



# PASS THE MARYLAND SECOND LOOK ACT

Senate Bill 123 / House Bill 724

Maryland legislators must pass the *Second Look Act* (SLA). It is both a moral imperative and a pragmatic strategy that offers people an incentive to maintain good behavior. It would contribute to the reduction of prison overcrowding and diminish threats of violence. It would also ensure that people who have transformed over the years can positively contribute to their communities.

## THE CRISIS

**Maryland incarcerates the highest percentage of Black people in the country – 71 percent of our prison population – more than twice the national average.**

Shamefully, Maryland also leads the nation in sentencing young Black men to the longest prison terms, at a rate 25 percent higher than the next nearest state, Mississippi.<sup>1</sup> Bias against Black and Brown people and people with low income has been widely documented at every stage in Maryland's criminal legal system, from racial profiling by police, to arresting, to sentencing.

## THE SOLUTION

**The only way to reduce existing racial disparities is to create more meaningful avenues for release for Marylanders who have demonstrated their rehabilitation.**

The *Maryland Second Look Act* would allow people with extreme sentences who have served at least two decades the opportunity to petition the court to modify or reduce their sentence based on their demonstrated rehabilitation. This evidence-based initiative recognizes the transformative potential of

focusing on rehabilitation and the urgency of addressing racial justice in our criminal legal system. According to the 2022 National Survey of Victims' Views, victims prefer by 2 to 1 that the criminal legal system focus more on rehabilitating people who commit crimes rather than punishing them.<sup>2</sup>

## WHY THIS APPROACH?

The devastating "lock them up and throw away the key" mentality from the last 30 years led to harsh changes to law and policy. **One terrible result is that the only way for someone in Maryland serving an extreme sentence to have their sentence reviewed is by challenging the constitutionality of the conviction itself.**

Maryland judges used to have the ability to review sentences – an important safety valve for extreme sentences – but the Standing Committee on Rules of Practice and Procedure eliminated this process with a rule change in 2004.<sup>3</sup> For more than 25 years, Maryland's parole system was not available to people serving life with parole sentences, which contributed to the bloated prison system and its extreme racial disparities. Now, the Governor has finally been removed from the parole process. **But this is not enough to remedy decades of wrongful denials.**

Unlike court hearings, parole is not a judicial hearing. People have almost no due process rights, and no legal representation to prepare a strong presentation. Yet there is no other way to obtain review of your sentence after serving decades of time. That is why the current system incentivizes people serving extreme sentences to challenge the conviction and

avoid ever conceding guilt, because doing so might jeopardize any future chance at release, even if they demonstrate rehabilitation. As a result, people who have been harmed by serious crimes may never hear an explanation or expression of the remorse the person feels.

**A “Second Look” provision would ensure that people are able to express their genuine remorse and maintain focus on their transformation without worrying that conceding guilt would eliminate any hope of resentencing.**

Equally important, in the immediate aftermath of a serious harm, emotions are high, and it may be difficult for a sentencing judge to determine a person’s capacity for change. But many years later, a judge can assess a person’s growth, progress and rehabilitation behind bars based on their actual track record.

Disturbingly, Maryland’s prison system is filled with Black people who were excessively sentenced or denied parole based on “superpredator” mythology. A broad “second look” provision ensures that, decades after the crime, sentences can be reviewed based on our current understanding of fairness and racial justice.

For Marylanders who have grappled with past mistakes, this bill extends a lifeline – a chance to showcase their personal growth and rehabilitation throughout their time behind bars. It represents hope to the disproportionately Black families who have been the “collateral damage” of our current broken system. And it sends a powerful message: that the state is actively acknowledging and rectifying past instances of bias and committing to equitable treatment for all those in its custody.

## Advancing Public Safety, Investing in Human Potential, and Saving Taxpayer Money

Many of the people who have been released from extreme sentences in recent years are building public safety. They are now elders working with young people, working in peer recovery programs, and developing small businesses. They provide support to their families, all while navigating a new world. They are strengthening their families and their communities with their presence and positive contributions.

Research consistently reveals a significant decrease in recidivism rates among people released from prison in their 40s and beyond. In fact, people convicted of the most serious offenses have the lowest recidivism rates.

In Maryland, this was vividly demonstrated by the “Ungers,” so named for the *Unger v. Maryland* decision. As the Justice Policy Institute explains, in 2012, the Maryland Court of Appeals held that improper jury instructions invalidated the life with parole sentences of 235 people.<sup>4</sup> As of 2019, 192 of them had been released. Most were young adults when they were sentenced and had spent an average of 40 years behind bars. **Almost 90 percent were Black, even though only 18 percent of Maryland’s population was Black when they were sentenced.** Since their release, less than 4 percent have returned to prison.

It’s estimated that the release of these Marylanders has saved taxpayers \$185 million. **Maryland could save more than a billion dollars over the next decade by building on this positive experience.**

### SOURCES:

<sup>1</sup> [https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/Rethinking\\_Approaches\\_to\\_Over\\_Incarceration\\_MD\\_press\\_release.pdf](https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/Rethinking_Approaches_to_Over_Incarceration_MD_press_release.pdf)

<sup>2</sup> <https://allianceforsafetyandjustice.org/wp-content/uploads/2022/09/Alliance-for-Safety-and-Justice-Crime-Survivors-Speak-September-2022.pdf>

<sup>3</sup> <https://www.courts.state.md.us/sites/default/files/import/rules/rodocs/ro-rule4-345.pdf>

<sup>4</sup> <https://justicepolicy.org/research/reports-2018-the-ungers-5-years-and-counting-a-case-study-in-safely-reducing-long-prison-terms-and-saving-taxpayer-dollars/>