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BILL NUMBER: **SB 494**

POSITION: **Unfavorable**

The Maryland State's Attorney's Association (MSAA) opposes SB 494.

Under current sentencing review practices, a person serving a term of confinement, even for lengthy sentences, are eligible for parole. These considerations are heard before the Maryland Parole Commission, which determines eligibility on a case-by-case basis utilizing a variety of input and factors. SB 494 upends this process and permits a defendant to petition a court and bypass the Parole Commission, a panel of individuals specifically designated and trained to make these decisions, altogether. In fact, many of the factors the court considers under section (c)(1)-(11) are similar, if indeed not identical, to the factors considered by the Parole Commission. Advocates would argue that the systems are different in scope, and therefore ripe for reform, but ignore the reality that the end result for a defendant is the same and, as such, inadvertently create competing tandem systems. Such a reality is neither effective nor efficient and forces the State, in varying capacities, to advocate on behalf of victims on multiple fronts.

Of great concern is that these cases may be heard by judges that did not preside over the original case and may not have even been in office at the time of the initial trial and sentencing. The original sentences were fashioned with great care and with input from trial testimony, victim input and advocacy from both sides of the table. The petitions envisioned by SB 494 are backwards looking and simply incapable of recreating the dynamic present during the original sentencing. These petitions generate situations whereby the reviewing judge is forced to "second guess" the reasoning of the original sentencing judge. Such a scenario serves to undermine discretion, which should remain squarely in the purview of each individual judge.

Of greater concern is the continuing re-traumatization of the victims in each matter. Prosecutors and victims rely upon the concomitant belief inherent in the fairness of a sentence. Defendants are already entitled to numerous avenues of relief when reviewing cases for both legal and non-legal reasons. Victims and their families are oftentimes chained to this process, forced to navigate the peaks and valleys associated with yet another hearing for the individuals who upended their lives. This legislation would add another layer of anxiety and concern for victims and their families, which is just not warranted. Moreover, these amendments mandate victim contact, which many times is impossible given that victims pass or are simply unable to be

located. Such circumstances may produce inequitable results as the reviewing judge may grant the relief requested because, through no fault of the prosecution, victims are unable to participate.

Current procedures provide ample avenues for individuals to receive a reduced sentence or parole. The existing process has proper checks and balances and is effective. Should modifications prove necessary, they should be made within the confines of the prevailing system instead of involving a new process.

Finally, the prohibition on life without parole sentencing for offenders who were minors at the time of sentencing is contrary to the scope and purpose of discretionary sentencing practices. Life without parole is only reserved for first degree murder cases. These cases involve acts that involve malice and the most extreme violence envisioned in our criminal justice system. The elements also include planning and forethought, which means the individuals committing these offenses not only commit extreme acts of violence, but plan them as well. There needs to remain a sentence structure that best accounts for this type of behavior so that these offenders are held to the utmost accountability for their actions. The life without parole sentence is that option.

For these reasons, the MSAA requests an unfavorable report on SB 494.