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## POSITION ON PROPOSED LEGISLATION

**BILL: SB 98 - Correctional Services - Geriatric and Medical Parole**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: 2/7/23**

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 98. This written testimony focuses on the medical parole provisions within the Bill.

The medical parole system in Maryland is dysfunctional and inhumane. The eligibility criteria for medical parole are unduly restrictive and, as a result, the release of chronically debilitated and terminally ill incarcerated persons is seldom granted. Present law also denies the Parole Commission critical information in determining whether to grant medical parole.

Under current law, those eligible to apply for medical parole must be “so chronically debilitated or incapacitated by a medical or mental health condition, disease, or syndrome as to be physically incapable of presenting a danger to society.” There are many problems with both this standard and the processes implementing it.

(1) Too few applicants qualify for medical parole under such a stringent standard. Between 2015 and 2021, the Parole Commission *granted 111 and denied 362* medical parole applications it received, relegating far too many terminally ill and physically incapacitated incarcerated persons—who are far too sick to pose any risk to public safety—to die behind prison walls, separated from their loved ones and receiving subpar medical and palliative care as compared to what is available outside of prison.

Senate Bill 98 expands the scope of eligibility to include incarcerated persons (1) deemed by a licensed medical professional to be “chronically debilitated or incapacitated” *or* (2)

suffering from a terminal illness that requires extended medical management that would be better met by community services than the health care provided in prison *or* (3) physically incapable of posing a danger to society as a result of their physical or mental health condition. Patently, releasing incarcerated persons whose health care needs exceeds the capacity of the prison health care system is the humane thing to do. It also ameliorates the exorbitant cost to Maryland taxpayers, making Senate Bill 98 a clear “win-win.”

(2) Under the current medical parole statute, the applicant is not afforded a meeting with the Maryland Parole Commission in connection with the request for medical parole.

Senate Bill 98 allows the incarcerated person or their representative to request a meeting with the Commission and requires the Commission to grant the request for a meeting, provided the inmate (1) is then housed in a prison infirmary or a hospital in the community or (2) has been frequently housed in such a facility without the preceding six months. Importantly, Senate Bill 98 gives the Commission the *discretion* to provide a meeting to an inmate who does not meet the aforementioned housing criteria. Requiring a meeting between the Commission and the inmate allows for the presentation of a more comprehensive picture of the inmate, his medical condition(s) and, if applicable, his family situation, and enables the Commission to render a more informed and reasoned decision about whether to grant medical parole in any given case.

(3) Under present law, medical parole candidates are evaluated using the Karnofsky Performance Status Scale, an outdated and inadequate assessment instrument for determining functional impairment.

Senate Bill 98 provides for an updated, dynamic medical assessment that more effectively and holistically demonstrates a medical parole candidate’s degree of debilitation, specific medical needs, and prognosis.

(4) The current medical parole statute does not require a medical examination of the individual seeking parole. Instead, a doctor merely reviews existing medical information, assigns the aforementioned “Karnofsky” score, and then makes a recommendation to the Parole Commission. The Commission is not required to adopt that recommendation.

Senate Bill 98 allows the incarcerated person to obtain, at no cost, an independent medical evaluation, which consists of an in-person examination of the incarcerated person. The

findings of the independent medical evaluation and any medical conditions detailed in the evaluation are to be given equal consideration by the Commission. This addition to the law appropriately acknowledges the informative nature of a medical evaluation and assigns it equal weight among the numerous other factors to be considered by the Commission in determining whether to grant medical parole.

(5) Finally, under the current medical parole statute, the Commission's decision to grant parole to an inmate serving a life sentence must be approved by the Governor.

Senate Bill 98 removes the requirement of gubernatorial approval for medical parole, consistent with the removal of the Governor from the regular parole process through prior legislation.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 98.**

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**Submitted by: Maryland Office of the Public Defender, Government Relations Division.**

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