

Support HB 958 / SB 976 – sentence modification

MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Will Smith and Senate Judicial Proc. Com.
FROM: Phil Caroom, MAJR Executive Committee
DATE: February 16, 2022

Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) strongly supports HB 958 that would give a State's Attorney the right to seek reduction of a sentence when "in the interest of justice."

Currently, Maryland Rule 4-345 imposes a 5 year limit on any motion for sentence modification. The Maryland Rules Committee, last year in its 207th report, recommended amendment that would have permitted sentence modifications beyond the current 5 year limit. But, the Court of Appeal declined to enact this change, saying it was a matter for the Maryland General Assembly. HB 958 would enact at least part of the recommended Rule change.

Why may the State seek to reduce sentences in the interest of justice? Here are a few reasons:

- 1) Sometimes, new evidence may arise which might have impacted on a defendant's culpability for the seriousness of the charge he or she was convicted, even if there still was some lesser culpability for the defendant.

Under current law, a motion to vacate the conviction and to seek a new trial would be required. This is a time-consuming process that could be short-cut with HB 958.

- 2) Sometimes, a defendant will distinguish himself or herself with extraordinary measures for rehabilitation while in prison. College degrees may be earned, books may be written, other prisoners may be taught, and other community service may be achieved by such a prisoner.

Under current law, only a Parole Commission decision could provide a reduced sentence. But, under some circumstances, the original sentence may be so lengthy that even the Parole Commission cannot provide meaningful relief.

- 3) Under Maryland's outmoded felony-murder doctrine, a juvenile offender with a minimal involvement in a felony may be convicted of 1st degree murder and given the mandatory life sentence, just as the actual adult perpetrator would receive. With modern recognition of juvenile brain-development and with demonstration of maturity during a sentence, a State's Attorney possibly might agree to sentence reduction recognizing the lesser culpability of such a juvenile offender.

Last year, the Md. General Assembly passed the Juvenile Restoration Act (Laws of Md.-2021, Ch.61), but that statute requires the prisoner to have served 20 years of a sentence before eligibility. HB 958 would permit more discretion under appropriate circumstances.

HB 958 also is consistent with the stated policy of Maryland's Justice Reinvestment policy to "develop a statewide policy framework of sentencing and corrections policies to further reduce the State's incarcerated population...." Md. Code, Public Safety Art., sec. 1-604. For all these reasons, MAJR urges the Committee to give HB 958 a favorable report.

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PLEASE NOTE: Phil Caroom files this testimony for MAJR and not for the Md. Judiciary.