

Written Testimony SB 735.pdf

Uploaded by: Joanna Mupanduki

Position: FAV



Maryland Crime Victims' Resource Center, Inc.

Continuing the Missions of the Stephanie Roper Committee and Foundation, Inc.

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February 28, 2025

Re: Favorable Testimony to SB 735

Dear Chair and Members of the Committee,

My name is Joanna Mupanduki and I am the Deputy Director of the Maryland Crime Victims' Resource Center, Inc. Having worked in the criminal justice system across multiple states, I can say that no other state exhibits the same level of confusion and disregard for crime victims as Maryland. I have been an attorney for over 17 years, serving as a prosecutor in Washington State, California, and Maryland. Additionally, I spent four and a half years as in-house counsel at the California Department of State Hospitals, which provides psychiatric care for individuals in the criminal justice system, including those deemed incompetent to stand trial and those identified as sexually violent predators or mentally disordered offenders.

For the past three years, I have served as a victim rights attorney at the Maryland Crime Victims Resource Center (MCVRC) and became the Deputy Director over a year ago. This role has been the most rewarding of my career, allowing me to support crime victims during their most challenging times.

Senate Bill 735 gives me hope that at least one legislator and maybe more are listening to crime victims. The people who did not choose to be victims, are the truly innocent parties in the criminal justice system, and yet they are the ones that do not have access to the same rights and services that their attackers are provided with from the moment that they are arrested. Most victims are not aware of how the criminal justice system works and are shocked when they learn that the sentence handed down by a Judge,

after months and often years in cases of violent crimes comprising of countless court hearings, is not the actual time that a criminal defendant will serve in jail. It will not even be close to that amount of time. There are over 16 ways for a defendant to diminish their sentence after being found guilty by a jury of their peers and sentenced by a Judge. These 16 possible ways to diminish a sentence include:

1. 3 judge panel to revise sentence
2. Appeal of illegal or unconstitutional sentence
3. Rule 4-345 revision of sentence
4. Good conduct credits
5. Work tasks credits
6. Education Credits
7. Special Project credits
8. Patuxent Institution
9. Post conviction proceedings
10. Release to home detention
11. Parole
12. Medical parole
13. Geriatric parole
14. Health General 8-505 reduction/ reconsideration
15. Commutation / Pardon
16. Juvenile Restoration Act (some offenders)

Many of these above referred credits are colloquially known as “good time credit” for offenders in other states and in many states the good time credits are at a set rate and earned as an inmate serves his time. Not so in Maryland. In Maryland, an inmate has all of his diminution credits frontloaded with the assumption that they can be taken back if needed in the future. However, this is rarely done even if an inmate has a history of infractions or poor behavior while incarcerated.

