

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Deputy Mayor for Public Safety and Justice



Public Hearing on

B23-127, the “Second Look Amendment Act of 2019”

Testimony of
Kevin Donahue
Deputy Mayor for Public Safety and Justice

Committee on the Judiciary and Public Safety
Charles Allen, Chairperson
Council of the District of Columbia

March 26, 2019
Room 123
1:00 pm
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Good afternoon, Chairperson Allen, members, and staff of the Committee on the Judiciary and Public Safety. I am Kevin Donahue, Deputy Mayor for Public Safety and Justice. I am joined by Quincy Booth, Director of the Department of Corrections. We are here to present testimony on Bill 23-127, the “Second Look Amendment Act of 2019.”

The bill has two main components that impact persons convicted of committing a felony while they were a certain age, who have been imprisoned for at least 20 years, and who are not yet eligible for parole. First, this legislation seeks to increase the eligibility age under the *Incarceration Reduction Amendment Act of 2016* (IRAA) from 18 to 25 years old. This means a person convicted of committing a felony before they turned 25 would be eligible to apply for a sentence modification under IRAA after they have served at least 20 years in prison. Second, the bill would require any eligible inmate who has applied for a sentence modification and is returned to the custody of the Department of Corrections (DOC) to be housed at the Correctional Treatment Facility (CTF).

The Executive supports the policy reflected in this bill. We know from both lived experiences and research that, at a certain point, there is not a compelling public safety reason to keep someone incarcerated any longer. We know that the sentences given out for this cohort of individuals, often from the “War on Crime” days of the 1980s and 1990s, would be inconsistent with the sentences given out today. We also know that people can be rehabilitated, and criminal sentencing should be structured in a way that accounts for a person’s maturation, especially those who, through their actions, have demonstrated both remorse and change.

In addition to this bill, the Bowser Administration has introduced several innovative efforts that seek to assist returning citizens to improve outcomes and reduce recidivism. In 2017, Mayor Bowser introduced the *Second Chance Amendment Act of 2017*, which would radically reform the District’s criminal record sealing process. Although a public hearing was held on that bill on December 14, 2017, Council did not move the bill forward before the end of Council Period 22. As one of her first bills in the new Council Period, Mayor Bowser re-introduced the *Second Chance Amendment Act*, and we strongly urge the Council to take action on this legislation. If we are committed to reentry as a city, we must act with urgency on record sealing and expungement reform.

On February 12, 2019, we celebrated the opening of the Resources to Empower and Develop You Center, better known as the READY Center. The READY Center serves as a portal for returning citizens exiting the D.C. Jail and provides them with immediate access to important post-release services, such as housing, employment, health care, vital documents, and behavioral health aftercare. A number of agencies are co-located at the READY Center, including the Department of Human Services, Department of Behavioral Health, Department of Motor Vehicles, Department of Employment Services, and the Mayor’s Office of Returning Citizens Affairs.

These efforts demonstrate the Administration’s belief that every resident deserves an opportunity to support themselves and find a pathway to the middle class.

The *Second Look Amendment Act of 2019* is another opportunity for the Council to make the city a fairer one for its returning citizens. There is, however, a critical improvement that we believe Council needs to make to this bill. We suggest the Committee modify the bill to provide DOC with

greater flexibility in making housing decisions for IRAA inmates being held at the D.C. Jail. Although we support the bill's underlying policy, the provision requiring placement at the CTF would likely have a significant impact on the D.C. Jail's operation.

We agree that, in most instances, the CTF is the optimal place for IRAA inmates and that they can benefit from specialized programming available there. However, career professionals at DOC need to be the ones making housing decisions for individuals who are at the Jail. The removal of all discretion by DOC staff in the inmate placement process would be detrimental to the Jail's operations. DOC uses a nuanced process to determine classifications, separations, and other critical safety and security measures for inmates, which would be negatively impacted by mandating specific housing requirements for all IRAA inmates. By including this provision, this legislation overrides the expertise of long-serving professionals about how to safely and appropriately house inmates.

Aside from that reservation, there is also a significant unknown factor with the bill: its fiscal impact. The bill envisions the creation of a specialized housing unit at the CTF for inmates seeking a sentence modification under the IRAA. Given DOC's staffing situation, nearly all of the costs associated with the creation of new housing units will be borne by overtime. The matter of cost is not insignificant. It can delay the implementation of a bill that we all support.

Additionally, there will be fiscal implications for IRAA recipients once they return to the community. Resources for our social service agencies, the Mayor's Office on Returning Citizen Affairs (MORCA), and our community-based organizations that serve returning citizens must also be a part of this conversation. There should be intentionality to ensure the appropriate infrastructure exists to meet the needs of this specialized population not only at the Jail, but also within the community.

Chairperson Allen, the Bowser Administration is committed to ensuring the success of our returning citizens, including by successful transitions back to the community, and we look forward to working with you to refine the bill to meet the operational needs of DOC. Thank you for the opportunity to provide testimony on this bill. Director Booth and I welcome your questions.