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PREpare for PARole and REentry

Anne Bocchini Kirsch
Director of Advocacy, PREPARE
anne@prepare-parole.org
(410) 994-6136

SB1098 - Correctional Services - Diminution Credits - Sexual Offenses - OPPOSITION

SB1098 seeks to eliminate diminution credits for First Degree Rape, a charge that carries up to a life without the possibility of parole sentence in some circumstances, and up to a life sentence under any circumstances. That means that in every case, the judge already has the ability to impose a completely indeterminate sentence, so if the judge chooses to go below the life sentence, that judge would already be considering the totality of the sentence they imposed, including the possibility of diminution credits. Creating a single charge carve out like this one creates a lot of administrative work - difficulties in the life sentence parole eligibility calculation, the need for constant judicial education and sentence range calculation, with the errors, confusion and modifications that follow - but does little to change actual time served.

It is concerning that in response to a recent high profile case, we are discussing how to make a life sentence more severe rather than how to prevent recidivism, or reduce criminality in the first place. There are many gaps in the system when it comes to sex crimes including a lack of treatment inside the prison and in the community, a Sex Offender Advisory Board (SOAB) that has not posted meetings, minutes or reports since the Hogan Administration, a COMET Supervision system operating under Containment Model principles developed in the 1990's, and a crumbling mandated "treatment" system that soaks up Medicaid funding, denies individuals access to the therapeutic care they need, lacks infrastructure in many counties, and has consistently poor outcomes. There is a desperate need for funding, research, and development of effective programming, so diverting it to administrative waste instead is not a harmless prospect.

Furthermore, diminution credits serve an important function, even in life sentences. Life sentences imposed today carry a parole eligibility of 20 years less diminution credits, so while diminution credits do not create a release date, they are applicable in the parole process. While no lifer has actually been paroled under 20 years, the earlier hearing offers an important meeting with parole commissioners to get programming

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PO Box 9738 Towson, MD 21284

recommendations and guidance for case management, improving access to more impactful rehabilitation. Those convicted of First Degree Rape need this programming access as much as if not more than others carrying life sentences.

For those times when a judge chooses to impose a determinate sentence, diminution credits serve an even more important function. They encourage good behavior, act as a wage for work, and motivate people to take part in programming. Incarcerated people are paid as little as \$1/day - a wage that is impossible to even purchase basic hygiene items on. Without diminution credits, many individuals might choose the more lucrative path of participating in illegal contraband markets solely to survive because there is literally nothing to lose. Hopelessness, gang activity, and controlled substances create an environment that is harmful to staff, contractors, volunteers, and incarcerated individuals alike, and that is precisely what the removal of diminution credits creates.

Diminution credits are an important part of almost every state in the US. I urge an unfavorable report on SB1098.