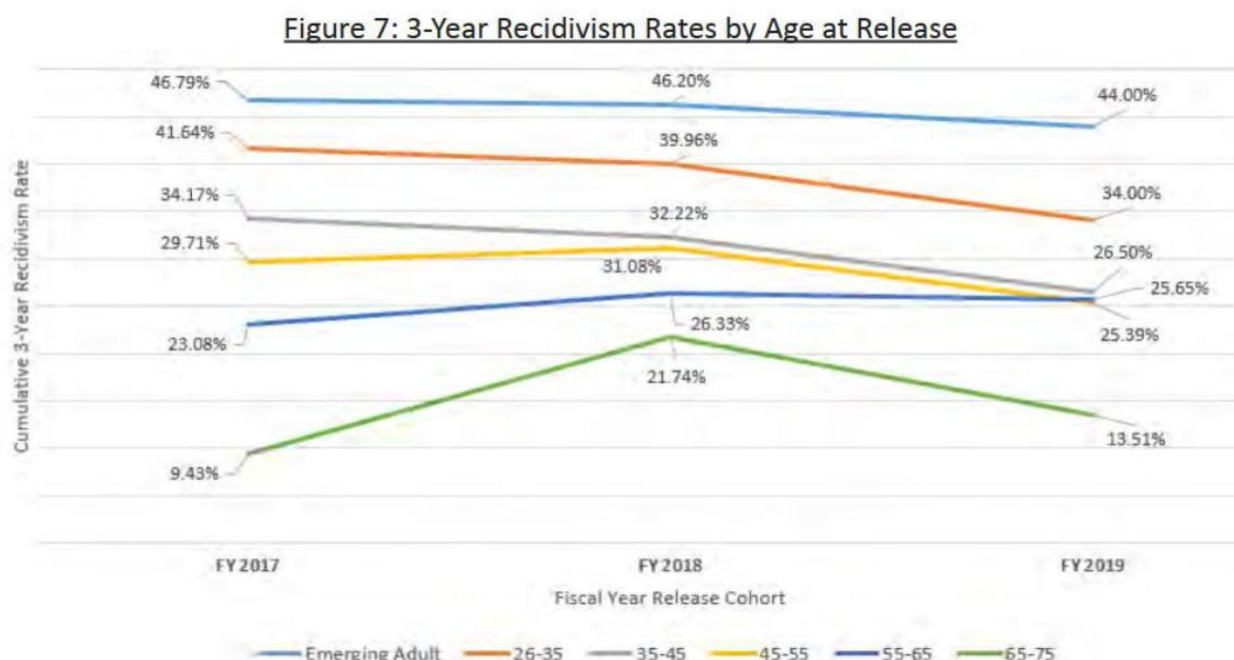
Why are diminution credits currently set at 50% for violent offenders? This was a recent decrease just a few years ago. It used to be that non-violent offenders benefitted from such lax rules, but now 50% is the strictest the Maryland criminal justice can muster. These are convicted criminals who have engaged in the most heinous and dangerous crimes.

Do the recidivism rates of violent offenders justify diminution credit being reduced to such levels? There are many misconceptions about what the recidivism rates really are for murderers and the most violent offenders. In recent hearings before the House Judiciary Committee in recent pushes for additional opportunities to allow convicted offenders more opportunities to diminish their sentences, we heard one witness assert that the recidivism rate was “less than 3%.” Another stated that “recidivism diminishes with age,” which is true. However, she went on to claim that by age 29, recidivism is virtually non-existent. She used this assertion as a rationale for capping ALL criminal sentences at ten years, arguing that individuals who have served this duration would be “aged out” of the likelihood of re-offending. This is a dangerous falsehood.

There is a current push in this legislature to let out the most violent offenders from prison after a short period of incarceration, ultimately allowing brutal rapists, child molesters, and murderers to exploit this system to avoid further confinement. This bill will hold violent offenders accountable for their behavior and make sure that the punishment is borne by the offender: on the person who committed the atrocious crime and decided to end the life of another human. Someone’s loved one, a son, daughter, brother, sister, husband, wife, mother, or father. A person who will never get to walk on this earth again.

Chart 1 below presents data from the Department of Public Safety and Correctional Services (DPSCS) regarding recidivism based on the age of releasees at the time of their release and their recidivism rates within just three years. I take issue with the methodology used to derive these statistics, as they differ from the standards employed by most other jurisdictions. While DPSCS evaluates recidivism over a three-year period, most jurisdictions assess it over five or even ten years. Naturally, the statistics increase when a longer time frame is considered. Despite this, let's examine the claim that “after age 29, recidivism is virtually non-existent.” According to the DPSCS data, recidivism for individuals aged 25 to 35 is 39%. For those aged 35 to 45, the rate is 31%. I believe that the DPSCS statistics on recidivism are deceptively low. When statistics diverge dramatically from established norms or broader studies, the outlier data should be viewed with skepticism.

DPSCS ANNUAL RECIDIVISM REPORT - 2022



AVERAGE RECIDIVISM:

- 25-35 year olds: 39%
- 35-45 year olds: 31%
- 45-55 year olds: 29%
- 55-65 year olds: 25%
- 65-75 year olds: 15%

Chart 2 is from the Department of Justice, Bureau of Justice Statistics which is the comprehensive study on recidivism. Consider the vastness of this study. It compiled statistics over a five-year period from thirty states. The recidivism rates for homicide releasee are 51%. Even murderers as a class recidivated at 47%. Remember, most murderers would not have been released until the passage of 20 or more years. This statistic should convince you that the remark regarding non-existent recidivism after age 29 is someone's fantasy.

