IN SUPPORT OF SENATE BILL 494
To: Senate Judicial Proceedings Committee
From: Lila Meadows, University of Maryland School of Law, 500 W. Baltimore Street Baltimore, Maryland 21201
Date: February 17, 2021
Position: SUPPORT

Senate Bill 494 will allow incarcerated men and women who are serving lengthy sentences for crimes committed as juveniles to petition the court for sentencing review after serving at least 20 years in prison. SB 494 is not an automatic release valve. It is not a "get out of jail free" card. The bill provides relief only to those individuals who can demonstrate rehabilitation and that they are no longer a threat to public safety. The bill requires judges, experts in sentencing, to evaluate the nature of the crime, participation in rehabilitative programs, including educational attainment, vocational training, and cognitive programs, the individual's prison adjustment record, as well as any victim impact statement, in open court before making a decision about sentence modification.

Our current framework for sentencing modification is inadequate to comply with the requirements for youth sentencing set out by recent Supreme Court case law. Recognizing that youth are fundamentally different than adults due to neurological development, the Supreme Court held that courts must consider youth, influence of outside pressures, increased impulsivity, inexperience navigating the criminal legal system, and critically, the special capacity juveniles have for change before imposing the harshest sentences. This was a watershed change in how we think about sentencing children, and a decision the court made retroactive, yet individuals already serving extreme sentences in Maryland have had few pathways to benefit from the implications of the ruling. Maryland Rule 4-345 currently requires an individual to file a petition for sentence reconsideration within 90 days of sentencing. The court can immediately deny the petition without a hearing, grant the petition after a hearing in open court, or hold the petition and consider it at some point within 5 years of the initial sentence being imposed. For those who are serving long sentences for serious crimes, five 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 the threshold for review at least 20 years, Senate Bill 494 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.

In December 2020, one of my clients was the second juvenile lifer released through the new Sentencing Review Unit (SRU) in Baltimore City. At the time I approached the SRU, my client had served 37 years for a felony murder in which he was not the principal and was in isolation after contracting COVID-19. He walked into prison in October 1983 at 16 years old and in December 2020 walked out at 53 years old following a sentence modification hearing in which the court considered his youth at the time of the crime and his resulting rehabilitation, the same factors that Senate 494 would require courts to consider under this legislation. My client was afforded this opportunity only because his trial attorney failed to file a motion for modification of sentence 37 years ago, an error that is considered ineffective assistance of counsel and one that is rare.

My client was lucky – lucky to have been convicted in Baltimore City which has made this type of relief a priority and lucky to have the opportunity to file a belated modification under Rule 4-345 that the state could consent to. I cannot emphasize how rare this is and had that not been the case, he would still be incarcerated today. There are hundreds of juvenile lifers in our state who deserve to have their sentence considered in light of their youth but who do not have a viable way to appear before a court for a sentence modification hearing. Whether they receive that opportunity should not be a function of where they were convicted and whether they've exhausted all other legal avenues.

Senate Bill 494 ensures that every juvenile lifer will have the opportunity for a sentence review after serving a substantial period of time and that the court will be required to take into consideration the factors laid out by the Supreme Court. Opponents of the bill claim that there are enough post-conviction mechanisms available to defendants. Those mechanisms turn almost entirely on the defendant being able to demonstrate legal error or ineffective assistance of counsel in their trial or plea. With the exception of the motion for reconsideration of sentence which must be ruled on within 5 years and the opportunity to have the sentence reviewed by a three-judge panel, not a single post-conviction mechanism provides an opportunity for individuals convicted as juveniles to have their sentence reviewed in light of their youth at the time of the crime. For the majority of Maryland's more than 300 juvenile lifers, their chance for sentence modification passed long before the Supreme Court recognized the need for sentencing decisions to take into account youth and the opportunity for rehabilitation.

There are more than 300 individuals serving life sentences for crimes they committed as juveniles. They are overwhelming Black. Maryland leads the nation in disparities among individuals serving life sentences – almost 80% of men and women serving life sentences are Black compared to only 30% of the population. Reevaluating excessive sentences largely imposed in the 1980s and 1990s is a matter of racial justice. The task for reconsidering these sentences cannot fall to the Maryland Parole Commission alone. Senate Bill 494 places some of that responsibility where it belongs – in the hands of the judiciary which makes initial sentencing determinations, and which should retain revisory authority over the sentences they impose. The law already provides for a mechanism for sentencing review; Senate Bill 494 is not suggesting a legal mechanism that is out of step with our current practices. Instead, it applies an existing mechanism in a way that allows Maryland to comply with the mandates of the Supreme Court.

I urge you to support Senate Bill 494.

This testimony is submitted on behalf of Lila Meadows at the University of Maryland Carey School of Law and not on behalf of the School of Law; the University of Maryland, Baltimore; or the University of Maryland System.