



Maryland Crime Victims' Resource Center, Inc.

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

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## LETTER IN OPPOSITION TO SENATE BILL 822

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The Maryland Crime Victims' Resource Center (MCVRC) urges an unfavorable vote on SB 822.

Senate Bill 822 proposes many intrusive administrative requirements upon the operation of the Maryland Parole Commission that have not been shown to be warranted. This bill will strip the Commissioners of the power to establish a justifiable calendar, i.e., when next to rehear parole cases with which they are familiar. As a result, for example, disruptive inmates who regularly assault other inmates and correctional officers and exhibit no evidence of rehabilitation would have to be reconsidered on a set schedule, despite having no realistic prospect of parole. Beyond wasting the Commission's resources, this proposal unnecessarily harms and retraumatizes crime victims who would not otherwise feel compelled to attend. The victims, or victims' families are often the only participants other than the offender still available with first-hand knowledge of the trial and the crime. Moreover, the bill also inflicts unwarranted pain on the crime victims by making no parole decision final. This bill eliminates the ability of the Commission to draw the rare conclusion that there should be no ability for future parole. As the Maryland Supreme Court observed in *Syed v. Lee* "Only with real finality can the victims of crime move forward knowing the moral judgment will be carried out. ... To unsettle these expectations is to inflict a profound injury to the powerful and legitimate interest in punishing the guilty, an interest shared by the State and the victims of crime alike." 488 Md. 537, 605-608 (2024) (internal quotation marks and citation omitted); accord, *State v. Thomas*, 488 Md. 456, 517 (2024) ("... finality respects not only a criminal defendant, but also the public, and equally important, a crime victim.")

Needlessly retraumatizing crime victims by automatically scheduling parole hearings at times when there is no reasonable chance of parole violates crime victims' right to be treated with sensitivity and respect, guaranteed by Article 47(a) of the Maryland Declaration of Rights. *Syed, supra*. There are alternative methods of addressing any scheduling complaints by inmates. Inmates could be permitted to file a petition with the chairman of the Commission to advance their rehearing date for good cause. This showing of good cause is most appropriate considering the serious nature of the request and the trauma caused to the victims' families merely by the scheduling of a hearing.

Another concern about these new proposed requirements is that any time a parole is determined, "each commissioner's reason and justification for the vote", and each hearing examiner's report, shall include "a written report of the ... reasoning and justifications for the recommendation". Thereafter, the written report of the

commission's findings, including the reasoning and justifications, must be provided to the inmate within 14 days.

In a similar post-conviction sentence-reduction context governed by Maryland Code, Criminal Procedure Article §8-110(c), the General Assembly has recognized two articulable justifications that must be found before the Court has the authority to reduce a previously imposed sentence. These two factors are that the (1) individual is not a danger to the public and (2) that the interests of justice will be better served by a reduced sentence. Maryland's highest court has ruled that when exercising their post-sentencing discretion, "a trial court is not obligated to recount every detail of its preceding analysis, ultimately resolve every dispute of fact, or restate the weight ascribed to every factor." *Trimble v. State*, 491 Md. 378, 407, 339 A.3d 950, 967 (2025) (quoting *Bishop v. United States*, 310 A.3d 629, 648 (D.C. 2024) (emphasis added). These two resentencing justifications, i.e., danger to the public and the interests of justice, comprise all the reasoning and justification that has been required by the General Assembly in these most sensitive cases which involve resentencing of youthful offenders.

Similarly, as explained in *McLaughlin-Cox v. Maryland Parole Comm'n*, 200 Md. App. 115, 124, 24 A.3d 235, 240 (2011):

"Parole in Maryland...is not explicitly conditioned on some particular combination of findings. This is to say that none of the factors of CS § 7-305—either independently or in some particular combination—is a *necessary or sufficient condition* of release. Instead, the factors are weighed against each other and taken as an undifferentiated but informative whole. Moreover, individual factors such as the circumstances surrounding the crime and victim impact statement give no objective direction as to how those factors should be considered, leaving commissioners with wide discretion in their ultimate determinations." (Underlining added).

As the United States Supreme Court explained in *Gall v. United States*, 552 U.S. 38, 49 (2007) when discussing the feasibility of a requirement that decisionmakers explain the weight of various sentencing factors:

"...the mathematical approach assumes the existence of some ascertainable method of assigning percentages to various justifications. Does withdrawal from a conspiracy justify more or less than, say, a 30% reduction? Does it matter that the withdrawal occurred several years ago? Is it relevant that the withdrawal was motivated by a decision to discontinue the use of drugs and to lead a better life? What percentage, if any, should be assigned to evidence that a defendant poses no future threat to society, or to evidence that innocent third parties are dependent on him? The formula is a classic example of attempting to measure an inventory of apples by counting oranges." (Footnote omitted).

In sum, the United States Supreme Court and the Maryland Appellate Court recognize that it is not feasible to require that these discretionary release determinations shall be detailed in decisions documenting precise justifications and reasons. In law and in practice, the various factors would be continuously entwined with each other; surrounding the same two general reasons the General Assembly has previously identified for use at re-sentencings under CP 8-110. Parole release decisions involve psychological and sociological predictions, unlike mathematical problems in which there can be a mechanical summation of factors.

In short, the bill's proposed language requiring written reasoning and justifications for every determination is unfeasible and unworkable for parole commissioners, just as it has been recognized by the General Assembly and the Supreme Court of the United States as unworkable for sentencing judges. Moreover, a statutory requirement mandating individualized justifications and reasons is likely to flood the courts with petitions for judicial review or mandamus of every parole denial for abuse of discretion due to the commissioners' inability to follow these unrealistic explanatory requirements.

Another problem with the bill is that the amendment to Maryland Code, Correctional Services Article §7-303 exempts some documents from discovery by the parole applicant, but not victim impact statements. Many victims fear retaliation, particularly if they believe parole release may be granted, and they are intimidated and therefore will refuse to offer any comments in writing, which ultimately impairs the parole process. Redacting a victim's contact data is insufficient to protect crime victims since an offender can typically guess the identity of a commenter from the substance of the comment. Victims' subsequent comments to the Parole Commission, about the ongoing trauma to the victims, update that same victim's impact statements given many years before at sentencing. Therefore, inmates are not unaware of or unable to address the harm they caused the crime victims if they wish to do so. Article 47(a) of the Maryland Declaration of Rights mandates that victims be treated with "dignity, respect, and sensitivity during all phases of the criminal justice process." For that reason, the victims' contributions to the parole process need to be added as an additional category of items that, like psychological diagnoses, are withheld from disclosure to inmates.

For all these reasons, we ask for an unfavorable report on SB 822 as its added requirements are inconsistent with the resentencing considerations and evaluations as described by the Supreme Court of the United States and of Maryland, and will heap additional and repeated trauma on victims of crime in Maryland.



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