CHART 2

TABLE 8

Recidivism of prisoners released in 30 states in 2005, by most serious commitment offense and time from release to first arrest.

Cumulative percentage of released prisoners arrested within—

Most serious commitment offense	6 months	1 year	2 years	3 years	4 years	5 years
All released prisoners	28.2%	43.4%	59.5%	67.8%	73.0%	76.6%
Violent	24.9%	38.4%	53.8%	61.6%	67.2%	71.3%
Homicide	12.5	21.5	33.9	41.5	47.0	51.2
Murder	10.1	18.8	30.4	37.8	43.6	47.9
Nonnegligent manslaughter	17.3	27.7	39.4	46.0	51.5	55.7
Negligent manslaughter	13.2	21.9	35.5	43.7	48.8	53.0
Rape/sexual assault	20.8	30.9	43.7	50.9	56.0	60.1
Robbery	25.8	41.0	58.6	66.9	72.8	77.0
Assault	27.9	42.6	58.9	67.1	72.9	77.1
Other	28.7	43.4	56.6	63.0	66.9	70.4
Property	33.6%	50.3%	66.7%	74.5%	79.1%	82.1%
Burglary	31.0	48.7	65.8	73.9	78.9	81.8
Larceny/motor vehicle theft	39.3	56.2	70.8	77.6	81.6	84.1
Fraud/forgery	27.7	42.2	60.0	68.6	73.2	77.0
Other	33.2	49.5	66.6	75.5	80.9	83.6
Drug	26.9%	42.3%	59.1%	67.9%	73.3%	76.9%
Possession	28.7	44.5	60.7	69.6	75.2	78.3
Trafficking	26.9	41.5	58.0	66.6	71.9	75.4
Other	25.3	41.4	59.3	68.3	73.6	78.1
Public order	25.6%	40.1%	55.6%	64.7%	69.9%	73.6%

Weapons	35.3	49.1	65.1	73.1	76.9	79.5
Driving under the influence	11.9	22.1	37.2	48.0	54.9	59.9
Otherb	27.8	44.9	60.4	69.2	74.1	77.9

Note: Prisoners were tracked for 5 years following release. Inmates could have been in prison for more than one offense; the most serious one is reported in this table. See appendix table 9 for standard errors.

includes cases in which the type of homicide was unspecified, not shown separately.

includes 0.8% of cases in which the prisoner's most serious offense was unspecified.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection.

Chart 3 is also from Bureau of Justice Statistics. It shows recidivism rates by age at time of release. This is another indication of the gross inaccuracy of the statistics that proponents of early release of violent offenders have quoted to the Legislature this year. Remember the assertion the previous quote "recidivism is virtually non-existent after age 29..."

CHART 3

TABLE 7

Cumulative percent of state prisoners released in 31 states in 2012 who had an arrest after release that led to a conviction, by sex, race or ethnicity, age at release, and year following release

Characteristic	Year 1	Year 2	Year 3	Year 4	Year 5
All released prisoners	22.9%	36.5%	45.0%	50.6%	54.4%
Sex					
Male*	23.6%	37.4%	46.0%	51.6%	55.4%
Female	16.6 †	29.0 †	36.7 †	42.4 †	46.5 †
Race/ethnicity					
White ^{a*}	21.7%	34.9%	43.5%	49.4%	53.5%
Black ^a	23.5 †	38.3 †	47.1 †	52.9 †	56.7 †
Hispanic	24.3 †	36.6 †	44.0	48.4	51.7 †
American Indian/Alaska Native ^a	28.0 †	43.0 †	51.9 †	58.6 †	63.0 †
Asian/Native Hawaiian/Other Pacific Islander ^a	14.8 †	24.6 †	31.8 †	36.1 †	39.2 †
Other ^{a,b}	23.1	38.4	47.6	53.0	56.7
Age at release					
24 or younger*	29.5%	45.6%	54.8%	61.3%	65.2%
25–39	24.3 †	38.7 †	48.0 †	54.0 †	58.2 †
40 or older	17.7 †	29.0 †	36.1 †	40.5 †	43.8 †
40–54	18.9	30.9	38.6	43.4	46.8
55–64	12.1	20.6	25.1	28.0	30.5
65 or older	4.8	7.7	10.3	12.4	13.0

