



## SENATE BILL 0295

Criminal Procedure-Postconviction Review-Motion for Reduction of Sentence

RICH GIBSON, HOWARD COUNTY STATE'S ATTORNEY

**POSITION: UNFAVORABLE**

February 13, 2023

My name is Rich Gibson, I am the State's Attorney for Howard County and the President of the Maryland State's Attorneys' Association (hereinafter MSA). I have been a prosecutor for 19 years and I am writing today to offer my opposition to Senate Bill 0295.

I oppose this bill for the following reasons: this bill, if enacted into law, undermines finality in justice which is unfair to victims of crime, unnecessarily politicizes and potentially monetizes justice, converts State's Attorneys into a parole commission and we are not designed to function as one, and finally, there are numerous mechanisms currently available for a defendant to collaterally attack a conviction and this would add yet another.

Victims of crime suffer through the trial process. They must relive painful moments where they were wronged by another in the pursuit of a consequence for the criminal conduct they were exposed to. When a defendant is sentenced, the victims have a justified expectation that the outcome will not be disturbed unnecessarily. This bill, if passed, will allow State's Attorneys to file for a reduction in sentence, a power that 23 of the 24 elected State's Attorneys in our State are opposed to having.

This bill, if passed, has the potential to unnecessarily politicize the criminal justice process. What is to stop candidates for State's Attorney from fundraising and campaigning on the promise of overturning any or all convictions in the "interest of justice"? The interest of justice is a nebulous and undefined term. It could be distorted to mean whatever the candidate wants it to mean. For

example, a wealthy business owner's child is incarcerated for a crime, and the business owner approaches a lawyer in the community and tells them, "I will open a PAC and fund your campaign if you run for State's Attorney provided once you get into office you agree to file a motion to release my child." While this may be an unintended consequence of the proposed bill, based upon the language of the bill, this result is possible. Justice is not a commodity that should be exposed to this level of politicization; nor is justice a commodity that should be monetized, which is what this bill would expose our society to.

The Maryland Parole Commission is the entity charged with determining, on a case-by-case basis, whether inmates have reformed sufficiently to be released back into the community and under what conditions they will be rejoining society. That is not a function of the State's Attorneys. We don't conduct hearings to examine the progress of the defendant while incarcerated nor do we have direct access to the defendant's institutional history. This function properly rests with the parole commission.

Finally, defendants convicted of crimes in Maryland currently have numerous mechanisms to challenge and overturn their convictions. Defendants can file direct appeals, Motions to Vacate Judgment, Motions for New Trial, Habeas Corpus Petitions, Writs of Actual Innocence, Motions for Modification of Sentence, Motion for Post -Conviction Relief, and Coram Nobis Petitions. Our justice system has more than enough ways to reduce and overturn criminal convictions and this bill would add yet another unnecessarily.

For these reasons, **I respectfully request an unfavorable report for Senate Bill 0295.**