

SB 318: Postconviction Review – Motion for Reduction of Sentence

FAV

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February 2024

This is a reasonable and conservative means to allow our states attorneys to reconsider a sentence after the current 5-year post-conviction time limit.

The current 5-year post-conviction time limit was only established in 2004, and not by legislation.

Prior to 2004, a hearing for reconsideration of sentence was allowed at any time post-conviction. Perhaps due to the deluge of incarcerations that began in the 1980s, by 2004, Maryland judges may have been wanting to reduce their crowded dockets. In 2004, judges held a panel that revised Rule 4-435 of the Maryland Rules of Procedure, setting a limit of 5 years post-conviction for period during which reconsideration of sentence could be considered.

<https://www.mdcourts.gov/sites/default/files/import/rules/rodocs/ro-rule4-345.pdf>

There is a need for reconsideration of sentences to be considered beyond this current 5-year limit.

The current rule is too rigid. The legal system might determine, later during the period of incarceration, that the *interests of justice are best served* by reconsidering a sentence. This bill allows the consideration of the nature of the original crime, the efforts of the inmate to rehabilitate himself and advance his education, and the family and community support systems to aid his/her upon early release.

The proposed process is carefully designed to prevent recidivism.

The inmate would be subject to a thorough judicial review, with testimony allowed from victims, the state's attorney, prison staff, community supporters, and family members. The sentence may be reduced only upon the decision of the judge hearing this case. This careful process will be a safeguard against the inadvertent release of any inmate likely to reoffend.

The proposed process gives States Attorney the role of gatekeeper.

The 2004 rule was revised by Maryland judges in order to reduce their burden. Having States Attorneys as gatekeepers assures that any reconsideration case that proceeds to a hearing before a judge is a solid case, with the backing of the States Attorney from the original prosecuting district.

Victims have a role in the process.

Many of the crimes of longstanding prisoners occurred 30-40 years ago. In any case, surviving victims and their families would always be notified of an upcoming resentencing hearing and allowed to testify. There are crime victims in other states where processes to reconsider sentences have been established, and victims in these states have handled, and sometimes even approved of the modification of sentences of the perpetrator. There is no reason to believe that victims in Maryland are any different from victims in these other jurisdictions. In the case of great victim sensitivity, the state's attorney can choose not to proceed with the sentence reconsideration.

Maryland's parole system, as it currently functions, does not ameliorate long sentences.

Maryland researchers have shown that the longer an inmate is imprisoned in Maryland, the *less* likely is their chance of parole. The parole board does not hold structured 'hearings', just an interview of the

prisoner by two of its members, with no witnesses allowed on behalf of the inmate. 'Expedited parole hearings' are virtually unknown. When parole is denied, there is no report required from the Commission on reasons for denial. In the rare instance when an inmate with a life sentence is approved for parole, there is an additional waiting period of 12-18 months for the requisite psychological study at Patuxent Institute prior to start of parole.

This process will relieve crowded prisons and save taxpayer money.

We currently have almost 15,000 persons confined to Maryland Department of Corrections facilities. Many of these inmates have served many years, have been sufficiently punished for their crimes, have expressed remorse, have participated in rehabilitation programs available to them, and could be released with *no concern for public safety*. At a cost of over \$50,000/year per inmate, a great savings to Maryland taxpayers can be attained with no detrimental effect on society.