



Maryland Crime Victims' Resource Center, Inc.

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

☎ 877-VICTIM-1 (877-842-8461)

✉ mail@mdcrimevictims.org

🌐 mdcrimevictims.org

1001 Prince George's Blvd, Suite 750
Upper Marlboro, MD 20774
301-952-0063 (Phone)
301-952-2319 (fax)

1 North Charles Street, Suite 700
Baltimore, MD 21201
410-234-9885 (phone)

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Re: Favorable Testimony to SB 735

Dear Chair and Members of the Committee,

My name is Joanna Mupanduki and I am the Deputy Director of the Maryland Crime Victims' Resource Center, Inc. Having worked in the criminal justice system across multiple states, I can say that no other state exhibits the same level of confusion and disregard for crime victims as Maryland. I have been an attorney for over 17 years, serving as a prosecutor in Washington State, California, and Maryland. Additionally, I spent four and a half years as in-house counsel at the California Department of State Hospitals, which provides psychiatric care for individuals in the criminal justice system, including those deemed incompetent to stand trial and those identified as sexually violent predators or mentally disordered offenders.

For the past three years, I have served as a victim rights attorney at the Maryland Crime Victims Resource Center (MCVRC) and became the Deputy Director over a year ago. This role has been the most rewarding of my career, allowing me to support crime victims during their most challenging times.

Senate Bill 735 gives me hope that at least one legislator and maybe more are listening to crime victims. The people who did not choose to be victims, are the truly innocent parties in the criminal justice system, and yet they are the ones that do not have access to the same rights and services that their attackers are provided with from the moment that they are arrested. Most victims are not aware of how the criminal justice system works and are shocked when they learn that the sentence handed down by a Judge,

after months and often years in cases of violent crimes comprising of countless court hearings, is not the actual time that a criminal defendant will serve in jail. It will not even be close to that amount of time. There are over 16 ways for a defendant to diminish their sentence after being found guilty by a jury of their peers and sentenced by a Judge. These 16 possible ways to diminish a sentence include:

1. 3 judge panel to revise sentence
2. Appeal of illegal or unconstitutional sentence
3. Rule 4-345 revision of sentence
4. Good conduct credits
5. Work tasks credits
6. Education Credits
7. Special Project credits
8. Patuxent Institution
9. Post conviction proceedings
10. Release to home detention
11. Parole
12. Medical parole
13. Geriatric parole
14. Health General 8-505 reduction/ reconsideration
15. Commutation / Pardon
16. Juvenile Restoration Act (some offenders)

Many of these above referred credits are colloquially known as “good time credit” for offenders in other states and in many states the good time credits are at a set rate and earned as an inmate serves his time. Not so in Maryland. In Maryland, an inmate has all of his diminution credits frontloaded with the assumption that they can be taken back if needed in the future. However, this is rarely done even if an inmate has a history of infractions or poor behavior while incarcerated.

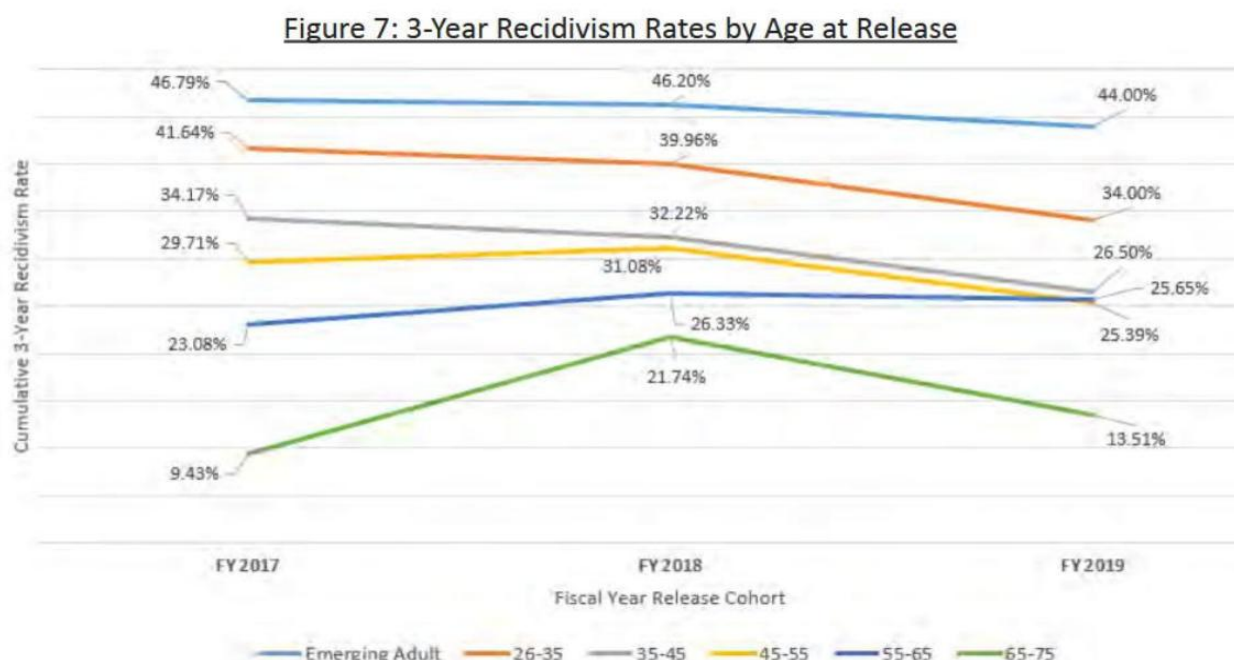
Why are diminution credits currently set at 50% for violent offenders? This was a recent decrease just a few years ago. It used to be that non-violent offenders benefitted from such lax rules, but now 50% is the strictest the Maryland criminal justice can muster. These are convicted criminals who have engaged in the most heinous and dangerous crimes.

