

# HOUSE BILL 323

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CF 01r2163

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By: **Delegates Barron, Acevero, Charkoudian, Fennell, Jalisi, Kelly, Korman, Lehman, R. Lewis, Metzgar, Moon, Mosby, Palakovich Carr, Pendergrass, Smith, Stewart, and Washington**

Introduced and read first time: January 20, 2020

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Petition to Modify or Reduce Sentence**  
3 **(Maryland Second Look Act)**

4 FOR the purpose of authorizing a person who is serving a term of confinement to petition  
5 a court to modify or reduce the sentence under certain circumstances; requiring a  
6 person to file a petition under this Act in a certain court; requiring a court to hold a  
7 hearing under certain circumstances; providing for a hearing held under this Act;  
8 requiring a State’s Attorney to provide certain notice to a victim and a victim’s  
9 representative under certain circumstances; providing that a certain petitioner is  
10 entitled to assistance of counsel and, under certain circumstances, representation by  
11 the Office of the Public Defender; requiring a court to modify a certain sentence in a  
12 certain manner if the court makes a certain finding; authorizing a court to modify a  
13 certain sentence if the court makes a certain finding; prohibiting a court from  
14 modifying or reducing a sentence under certain circumstances; prohibiting a court  
15 from increasing the length of a sentence under this Act; authorizing a certain person  
16 to apply to the Court of Special Appeals for leave to appeal a certain order in a certain  
17 manner and within a certain period of time after a court passes an order in  
18 accordance with the provisions of this Act; and generally relating to a petition to  
19 modify or reduce a life sentence.

20 BY adding to  
21 Article – Criminal Procedure  
22 Section 8–501 to be under the new subtitle “Subtitle 5. Petition to Modify or Reduce  
23 Sentence”  
24 Annotated Code of Maryland  
25 (2018 Replacement Volume and 2019 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
27 That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## Article – Criminal Procedure

## SUBTITLE 5. PETITION TO MODIFY OR REDUCE SENTENCE.

## 8-501.

(A) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON WHO IS SERVING A TERM OF CONFINEMENT MAY PETITION THE COURT TO MODIFY OR REDUCE THE SENTENCE, REGARDLESS OF WHETHER THE PERSON FILED A TIMELY MOTION FOR RECONSIDERATION UNDER MARYLAND RULE 4-345(E) OR WHETHER A PRIOR MOTION FOR RECONSIDERATION WAS DENIED BY THE COURT, IF:

(I) THE PETITIONER HAS SERVED THE GREATER OF AT LEAST:

1. 20 YEARS OF THE TERM OF CONFINEMENT WITHOUT APPLICATION OF DIMINUTION CREDITS; OR

2. THE EQUIVALENT OF 25 YEARS OF THE TERM OF CONFINEMENT WITH APPLICATION OF DIMINUTION CREDITS; AND

(II) AT LEAST 5 YEARS HAVE PASSED SINCE THE COURT DECIDED ANY PETITION PREVIOUSLY FILED BY THE PETITIONER UNDER THIS SECTION.

(2) A PETITIONER SHALL FILE A PETITION TO MODIFY OR REDUCE A SENTENCE UNDER THIS SECTION IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE SENTENCE WAS IMPOSED.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, A COURT SHALL HOLD A HEARING ON A PETITION TO REDUCE OR MODIFY A SENTENCE UNDER THIS SECTION.

(2) THE HEARING REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE HELD AFTER THE COURT HAS DETERMINED THAT:

(I) THE PETITIONER IS ELIGIBLE TO FILE A PETITION UNDER SUBSECTION (A) OF THIS SECTION; AND

(II) THE STATE'S ATTORNEY HAS SATISFIED THE REQUIREMENTS FOR PROVIDING NOTICE TO VICTIMS OR VICTIMS' REPRESENTATIVES UNDER SUBSECTION (C) OF THIS SECTION.

