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Testimony from:
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Testimony in Support of SB 291: “Criminal Procedure – Petition to Reduce Sentence (Maryland Second Look Act).”

January 30, 2025

Maryland Senate Judicial Proceedings Committee

Chairman Smith and members of the committee,

My name is Robert Melvin, and I am the Northeast region director at the R Street Institute. The R Street Institute is a nonprofit, nonpartisan public policy research organization. We engage in policy analysis and outreach promoting free markets, and limited, effective government in a variety of policy areas, including criminal justice reform and civil liberty issues. This is why we have a strong interest in Senate Bill 291, also known as the “Maryland Second Look Act.”

When done well, second look laws can save taxpayer dollars and better prioritize prison resources, without compromising public safety. SB 291 permits a defendant to request a sentence reduction after serving at least 20 years of their sentence.ⁱ To avoid frivolous filings, the measure limits a defendant to three petitions and requires a three-year wait between filings.ⁱⁱ The bill also grants a State’s Attorney ability to file a motion for a sentence reduction with broader discretion.ⁱⁱⁱ

Most importantly, it establishes a hearing process where the court considers defendant, prosecutor, and victim testimony.^{iv} During the hearing, certain factors are considered by the court, including the individual’s age at the time of the offense, nature of the offense, participation in educational and rehabilitation programs, statements from victims, and circumstances at the time of arrest.^v These precautions help ensure a system where courts examine if incarceration remains prudent from both public safety and economic angles.

With many states, including Maryland, facing issues with prison overcrowding, correctional officer (CO) staff shortages, and the growing costs to incarcerate individuals, Second Look laws provide a fiscally responsible solution to these growing economic challenges.^{vi} In Maryland, the current inmate population statistics show that there are approximately 15,000 individuals incarcerated in state facilities.^{vii} The number of prisoners has been growing, and in 2023, the prisoner population increased by 641 and continues unabated.^{viii} Coupled with the problem of hiring an adequate number of correctional officers, with CO vacancy rates growing from 11.1 percent to 12.7 percent, it creates a considerable issue with ensuring that there is appropriate levels of staff to supervise the inmate population.^{ix} That

being said, there are substantial costs related to prisoner retention that must be factored into this equation as well.

In Maryland the state spends around \$114,000 annually per prisoner.^x The growing costs are also exacerbated by a prison population that increasingly require more medical care as they age.^{xi} By adopting SB 291, the state could experience significant savings by shrinking the inmate population, and it would help decrease the pressure on the Department of Public Safety and Correctional Services with respect to hiring of correctional officers. While economic concerns are an important factor, we must not overlook the public safety considerations.

This proposal would also encourage better prisoner behavior and their participation in rehabilitation programs by providing these individuals with the prospect of sentence reconsideration if they make progress.^{xii} This approach helps reduce the chances of reoffending after an individual is released, while excessive sentences have the opposite effect.^{xiii} Most importantly, research demonstrates that recidivism rates contract by large margins with age, with most “criminal careers, concluding within 10 years.”^{xiv} Moreover, individuals who are incarcerated for long durations as they tend to age out of participating in criminal activity by their late 30s.^{xv} This is even true of individuals who engage in violent crime. In Maryland, reports have found that out of 188 prisoners serving life without parole, those released after serving 30 years or more, only five were found six years later to have returned to prison for either violating parole or committing a new crime.^{xvi} This evidence proves that public safety is maintained even when Second Look laws are adopted, but it’s not without its detractors and allows for victim input in the reconsideration process.

One of the more noteworthy provisions of this legislation is that it offers prosecutors discretion to offer reconsideration of a sentence. Prosecutors are uniquely positioned to evaluate case histories, gather victim input, and account for current trends when reviewing. While critics may argue that this allows rogue prosecutors to be lenient, the court always retains final judgment, so that ensures that there are safeguards in place from any potential abuse.

If Maryland adopts SB 291, it would not be the first state to do so. The District of Columbia and at least 11 other states have enacted Second Look laws, with five states also authorizing prosecutor-led efforts.^{xvii} Almost all stipulate that a large chunk of the sentence has already been served to be eligible.^{xviii}

Senate Bill 291 carefully balances economic and public safety considerations. It will alleviate the issues related to continued growth in prisoner numbers and rising costs of housing inmates, thereby helping Maryland rein in this growing fiscal challenge. Additionally, it’s done with appropriate guardrails that don’t jeopardize safety of the public. For these reasons, we respectfully urge your favorable consideration of SB 291.