Note: Estimates are based on prisoners released across the 31 states that could provide the necessary court data. See appendix table 5 for standard errors.

*Comparison group.

†Difference with comparison group is significant at the 95% confidence level. The significance tests were not conducted on the age subcategories.

^aExcludes persons of Hispanic origin (e.g., “white” refers to non-Hispanic whites and “black” refers to non-Hispanic blacks).

^bIncludes persons of two or more races or other unspecified races.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2012 data collection, 2012–2017.

When faced with real recidivism numbers, it is not safe to release violent offenders without consideration for the criminal justice system and incarceration. The four primary goals of the criminal justice system are: deterrence, retribution, rehabilitation, and incapacitation. Deterrence works in two ways: (1) it stops other people from committing the crime, and (2) it stops that person from committing the same crime or a worse crime again in the future. Retribution is the punishment part of the system where an offender is punished for their bad behavior. Rehabilitation is the attempt to reform individuals to prevent them from re-offending in the future. Incapacitation is when jails and prisons physically stop criminals from committing further crimes by removing them from society.

By requiring violent offenders to serve the vast majority of their time, several of these goals will be served. Offenders will be deterred from committing violent crimes in the first place and from repeating those mistakes. Convicted inmates will be held responsible for their crimes and victims will have a little more peace in their lives. Inmates will still have numerous ways to diminish their sentences but at least the sentence will be greater to

start. Rehabilitation will be served as inmates will have additional time to participate in prison programs and demonstrate their changed behavior and coping skills if they have, in fact, learned such skills. And, finally, incapacitation will be much more within reach as violent offenders are more likely to get to an age and time served in prison where their danger is more reasonable for release, which takes a lengthy amount of time for violent criminals to reach.

On behalf of crime victims, I ask for this committee to pass this bill favorably.

Sincerely,

Joanna D. Mupanduki
Deputy Director

Momma - testisfy 2025 Sen. Fulton.pdf

Uploaded by: Linda Duncan

Position: FAV



Justice or for Geri

The application of Justice should be representative of the *Violent Act* - MURDER!!

Please accept my apologies if the pictures upset you. I am trying to convey to you the importance of passing stricter laws in Maryland in the acts of heinous and violent 1st or 2nd degree murder.



It's Time to **BALANCE** Maryland's
for **ALL** Victims

Scales of Justice

Thank You for Supporting **SB735**

ELIMINATE Diminution Credits *used towards Time Served in 1st Degree Murder*

Time to STOP Maryland's Judicial Misjustice and Leniency on Major Felonies-Violent Crimes

STOP! REDUCING TIME OF INCARCERATION for 1st & 2nd Degree Felony Murder Cases!

Our present judicial system serves as an enabler to offenders. Our governing laws are in-need of a make-over to reflect a "no-nonsense-tolerance" stance in the crime of 1st & 2nd degree Murder.

The scales of justice are unbalanced. It is time to equalize the distribution of what governing officials call "justice for all" - balance the scales for all victims.

I am here to request the elimination of dim credits used to reduce time served in convictions of felony 1st & 2nd degree murder cases.

Equal & Fair Justice should not be contingent on race – a certain racial population spending longer time incarcerated, or your party affiliation, or the age of the victim, or the protection of certain workers, or the cost to the system due to overcrowding; **OR...** because you were a close friend of a highly ranking government official – like Gov. Wes Moore.

