



PREPARE
PREpare for PARole and REentry

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

**HB0301 - Correctional Services - Diminution of a Term of Confinement -
First-Degree Rape and First-Degree Sexual Offense (Pava Marie LaPere Act)
- OPPOSITION**

While I understand the sentiment of this bill following a single horrific case, I struggle with the implementation on several levels. First, this bill does nothing to prevent or deter future crime or reduce recidivism. Few people have an understanding of diminution credits, so this legislation cannot serve as a deterrent. It also does nothing to provide the services needed to reduce recidivism. Some excellent ideas might include offering sex offender treatment within the prison system, re-evaluating the COMET Supervision system (based entirely on the 90's containment model) with an eye to current, validated research, and evaluating the current reentry resources available to people returning to the community in order to provide early intervention and prevent future crime. Any of these would be a valuable investment of public safety resources, and a study commission would be a meaningful first step. Unfortunately, nothing of the sort has been put forth.

HB0301 is a knee jerk emotional reaction that in addition to having no positive outcome, does not even meet its own goals. Changing the law with regard to CL 3-305 as it existed prior to October 2017 does not change anything for anyone. That is because Maryland's ex post facto clause would prohibit retroactive application of the statute, and the fact that CL 3-305 no longer exists in current statute means it could never be applied prospectively.

Changing the law with regard to CL 3-303 appears at first to have some application, but in practice what it really does is create an additional administrative burden for Commitment and the Parole Commission. CL 3-303 is a crime that carries up to a life sentence, and even life without the possibility of parole in some cases. Diminution credits within the life sentence structure do not exist to reduce the time served, they are applied to calculate parole eligibility, which is currently 20 years less diminution credits. There is no path to release with a life sentence that does not involve approval from the

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PO Box 9738 Towson, MD 21284

Maryland Parole Commission, and to my knowledge parole has never been granted for someone convicted of CL 3-303 at or before 20 years. So, again, there is no change to actual time served for anyone under this statute. The only conceivable time when this statute would be applied in a meaningful way would be the rare case when a judge chose to give a sentence below life, and in those cases, that judge would reduce the sentence to whatever they deemed appropriate, taking into account the possibility of earned credits or not as the current statute read.

While HBO301 does not make meaningful changes to time served, what it does do is create one more complication in the generation of parole eligibility dates for life sentences. The current process involves an administrative review from the Parole Commission wherein the Hearing Officer submits the case to Commitment for a Lifer Eligibility form. Commitment then must add up the diminution credits and subtract them from the appropriate number (in this case, 20 or 25 years). This gives the parole eligibility date, and then the Parole Commission can proceed with other administrative processes such as victim notification and scheduling. This is already a time consuming, manual process, and changing the calculation for a single charge adds one more layer of complexity to something that already creates a significant burden and delay.

I urge you to vote against HBO301 and instead turn your attention to evaluation of the current system and development of legislation that would promote prevention, recidivism reduction and yield an overall benefit to public safety.