



## Maryland State's Attorneys' Association

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**DATE:** February 28, 2025

**BILL NUMBER:** SB 735

**POSITION:** Favorable with Amendment

The Maryland State's Attorneys' Association (MSAA) supports Senate Bill 735 with the inclusion of an amendment removing the language restricting courts from rendering individualized pretrial release decisions in certain circumstances.

SB 735 can be considered to have two distinct sections – the first ensures the sentence announced by a court for certain serious crimes more closely resembles the sentence actually served by the defendant. The changes made by this bill in this regard – restricting incarcerated individuals from earning diminution credits that exceed 10% of their sentence for crimes of violence, and removing the ability of individuals serving sentences for murder to earn diminution credits at all – have an additional benefit: by reducing the diminution credits awarded, the bill ensures that more early release decisions for serious cases are made by the Maryland Parole Commission.

These provisions build on the work last session when Senate Bill 1098 was passed in the wake of the murder of Pava LaPere by a man that was mandatorily released (after earning sufficient diminution credits) from a sentence for rape in the first degree. The involvement of the Maryland Parole Commission prior to the release of individuals serving sentences for serious and violent offenses is critically important, as the parole process provides for an adequate examination of an incarcerated individual's rehabilitative progress and likelihood of recidivism prior to release, as opposed to release on mandatory supervision based on diminution credit accrual, which occurs automatically.

The second section of SB 735 restricts the ability of judges to release individuals prior to their trial if they are accused of certain offenses in certain situations. Although the Supreme Court has held that denial of bail based on considerations of dangerousness does not violate the excessive bail clause of the Eighth Amendment in *United States v. Salerno*, 481 U.S. 739 (1987), the complete removal of the ability of a judge to consider the unique particularities of a defendant and an accusation, even in the circumstances addressed by this bill, is unlikely to survive constitutional scrutiny, and presents serious separation-of-powers concerns. Removing these provisions from SB 735 will avoid costly, and likely unsuccessful, litigation, and return the ultimate decision-making authority to the institution our communities trust to make important decisions on a daily basis - the courts.