In January of last year, the LaPere family whose daughter Pava, was rape and murdered, testified before this committee for their bill to: **Eliminate Diminution Credits of a Term of Confinement in the act of First-Degree Rape and First-Degree Sexual Offense.**

Within 4 months from the time it was presented, **The Pava Act** - was signed into law by Wes Moore. And as he signed, he stated 'she was my friend.'

I started this battle in 2015, after learning of my killer's early parole due to Dims Credits. For 10 years, I've testified before this committee to pass Geri's Law that eliminates Dims Credits in First Degree heinous violent murder cases and you either vote against it or in most cases it isn't even presented for consideration. The only difference in The Pava Act and Geri's Law is the act of the crime 1st degree rape vs 1st degree murder.

This state has the most lenient laws for murder. Victims of all heinous violent crimes are very **used to reduce time served** state law, sentencing offenders convicted of murder whose victims are 16yrs. and younger, are **NOT** allowed to earn diminution credits to be used towards time served. However, if the victim is over 16yrs., the offender may earn Dims Credits. **WHY?**

If this is to keep our prison personnel safe within the environment then you've already lost the control. It's time to re-evaluate and restructure the entire system, diminution credits can be earned and used within the facility while incarcerated – **NOT TOWARDS EARLY RELEASE!** And, if anyone is interested I have a proposal.

Our family may not be close friends of Wes Moore, but he should remember he's the governor appointed to serve and provide fair and equal justice to all citizens of this state – not just to his personal friends. Our mom was a loving, law-abiding, tax paying citizen, just as Pava was. To the LaPere family, please know our family know the pain you went through due to the violence and loss of your daughter, and we are glad Pava's Act was passed.

Our family want and deserves the same equal justice as the La Pere family.

Please, for the safety of all in our communities, please pass Geri's Law- **Eliminate Diminution Credits** in reducing time served for the charge of 1st degree murder.

Written Testimony for SB 735_ Real Time for Viole

Uploaded by: Trudy Tibbals

Position: FAV

Written Testimony for **SB 735**: Real Time for Violent Crime Act (Geri's Law) -
Please **VOTE YES** on this bill.

Dear Judicial Proceedings Committee:

This bill reads "...Prohibiting the earning of diminution credits to reduce the term of confinement of an incarcerated individual who is serving a sentence for murder in the first degree or murder in the second degree in a State or local correctional facility; prohibiting a deduction of diminution credits of more than 10% of an incarcerated individual's aggregate sentence for crimes of violence for an incarcerated individual who is serving a sentence for a crime of violence; etc..."

Maryland needs to be tougher on crime. Criminals are finding more and creative ways to hurt the people of Maryland. And Maryland cannot afford to let the criminals get away with their actions. Maryland needs to show criminals that if you "do the crime", you will "do the time".

Please take note that the bill also states "...THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE AN INCARCERATED INDIVIDUAL TO SERVE A LONGER SENTENCE OF CONFINEMENT THAN IS AUTHORIZED BY THE STATUTE UNDER WHICH THE INCARCERATED INDIVIDUAL WAS CONVICTED..."

This bill is quite simple and very much needed! It shows the people of Maryland and criminals looking to perpetrate crimes in Maryland that Maryland can and will be tough on crime, but not unreasonable. This bill shows if you "do the crime", you will "do the time", and nothing more.

So please **VOTE YES** on this bill to show Marylanders that our state will protect them by being tough on crime!!

Thank you.

Respectfully,

Trudy Tibbals
A Very Concerned Mother of 3 and Maryland Resident

SB 735 - MSAA FWA.pdf

Uploaded by: Patrick Gilbert

Position: FWA



Maryland State's Attorneys' Association

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Rich Gibson
President

Steven I. Kroll
Coordinator

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.

