



## **TESTIMONY BY T. Shekhinah Braveheart**

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### **House Bill 1123**

### **Judicial Proceedings**

### ***Correctional Services -Medical and Elder Parole***

Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee thank you for the opportunity to submit testimony in support of HB 1123 with amendments. I am Shekhinah Braveheart of the Justice Policy Institute (JPI), a national organization that promotes fair and effective legal policies.

While HB 1123 advances long-overdue reforms to Maryland's geriatric and medical parole processes, JPI is opposed to the geriatric parole component of the bill, which seeks to mandate risk assessments for all geriatric parole candidates, regardless of the offense and sentence length. We urge committee members to reconsider mandating such tools for the following reasons:

- Research consistently demonstrates that age is one of the most reliable predictors of declining criminal behavior. Individuals over 60, such as those eligible under HB 1123, represent the lowest risk group for recidivism. National studies have found that reoffense rates for people released at age 60 or older are pretty low, a stark contrast to the recidivism rates of younger populations. The New York City Council's *Justice in Aging* report indicates that 4 percent of individuals over 65 return to prison for new convictions within three years of release.<sup>1</sup> This low likelihood of reoffense underscores a fundamental reality: incarcerating aging individuals extended past their active years of offending offers no meaningful public safety benefit.

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<sup>1</sup> NYC Council Data Team, "Justice in Aging," New York City Council, 2023, <https://council.nyc.gov/data/justice-in-aging>.

- Research over the past 20 years has shown that such risk assessment instruments, when designed and implemented correctly, are better than the judgment of individual parole board members at forecasting risk to public safety of release. However, researchers caution that despite the increasing reliance upon risk assessments, not all instruments are created equal, so rigorous quality controls are essential. Risk assessments should be reviewed regularly, updated as needed, and validated on target prison populations to ensure the accuracy of risk prediction. The data used to develop the tool and the steps taken to ensure validity, address differences in risk and needs by gender, and control for the impact of race and ethnicity on risk measures. Maryland has never validated risk assessments on target populations; thus, Maryland should not adopt a new blanket policy requiring risk assessments for all. These rigid tools would disproportionately impact Black people and women and waste state taxpayer resources.
- By mandating risk assessments for all geriatric parole candidates, the Maryland Parole Commission would be prevented from utilizing the MPC-88 RA Waiver Form at its discretion. The MPC-88 is an internal tool that permits a two-commissioner panel of the MPC to present a case for en banc parole consideration without a risk assessment. This essential tool has been implemented sparingly on the oldest, longest-sentenced, and safest population to help mitigate the shortage of clinicians and extremely long wait times. **If imposed under HB 1123, we recommend making risk assessments discretionary rather than mandatory requirements.**

### **The Case for Reform: Compassion, Safety, and Fiscal Responsibility**

Over the past three decades, the proportion of incarcerated individuals aged 55 or older in U.S. state and federal prisons has increased fivefold, rising from 3 percent in 1991 to 15 percent in 2021.<sup>2</sup> This demographic shift is even more pronounced among those serving life sentences; by 2020, 30 percent of individuals serving life terms were at least 55 years old.<sup>3</sup> In Maryland, this trend is clear: the state incarcerates approximately 3,000 individuals over the age of 50, with nearly 1,000 aged 60 or older.<sup>4</sup>

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<sup>2</sup> Emily Widra, "The Aging Prison Population: Causes, Costs, and Consequences," Prison Policy Initiative, August 2, 2023, <http://www.prisonpolicy.org/blog/2023/08/02/aging/>.

<sup>3</sup> Emily Widra, "The Aging Prison Population: Causes, Costs, and Consequences," Prison Policy Initiative, August 2, 2023, <http://www.prisonpolicy.org/blog/2023/08/02/aging/>.

<sup>4</sup> Justice Policy Institute, "Rethinking Approaches to over Incarceration of Black Young Adults in Maryland," Justice Policy Institute, November 2019, [https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/Rethinking\\_Approaches\\_to\\_Over\\_Incarceration\\_MD.pdf](https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/Rethinking_Approaches_to_Over_Incarceration_MD.pdf).

<sup>5</sup> NYC Council Data Team, "Justice in Aging," New York City Council, 2023, <https://council.nyc.gov/data/justice-in-aging>.

likelihood of reoffense underscores a fundamental reality: incarcerating aging individuals extended past their active years of offending offers no meaningful public safety benefit.

The reality for many of these individuals is bleak. Incarcerated people experience “accelerated aging” due to the stress of incarceration, poor medical care, and lack of access to health-promoting environments. A 55-year-old individual in prison typically has a health profile similar to that of someone 10–15 years older in the general population. Conditions like diabetes, hypertension, and liver diseases are common, making this population among the most medically expensive to incarcerate.<sup>6</sup>

Maryland taxpayers bear the financial burden of this system. The average annual cost of incarcerating an individual exceeds \$60,000 per year,<sup>7</sup> However, for older incarcerated individuals with chronic medical needs, that cost is higher due to additional healthcare costs.<sup>8</sup> Much of this spending goes toward addressing health issues that could be better and more humanely treated in community settings. These rising costs come with diminishing returns: as individuals age and their health deteriorates, their ability to pose a threat to public safety diminishes, making their continued incarceration a poor investment of public resources.<sup>9</sup>

