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POSITION ON PROPOSED LEGISLATION

BILL: HB0697 and HB0463 — Corr. Servs.—

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 27, 2026

The Maryland Office of the Public Defender urges an unfavorable report on House Bill 0697 and House Bill 0463

House Bill 0697 and House Bill 0463 would each mandate that a person convicted of first degree murder is not entitled to diminution credits. The only difference between the two bills is that HB0697 would also bar diminution credits for individuals serving their sentence in a local jail. For the reasons articulated below, these bills would have a devastating effect on public safety, would worsen our already stretched thin correctional services division, and cost the State millions.

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 “dime.” According to data from the Maryland State Commission on Criminal Sentencing Policy, violent crime data dashboard, 55% of all individuals serving a First Degree Murder sentence receive a suspended life sentence, with a term of years attached, meaning well over half of the incarcerated individuals serving a first degree murder sentence will have a mandatory release date, which is, in turn, affected by the provision of diminution credits. The average term of years sentence for such individuals is 36 years. Each dime 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. A person serving a sentence for first degree murder will earn 5 days per month, or 60 days per year. Good conduct credits are awarded up front, but can be lost if an incarcerated individual violates the prison rules, i.e. commits “infractions.” These diminution credits therefore serve as an important deterrent for incarcerated individuals from rule breaking.

Diminution credits associated with programming, education, or work are earned as a person participates in the program, education, or work. For those serving a sentence for first degree murder receive 5 diminution credits per month, unless the Division of Corrections (“DOC”) has designated the

work job or educational program a special project, in which case an incarcerated individual can earn 5 additional credits prospectively (10 total). Because programs are limited, a model incarcerated individual, who has actively engaged in programming, can typically expect to be released after serving approximately two thirds of their sentence, so the model inmate serving the average term of years sentence for first degree murder of 36 years would expect to be released after serving around 24 years. 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 does have limited effect on those incarcerated individuals. A person serving a life with parole sentence can receive an earlier parole hearing based on the diminution credits earned, but is in no way guaranteed release—and indeed, such individuals are seldom, if ever, released at their first parole hearing.

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 unfortunate consequences if this bill passes.

1. Model incarcerated individuals, who have demonstrated rehabilitation and no longer pose a risk to public safety, will serve longer sentences. The Public Defender represents both the incarcerated individual, serving a life suspended all but 36-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 life all suspended but 36-year sentence, who has not taken advantage of the programs and services that the DOC offers—the person who has multiple infractions for shanks, drugs and assaults. **This bill says that both these individuals should be released at the same time.**
2. This bill undermines public safety within the DOC. Proponents of this bill would do well to consider what happens today, when one incarcerated individual assaults a fellow inmate or corrections officer while locked up. Today, in the vast majority of cases, the corrections officer produces a document called an “adjustment ticket,” laying out the rules that the incarcerated individual has violated. Then, the incarcerated individual appears before a hearing officer at an administrative hearing. At the conclusion of the hearing, if the hearing officer determines that the incarcerated individual has indeed, committed an assault, the hearing officer deducts good-conduct credits. This process ensures accountability. Our clients recognize that if they violate the rules, if they commit assaults and sneak in contraband, possess shanks, etc., they will serve longer sentences. The diminution system serves as an important deterrent. This deterrence, the Public Defender would submit, is a good thing! Not three weeks ago, our Governor delivered the State of the State address, and pointed to reductions in crime across the State. There is sadly one place where crime has not in fact gone down, and that’s inside the Division of Correction. There were more murders last year in the Division of Correction, 13, than at any time in the last

decade. Already this year, three people have been killed, on pace for another record. The corrections union has pointed to lack of programming and staffing issues as a contributing factor. The Public Defender would submit that now is definitely not the time to undermine what few mechanisms the Division has to promote safety, accountability and rehabilitation.

3. This bill will undermine the plea-bargaining process. Proponents of this bill characterize the mandatory release process as some sort of mysterious process that is separate and apart from the judicial proceedings which resulted in the conviction. This is incorrect. The dims process is well understood by defense attorneys and prosecutors alike. Defendants routinely discuss the prospects of mandatory release during the plea bargaining stage of a criminal case. For example, the “average” defendant who accepts a life all suspended but 36 year sentence, believing that he could be released after serving around 24 years, would be significantly more likely to turn down that offer if he were barred from earning diminution credits and was facing the prospects of serving the full 36 years. Because defendants are less likely to accept pleas, the result will predictably result in more jury trials. More jury trials means 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. Eliminating diminution credits will also result in more post-conviction claims. When attorneys misadvise their clients regarding a change in the law concerning diminution credits, which happens routinely even regarding changes in law that occurred over a decade ago, defendants 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 plead guilty.
4. 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 16-year old serving a 36-year sentence for murder, who, as a result of this bill, chooses not to get his GED, because, he is too young and short sighted to understand the point if he is not going get dims. He doesn't work because he is angry and doesn't know that his obstinance is harming himself as well as all his fellow incarcerated individuals. “Why work if I can't earn 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 52 or 53, this individual, who has not engaged in any rehabilitation is going to be released back into the community.
5. Contrast that incarcerated individual to the person who *has* engaged in programming, who is deeply remorseful, and wants to give back to the community, and has demonstrated a perfect institutional record. This person has engaged in programming, gotten their GED, received college credits. Maybe this person was a mere accessory to commit murder, the lookout in a burglary gone wrong, for instance, who was only a child at the time of the offense. Proponents of this bill should ask themselves, does continuing to incarcerate that person, year after year, even after she has demonstrated rehabilitation make sense? From a purely economic standpoint, this policy will cost the State potentially 114-thousand dollars per year to house individuals who

have demonstrated rehabilitation¹, 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. This is not a well thought out bill.

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

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¹ USA FACTS sourced the 114-thousand dollar figure from the U.S. Census's Annual Survey of State and Local Finances, and the Bureau of Justice Statistics. The Maryland State Archives, assesses the cost of housing and feeding inmates, and providing healthcare to be around 60-thousand dollars per year, but this figure does not include CO salaries, capital expenditures and other costs.