



**UNIVERSITY OF
BALTIMORE**

**Center for Criminal
Justice Reform**



**MARYLAND OFFICE OF THE
PUBLIC DEFENDER**

ACLU
Maryland

TESTIMONY IN OPPOSITION TO SENATE BILL 735

Real Time for Violent Crime Act

TO: Members of the Senate Judicial Proceedings Committee

FROM: Center for Criminal Justice Reform, University of Baltimore School of Law; Maryland Office of the Public Defender; ACLU of Maryland

DATE: February 28, 2025

The University of Baltimore School of Law's Center for Criminal Justice Reform, Maryland Office of the Public Defender, and ACLU of Maryland jointly submit this written testimony in opposition to Senate Bill 735.

Senate Bill 735 would eliminate all diminution credit for people serving sentences for first- and second-degree murder and would prevent those convicted of a "crime of violence," the significant majority of Maryland's incarcerated population, from earning diminution credit for more than 10% of their aggregate sentence. The bill would also intrude on judicial discretion by depriving judges of the ability to authorize the pretrial release of certain defendants based on the unique facts and circumstances of each individual case.

Senate Bill 735 is overly broad 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 fiscal note for identical legislation from the 2024 Maryland General Assembly notes, this legislation would drive potentially significant increased costs to Maryland for lengthier prison terms¹ at the same time that states across the country are

¹ Fiscal and Policy Note, SB 44, Maryland General Assembly 2024 Session, https://mgaleg.maryland.gov/2024RS/fnotes/bil_0004/sb0044.pdf.

recognizing the research-backed reasons to reduce unnecessarily long prison terms and our state is facing a severe budget crisis.

I. Senate Bill 735 is overly broad and does not effectively address those who pose the highest public safety risk.

Senate Bill 735 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.² 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 735 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.

Second, Senate Bill 735 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 home to steal a laptop has committed “a crime of violence” and would have their diminution credits capped at 10% of their sentence under Senate Bill 735.³ As a result, Senate Bill 735 would reduce the application of diminution credit for a very large percentage of Maryland’s incarcerated population.

II. Senate Bill 735 disincentivizes rehabilitation by eliminating or reducing the use of what DPSCS calls a “key rehabilitative component.”⁴

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.⁵

In fact, Maryland Correctional Enterprises reports a 60% reduction in recidivism for incarcerated people who complete its programs.⁶ Unfortunately, in spite of those encouraging

² Racial Equity Impact Note, SB 652, Maryland General Assembly 2023 Session, <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2023RS-SB0652-REIN.pdf>, 3.

³ See e.g., CR, §6-202

⁴ The Department of Public Safety and Correctional Services (“DPSCS” or “the Department”) recognizes diminution credits as “a key rehabilitative component” for incarcerated people. Racial Equity Impact Note, 1.

⁵ 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.

⁶ *Prisoners employment and rehabilitation resources*. Maryland Alliance for Justice Reform. (2023, December 19). <https://www.ma4jr.org/prisoners-employment-and-rehabilitation-act/>.

results, Maryland only offers the opportunity to participate in job training programs to 10% of people in state prisons.⁷ 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 735 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.⁸ Maryland prisons release over 7,000 people annually.⁹ Research demonstrates that Senate Bill 735 will exacerbate risks of violence to correctional staff, incarcerated people, and communities writ large because policies that make prisons less safe make our communities less safe.

These concerns are all the more pressing in light of the Department of Public Safety and Correctional Services Fiscal 2026 Budget Overview which reported that violent assaults in Maryland facilities jumped by more than 50% last fiscal year compared to the prior year.¹⁰ The report also describes a dramatic increase in the rate of attacks on correctional staff, more than triple the Department’s “acceptable rate.”¹¹ The chair of the Maryland Parole Commission has also acknowledged that incentivizing good conduct “lowers the threat of violence on our prison staff.”¹² 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 735.

⁷ Id.

⁸ *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>.

⁹ *Maryland profile*. Prison Policy Initiative. <https://www.prisonpolicy.org/profiles/MD.html>.

¹⁰ See Department of Legislative Services Office of Policy Analysis, *Department of Public Safety and Correctional Services Fiscal 2026 Budget Overview*, Annapolis, Maryland January 2025

¹¹ Id.

¹² *Still Blocking the Exit*. ACLU of Maryland. (2015, January 20). <https://www.aclu-md.org/en/publications/still-blocking-exit>.