



2024 Session
HB0317

Criminal Procedure - Postconviction Review - Motion for Reduction of Sentence

Bill Summary

This bill authorizes a State's Attorney to file a motion to reduce the sentence of a person serving a sentence of incarceration at any time during the period of active incarceration if it is in the interest of justice. The bill establishes related procedures, including required notice, responses to a motion, hearings on a motion, and decisions on a motion.

Racial Equity Impact Statement

The bill would allow a State's Attorney to petition the court to reduce a convicted individual's sentence post-conviction in several specified circumstances. The specific impacts of the bill will depend on the individual policy decisions of State's Attorneys. Data on historical sentence reduction activity by the courts would assist in estimating the bill's impacts but is not readily available. The State's disproportionately high incarceration rate for Black individuals does suggest, however, that the bill could potentially impact these individuals to the greatest extent.

Analysis

This bill allows for a State's Attorney to file a motion for reconsideration of a convicted individual's sentence when the State's Attorney believes it would be in the interest of justice. The court must hold a timely hearing on the motion, and may consider the following factors when determining whether to reduce a sentence: (1) the nature of the offense and the individual's role in it; (2) evidence that reflects whether age, time served, or diminished physical condition has reduced the individual's risk for future offense; (3) the individual's disciplinary record; (4) the individual's record of rehabilitation, education, and vocational activities and evidence of maturity

while incarcerated; (5) any report of physical, mental, or behavioral examination on the individual conducted by a health professional; (6) the individual's family and community circumstances at the time of the offense and during the individual's incarceration; (7) a statement offered by a victim or a victim's representative; and (8) any other factor that the court considers relevant.

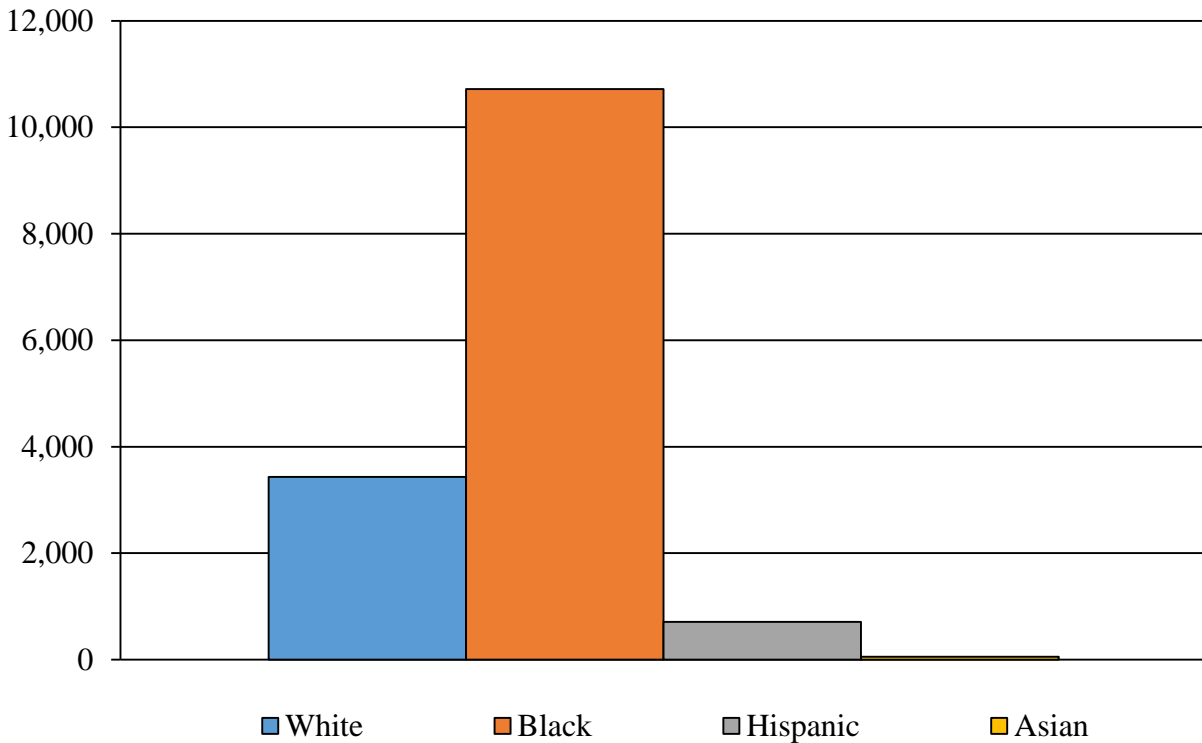
Maryland law allows a variety of options for a person convicted of a crime to have their sentence reviewed but most opportunities, except for instances of an illegal sentence, fraud, mistake, or other irregularity, expire after a specified time period has elapsed. Options for review include:

- Maryland Rule 4-345 allows for a court to correct an illegal or erroneous sentence upon a motion filed after the sentence is imposed. The courts cannot revise a sentence after the convicted individual has served over 5 years of that sentence.
- The Uniform Postconviction Procedure Act allows for a review of the sentence by the circuit court, which relies on a number of factors to determine if the sentence should be reduced. A petition for post-conviction relief must be filed within 10 years of the sentencing.
- The Review of Criminal Sentences Act provides for an individual sentenced by the circuit court to incarceration for 2 years or more to file a petition for a review of their sentence by a three-judge panel of the same circuit court. The petitioner must file for this review within 30 days of sentencing.
- The Juvenile Restoration Act allows an individual who was convicted as an adult for an offense committed when the individual was a minor to file a motion with the court to reduce that sentence if the offense occurred before October 1, 2021, and the individual has been incarcerated for at least 20 years.