Do the recidivism rates of violent offenders justify diminution credit being reduced to such levels? There are many misconceptions about what the recidivism rates really are for murderers and the most violent offenders. In recent hearings before the House Judiciary Committee in recent pushes for additional opportunities to allow convicted offenders more opportunities to diminish their sentences, we heard one witness assert that the recidivism rate was “less than 3%.” Another stated that “recidivism diminishes with age,” which is true. However, she went on to claim that by age 29, recidivism is virtually non-existent. She used this assertion as a rationale for capping ALL criminal sentences at ten years, arguing that individuals who have served this duration would be “aged out” of the likelihood of re-offending. This is a dangerous falsehood.

There is a current push in this legislature to let out the most violent offenders from prison after a short period of incarceration, ultimately allowing brutal rapists, child molesters, and murderers to exploit this system to avoid further confinement. This bill will hold violent offenders accountable for their behavior and make sure that the punishment is borne by the offender: on the person who committed the atrocious crime and decided to end the life of another human. Someone’s loved one, a son, daughter, brother, sister, husband, wife, mother, or father. A person who will never get to walk on this earth again.

Chart 1 below presents data from the Department of Public Safety and Correctional Services (DPSCS) regarding recidivism based on the age of releasees at the time of their release and their recidivism rates within just three years. I take issue with the methodology used to derive these statistics, as they differ from the standards employed by most other jurisdictions. While DPSCS evaluates recidivism over a three-year period, most jurisdictions assess it over five or even ten years. Naturally, the statistics increase when a longer time frame is considered. Despite this, let's examine the claim that “after age 29, recidivism is virtually non-existent.” According to the DPSCS data, recidivism for individuals aged 25 to 35 is 39%. For those aged 35 to 45, the rate is 31%. I believe that the DPSCS statistics on recidivism are deceptively low. When statistics diverge dramatically from established norms or broader studies, the outlier data should be viewed with skepticism.

DPSCS ANNUAL RECIDIVISM REPORT - 2022



AVERAGE RECIDIVISM:

- 25-35 year olds: 39%
- 35-45 year olds: 31%
- 45-55 year olds: 29%
- 55-65 year olds: 25%
- 65-75 year olds: 15%

Chart 2 is from the Department of Justice, Bureau of Justice Statistics which is the comprehensive study on recidivism. Consider the vastness of this study. It compiled statistics over a five-year period from thirty states. The recidivism rates for homicide releasee are 51%. Even murderers as a class recidivated at 47%. Remember, most murderers would not have been released until the passage of 20 or more years. This statistic should convince you that the remark regarding non-existent recidivism after age 29 is someone's fantasy.

CHART 2

TABLE 8

Recidivism of prisoners released in 30 states in 2005, by most serious commitment offense and time from release to first arrest.

Cumulative percentage of released prisoners arrested within—

Most serious commitment offense	6 months	1 year	2 years	3 years	4 years	5 years
All released prisoners	28.2%	43.4%	59.5%	67.8%	73.0%	76.6%
Violent	24.9%	38.4%	53.8%	61.6%	67.2%	71.3%
Homicide	12.5	21.5	33.9	41.5	47.0	51.2
Murder	10.1	18.8	30.4	37.8	43.6	47.9
Nonnegligent manslaughter	17.3	27.7	39.4	46.0	51.5	55.7
Negligent manslaughter	13.2	21.9	35.5	43.7	48.8	53.0
Rape/sexual assault	20.8	30.9	43.7	50.9	56.0	60.1
Robbery	25.8	41.0	58.6	66.9	72.8	77.0
Assault	27.9	42.6	58.9	67.1	72.9	77.1
Other	28.7	43.4	56.6	63.0	66.9	70.4
Property	33.6%	50.3%	66.7%	74.5%	79.1%	82.1%
Burglary	31.0	48.7	65.8	73.9	78.9	81.8
Larceny/motor vehicle theft	39.3	56.2	70.8	77.6	81.6	84.1
Fraud/forgery	27.7	42.2	60.0	68.6	73.2	77.0
Other	33.2	49.5	66.6	75.5	80.9	83.6
Drug	26.9%	42.3%	59.1%	67.9%	73.3%	76.9%
Possession	28.7	44.5	60.7	69.6	75.2	78.3
Trafficking	26.9	41.5	58.0	66.6	71.9	75.4
Other	25.3	41.4	59.3	68.3	73.6	78.1
Public order	25.6%	40.1%	55.6%	64.7%	69.9%	73.6%

