



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2024 Session
SB0044

Safe Communities Act of 2024

Bill Summary

This bill prohibits (1) the earning of diminution credits to reduce the term of confinement of an incarcerated individual who is serving a sentence for first- or second-degree murder in a State or local correctional facility (pre-sentence or post-sentence) and (2) the application of diminution credits that equal more than 10% of an incarcerated individual's aggregate sentence for crimes of violence.

Racial Equity Impact Statement

The bill would add first- and second-degree murder into the existing set of criminal convictions for which the accumulation of diminution credits for purposes of sentence reduction is prohibited. Additionally, it would prohibit the deduction of diminution credits of more than 10% of an incarcerated individual's aggregate sentence for a crime of violence. The bill's provisions directly impact the largely Black incarcerated population in Maryland by prohibiting or limiting the use of diminution credits to reduce their terms of incarceration. According to the Department of Public Safety and Correctional Services (DPSCS), the availability of diminution credits is a key rehabilitative component for inmates. The larger equity impacts regarding recidivism, reentry success, and potential adverse effects for juveniles and young adults cannot be estimated without additional data.

Analysis

The bill incorporates first- and second-degree murder amongst the current categories of criminal sentences that prohibit an inmate from accruing diminution credits while confined in a State or local correctional facility, and also prohibits an individual convicted of first- or second-degree murder from accruing diminution credits for any pre-sentence or post-sentence time confined in a

local correctional facility. Incarcerated individuals serving sentences for a crime of violence, as defined in § 14-101 of the Criminal Law Article, would be limited to accruing diminution credits to reduce the term of confinement by no more than 10% of their aggregate sentence.

Individuals convicted of first-degree murder in Maryland must be sentenced to life in prison or life in prison without parole. Pursuant to Chapter 30 of the 2021 special session, an inmate sentenced to life imprisonment for a crime committed on or after October 1, 2021, is not eligible for parole until the inmate has served 20 years, or the equivalent of 20 years with allowances for diminution credits (prior to Chapter 30, a 15-year time period applied to this eligibility). Inmates convicted of first-degree murder must serve 25 years minus diminution credits when life without parole was sought but not imposed by the court. Those convicted of the specified crimes of violence may not face a sentence less than the minimum sentence of 5 years as outlined by § 4-306 of the Criminal Law Article.

Under the bill, individuals sentenced to life imprisonment for first-degree murder would serve a full 20 years (or 25 years when applicable) without the ability to earn diminution credits to shorten that time. Similarly, those convicted of second-degree murder may be sentenced for up to a maximum of 40 years and the length of time required before parole eligibility could not be shortened with diminution credits. The bill also restricts a judicial officer from authorizing the pretrial release of any defendant charged with a crime of violence who has specified pending charges or prior convictions.

Diminution Credits Generally

Generally, a convicted individual sentenced to a term of incarceration in the Division of Correction is, with specific exceptions, able to earn diminution credits to reduce the term of incarceration. Inmates in both State correctional facilities and local detention centers are eligible for diminution credits. Additionally, convicted individuals may earn diminution credits for any period of pre-sentence or post-sentence confinement in a local correctional facility.

Good conduct credit (sometimes referred to as “good time” credit) is advanced to an inmate at intake, subject to the inmate’s future good behavior. These credits are calculated from the first day of commitment to the custody of the Commissioner of Correction through the maximum expiration date of the inmate’s term of confinement. Maryland courts recognize good conduct credits as a behavioral incentive and a means of reducing prison overcrowding. The awarding of diminution credits is automatic, not discretionary.

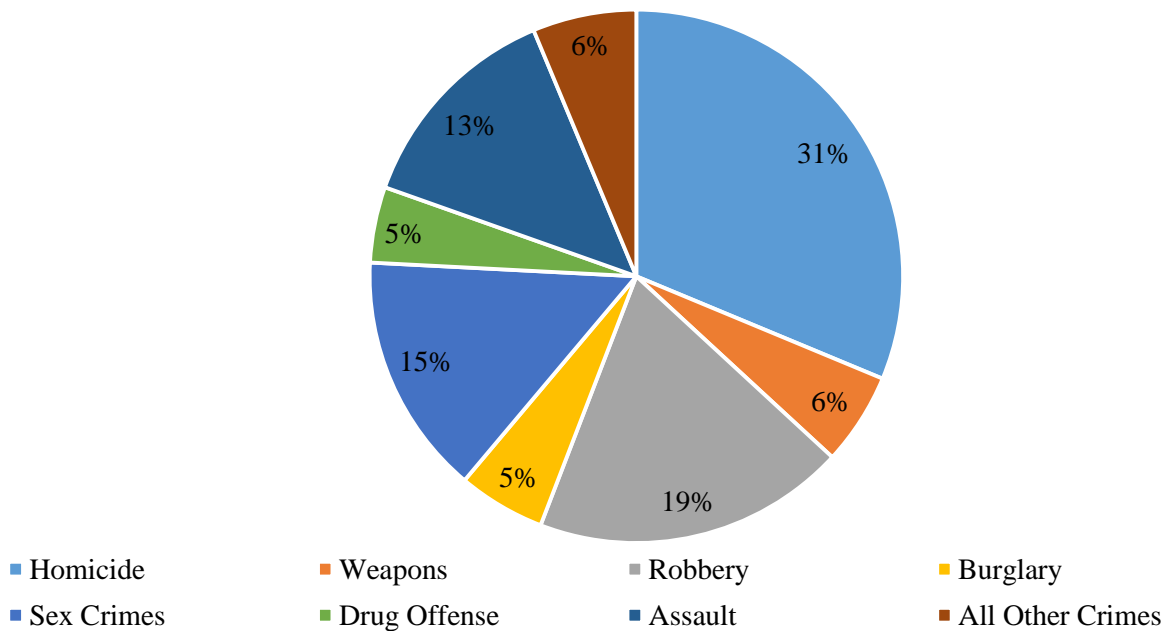
For sentences imposed on or after October 1, 2017, Chapter 515 of 2016 altered provisions relating to sentencing, corrections, parole, and the supervision of offenders. With regard to diminution credits, Chapter 515 increased the maximum total deduction from 20 to 30 days per calendar month for all State correctional facility inmates except for inmates serving a sentence for a crime of violence, specified sexual offenders, or being a volume drug dealer or drug kingpin. Chapter 515 also increased the maximum deduction for special selected work projects or other special programs from 10 to 20 days per calendar month and expanded the types of programs for which an inmate may earn diminution credits. Individuals sentenced for a crime of violence earn diminution credits at a lower rate than other inmates.

