

OPPOSE HB 412 and HB 423

MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe communities



TO: Chairman Luke Clippinger and House Judiciary Committee

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FROM: Phil Caroom, MAJR Executive Committee

Maryland Alliance for Justice Reform (MAJR) commends the Governor's policies, in general, to fund evidence-based strategies to make our State's law enforcement efforts more fair and effective. However, MAJR also opposes two Administration bills—HB 412 and HB 423—as misguided in their departures from these policies in seeking longer, “tough-on-crime” sentences.

Because each bill seeks longer sentence and disregards resources for rehabilitation, each disregards the lessons of Maryland's Justice Reinvestment Act (JRA). The Pew Institute, summarizing nationally-recognized scientific research, described important reasons that longer prison sentences, by themselves, do not end the cycle of criminal activity:

[D]ata and research demonstrat[e] that longer prison terms do not reduce recidivism.... [Also, r]esearch suggests that a high percentage of criminal justice- involved individuals suffer from substance abuse and mental health disorders requiring treatment and support....

*While prison may provide access to [some] substance abuse treatment, it is not the most cost-effective environment in which to deliver it. Further, **research indicates that incarcerating drug offenders can actually increase the likelihood they will recidivate once they leave prison.** This is because prison can exacerbate the criminal risk factors that drive recidivism by expanding the sphere of antisocial influence. [Final JRCC Report of Dec. 2015, at pp. 28 and 13; emphasis added, footnotes omitted.]*

- HB 412 would require the Maryland sentencing commission to create, in effect, an annual individual report card for every trial judges' sentencing records as to crimes of violence. The bill appears designed to permit an election-year challenger to make the argument that “this judge doesn't sentence heavily enough to be ‘tough on crime’ so you should vote for me instead.”

Without transcripts of each sentencing hearings, HB 412's compiled sentencing guidelines worksheets would provide scant explanation of reasons for below-guidelines sentencing decisions, such as cases that involve minimal public threat or harm, or mitigating circumstances such as the minor role of a youthful offender. Judicial ethics rules generally prevent incumbent judges from offering specific explanations of sentences, except in the courtroom on the record. During the election cycle itself, a judge could comment on a case only if the appeal period on the conviction and sentencing had passed, and if there were no pending motion for sentence modification. Maryland Rules 18-102.10(a) and 18-104.4 (d)(4) .

- HB 423 would remove a judge's discretion **not** to impose substantial jail penalties in instances where circumstances make this inappropriate—again, for example, in cases that involve mental illness short of insanity, that involve minimal public threat or harm, or that involve mitigating circumstances such as the minor role of a youthful offender.

Maryland prison sentences cost taxpayers over \$40,000 per inmate per year. More effective drug treatment, mental health treatment, and job programs with intensive community supervision may yield better results in terms of stopping drug addiction and crime, as well as costing only a fraction of prisons' cost. For all these reasons, MAJR encourages the committee to give an unfavorable report to HB 412 and 423.

NOTE: Phil Caroom offers this testimony for MAJR and not for the Md. Judiciary