



POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 494 (Juvenile Restoration Act)
POSITION: Support
DATE: February 15, 2021

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 494.

If passed, this bill would add Maryland to the growing number of states that have joined the rest of the world in rejecting sentences of life without parole for juvenile offenders.

The United States stands alone among the nations of the world in sentencing juvenile offenders to life in prison without parole. This may finally be coming to an end. The Supreme Court has banned the imposition of juvenile-life-without-parole (JLWOP) sentences except in the very rare cases where the child is found to be “irreparably corrupt” – even though it has expressed grave doubts about the ability of judges to accurately make such predictions.¹ Twenty-nine (29) states and the District of Columbia have either abolished (23 states plus D.C.) or have no one serving (6 states) JLWOP sentences.² Maryland should join the fast-growing number of jurisdictions that have rejected this harsh punishment for children.

This bill builds on Maryland’s success in safely reducing the prison population by giving judges opportunities to release non-dangerous inmates who have served a substantial period of time.

Permitting judicial modification of sentence is an effective way of safely reducing the prison population by releasing non-dangerous offenders, with a long and successful history in Maryland. In 2017, the Justice Reinvestment Act allowed

¹ *Graham v. Florida*, 560 U.S. 48, 77-79 (2010); *Montgomery v. Alabama*, 136 S.Ct. 718, 734 (2016).

² Campaign for the Fair Sentencing of Youth, *States that Ban Life Without Parole for Children*, <https://cfsy.org/media-resources/states-that-ban-life/> (updated 2/24/2020).

judges to modify or reduce previously imposed mandatory sentences for certain drug felonies. Between 2012 and 2017, almost 200 individuals serving lengthy sentences for serious crimes were released following the Court of Appeals decision in *Unger v. State*, 427 Md. 383 (2012), most of them through negotiated modifications of sentence. The OPD, law school clinics, and the private bar assisted many of the eligible individuals in developing plans for a successful re-entry into society.

The reason that judges (occasionally with the support of prosecutors and even the victims or their representatives) are sometimes willing to reduce sentences when given the opportunity to do so is because, with the passage of time, people convicted even of serious crimes can and usually do change and become much better people. This is especially true of young offenders, whose brains, personalities, and moral compasses are still developing. The rehabilitated adults who would be eligible for sentence modifications under this bill usually bear little resemblance to the kids who committed the crimes.

This bill will also help to address the appalling racial disparity in our prison population. A report found that 84% of Maryland's juvenile lifers were Black – this in a state where Black people comprise only about 30% of the population. We are tied only with Alabama for having the highest percentage of juvenile lifers who are Black in the country.³

Releasing non-dangerous individuals who have served decades in prison does not pose a risk to public safety.

The individuals eligible for relief under the bill share characteristics that make it much less likely that they will reoffend. Research demonstrates that recidivism is much lower among released inmates in their 40s and beyond, and inmates who have served at least 15 years in prison. In Maryland, only about 4% of people released in light of the *Unger* decision recidivated. A study of 860 murderers paroled in California over a fifteen-year period found that only *five* – less than one percent – were reincarcerated for new felonies since being released, and none of them recidivated for life-term crimes.

³ ACLU & Maryland Restorative Justice Initiative, Report, *Still Blocking the Exit*, at p. 9 (2015) https://www.aclu-md.org/sites/default/files/field_documents/stillblockingtheexit_final.pdf.

To the contrary, such releases will make Maryland safer.

Passing the Juvenile Restoration Act would make us safer in four ways.

1. It would permit the State to take money and resources it now wastes on imprisoning non-dangerous individuals and reallocate it to programs and initiatives that actually make us safer.
2. It would reduce the demands on prison staff by reducing the sheer number of inmates they need to supervise.
3. It would reduce violence within prisons, by incentivizing inmates to stay out of trouble and take full advantage of opportunities to better themselves. This would make prisons safer for inmates and correctional staff alike.
4. It would enable reformed inmates to use their experience to make their communities better and safer. Lifers released in Maryland have become active volunteers in their houses of worship and their neighborhoods. Many feel called to mentor young people to keep them from going down the wrong path. They get jobs, care for elderly relatives, and otherwise lead positive and productive lives.

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For these reasons, the Maryland Office of the Public Defender urges a favorable report on Senate Bill 494.