The bill would allow the State to petition the court on behalf of a convicted individual and argue that the individual has been rehabilitated or that outside factors not present or not considered at the time of sentencing merit a reconsideration of the individual's sentence. Some of those outside factors have been detailed by the Office of the Public Defender and the Maryland State Bar Association, which include cases (1) where there may have been disproportionate or unequal sentences based on external factors unrelated to the case in question, such as the race of the defendant or the victim; (2) when an incarcerated person has made significant rehabilitative progress and would no longer pose a risk to public safety; or (3) when there have been significant changes in the way specific crimes are enforced, as is the case for many drug offenses.

Due to existing racial disparities in the criminal justice system, this bill would offer another avenue to address past practices that may have created or perpetuated existing racial disparities. The Department of Public Safety and Correctional Services' Division of Correction's fiscal 2023 inmate characteristics report shows that out of the nearly 15,000 incarcerated individuals in Maryland, Black individuals comprise approximately 10,700, or 71.5%, of that total (see **Exhibit 1**). This data shows that Black individuals are more than twice as likely to be incarcerated in Maryland compared to their proportion of the State's population (29%) and are more than five times as likely to be incarcerated compared to white individuals.

Exhibit 1
Division of Correction
Population Demographics
2023



Source: Department of Public Safety and Correctional Services

Conclusion

The bill's provisions will give more convicted individuals access to the possibility of sentence reduction by a court. Because the bill authorizes only a State's Attorney to file a petition, it is unclear to what extent the bill will impact the population of convicted individuals that are not otherwise eligible for post-conviction sentence review. Much of that impact will depend on the policy decisions of individual State's Attorneys. There is also no historical data readily available to indicate the demographics of those individuals that have received post-conviction sentence reductions, and this data could give some insight into the magnitude of the impact on various racial and ethnic groups. Even with the data limitations, it is reasonable to expect that Black incarcerated individuals would experience the most significant impact given their overrepresentation in the State's overall incarcerated population.

Information Sources: Office of the Public Defender; Department of Public Safety and Correctional Services; Maryland State Bar Association; American Civil Liberties Union; Department of Legislative Services

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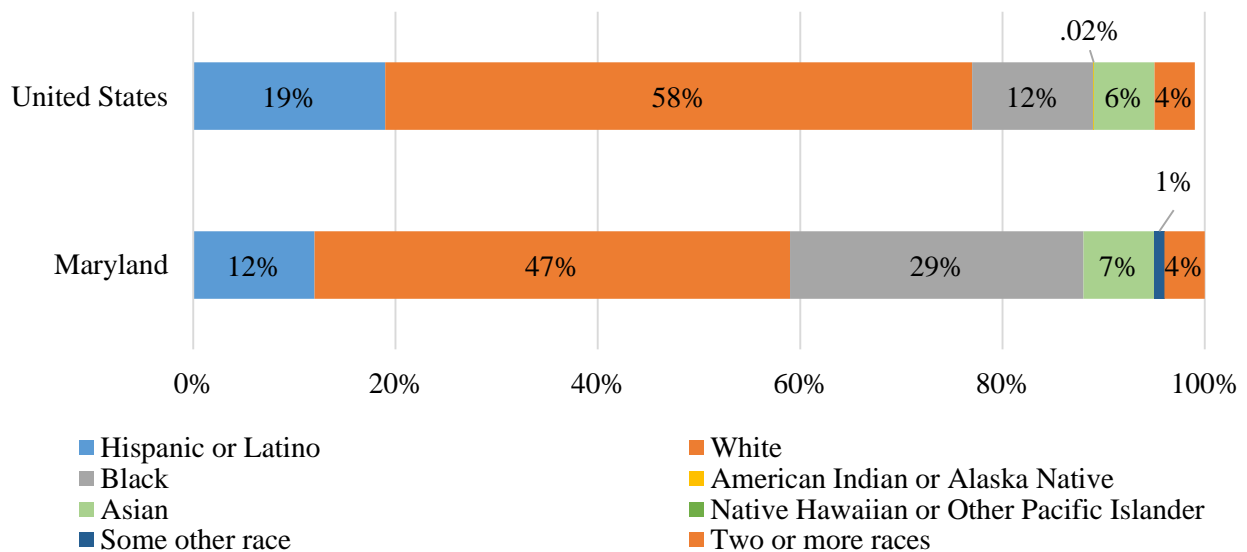
Appendix – Maryland Demographics

Race and Ethnicity of the Maryland Population

Maryland’s 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland’s racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as “other” and “multiracial” (*i.e.*, two or more racial identities), which total 5% of the State’s population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report “white” as their racial group. Despite this decrease, non-Hispanic whites remain the largest race demographic group in the State at 47% of the State’s population.

Compared to the U.S. population overall, Maryland’s population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% of the national population. In both the State and national populations, the largest shares of the non-white population are individuals who are Black, with 29% of the State population identifying only as Black and another 2.5% identifying as Black in combination with some other race. Maryland’s Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State’s overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State’s population identified as Hispanic or Latino compared to 19% of the U.S. population.

Exhibit 1
U.S. and Maryland Population by Race and Ethnicity
2020



Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.