2025-02-28 OPD SB 735 UNF.pdf

Uploaded by: BENOIT TSHIWALA

Position: UNF



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PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB 0735 – Correction Services. – Real Time for Real Crime (Geri’s Law)

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 2/28/25

My name is Benoit Tshiwala, paralegal with the Office of the Public Defender’s Appellate Division. The Office of the Public Defender urges an unfavorable report on Senate Bill 735 to prohibit the earning of diminution credits for reducing the term of confinement of persons serving a sentence for first- and second-degree murder, or other crimes of violence in a State and local correctional facility. As a formerly incarcerated person myself who served 21 years (and one of several who have benefited from the deterrent effect of diminution credits), this bill eviscerates any hope for positive reentry into society, endangers individuals in institutions including correctional staff, and undermines public safety.

Under long-standing Maryland law, incarcerated persons generally have been able to earn diminution credits that serve to reduce the length of incarceration. Such credits may be earned through good behavior, work, and educational program assignments. Good conduct credits encourage positive institutional behavior, while also mitigating overcrowding. Senate Bill 735 undermines every policy interest underlying the awarding of diminution credits. However, I would like to address two specific policy interests from the vantage point of my experiences as a formerly incarcerated person: deterrence and correctional staff safety.

First, this bill greatly disincentivizes positive institutional behavior by incarcerated persons. At the beginning of my incarceration in 1998, I was quite disruptive, getting infractions (“tickets”) for fights and disrespecting officers. I served most of my sentence at what was widely considered to be one of the most dangerous prisons in America, the now-defunct Maryland House of Corrections (infamously known as “The Cut”). To put it mildly, it was a predator or prey environment, and protecting yourself from bodily harm was fundamental to survival. A few men didn’t make it out alive. As a result of my behavior, I was finally placed on administrative segregation in 2001 and transferred to the Annex (a second-tier maximum security prison) for nearly 3 years.

The prospect of losing my “good time” and being unable to work for diminution credits compelled me to change my behavior and focus on my rehabilitation and education. Although at the time, it was likely I could spend a significant part of my life in prison, retaining and earning diminution credits refocused me. In fact, I would not incur a single infraction for the next 18 years. During that period, I earned an associate’s degree in Sociology from Ohio University as well as a Paralegal Certificate from Howard County Community College. This, in turn, opened up professional avenues for me upon my release that would have been closed off to me had I not changed behavior, such as working at the Office of the Public Defender. I also witnessed the behavior of many fellow incarcerated men greatly improve, large part for fear of losing diminution credits. I serve the people of this State today in part because of the incentives provided by diminution credits and urge this Committee not to take the same opportunity away from other individuals.

Secondly, the prospect of losing diminution credits literally saves lives, as well as protecting the well-being of correctional staff. I've personally witnessed improved interactions between inmates and correctional staff when inmates are incentivized positively. This bill, on the other hand, will only exacerbate an already violent work environment for correctional staff and the general population at state correctional facilities.

Finally, this Bill appears to further a recent trend towards the rollback of all diminution credits for persons convicted of violent crimes generally. This could be more dangerous to the public in the long run. Rather than revoking diminution credits, there should be more focus instead on rehabilitation and educational resources for incarcerated persons. Bottom-line, I (along with several of my formerly incarcerated brothers) am living proof that diminution credits have a substantial deterrent effect on violence and bad behavior in prison. We are out here making a difference and giving back to society. We also serve as the embodiment of what is possible when you positively change your behavior. Our success encourages those we left behind to do likewise.

While the deep trauma and pain experienced by crime victims must not be diminished in any way, the reality is that the vast majority of incarcerated people are or will be released into society. We should not abandon 'carrots' in favor of only 'sticks' when incentives that diminution credits provide have a direct positive impact on the behavior of people behind bars.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB 735.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Benoit Tshiwala (Paralegal). benoit.tshiwala@maryland.gov

2025 18 2 SB0735 (Dim Creds) - MOPD Unfav (1).pdf

Uploaded by: Edward Kenney

Position: UNF



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MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB0735 — Corr. Servs.— Real Time for Real Crime (Geri's Law)

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 27, 2025

The Maryland Office of the Public Defender urges an unfavorable report on Senate Bill 0735.

