

# The Just Criminal Justice Group, LLC



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## TESTIMONY IN SUPPORT OF 2025—H 5362 & 2025—S 0930

### ***“The Sentencing Reconsideration Act” (SRA)***

- **SECTION 1** of this legislation is inspired by *Gahlil Oliveira v. State*, PM-2002-3654 (2/7/23) an important and thoughtful decision in which the court expressed its well-founded frustration with its legal inability to consider the extraordinary rehabilitative efforts made by a criminal defendant sentenced decades before as a young man to a lengthy term of incarceration. As a practical matter current Rhode Island law prohibits any meaningful review 120 days after sentencing or denial of an appeal.<sup>1</sup> The decision also emphasizes the importance of recognizing rehabilitative progress and alignment with the evolving standards of justice by allowing review where none exists under current law.
- The SRA allows for review for potentially deserving individuals serving lengthy sentences. While it allows for review, it does not require that relief be granted to the defendant making the request.
- The legislation provides a structured pathway for sentence reconsideration, emphasizing fairness, rehabilitation, and updated judicial standards in response to evolving understandings of justice. Specifically, it provides incarcerated individuals serving lengthy sentences an opportunity to petition their sentencing judge for a reduction of their sentence of incarceration after they have served at least ten (10) years in custody.
- The legislation has sensible ‘carveouts’ and limitations:
  - defendants serving life without the possibility of parole would be ineligible for relief
  - defendants serving mandatory sentences of incarceration would be ineligible for relief

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<sup>1</sup> *Superior Court Rule of Criminal Procedure 35* (prescribing the 120-day limit; state may request and the court may increase sentence at the time that the defendant requests a reduction); *State v. Jones*, 942 A.2d 982 (R.I. 2008); *State v. Brown*, 821 A.2d 695 (R.I. 2003); *State v. Letourneau*, 446 A.2d 746 (R.I. 1982) (R. 35’s 120-day time limitation is jurisdictional and may not be enlarged)

- a defendant who is denied relief would be ineligible for reconsideration for five (5) years
  - the relief afforded by the act does not result in a reduction of sentence but instead a reduction in the period of incarceration being served - the length of the total original sentence would always remain the same whether the defendant is afforded relief or not
- The legislation creates a fair and just process for sentence reconsideration of lengthy sentences based on demonstrated rehabilitation, positive change, and other compelling factors. Again, under current Rhode Island law no such remedy exists and any review is prohibited 120 days after sentence is imposed or an appeal is denied.
- The legislation aims to create a fair and just process for sentence reconsideration based on demonstrated rehabilitation, changes in law, and other compelling factors. It requires that the wishes of the victim or their representative be sought out, their opinions heard, made part of the record, and carefully considered by the court at the hearing it creates.
- The legislation is in line with the federal First Step Act, allowing eligible individuals to request sentence reductions and provides guidance to the judiciary for evaluating sentencing reconsideration motions.
- The legislation acknowledges that people change over time and provides a mechanism for sentences to be revisited in cases where original sentencing goals are met or new circumstances justify a reevaluation.
- **SECTION 2** of this legislation addresses statutory construction and Separation of Powers concerns presented by the following:
  - *State v. Jones*, 942 A.2d 982 (R.I. 2008); *State v. Brown*, 821 A.2d 695 (R.I.2003); *State v. Letourneau*, 446 A.2d 746 (R.I.1982) (motions to correct a sentence imposed in an illegal manner or to reduce any sentence is subject to the 120-day time limitation of R.35 which is jurisdictional and may not be enlarged)
  - *State v Lombardo* 563 A2d 1030, 1031 (CT App. 1989) (trial court is ordinarily without jurisdiction to modify a lawful sentence that a defendant has begun to serve unless the legislature confers jurisdiction to modify executed sentences); affirmed in *State v. Lombardo*, 568 A2d 793 (CT 1989).

- **SECTION 3** of the legislation addresses retroactivity issues that have arisen in other criminal justice reform cases. *State v. Briggs*, 58 A.3d 164, 169 (R.I. 2013) (in the absence of any express language or implicit indication that the statutory amendment regarding the expungement of deferred sentences should be applied retroactively indicates an intent toward prospective application only).
- **CONCLUSION.** The SRA is a succinct and relatively simple piece of legislation. It is meant to leave the door to the courthouse, while not completely closed, only slightly ajar, for individuals who deserve their day in court so that their claims of self-improvement and rehabilitation can be heard and considered by the court.

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