

**To: Members of The House Judiciary Committee**

**From:** Doyle Niemann, Chair, Legislative Committee, Criminal Law and Practice Section

**Date:** February 18, 2022

**Subject:** **HB958 – Postconviction Review – Motion for Reduction of Sentence**

**Position:** **Support**

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The Legislative Committee of the Criminal Law & Practice Section of the Maryland State Bar Association (MSBA) **Supports HB958 – Postconviction Review – Motion for Reduction of Sentence.**

This bill will allow a State's Attorney to file a motion to reduce the sentence for an incarcerated individual. It spells out some of the criteria the court should look at in determining whether a change in sentence is in the interests of justice, including the record of the individual while incarcerated and whether their age, time served, physical condition and other changed circumstances make them no longer a threat to public safety. And it provides for notice to the victim and allows for their participation in any hearing.

The bill addresses a variety of problems in the current law, which precludes reconsideration after five years absent some kind of error on the part of the prosecution or defense. By making the State's Attorney the gatekeeper, it avoids fears by some judges that the courts would be flooded with unsubstantiated motions and that victims would continually be forced to revisit the circumstances of past crimes. If a State's Attorney does not think reconsideration of a sentence is appropriate, they do not have to file a motion.

The bill would be a useful tool in addressing a variety of circumstances and would significantly aid in the process of encouraging and rewarding efforts at rehabilitation and reform. It would provide inmates an incentive for participating in educational and behavior change programs while incarcerated.

In addition, the bill would provide State's Attorneys a tool to address cases where there may have been disproportionate or unequal sentences based on external factors unrelated to the case in question, including the race of the defendant or the victim, or where there have been significant changes in the way specific crimes are enforced, as is true for many drug offenses.

For the reasons stated, we **Support HB958 – Postconviction Review – Motion for Reduction of Sentence.**

If you have questions about the position of the Criminal Law and Practice Section's Legislative Committee, please feel free to address them to me at 240-606-1298 or at [doyleniemann@verizon.net](mailto:doyleniemann@verizon.net).