(3) IF A HEARING IS HELD UNDER THIS SECTION:

1           **(I) THE HEARING AND THE COURT'S DECISION REGARDING**  
2 **WHETHER TO MODIFY OR REDUCE THE PETITIONER'S SENTENCE SHALL BE ON THE**  
3 **RECORD AND IN OPEN COURT; AND**

4           **(II) THE COURT SHALL STATE THE REASONS FOR ITS DECISION**  
5 **REGARDING WHETHER TO MODIFY OR REDUCE THE PETITIONER'S SENTENCE.**

6           **(4) A PETITIONER MAY WAIVE THE RIGHT TO BE PRESENT AT A**  
7 **HEARING HELD UNDER THIS SECTION.**

8           **(5) A COURT MAY NOT HOLD A HEARING UNDER THIS SECTION IF THE**  
9 **COURT DETERMINES THAT THE PETITIONER IS NOT ELIGIBLE TO FILE A PETITION**  
10 **UNDER SUBSECTION (A) OF THIS SECTION.**

11           **(C) (1) THE STATE'S ATTORNEY SHALL GIVE NOTICE TO EACH VICTIM**  
12 **AND VICTIM'S REPRESENTATIVE WHO HAS FILED A CRIME VICTIM NOTIFICATION**  
13 **REQUEST FORM UNDER § 11-104 OF THIS ARTICLE OR WHO HAS SUBMITTED A**  
14 **WRITTEN REQUEST TO THE STATE'S ATTORNEY TO BE NOTIFIED OF SUBSEQUENT**  
15 **PROCEEDINGS UNDER § 11-503 OF THIS ARTICLE:**

16           **(I) THAT A PETITION TO MODIFY OR REDUCE A SENTENCE HAS**  
17 **BEEN FILED UNDER THIS SECTION;**

18           **(II) EITHER THAT THE PETITION HAS BEEN DENIED WITHOUT A**  
19 **HEARING, OR OF THE DATE, TIME, AND LOCATION OF THE HEARING; AND**

20           **(III) IF A HEARING IS TO BE HELD, THAT EACH VICTIM OR**  
21 **VICTIM'S REPRESENTATIVE MAY ATTEND AND TESTIFY.**

22           **(2) A VICTIM OR A VICTIM'S REPRESENTATIVE IS ENTITLED TO AN**  
23 **OPPORTUNITY TO ATTEND AND TESTIFY IN THE MANNER PROVIDED BY MARYLAND**  
24 **RULE 4-345.**

25           **(D) A PETITIONER WHO HAS BEEN DETERMINED TO BE ELIGIBLE TO FILE A**  
26 **PETITION UNDER SUBSECTION (A) OF THIS SECTION IS ENTITLED TO THE**  
27 **ASSISTANCE OF COUNSEL AND, IF INDIGENT, TO REPRESENTATION BY THE OFFICE**  
28 **OF THE PUBLIC DEFENDER.**

29           **(E) (1) FOR A PETITIONER WHO WAS SENTENCED TO A TERM OF**  
30 **CONFINEMENT FOR AN OFFENSE THAT WAS COMMITTED WHEN THE PETITIONER**  
31 **WAS A MINOR, THE COURT SHALL MODIFY THE SENTENCE IN A MANNER**  
32 **REASONABLY CALCULATED TO RESULT IN THE PETITIONER'S RELEASE WITHIN 3**

1 YEARS IF THE COURT FINDS THAT THE PETITIONER HAS MATURED AND  
2 REHABILITATED SUCH THAT RETENTION OF THE SENTENCE IS NOT NECESSARY FOR  
3 THE PROTECTION OF THE PUBLIC.

4 (2) FOR A PETITIONER WHO WAS SENTENCED TO A TERM OF  
5 CONFINEMENT WHEN THE PETITIONER WAS 18 YEARS OF AGE OR OLDER, THE  
6 COURT MAY MODIFY THE SENTENCE IF THE COURT FINDS THAT RETENTION OF THE  
7 SENTENCE IS NOT NECESSARY FOR THE PROTECTION OF THE PUBLIC.

8 (3) A COURT MAY NOT MODIFY OR REDUCE A SENTENCE UNDER THIS  
9 SECTION UNLESS THE COURT GIVES THE STATE'S ATTORNEY AND EACH VICTIM OR  
10 VICTIM'S REPRESENTATIVE WHO REQUESTS AN OPPORTUNITY TO BE HEARD THE  
11 OPPORTUNITY TO OBJECT TO THE PETITION TO MODIFY OR REDUCE THE SENTENCE.

12 (4) A COURT MAY NOT INCREASE THE LENGTH OF A SENTENCE UNDER  
13 THIS SECTION.

14 (F) WITHIN 30 DAYS AFTER THE COURT PASSES AN ORDER IN ACCORDANCE  
15 WITH THIS SECTION, THE PETITIONER OR THE STATE MAY APPLY TO THE COURT OF  
16 SPECIAL APPEALS FOR LEAVE TO APPEAL THE ORDER IN THE MANNER PROVIDED  
17 BY MARYLAND RULE 8-204.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2020.