



Testimony for the Judicial Proceedings Committee

March 9, 2022

YANET AMANUEL
INTERIM PUBLIC POLICY
DIRECTOR

SB 842 - Criminal Procedure – Petition to Modify or Reduce Sentence (Maryland Second Look Act)

FAVORABLE

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

3600 CLIPPER MILL ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
F/410-366-7838

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS
HOMAYRA ZIAD
PRESIDENT

DANA VICKERS SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland supports SB 842, which would allow individuals in prison a second chance to petition the court to modify or reduce their sentence after serving at least 20 years of their term, and if at least five years have passed since the court previously decided any petition for reconsideration.

SB 842 increases accountability in the criminal justice system. Bias in Maryland's criminal justice system against indigent defendants and people of color has been widely documented at every stage: from the initial arrest to sentencing. The overwhelming majority of people serving long sentences in Maryland are Black, in a State that is 30% Black. For eligible individuals who may have faced this bias by law enforcement, the courts, or corrections, this bill would lead to more just outcomes by taking a second look to ensure their sentences were correctly decided. For members of the public who already distrust the justice system, it would provide additional assurance that the state is taking steps to recognize and correct past instances of bias, and is committed to ensuring that people in its custody receive fair treatment. A second look would catch these instances of bias without reducing time served for those whose sentences were determined correctly.

SB 842 incentivizes people who have committed serious harms to focus on making amends, rather than disputing their underlying convictions. In recent decades, Maryland, along with the rest of the country, has placed strong emphasis on a purported sense of finality of sentences in ways that completely disincentivize people who have committed serious harms from admitting guilt. When it is impossible to revisit a sentence, people are forced to resort to challenging the conviction. We cannot emphasize enough how consequential this is, as it forces those who committed the harm to protect their only hope of release by never conceding guilt and/or by repeatedly attacking the conviction. Indeed, in post-conviction proceedings, defense counsel may advise against acknowledging guilt because otherwise there is almost no hope for relief. By contrast, where it is possible to revisit the sentence, the balance of considerations shift. The person who is responsible has every incentive to take responsibility for their actions, to invest in their own growth and change behind the walls, and to try to help any survivor find closure after many years

have passed. And, because the Rule contemplates revisiting the sentence many years after the wrong, when emotions may be less raw, it creates genuine opportunities for some kind of closure or improved understanding for all those affected.

SB 842 will lead to safer prison environments. The potential opportunity for individuals to reduce their sentences is a compelling incentive to comply with facility rules and maintain good behavior. Good conduct credits are a behavioral incentive and a means of reducing prison overcrowding.¹ This in turn lowers the threat of violence and other risks and challenges that inmates, correctional officers, and staff face inside correctional facilities.

The Maryland General Assembly has recognized the need to reform the justice system and allow incentives for better behavior. By passing the Justice Reinvestment Act, “ban the box,” and expungement bills, the Maryland General Assembly has repeatedly recognized the need and expressed the desire to provide individuals in the justice system with second chances. This bill would not release anyone from their responsibility for their crime. It would simply provide to those who meet the eligibility requirements the small gesture in this bill’s title: a second look.

For the foregoing reasons, we urge a favorable report on SB 842.



YANET AMANUEL
PUBLIC POLICY ADVOCATE

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

3600 CLIPPER MILL ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
or 240-274-5295
F/410-366-7838

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS
JOHN HENDERSON
PRESIDENT

DANA VICKERS SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