Weapons	35.3	49.1	65.1	73.1	76.9	79.5
Driving under the influence	11.9	22.1	37.2	48.0	54.9	59.9
Otherb	27.8	44.9	60.4	69.2	74.1	77.9

Note: Prisoners were tracked for 5 years following release. Inmates could have been in prison for more than one offense; the most serious one is reported in this table. See appendix table 9 for standard errors.

includes cases in which the type of homicide was unspecified, not shown separately.

includes 0.8% of cases in which the prisoner's most serious offense was unspecified.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection.

Chart 3 is also from Bureau of Justice Statistics. It shows recidivism rates by age at time of release. This is another indication of the gross inaccuracy of the statistics that proponents of early release of violent offenders have quoted to the Legislature this year. Remember the assertion the previous quote "recidivism is virtually non-existent after age 29..."

CHART 3

TABLE 7

Cumulative percent of state prisoners released in 31 states in 2012 who had an arrest after release that led to a conviction, by sex, race or ethnicity, age at release, and year following release

Characteristic	Year 1	Year 2	Year 3	Year 4	Year 5
All released prisoners	22.9%	36.5%	45.0%	50.6%	54.4%
Sex					
Male*	23.6%	37.4%	46.0%	51.6%	55.4%
Female	16.6 †	29.0 †	36.7 †	42.4 †	46.5 †
Race/ethnicity					
White ^{a*}	21.7%	34.9%	43.5%	49.4%	53.5%
Black ^a	23.5 †	38.3 †	47.1 †	52.9 †	56.7 †
Hispanic	24.3 †	36.6 †	44.0	48.4	51.7 †
American Indian/Alaska Native ^a	28.0 †	43.0 †	51.9 †	58.6 †	63.0 †
Asian/Native Hawaiian/Other Pacific Islander ^a	14.8 †	24.6 †	31.8 †	36.1 †	39.2 †
Other ^{a,b}	23.1	38.4	47.6	53.0	56.7
Age at release					
24 or younger*	29.5%	45.6%	54.8%	61.3%	65.2%
25–39	24.3 †	38.7 †	48.0 †	54.0 †	58.2 †
40 or older	17.7 †	29.0 †	36.1 †	40.5 †	43.8 †
40–54	18.9	30.9	38.6	43.4	46.8
55–64	12.1	20.6	25.1	28.0	30.5
65 or older	4.8	7.7	10.3	12.4	13.0

Note: Estimates are based on prisoners released across the 31 states that could provide the necessary court data. See appendix table 5 for standard errors.

*Comparison group.

†Difference with comparison group is significant at the 95% confidence level. The significance tests were not conducted on the age subcategories.

^aExcludes persons of Hispanic origin (e.g., “white” refers to non-Hispanic whites and “black” refers to non-Hispanic blacks).

^bIncludes persons of two or more races or other unspecified races.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2012 data collection, 2012–2017.

When faced with real recidivism numbers, it is not safe to release violent offenders without consideration for the criminal justice system and incarceration. The four primary goals of the criminal justice system are: deterrence, retribution, rehabilitation, and incapacitation. Deterrence works in two ways: (1) it stops other people from committing the crime, and (2) it stops that person from committing the same crime or a worse crime again in the future. Retribution is the punishment part of the system where an offender is punished for their bad behavior. Rehabilitation is the attempt to reform individuals to prevent them from re-offending in the future. Incapacitation is when jails and prisons physically stop criminals from committing further crimes by removing them from society.

By requiring violent offenders to serve the vast majority of their time, several of these goals will be served. Offenders will be deterred from committing violent crimes in the first place and from repeating those mistakes. Convicted inmates will be held responsible for their crimes and victims will have a little more peace in their lives. Inmates will still have numerous ways to diminish their sentences but at least the sentence will be greater to

start. Rehabilitation will be served as inmates will have additional time to participate in prison programs and demonstrate their changed behavior and coping skills if they have, in fact, learned such skills. And, finally, incapacitation will be much more within reach as violent offenders are more likely to get to an age and time served in prison where their danger is more reasonable for release, which takes a lengthy amount of time for violent criminals to reach.

On behalf of crime victims, I ask for this committee to pass this bill favorably.

Sincerely,

Joanna D. Mupanduki
Deputy Director