This bill would mandate that a person convicted of murder in the first or second degree is not entitled to diminution credits. The bill also limits diminution credits for any individual serving a crime of violence to no more than 10% of their sentence. Finally, the bill denies pre-trial release for any defendant who has pending charges for a violent crime or who has been convicted of a crime of violence in the last ten years. As shall be explained below, this bill will seriously undermine public safety by discouraging rehabilitation. It will punish those who strive to turn their life around, while rewarding those who do not.

What are diminution credits and how do they operate?

Today, incarcerated individuals serving a term of years sentence can be mandatorily released prior to completing their full executed sentence by earning diminution credits or “dims.” Each dim credit counts as one day towards release. There are four types of credit, Good Conduct Credits, Industrial Credits, Education Credits and Special Project Credits.

Good conduct credit or ‘good time’ credits are calculated and automatically advanced to a person upon intake: these credits are the incarcerated persons to lose. If an incarcerated individual is serving a crime of violence, good conduct credits are awarded at a rate of 5 days per month, or 60 days per year. Good conduct credits are awarded up front, and therefore serve as an important deterrent for incarcerated individuals from committing infractions. Worth noting that an individual serving a crime of violence gets over 10% of his sentence reduced upfront, meaning that under the proposed bill, a person serving a COV would have no incentive, going forward, to engage in any prison programming, as they will have already maxed out their dims.

Credits associated with programming, education, or work are earned as a person participates in the program, education, or work. For violent crimes, these credits are awarded at a rate of 5 diminution credits per month, unless the Division of Corrections has designated the work job or educational program a special project, in which case an incarcerated individual can earn 10 additional credits

prospectively. Because programs are limited, a model incarcerated individual serving a crime of violence, who has actively engaged in programming serving a crime of violence can typically expect to be released after serving approximately two thirds of their sentence. Incarcerated individuals who do not have a model prison record can expect to serve considerably longer—and a number of incarcerated individuals, due to repeated infractions, serve close to their full sentence day for day. Mandatory release does not factor into incarcerated individuals serving either a straight life sentence, or life without parole for first degree murder, so dums have limited effect on those incarcerated individuals.

Why is this bill damaging to public safety?

This bill will likely have several unintended consequences to public safety. While not exhaustive, here are a few of the likely outcomes if this bill passes.

1. Model incarcerated individuals, who have demonstrated rehabilitation, will serve longer sentences. The public defender represents incarcerated individuals, including those serving a sentence for murder, who have taken significant steps to rehabilitate. We also represent incarcerated individuals who have demonstrated through their actions that they are not rehabilitated. We represent the incarcerated individual, serving a 30-year sentence, who has earned his GED, has not received any infractions, has the support of the warden and other key staff, has completed the Alternative to Violence and Thinking for Change Program and worked for several years as an observation aid, ensuring that fellow incarcerated individuals who are going through acute mental health crises receive the care they need. We also represent the incarcerated individual, serving a 30-year sentence, who has not taken advantage of the programs and services that the Division of Correction offers—the person who has multiple infractions for shanks, drugs and assaults. What this bill does is says that both those individuals should be released at the same time.
2. This bill undermines public safety within the Division of Correction. The Public Defender represents both the incarcerated individual who is assaulted in the Division of Correction as well as the person who does the assaulting. The vast majority of the time, the consequence for committing an assault or manufacturing a weapon is loss of diminution credits. But if there are no diminution credits, then there is likely no accountability for crimes and infractions that occur in the Division of Correction. A recent report from the Department of Legislative Services indicates that assaults within the Division of Correction are up more than 50% in the last year. The corrections officer union, AFSME Maryland Council 3, ascribes the rise in assaults to a reduction in staff and programing for prisoners according to reporting from the Baltimore Banner. In response to this data, passing a bill that reduces incentives for prisoners to engage in programming and while simultaneously ending any sort of punishment or accountability for those that commit the assaults seems terribly wrongheaded.
3. There will likely be more jury trials and possibly marginally lower term of years sentences. Diminution credits factor into the plea-bargaining process. Defendants routinely discuss the potential outcome of a plea offer, including the likely time they would serve. The Defendant

