



## Testimony for the Senate Judicial Proceedings Committee

February 8, 2023

### SB 98 - Correctional Services - Geriatric and Medical Parole

#### FAVORABLE

OLIVIA SPACCASI  
PUBLIC POLICY PROGRAM  
ASSOCIATE

AMERICAN CIVIL  
LIBERTIES UNION  
OF MARYLAND

3600 CLIPPER MILL ROAD  
SUITE 350  
BALTIMORE, MD 21211  
T/410-889-8555  
or 240-274-5295  
F/410-366-7838

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS  
JOHN HENDERSON  
PRESIDENT

DANA VICKERS SHELLEY  
EXECUTIVE DIRECTOR

ANDREW FREEMAN  
GENERAL COUNSEL

The ACLU of Maryland urges a favorable report on SB 98 which would greatly improve Maryland's medical and geriatric parole processes. The bill would establish a more appropriate set of criteria for the Parole Commission to consider when deliberating parole. Specifically, it includes the age of the individual among the factors that should be considered by the Commission. The bill also clarifies what constitutes being "chronically debilitated or incapacitated" means for the purposes of medical parole. In order for an inmate to be considered for medical parole, they must be considered chronically debilitated or incapacitated. However, current measurements for incapacitation are outdated. And more accurate indicators for incapacitation, like the inability to walk, breath, and bathe on one's own are not codified into law. Under SB 98, individuals who have a diagnosable medical condition or a permanent medical or cognitive disability and cannot complete one or more basic activities of daily living would be classified as such. The bill would also allow medical parole applicants and their lawyers to request a meeting with the Commission. These requests must be granted if the person is currently in an infirmary or hospital or has been to one of these facilities frequently in the last six months. The bill would also remove the Governor from the medical parole process, creating parity between all parole processes in the state.

Under the current parole system, too few people are considered eligible for geriatric and medical parole. Petitions for geriatric parole are rarely approved. Currently, there are about 630 individuals over the age of 60 in Maryland's prison system who have served at least 15 years. Risk of reoffending drops significantly past age 60. <sup>1</sup> Recidivism

---

<sup>1</sup> Hunt, K. S., & Easley, B. (2017, December). The effects of aging on recidivism among federal offenders. United States Sentencing Commission. Retrieved February 7, 2023, from <https://www.ussc.gov/research/research-reports/effects-aging-recidivism-among-federal-offenders>



AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

## Maryland

drops to just 2% in people ages 55-65 and to almost zero for those older at 65.<sup>2</sup> Despite this, in Maryland, older, aging prisoners have the lowest rates of release.

Low rates of release are seen among medical parole considerations as well. In 2015 and 2020, of the 339 people considered for medical parole, only 86 applications were granted. From 2021 to 2023, the Commission only granted medical parole for only 14 people serving life sentences. Five people died waiting for the Governor's approval. The rest were denied. In 2021, the legislature removed the Governor from the parole process for those serving life sentences. But, because of a bill drafting error, the Governor was not removed from the medical parole process for lifers. This bill would remedy that error, while also updating the criteria for release and establishing a more appropriate method for considering these requests.

Current standards for medical parole mean that many individuals remain incarcerated while unable to complete daily tasks like toileting, grooming, and walking. Inmates are forced to rely on the goodwill of other people inside to survive because they are simply "not sick enough" to be released. Many of these applicants would pose no threat to their communities if released. Rather, they would go to a facility in which they would receive appropriate, comprehensive care at the end of their life.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 98.

---

<sup>2</sup> Silber, R., Shames, A., & Reid, K. (2017, December). Aging Out: Using Compassionate Release to Address the Growth of Aging and Infirm Prison Populations. Vera Institute of Justice. Retrieved February 7, 2023, from <https://www.vera.org/publications/compassionate-release-aging-infirm-prison-populations>