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Baltimore County Senate Delegation

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony Regarding SB 295
Criminal Procedure – Postconviction Review –
Motion for Reduction of Sentence
Before the Judicial Proceedings Committee
February 14, 2023

Senate Bill 295 provides State’s Attorneys the authority to seek a sentence modification during a person’s incarceration if it is in the interest of justice; something that currently doesn’t exist under Maryland law. In recent years, California, Washington, Oregon, and Illinois have all passed laws in a similar vein.¹

Senate Bill 295 empowers a State’s Attorney to seek a review. Further, the State’s Attorney would need to feel that in light of all of the factors, it would be in the interest of justice to file the motion – if the State’s Attorney does not think an incarcerated individual deserves reconsideration, then they are not mandated to file the motion for reduction of sentence.

It has been argued that the ability to reduce a sentence, like this legislation seeks, is already available under Maryland Rule 4-345. This is true; however, the court is only authorized to do this to correct an illegal sentence. Senate Bill 295 goes beyond illegal sentences and focuses on justice. Additionally, Maryland Rule 4-345 allows a court to revise a sentence in a case of fraud, mistake, or irregularity. However, this revisory authority is limited and must be used within five years of sentencing.² SB 295 allows courts to reconsider when it is in the best interest of justice to do so, without an arbitrary limitation.

¹ Maryland State Bar Association. Doyle Niemann, Chair, Legislative Committee, Criminal Law and Practice Section testimony for HB 958. February 18, 2022.

² It says: “(1) *Generally*. Upon a motion filed within 90 days after imposition of a sentence (A) in the District Court, if an appeal has not been perfected or has been dismissed, and (B) in a circuit court, whether or not an appeal has been filed, the court has revisory power over the sentence except that it may not revise the sentence after the expiration of five years from the date the sentence originally was imposed on the defendant and it may not increase the sentence.”

To determine whether to reduce an incarcerated individual's sentence, SB 295 states that the courts may consider certain factors. Those factors include: (1) disciplinary and rehabilitation records, (2) evidence that age, or diminished physical condition, or their time served indicates a reduced risk for future violence, and (3) evidence that demonstrates changed circumstances warrant a reduction of sentence and demonstrate that continued incarceration is no longer in the interest of justice.

Senate Bill 295 provides State's Attorneys an important tool to address the issue of disproportionate and unequal sentencing, or where a strict mandatory minimum sentence is inappropriate. As the law evolves, case review is of the utmost importance and can help deserving Marylanders currently in State prisons. As such, I urge you to vote favorable for SB 295.