

IN SUPPORT OF HB 323

To: House of Delegates Judiciary Committee

From: Lila Meadows, University of Maryland School of Law Clinical Law Program

Date: February 4, 2020

Re: Written Testimony in support of HB 323

Several clinics at the University of Maryland School of Law represent clients who would stand to benefit if HB 323 becomes law. Our Gender Violence Clinic represents criminalized survivors who have been sentenced to excessive sentences, while our Youth Justice & Education Clinic and Pre-trial and Parole Clinic each represent juvenile lifers in their efforts to obtain a meaningful opportunity for release. The Clinical Law Program enthusiastically supports HB 323, as it provides a critical pathway to reconsider excessive sentences.

Maryland has a mass incarceration problem. A recent report by the Justice Policy Institute highlighted glaring racial disparities in our prison population. The report found that more than 70% of Maryland's prison population is African American, compared with 31% of the state population, a rate of disparity that surpasses even Mississippi, South Carolina, and Georgia. Because parole has been politicized since Governor Glendenning declared "life means life" in the early 1990s, there have been few pathways for release for those serving life sentences who have used their time in prison to do the hard work required for rehabilitation. If we are serious about reducing mass incarceration and racial disparities in our system, our efforts must also include those who are serving long sentences.

HB 323 will allow incarcerated individuals serving long sentences to petition the court for sentencing review after serving at least 20 years in prison. It's important to note that HB 323 is not an automatic release valve. The bill provides relief only to those who can demonstrate that they are no longer a threat to public safety. For adults, even a successful petition may not result in immediate release. A judge may modify the sentence, but in a way that still requires the individual to serve a significant amount of time.

Our current framework for sentencing modification is inadequate to combat this issue. Maryland law currently requires an individual to file a petition for sentence reconsideration within 90 days of sentencing. The court can immediately grant or deny the petition, or can hold the petition and consider it at a later date, but that consideration must occur within 5 years of the date of sentencing. For those who are serving long sentences for serious crimes, 5 years is typically not enough time for individuals to establish a pattern of change that allows judges to feel comfortable modifying a sentence. By setting an eligibility threshold for review at least 20 years, HB 323 requires individuals to serve a significant period of time in light of the offense and gives judges a longer period in which to consider an individual's track record in prison.

Our clinics represent many individuals who were sentenced decades ago, long before "life means life" became an informal policy in Maryland's criminal justice system. No one – not prosecutors and not sentencing judges – expected our clients to die in prison if they went into the system and did everything that was asked of them. Everyone involved in the process believed that parole would provide our clients a meaningful opportunity to rejoin the community if they could demonstrate change. When we reach out to now retired judges and prosecutors in our efforts to advocate for our clients, many are shocked to learn that they are still in prison 30 years and in one case, even 42 years later. Yet even judges who see this as injustice and are inclined to intervene have few options under the law. Unless a client has preserved their one shot at a post-conviction petition, there are few options to get back into court for sentencing review.

HB 323 is an important mechanism to revisit sentences that may no longer be necessary to protect public safety. We urge the committee to issue a favorable report.