who accepts a plea of life suspend all but 24 years, for instance, believing that he could be released after serving 16 years, may turn down that offer in a post-diminution credits world. More jury trials mean more resources that the Office of the Public Defender, the State and the Courts must expend. It also means more victims being dragged through the trauma of the jury trial process. It also means a certain number of individuals, who would have pled guilty under current law, will be acquitted. (When a defendant “rolls the dice”, sometimes they land double sixes.) To be sure, the State in an effort to resolve cases for which the evidence may be weak or uncertain, may offer more favorable plea offers in a post-dims world. As a result, incarcerated individuals who are the least interested rehabilitation may actually see their sentences reduced.

4. Eliminating diminution credits will result in more post-conviction claims. When attorneys misadvise clients regarding a change in the law concerning diminution credits, which happens routinely even regarding changes in law that occurred over a decade ago, clients who acted in reliance on that bad advice are entitled to a new trial. If this law passes, a certain subset of the defense bar will inevitably not get the memo, and misadvise their clients regarding the amount of time they will serve. The result will be more new trials for individuals who pled guilty.
5. This bill will seriously undermine rehabilitative efforts in the Division of Corrections. The prospect of earning diminution credits encourages incarcerated individuals to take steps towards rehabilitation. Consider this person, a 17 year old serving a 30 year sentence for murder, who, as a result of this bill, chooses not to get his GED, because, what’s the point if he is not going get dims. He doesn’t work because, why work if he is not earning dims. He doesn’t learn tradecraft through the MCE shops. He doesn’t take programs like Alternatives to Violence, which teach incarcerated individuals better ways to resolve interpersonal conflict. At age 47, this individual, who has not engaged in any rehabilitation is going to be released back into the community, unsupervised. Is this really a good idea?
6. Continuing to incarcerate someone who is rehabilitated has real costs. From a purely economic standpoint, this policy will cost the State upwards of \$40,000 per year to house individuals who have demonstrated rehabilitation, but more than the pure economic cost, communities, neighborhoods, and ultimately Maryland families suffer. This bill punishes those who are demonstrating they are rehabilitated at great cost to our taxpayers and the community, while rewarding those individuals who have no interest in rehabilitation.

Bottom line, this bill punishes those who want to rehabilitate and rewards those who have no interest in changing their bad life choices. It also undermines judicial discretion by eliminating any pre-trial release for individuals facing charges for a crime of violence, regardless of the circumstances. For instance, someone who is a cooperating witness for the State would potentially be barred from pre-trial release under this statute. This is not a well thought out bill.

The Office of the Public Defender urges an unfavorable report on Senate Bill 0735.

Submitted by: Maryland Office of the Public Defender, Government Relations Division

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SB 735 CCJR UNFAV.pdf

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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>.

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Position: UNF

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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 735
Real Time for Violent Crime Act (Geri's Law)
DATE: February 5, 2025
(3/4)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes Senate Bill 735, as drafted.

The Judiciary has no position on the policy aims of this legislation but is concerned with the language which limits the discretion of a judicial officer. This provision does not just restrict commissioners from releasing a defendant charged with a crime of violence but also restricts "a judicial officer" (which includes a judge), from doing the same. Currently, Maryland law gives judges' discretion to authorize pretrial release for defendants in cases that would be subject to the bill. The bill would remove that discretion. The Judiciary traditionally opposes legislation that includes mandatory provisions. The Judiciary believes it is important for judges and judicial officers to weigh the facts and circumstances for each individual case.

Moreover, by creating a blanket rule prohibiting pretrial release for certain defendants, this bill conflicts with Maryland Rule 4-216.1(b) which requires that decisions whether to grant pretrial release be based on the "specific facts and circumstances applicable to the particular defendant[.]"

cc. Hon. William Folden
Judicial Council
Legislative Committee
Kelley O'Connor