

SENATE BILL 771

E2
SB 842/22 – JPR

3lr1658

By: **Senators Benson, Hettleman, and Augustine**

Introduced and read first time: February 6, 2023

Assigned to: Judicial Proceedings

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; providing that
6 a certain petitioner is entitled to assistance of counsel and, under certain
7 circumstances, representation by the Office of the Public Defender; authorizing a
8 certain person to apply to the Appellate Court of Maryland for leave to appeal a
9 certain order in a certain manner and within a certain period of time after a court
10 passes an order in accordance with the provisions of this Act; and generally relating
11 to a petition to modify or reduce a sentence.

12 BY adding to
13 Article – Criminal Procedure
14 Section 8–501 to be under the new subtitle “Subtitle 5. Petition to Modify or Reduce
15 Sentence”
16 Annotated Code of Maryland
17 (2018 Replacement Volume and 2022 Supplement)

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

20 **Article – Criminal Procedure**

21 **SUBTITLE 5. PETITION TO MODIFY OR REDUCE SENTENCE.**

22 **8–501.**

23 **(A) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON**
24 **WHO IS SERVING A TERM OF CONFINEMENT MAY PETITION THE COURT TO MODIFY**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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:

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

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

1 (4) A PETITIONER MAY WAIVE THE RIGHT TO BE PRESENT AT A
2 HEARING HELD UNDER THIS SECTION.

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

6 (c) (1) THE STATE'S ATTORNEY SHALL GIVE NOTICE TO EACH VICTIM
7 AND VICTIM'S REPRESENTATIVE WHO HAS FILED A CRIME VICTIM NOTIFICATION
8 REQUEST FORM UNDER § 11-104 OF THIS ARTICLE OR WHO HAS SUBMITTED A
9 WRITTEN REQUEST TO THE STATE'S ATTORNEY TO BE NOTIFIED OF SUBSEQUENT
10 PROCEEDINGS UNDER § 11-503 OF THIS ARTICLE:

11 (i) THAT A PETITION TO MODIFY OR REDUCE A SENTENCE HAS
12 BEEN FILED UNDER THIS SECTION;

13 (ii) EITHER THAT THE PETITION HAS BEEN DENIED WITHOUT A
14 HEARING, OR OF THE DATE, TIME, AND LOCATION OF THE HEARING; AND

15 (iii) IF A HEARING IS TO BE HELD, THAT EACH VICTIM OR
16 VICTIM'S REPRESENTATIVE MAY ATTEND AND TESTIFY.

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

20 (d) A PETITIONER WHO HAS BEEN DETERMINED TO BE ELIGIBLE TO FILE A
21 PETITION UNDER SUBSECTION (A) OF THIS SECTION IS ENTITLED TO THE
22 ASSISTANCE OF COUNSEL AND, IF INDIGENT, TO REPRESENTATION BY THE OFFICE
23 OF THE PUBLIC DEFENDER.

24 (e) (1) FOR A PETITIONER WHO WAS SENTENCED TO A TERM OF
25 CONFINEMENT FOR AN OFFENSE THAT WAS COMMITTED WHEN THE PETITIONER
26 WAS A MINOR, THE COURT SHALL MODIFY THE SENTENCE IN A MANNER
27 REASONABLY CALCULATED TO RESULT IN THE PETITIONER'S RELEASE WITHIN 3
28 YEARS IF THE COURT FINDS THAT THE PETITIONER HAS MATURED AND
29 REHABILITATED SUCH THAT RETENTION OF THE SENTENCE IS NOT NECESSARY FOR
30 THE PROTECTION OF THE PUBLIC.

31 (2) FOR A PETITIONER WHO WAS SENTENCED TO A TERM OF
32 CONFINEMENT WHEN THE PETITIONER WAS AT LEAST 18 YEARS OLD, THE COURT
33 MAY MODIFY THE SENTENCE IF THE COURT FINDS THAT RETENTION OF THE
34 SENTENCE IS NOT NECESSARY FOR THE PROTECTION OF THE PUBLIC.

1 **(3) A COURT MAY NOT MODIFY OR REDUCE A SENTENCE UNDER THIS**
2 **SECTION UNLESS THE COURT GIVES THE STATE’S ATTORNEY AND EACH VICTIM OR**
3 **VICTIM’S REPRESENTATIVE WHO REQUESTS AN OPPORTUNITY TO BE HEARD THE**
4 **OPPORTUNITY TO OBJECT TO THE PETITION TO MODIFY OR REDUCE THE SENTENCE.**

5 **(4) A COURT MAY NOT INCREASE THE LENGTH OF A SENTENCE UNDER**
6 **THIS SECTION.**

7 **(F) WITHIN 30 DAYS AFTER THE COURT PASSES AN ORDER IN ACCORDANCE**
8 **WITH THIS SECTION, THE PETITIONER OR THE STATE MAY APPLY TO THE**
9 **APPELLATE COURT OF MARYLAND FOR LEAVE TO APPEAL THE ORDER IN THE**
10 **MANNER PROVIDED BY MARYLAND RULE 8–204.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2023.