

# MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



## 2023 Legislator's Guide to the Maryland Criminal Justice System: Opportunities to Address Mass Incarceration

Maryland has opportunities in 2023 to remedy serious problems with its correctional system—thereby reducing incarceration, saving taxpayer funds, improving public safety, and mitigating injustice.

**“FRONT DOOR”** policies determine involvement in our criminal justice system. These include charging decisions, pretrial detention, and alternatives such as diversion to mental health programs, mediation, and other rehabilitative services short of incarceration. Traditional “tough-on-crime” policies and scarce resources have caused serious problems.

**Unequal law enforcement.** The criminalization of poverty, police and prosecutor bias, and lack of pretrial screening often result in unnecessary incarceration and other negative consequences for African Americans, poor people, and other disadvantaged citizens.

[MAJR endorses](#) an effective survey of prosecutors’ charging, screening, and plea bargain practices. Current practices help explain why Maryland leads the nation in [racial disparities](#) in arrests, charges, and incarceration.

**Justice for Youth.** Decades ago, Maryland joined a U.S. “tough on crime” movement that treats many minors as adults and increases penalties. These policies have led to large youth prison populations that disproportionately impact poor children and children of color. MAJR urges legislators to:

- Approve a [Juvenile Reform Act](#) to prevent prosecutors from charging minors as adults without court approval.
- Provide for [“Safe Harbors”](#) to rescue minors who have been sex-trafficked.
- [Change police rules](#) to prevent children from lying to police in interrogations; these interrogations result in false confessions three times as often as for adults.
- Support policies to replace the [“school-to-prison pipeline”](#) with measures that address discipline problems without expulsion and criminal charges.

**“BEHIND THE WALLS”** policies control what happens once a person is sentenced to prison or jail for a crime. But [prison by itself does not make our communities safer](#).

Maryland’s prisons face these ongoing systemic problems:

- Some correctional officers enable drug abuse in Maryland prisons.
- Fewer than 10% of Maryland prisoners are allowed to participate in Maryland’s Correctional Enterprises program, which would give them lawful job skills on release.
- The number of GEDs earned by prisoners in Maryland has dropped in recent years, even though possession of a GED is [proven to reduce crime after release](#).
- Maryland’s use of harmful [solitary confinement](#) (aka “restrictive housing”) increased during the pandemic.
- Maryland Parole Commissioners recommend that prisoners participate in services to win their release, but Maryland prisons don’t make those services available.

We can make changes to improve prisoners’ chances on release—reducing recidivism, improving public safety, and saving taxpayer funds as prison populations shrink. Here are some examples:

**Correctional Ombudsman.** Maryland prisons are dangerous and unhealthy, but prison administrators’ claims and reports about what goes on inside are not always reliable. For a true picture of the problems of assaults on prisoners, drug smuggling by correctional officers, inadequate medical care, and lack of effective programming and educational opportunities, an independent perspective is needed. Other states have made good [use of Correctional](#)

[Ombudsmen](#) to receive confidential tips, conduct investigations, and publicly report problems and solutions. Maryland should adopt this system, permitting the Ombudsman to make unannounced visits to prisons.

**Education Behind the Walls.** Prison education has proved one of the factors most effective in reducing recidivism. Until two decades ago, prison education was run by the Maryland Department of Education. It was then moved to the Department of Labor, at which point the number of GEDs and college degrees awarded declined significantly. Treatment and educational services are in short supply. Maryland should return to the previous, much [more successful arrangement](#).

**Decarceration.** Maryland's prisons are increasingly filled with aging and elderly prisoners. That's a large financial burden on the state, but study after study shows no public safety benefit. We should expand the use of geriatric parole and medical parole to reduce our prison population.

The Second Look Act, which allows prisoners who have served at least twenty years to request hearings for resentencing, can save taxpayer funds and offer hope and in many cases something closer to justice for prisoners. (Needless to say, a "second look" is not a guarantee of release.)

**"BACK DOOR"** policies determine what happens when citizens return from prison to our communities and whether they can access resources needed to live successful, law-abiding lives.

**Expungement.** Prosecutors are adept at overloading charges for a single crime; all those charges, whether proven or not, remain on a defendant's record. Many returning citizens fail to benefit from laws allowing them to clear their criminal records because they are unaware of how to access expungement or cannot afford the required court fees.

MAJR supports legislation allowing for the automatic expungement of certain non-convictions after a required three-year waiting period, or sooner under specified circumstances. Enable our returning citizens to find gainful employment without unwarranted blemishes on their records.

**Reentry coordination.** Ninety-five percent of those incarcerated in Maryland will return to their communities after serving their sentences. Too often, they exit the back door only to return through the front door. Traditional approaches to parole or release have resulted in Maryland's high recidivism rate: over 40% of those released from our prisons return within three years. (NOTE: Maryland prisons published new calculations of recidivism in 2022 but revised their methods, so no "apples to apples" comparison is available.) We can do better, by helping returning citizens successfully reenter our communities with well-funded and well-publicized programs focused on education, job training, and counseling, both before and immediately after release.

**Collateral Consequences.** Criminal convictions frequently carry not only a prison sentence or fine, but also numerous disqualifications ("[collateral consequences](#)"), such as bars to professional licenses and government housing. Neither prosecutors, defense lawyers, nor judges are obligated to warn defendants of these collateral consequences upon a finding of guilt by trial, or prior to an admission of guilt by plea agreement.

Let's make justice more transparent. The [Uniform Collateral Consequences of Conviction Act](#) requires states to notify defendants of indirect penalties that may attach to their convictions and gives them an opportunity to obtain partial relief from those penalties when appropriate.

FOR MORE INFORMATION, please visit the MAJR website at [www.ma4jr.org](http://www.ma4jr.org).