Impacts of the Bill

For fiscal 2022, the Maryland State Commission on Criminal Sentencing Policy received information for 106 individuals sentenced to 116 total counts of first-degree murder in circuit court. DPSCS reports that for fiscal 2023, out of the 15,495 incarcerated individuals in Maryland, Black inmates comprise 10,719 individuals, or 71.5% of the total. 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. Additionally, 66% of the total population of incarcerated individuals is serving a sentence of 10 years or more.

More specifically, **Exhibit 1** shows that, of the top seven crime categories accounting for 93% of the inmate population, homicide is the largest category accounting for 31% of the offenses. The 2022 Uniform Crime Report shows that Black individuals accounted for over 79% of arrests for homicide in Maryland.

Exhibit 1
Inmate Offense Types
Fiscal 2023



Source: Department of Public Safety and Correctional Services

The bill would substantially increase sentence lengths for those incarcerated for murder. By way of example, a person convicted of first-degree murder and sentenced to life imprisonment under existing law must serve 20 years before being eligible for parole or just under 17 years if the person earns 100% of good conduct credits (5 days per month). Parole eligibility can also be further accelerated with additional credits (*i.e.*, education and special project credits) of up to 20 days per

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month. The extension of incarceration lengths resulting from the bill would work similarly for those convicted of second-degree murder.

DPSCS advises that it uses an inmate's ability to earn diminution credits as an incentive to encourage good behavior and participate in rehabilitative and/or work programs. By eliminating the applicability of diminution credits for inmates serving a life sentence for murder, DPSCS advises that it loses a key tool for modifying inmate behavior. In addition, DPSCS indicates that the elimination of diminution credits could decrease the number of inmates who are working or participating in prison programming and also could potentially increase institutional violence.

Conclusion

According to DPSCS, prohibiting the use of diminution credits to reduce terms of incarceration would eliminate a key rehabilitative component for inmates. The bill's impact can be measured in years for incarcerated individuals and could potentially work to discourage positive behaviors among inmates currently incarcerated for murder.

The largely Black incarcerated population in Maryland will be impacted by the bill to the greatest extent. Determining the larger equity impacts requires additional information, such as whether increased incarceration time would affect recidivism and reentry success among affected individuals. In addition, there may be significant impacts regarding juveniles or young adults incarcerated for murder. However, there is no reliable data currently available to assess these potential impacts.

Information Sources: Department of Public Safety and Correctional Services; Department of State Police; Maryland State Commission on Criminal Sentencing Policy; Department of Legislative Services;

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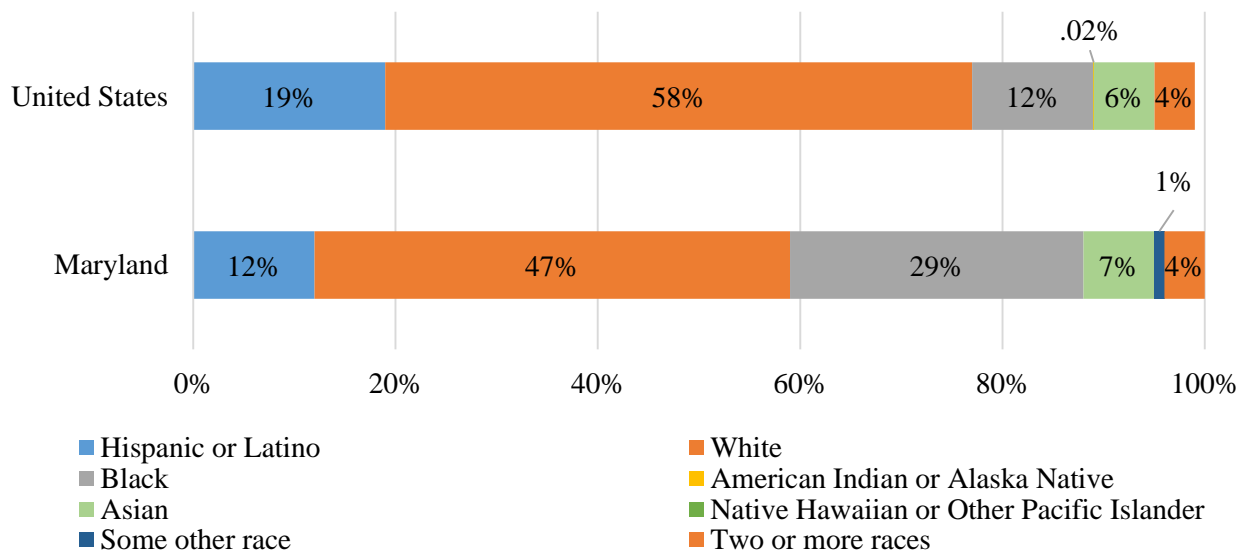
Appendix – Maryland Demographics

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.