For Maryland, this reform is not theoretical. During the first year of the COVID-19 pandemic, when vaccines were not yet available, the Maryland Parole Commission (MPC) received 201 medical parole requests. However, only 27 of those requests—less than 15%—were approved, highlighting the limited use of medical parole even in a public health crisis.<sup>10</sup> Between 2015 and 2020, only 86 individuals were granted medical parole out of hundreds of requests for parole. These figures illustrate that Maryland’s medical parole process remains severely underutilized, even in emergency situations. HB 1123 offers an opportunity to change this by making life-saving policies a permanent feature of Maryland’s legal system. It ensures we treat older and medically vulnerable individuals with dignity while reallocating resources to where they are most needed.

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<sup>6</sup> Ahalt, Cyrus, Robert L. Trestman, Jody D. Rich, Robert B. Greifinger, and Brie A. Williams. 2013. “Paying the Price: The Pressing Need for Quality, Cost, and Outcomes Data to Improve Correctional Health Care for Older Prisoners.” *Journal of the American Geriatrics Society* 61, no. 11 (November): 2013–19. <https://doi.org/10.1111/jgs.12510>.

<sup>7</sup> Maryland Department of Public Safety and Correctional Services, Office of Government and Legislative Affairs. Testimony on House Bill 278. Maryland General Assembly, Regular Session, 2022. Available at: [https://mgaleg.maryland.gov/cmte\\_testimony/2022/jpr/1Mt8x-HqV5q0quEC1x459L296-RnLJ0Ex.pdf](https://mgaleg.maryland.gov/cmte_testimony/2022/jpr/1Mt8x-HqV5q0quEC1x459L296-RnLJ0Ex.pdf)

<sup>8</sup> JFA Institute and The Pandit Group, “Building on the Unger Experience: A Cost-Benefit Analysis of Releasing Aging Prisoners” (Open Society Institute - Baltimore, January 2019), <https://www.osibaltimore.org/wp-content/uploads/2019/01/Unger-Cost-Benefit3.pdf>.

<sup>9</sup> Matt McKillop and Alex Boucher. “Aging Prison Populations Drive Up Costs: Older Individuals Have More Chronic Illnesses and Other Ailments That Necessitate Greater Spending.” *Pew Charitable Trusts*, February 20, 2018. <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/02/20/aging-prison-populations-drive-up-costs>; See also, Justice Policy Institute, *Compassionate Release in Maryland: Recommendations for Improving Medical and Geriatric Parole*. January 2022. <https://justicepolicy.org/wp-content/uploads/2022/02/Maryland-Compassionate-Release.pdf>.

<sup>10</sup> Lila Meadows. (2023). Testimony to the Judicial Proceedings Committee on medical parole statistics, 2015–2020. p. 33. Retrieved from [https://mgaleg.maryland.gov/cmte\\_testimony/2023/jpr/12595\\_02072023\\_161859-223.pdf](https://mgaleg.maryland.gov/cmte_testimony/2023/jpr/12595_02072023_161859-223.pdf)

### **Addressing Racial Disparities**

Maryland's legal system exhibits profound racial disparities, particularly among those serving long sentences. As of 2023, over 70 percent of the state's prison population was Black, despite Black individuals comprising less than one-third of the state's population.<sup>11</sup> This disparity is more than double the national average. These inequities are particularly pronounced among individuals sentenced as emerging adults aged 18 to 24. Nearly 80 percent of emerging adults who have served 10 or more years in Maryland prisons are Black—the highest rate in the nation.<sup>12</sup>

Decades of policies have disproportionately targeted under-resourced communities of color. Aggressive policing, punitive sentencing, and restrictive parole practices have all contributed to the overrepresentation of Black individuals in Maryland's prisons. HB 1123 offers a pathway to address these systemic inequities by reforming geriatric and medical parole policies. Implementing these reforms would not only reduce the prison population but also mitigate the disproportionate impact of incarceration on Black communities and promote a more equitable legal system in Maryland.

### **Conclusion: A Call to Action**

The question before you today is whether Maryland will continue to pour millions into incarcerating individuals who no longer pose a threat or seize this opportunity to enact reforms that reflect our shared values of justice, fiscal responsibility, and compassion. HB 1123 offers a sensible, evidence-based approach that benefits taxpayers, strengthens public safety, and upholds human dignity.

I urge you to support this critical legislation and ensure its swift passage. Let us work together to create a more just, equitable, and effective legal system for the state of Maryland.

Thank you for your time and consideration.

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<sup>11</sup> Lisa Woelfl, "As Pandemic Eases, Share of Black Inmates in Maryland Prisons Peaks," Maryland Matters, April 17, 2024, <https://marylandmatters.org/2024/04/17/as-pandemic-eases-share-of-black-inmates-in-maryland-prisons-peaks/>.

<sup>12</sup> Justice Policy Institute, "Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland," Justice Policy Institute, November 2019, [https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/Rethinking\\_Approaches\\_to\\_Over\\_Incarceration\\_MD.pdf](https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/Rethinking_Approaches_to_Over_Incarceration_MD.pdf).