric evaluations of inmates recommended for parole has been streamlined to make the assessments more convenient and timely scheduled.

Lastly, the Division of Correction is creating better opportunities for inmates with life sentences to achieve lower security classifications, which in turn will provide them with more and better opportunities to demonstrate rehabilitation, making parole more likely.

All of this is by way of explanation that Governor Hogan is actively concerned about these issues, takes his powers and duties seriously, and is diligently implementing practical reforms to provide suitable parole candidates with a meaningful opportunity for release.

For these reasons, we respectfully urge the Committee to issue an unfavorable report on Senate Bill 817. If you have any questions, please contact Cara Sullivan, Governor's Office at 410-974-3336 or cara.sullivan24@gmail.com