



**Testimony for the House Judiciary Committee  
February 4, 2025**

**HB 374 Criminal Law – Correctional Services - Diminution  
Credits - First-Degree Murder**

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**UNFAVORABLE**

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The ACLU of Maryland urges an unfavorable report on HB 374, which would prevent persons incarcerated for murder in the first degree from earning diminution credits.

**Diminution credits help to maintain safety in facilities**

The possibility of earning enough credits for early release incentivizes compliance with facility rules. This is similar to parole, where the former Maryland Parole Commission Chair has recognized, “[Parole] is a reward for good behavior and lowers the threat of violence on our prison staff. If you were a lifer and knew you could never get out, you could do what you wanted to. Parole is the primary reason inmates adjust to prison.”<sup>1</sup>

Courts have recognized this incentive as well—good conduct credits are a behavioral incentive and a means of reducing prison overcrowding. *Stouffer v. Staton*, 152 Md.App. 586, 592 (2003). In fact, according to the Fiscal and Policy Note accompanying a prior iteration of a similar 2024 bill (SB 44), the Department of Public Safety and Correctional Services relies heavily on diminution credits in order to maintain safety:

DPSCS advises that it uses an inmate’s ability to earn diminution credits as an incentive to encourage good behavior and participate in rehabilitative programs and/or work programs. By eliminating the applicability of diminution credits for inmates serving a life sentence, DPSCS advises that it loses the ability to modify inmate behavior. In addition, DPSCS advises that the elimination of

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<sup>1</sup> ACLU of Maryland. (2015 January, 20). *Still blocking the exit*. Retrieved from [https://www.aclu-md.org/sites/default/files/field\\_documents/stillblockingtheexit\\_final.pdf](https://www.aclu-md.org/sites/default/files/field_documents/stillblockingtheexit_final.pdf).

diminution credits could decrease the number of inmates who are working or participating in programming and increase institutional violence.<sup>2</sup>

### **HB 374 undermines the progress made through the Justice Reinvestment Act**

In 2016, this body passed and Governor Hogan signed into law the Justice Reinvestment Act (SB 1005), which increased the opportunities for earning diminution credits in Maryland. Specifically, according to the fiscal note for SB 1005<sup>3</sup>:

Except for inmates serving a sentence in a State correctional facility for a crime of violence, specified sexual offenses, or specified volume or kingpin drug offenses, the maximum possible deduction for diminution credits increased from 20 to 30 days per calendar month. Also, except for that same group of inmates, the deduction for special selected work projects or other special programs, including recidivism reduction programming, increased from 10 to 20 days per calendar month. Furthermore, the types of programs for which an inmate may earn diminution credits was expanded. In addition, the maximum deduction for diminution credits increased for an individual who serving a sentence in a local correctional facility (for a crime other than a crime of violence or specified volume drug offenses) from 5 to 10 days per month.

HB 374 threatens to undermine this progress by wholesale eliminating the possibility of diminution credits for an entire population, including those not directly responsible for the death at issue in homicide cases, but convicted of first degree murder under the felony murder.

### **Diminution credits may reduce prison costs and recidivism rates**

Diminution credits allow people convicted and imprisoned to earn early release through good behavior and by engaging in productive activities inside. Maryland spends an estimated \$114,000 annually per person

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<sup>2</sup> Maryland General Assembly. (2018). *SB 210 Correctional Services - Murder - Diminution Credits, Fiscal and Policy Note*.

<sup>3</sup> Maryland General Assembly. (2016). *SB 1005 Justice Reinvestment Act, Fiscal and Policy Note*.

incarcerated in the state.<sup>4</sup> Other states have recognized and capitalized on the cost savings of earned credit programs—the New York Department of Corrections saved \$369 million from 1997–2006 due to sentence reductions. Washington State also previously reported saving an average of \$7,179 per person due to earned credit programs.<sup>5</sup>

Moreover, a prior study by the National Conference of State Legislators<sup>6</sup> found that states with earned credit programs actually report lower recidivism rates than states that do not have similar programs. For example, Wisconsin found that 17% of people released early recidivated after the first year, as compared with 28% of those who recidivated after serving the full mandatory sentence.

For the forgoing reasons, the ACLU of Maryland urges an unfavorable report on HB 374.

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<sup>4</sup> Visual Capitalist. (2024 June, 9). *Cost per prisoner in U.S. states*. Retrieved from <https://www.visualcapitalist.com/cost-per-prisoner-in-us-states/>

<sup>5</sup> National Conference of State Legislators (2009, July), *Cutting Corrections Costs: Earned Time Policies for State Prisoners*.

<sup>6</sup> Ibid.