Support HB 853 - Second Look Act

TO: Chair Luke Clippinger and House Judiciary Committee

FROM: Phil Caroom, MAJR Executive Committee

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Md. Alliance for Justice Reform (MAJR-www.ma4jr.org) supports HB 853 that would permit sentencing judges to consider possible modification of sentences under limited circumstances.

This is not a new concept that would create a crisis for the Judiciary. Quite the contrary, prior to a 2004 modification of Maryland Rule 4-345, Maryland judges regularly considered sentence modifications without a 5-year cap. Thus, SB 291, in its central provision, would restore this discretion that judges previously could exercise throughout earlier Maryland court history. (See revisor's notes to Maryland Rule 4-345.)

In effect, there is a backlog of cases created by Rule 4-345's amendment that the Courts could work through much as was done with the Unger cases and Justice Reinvestment reconsiderations after retroactive modification of mandatory sentence provisions.

One procedural difference between the current sentence modification Rule and HB 853 is the requirement for a hearing in a qualifying motion. Because of the 20 year qualification under HB 853, the hearing is especially appropriate because it is likely that the original sentencing judge will have retired and that a new judge will need to familiarize herself or himself with the case, the defendant and the victim. It also is desirable because sentencing judges, under current law, very rarely ever will see inmates who have been impacted by sentences after 5 years have passed and who have had decades to work on their rehabilitation. Judges should have this opportunity to see, in person, the impact and possible results of our lengthiest sentences.

HB 853 also is consistent with the policy of Maryland's Justice Reinvestment Act (JRA), permitting judges to grant retroactive reduction of sentences in recognition of new sentencing policies. Thus, Maryland courts, prosecutors, Public Defenders and other defense counsel have gained substantial experience in how to process a high volume of such requests.

Particularly, state prison population and expenses may be reduced via reductions for inmates with lowest-risk status— and successful applicants for HB 853 sentence modifications likely would be low risk in light of their aging, deteriorating health, and such individuals' self-rehabilitation achievements. These savings, as provided by JRA, would serve to provide more grant funding to assist with drug treatment, reentry and other rehabilitation programs for younger, higher risk offenders.

For all these reasons, Md. Alliance for Justice Reform (MAJR) urges a favorable report on HB 853.

PLEASE NOTE: Phil Caroom offers this testimony for Md. Alliance for Justice Reform and not for the Md. Judiciary or any other unit of state government.