



TESTIMONY IN OPPOSITION TO SENATE BILL 44

TO: Members of the Senate Judicial Proceedings Committee

FROM: Center for Criminal Justice Reform, University of Baltimore School of Law

DATE: February 12, 2024

The University of Baltimore School of Law’s Center for Criminal Justice Reform is dedicated to supporting community driven efforts to improve public safety and address the harm and inequities caused by the criminal legal system.

Senate Bill 44 would eliminate all diminution credit for people serving sentences for first and second degree murder convictions and would prevent the significant majority of Maryland’s incarcerated population from earning diminution credit for more than 10% of an individual’s aggregate sentence. **The Center opposes Senate Bill 44.**

Senate Bill 44 is overbroad and undermines public safety. The bill disincentivizes participation in rehabilitative programming, exacerbates the risk of violence to correctional staff and incarcerated people, and undermines reentry success for those returning to their communities after lengthy periods of incarceration. As the bill’s fiscal note identifies, Senate Bill 44 would drive potentially significant increased costs to Maryland for lengthier prison terms at the same time that states across the country are recognizing the research-backed reasons to reduce unnecessarily long prison terms and promote rehabilitation.

I. Senate Bill 44 is overly broad and does not effectively address those who pose the highest public safety risk.

Senate Bill 44 is not narrowly tailored to address the small minority of Maryland’s incarcerated population who pose the very highest public safety risk.

First, nearly a third of Maryland’s prison population is serving a sentence for first or second degree murder.¹ This population includes people serving sentences for murder convictions under the “felony murder” rule, also known as “guilt by association,” which holds people strictly liable for all deaths during the commission of a qualifying felony. Senate Bill 44 would eliminate all diminution credits for people serving felony murder convictions—people who did not have the intent to kill anyone and who did not kill anyone.

¹ Racial Equity Impact Note, SB 652, Maryland General Assembly 2023 Session, <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2023RS-SB0652-REIN.pdf>, 3.

Second, Senate Bill 44 would cap the earning of diminution credits at 10% of an aggregate sentence for an individual serving time for a “crime of violence.” Under Maryland law, crimes of violence encompass a very broad spectrum of conduct. For example, someone who tried to break into an unoccupied shed to steal gardening equipment has committed “a crime of violence” and would have their diminution credits capped at 10% of their sentence under Senate Bill 44. As a result, Senate Bill 44 would reduce the application of diminution credit for a very large percentage of Maryland’s incarcerated population.

II. Senate Bill 44 disincentivizes rehabilitation by eliminating or reducing the use of what the Department of Public Safety and Correctional Services calls a “key rehabilitative component.”²

Diminution credits incentivize participation in programming and supportive services. Eliminating or mitigating the application of diminution credits will reduce participation in programs and opportunities to develop skills needed for successful rehabilitation and reentry. A broad base of research demonstrates that participation in rehabilitation programs in prison can meaningfully reduce recidivism.³

In fact, Maryland Correctional Enterprises reports a 60% reduction in recidivism for incarcerated people who complete its programs.⁴ Unfortunately, in spite of those encouraging results, Maryland only offers the opportunity to participate in job training programs to 10% of people in state prisons.⁵ Given the public safety benefits of rehabilitative programming in prisons, Maryland should expand the availability of evidence-based programs and encourage—not disincentivize—participation in those programs.

III. Senate Bill 44 exacerbates the risk of violence to staff and incarcerated people in correctional settings, further undermining public safety for everyone who lives in the communities to which incarcerated people return.

It is to the public safety benefit of every Marylander that those returning to our communities from incarceration are set up for success. The vast majority of people who are incarcerated, even those serving sentences for the most serious offenses, will eventually be released. Nationally, approximately 95% of people incarcerated in state facilities will be released from prison at some point.⁶ Maryland prisons release over 7,000 people annually.⁷ Research demonstrates that Senate Bill 44 will exacerbate risks of violence to correctional staff,

² Racial Equity Impact Note, SB 44, Maryland General Assembly 2024 Session, <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2024RS-SB0044-REIN.pdf>, 1.

³ See Duwe, G. (2017, June). *The Use and Impact of Correctional Programming for Inmates on Pre- and Post-Release Outcomes*. United States Department of Justice, Office of Justice Programs. <https://www.ojp.gov/pdffiles1/nij/250476.pdf>; Davis, L. M. (2013). *Evaluating the Effectiveness of Correctional Education*. RAND Corporation. https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/RAND_Correctional-Education-Meta-Analysis.pdf.

⁴ *Prisoners employment and rehabilitation resources*. Maryland Alliance for Justice Reform. (2023, December 19). <https://www.ma4jr.org/prisoners-employment-and-rehabilitation-act/>.

⁵ Id.

⁶ *Why punishing people in jail and prison isn’t working*. Vera Institute of Justice. (2023, October 24). <https://www.vera.org/news/why-punishing-people-in-jail-and-prison-isnt-working>.

⁷ *Maryland profile*. Prison Policy Initiative. <https://www.prisonpolicy.org/profiles/MD.html>.

incarcerated people, and communities writ large because policies that make prisons less safe make our communities less safe. The chair of the Maryland Parole Commission has also acknowledged that incentivizing good conduct “lowers the threat of violence on our prison staff.”⁸ The trauma and criminogenic effects of incarceration may be amplified by higher levels of misconduct, abuse, and violence in correctional settings.

Reducing violence, facilitating programmatic participation and engagement, and otherwise supporting hope and human dignity behind the walls serve to improve safety both inside institutions and in the communities to which formerly incarcerated people return. For these reasons, we urge an unfavorable report on Senate Bill 44.

⁸ *Still Blocking the Exit*. ACLU of Maryland. (2015, January 20). <https://www.aclu-md.org/en/publications/still-blocking-exit>.