Thank you,

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ⁱ Maryland General Assembly, 2025 Legislative Session, Senate Bill 291, Last Accessed January 27, 2025: <https://mgaleg.maryland.gov/mgaweb/Legislation/Details/sb0291?ys=2025rs>

ⁱⁱ Ibid.

ⁱⁱⁱ Ibid.

^{iv} Ibid.

^v Ibid.

^{vi} Erica Bryant, “Corrections Staffing Shortages Offer Chance to Rethink Prison: A Staffing crisis has created dangerous conditions in prisons. To create safety, reduce the number of people entering prison, and release people who can safely return home,” Vera Institute, November 1, 2024: <https://www.vera.org/news/corrections-staffing-shortages-offer-chance-to-rethink-prison#:~:text=Prisons%20across%20the%20country%20are,lockdowns%20are%20becoming%20the%20norm.>

^{vii} Maryland Department of Legislative Services, “Department of Public Safety and Correctional Services Overview Fiscal 2025 Budget Overview,” Analysis of the FY 2025 Maryland Executive Budget 2024, page 5, January 2024: <https://mgaleg.maryland.gov/pubs/budgetfiscal/2025fy-budget-docs-operating-Q00-DPSCS-Overview.pdf>

^{viii} Maryland Department of Legislative Services, “Department of Public Safety and Correctional Services Overview Fiscal 2025 Budget Overview,” Analysis of the FY 2025 Maryland Executive Budget 2024, pp 3-4, January 2024: <https://mgaleg.maryland.gov/pubs/budgetfiscal/2025fy-budget-docs-operating-Q00-DPSCS-Overview.pdf>

^{ix} Maryland Department of Legislative Services, “Department of Public Safety and Correctional Services Overview Fiscal 2025 Budget Overview,” Analysis of the FY 2025 Maryland Executive Budget 2024, page 3, January 2024: <https://mgaleg.maryland.gov/pubs/budgetfiscal/2025fy-budget-docs-operating-Q00-DPSCS-Overview.pdf>

^x USA Facts team, “How much do states spend on prisoners?,” USA Facts, April 17, 2024: <https://usafacts.org/articles/how-much-do-states-spend-on-prisons/>

^{xi} Matt McKillop, and Alex Boucher, “Aging Prison Populations Drive Up Costs,” Pew Charitable Trust, February 20, 2018: <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/02/20/aging-prison-populations-drive-up-costs>

^{xii} JaneAnne Murray, et al., “Second Look=Second Chance: Turning The Tide Through NACDL’s Model Second Look Legislation,” National Association of Criminal Defense Lawyers, 2021: <https://www.nacdl.org/getattachment/c0269ccf-831b-4266-bbaf-76679aa83589/second-look-second-chance-the-nacdl-model-second-look-legislation.pdf>

^{xiii} Gordon B Dahl, and Magne Mogstad, “The Benefits of Rehabilitative Incarceration,” National Bureau of Economic Research, April 6, 2020: <https://www.nber.org/reporter/2020number1/benefits-rehabilitative-incarceration>

Hilde Wermink, et al., “Short-Term Effects of Imprisonment Length on Recidivism in the Netherlands,” Sage Journals, January 2017: <https://pmc.ncbi.nlm.nih.gov/articles/PMC5971372/#:~:text=Findings%20indicate%20that%20length%20of,and%20economic%20costs%20of%20imprisonment.>

^{xiv} Alex R. Piquero, et al., “Study Group on the Transitions between Juvenile Delinquency and Adult Crime,” U.S. Department of Justice Office of Justice Programs, July 2013: <https://www.ojp.gov/pdffiles1/nij/grants/242932.pdf>

^{xv} Liz Komar, et al., “Counting Down: Paths to a 20-Year Maximum Prison Sentence,” The Sentencing Project, February 15, 2023: <https://www.sentencingproject.org/reports/counting-down-paths-to-a-20-year-maximum-prison-sentence/>

^{xvi} Families Against Mandatory Minimums, “The Older You Get: Why Incarcerating the Elderly Makes us Less Safe,” Last accessed January 28, 2025: <https://famm.org/wp-content/uploads/2021/10/Aging-out-of-crime-FINAL.pdf>

^{xvii} Becky Feldman, “The Second Look Movement: A Review of the Nation’s Sentence Review Laws,” The Sentencing Project, May 15, 2024: <https://www.sentencingproject.org/reports/the-second-look-movement-a-review-of-the-nations-sentence-review-laws/>

For the People, “Frequently Asked Questions about Prosecutor-Initiated Resentencing,” Last accessed January 28, 2025: <https://www.fortheppl.org/faqs>

^{xviii} Ibid.