# JUSTICE POLICY INSTITUTE

## Testimony to the House Judiciary Proceeding Committee
## House Bill 0157/Senate Bill 0098 — Compassionate Release: Medical/Geriatric Parole Reform

Justicepolicy.org

Founded in 1997, the Justice Policy Institute (JPI) is a nonprofit organization developing workable solutions to problems plaguing juvenile and criminal justice systems. For over 25 years, JPI's work has been part of reform solutions nationally, as well as an intentional focus here in Maryland. Our research and analyses identify effective programs and policies, in order to disseminate our findings to the media, policymakers, and advocates, and to provide training and technical assistance to people working for justice reform.

JPI supports House Bill 0157, which would provide a fix to the language errors contained within Maryland's current medical parole statute, as well deliver enhanced compassionate release opportunities for infirm and/or elderly persons in prison.

### Medical parole

Two years ago, this legislative body took the important and necessary step of removing the governor from the parole decision-making process for people serving a life sentence; thereby removing politics from parole in Maryland. That was a historic step that means Maryland governors can no longer undermine the Maryland Parole Commission (MPC).  The long-term impact of that policy change will be less tax dollars spent for excessively long stays of incarceration with no demonstrable public safety benefit, less funds diverted away from important services like education and healthcare and will help to mitigate the huge racial disparities in the Maryland justice system.

Between 2015 and 2021, the MPC approved 112 medical parole petitions and denied 350, a 32 percent approval rate. Furthermore, during the COVID-19 pandemic, only 17 percent of parole petitions were approved for medical parole. Currently, the MPC receives a medical recommendation from the treating doctor, which includes the general prognosis, an individual's capacity, a Karnofsky Performance Score,[1] and institutional information such as program participation. Unfortunately, this process is woefully inadequate to assess an individual's prognosis, and the reliance on an imprecise and inappropriate quantitative score has resulted in the denial of many deserving petitions.

During debate on the bill to remove the governor from the parole process we heard how the MPC is much better situated to evaluate someone for release due to their history of involvement with the incarcerated population. The governor was making decisions based off no interaction with the population whose fate he was deciding.  The idea of making uninformed decision on medical parole recommendations is unfathomable.  We have seen what happens when the governor makes uninformed decisions in the case of Donald Brown whose initial attempt for

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[1]Maryland relies on the Karnofsky Performance Status Scale, without any in-person examination. A physician issues a short memo to the MPC that includes the score, and if it is below 20, they are typically considered a viable candidate for release. According to the scale, a score of 20 indicates that an individual is very sick, hospital admission is necessary, and active supportive treatment is required.

medical parole was denied by the previous governor. In the following month, Mr. Brown's health got worse and sparked a second attempt of medical parole. He was granted medical parole and was released from prison but passed away in a nursing home four days later. That was not medical parole. That was the state avoiding funeral cost.

Unfortunately, due to a technical error, the bill to remove the governor from parole did not remove the governor from the medical parole decision making process. The same logic and considerations that went into passage of that bill should be applied to removing the governor from medical parole. There is no legitimate policy goal, least of all protecting public safety, which supports keeping the governor in the medical parole process.

**Geriatric parole**

While Maryland law has a geriatric parole provision that was intended to benefit incarcerated individuals over the age of 60 who have served at least 15 years, in reality very few individuals are eligible because the law requires only those persons who meet those criteria and are serving sentences for subsequent violent offenses are eligible. This is problematic. If someone is sentenced to 80 years for a first-time offense when they are 40 years old, with standard parole eligibility at 50 percent, they will not be eligible for release until age 80. Geriatric parole is unavailable to them because it is a first-time offense. This technical issue within the geriatric parole law circumvents the spirit of an age-based release mechanism.

According to a forthcoming comprehensive report on the Maryland parole system, Six percent of the Maryland prison population, or 3,324 individuals, are over 50 years old. Additionally, Maryland currently has 2,341 people serving a life sentence, suggesting that the aging population will continue to grow. The older the individual, the more complications with health. A study in Pennsylvania concluded that an incarcerated population with an average age of 57 has similar health ailments to men in the general public with an average age of 72. A prison is not a hospitable setting for aging and is downright hostile for those individuals suffering from a chronic or terminal illness.

The Justice Policy Institute urges this committee to issue a favorable report on HB 0157.