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TO: The Honorable Will Smith
Chair, Judicial Proceedings Committee

FROM: Adam Spangler
Legislative Aide, Legislative Affairs, Office of the Attorney General

RE: SB128 Correctional Services - Geriatric and Medical Parole- **Support**

The Office of Attorney General (the "OAG") urges this Committee to favorably report Senate Bill 128. This legislation, sponsored by Senator Hettleman, would require the consideration of an inmate's age, and the extent to which the inmate is likely to recidivate or pose a threat to public safety, in the determination of whether to grant parole. Senate Bill 128 would require an inmate who is at least sixty years-old and has served at least fifteen years of the imposed sentence and is not registered or eligible for registration as a sex offender, to have a parole hearing every two years. The bill would also provide for medical parole upon a licensed medical professional's determination that an inmate is terminally ill or chronically debilitated or incapacitated, in need of extended medical care better met by community services and is physically incapable of presenting a danger to society. The bill also contains procedural and reporting requirements for these parole hearings.

Geriatric and medical parole – also known as “compassionate release” – are premised on “a humanitarian desire to allow people to spend their remaining days outside of prison in the company of their family and friends, as well as practical considerations of the high cost and

minimal public safety value of incarcerating people who are old or gravely ill.”¹ Despite the overall prison population declining across the U.S., the number of incarcerated older adults has increased.² These individuals typically pose minimal risk to public safety and lower rates of recidivism due to age and physical condition.³ Without expanded access to geriatric and medical parole in Maryland, the elderly population in State prisons will continue to grow, increasing the State’s costs in providing necessary health and end-of-life care to inmates, and serving little benefit to public safety.⁴

Additionally, SB 128 provides that any savings as a result of these provisions will revert back to the Department of Public Safety and Correctional Services for use in carrying out these parole hearings, as well as increase pre-release and re-entry resources for inmates released on parole, which will better assist those released from prison in reintegrating into the community.⁵ For the foregoing reasons, the Office of the Attorney General urges a favorable report on Senate Bill 128.

cc: Sen. Hettleman
Members of the Senate Judicial Proceedings Committee

¹ Rebecca Silber, Léon Digard, Jesse LaChance, A Question of Compassion: Medical Parole in New York State, VERA INSTITUTE OF JUSTICE (April 2018), <https://www.vera.org/publications/medical-parole-new-york-state>.

² *Id.*

³ JUSTICE POLICY INSTITUTE, Compassionate Release in Maryland: Recommendations for Improving Medical and Geriatric Parole (January 2022) at 4–5 (available at <https://justicepolicy.org/wp-content/uploads/2022/02/MarylandCompassionate-Release.pdf>) (“In 2012, a Maryland court determined a series of cases involved unconstitutional jury instructions. This resulted in 235 individuals, many of whom had committed serious violent offenses, becoming eligible for release. The average age of those released due to the Unger decision was 64, and they had served an average of 40 years in prison. In the eight years since the ruling, these individuals have posted a recidivism rate of under three percent. This is much lower than the 40 percent rate of recidivism after only three years for all persons released from Maryland prison. The rate for the aging Unger population is so low that the cohort was five times more likely to pass away from old age than to recidivate for a new crime.”).

⁴ *Id.* At 1.

⁵ S.B. 128, 2024 Legis. Sess, 446th Gen. Assemb. (Md. 2024) § 7-310(D).