



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: House Bill 1123 – Medical and Elder Parole

FROM: Maryland Office of the Public Defender

POSITION: Favorable with amendment

DATE: March 21, 2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable with amendment report on House Bill 1123.

This bill is a well-intentioned effort to improve aspects of the parole system, but as currently written the geriatric parole provision will increase costs to the state without a commensurate benefit. The problems stem from the mandate for additional risk assessments.

The Problem with Mandating Risk Assessments

For a number of years, the Maryland Parole Commission (MPC) has employed a psychologist to conduct risk assessments of people with life sentences when, following a parole hearing, the panel determines that the person may be suitable for parole but would like the benefit of a risk assessment before the MPC makes its final decision. These risk assessments are in-depth evaluations that take considerable time to complete. A psychologist doing these full-time would be hard-pressed to complete more than six per month. The MPC currently has one psychologist doing risk assessments full-time. As a result, people who have been referred for a risk assessment face very lengthy delays, with some waiting up to two years from the referral until the risk assessment is done.

As currently written, HB 1123 will exacerbate these delays. It requires the Department of Public Safety and Correctional Services (DPSCS) to submit to the MPC the names of every incarcerated individual who “(1) is at least 60 years old; (2) has been incarcerated for a continuous period of at least 20 years; (3) has had no major disciplinary infractions within the previous 3-year period; and (4) is not serving a sentence of life without the possibility of parole.” That is likely to be a large number of people. When DPSCS submits that long list of names to the MPC on or shortly after the effective date of the bill, the MPC will be required by this bill to conduct risk assessments of all of those individuals within 60 days.

The MPC does not currently have the bandwidth to do this. Not even close. The requirement that it conduct the risk assessments mandated by this bill within 60 days would appear to require that it prioritize those individuals over the people who have been previously referred for risk assessments after a parole hearing and have been waiting for months or years.

To cope with the sharp increase in the number of risk assessments, MPC will need to increase its bandwidth. Past efforts to hire and retain an additional psychologist have proven unsuccessful because the few psychologists who do these can make much more in the private sector than the state pays. The MPC conceivably could contract with private psychologists to do these, but this would be costly (and could make it less attractive for a qualified psychologist to do this full-time as a state employee when they could make more on a contractual basis). There are not that many private psychologists with experience conducting such risk assessments, and it is not unusual for them to bill \$6,000 to \$7,000 per evaluation.

The bill attempts to address the cost problem by authorizing the Justice Reinvestment Oversight Board to distribute some of the savings from reductions in the prison population to the MPC for the purpose of hiring psychologists to conduct the risk assessments mandated by the bill. Specifically, the funding provision says that this money would be “for the purpose of hiring psychologists to perform risk assessments of candidates for elder parole under § 7–310 of the Correctional Services Article,” the new statute that this bill creates. The problem is that this provision (a) is limited to the risk assessments mandated by the bill, which, as explained above, may be unnecessary or unwarranted, (b) does not authorize those psychologists to help with the backlog of risk assessments that the MPC has and will continue to request in other cases, and (c) potentially diverts money from other important programs, such as post-secondary education and workforce training programs for incarcerated individuals and the Correctional Ombudsman.

Finally, HB 1123 adds having had “no major infraction in the past three years” as an additional qualifying criterion to be considered for geriatric parole. The bill does not define the term “major infraction.” A criterion for consideration should not be left to subjective interpretation by individual commissioners. Individuals seeking parole should be on notice as to the exact criteria that will constrain their eligibility. Allowing individual commissioners to decide what constitutes a “major infraction” will lead to inconsistent decision making and likely exacerbate existing and well documented disparities in Maryland’s criminal legal system.

Suggestions to Address Some of These Concerns

We recognize and appreciate the good intent underlying this bill, and suggest that the following steps could address some of the foregoing concerns:

- Risk assessments for those satisfying the elder parole criteria should be applied only to those who under current Maryland Parole Commission practice require a risk assessment – individuals serving a life sentence.
- Currently, the Maryland Parole Commission has a process for waiving the risk assessment for individuals serving life sentences in cases where it believes it is appropriate to do so. If the body adopts HB 1123, it should amend it to codify MPC’s authority to waive assessments.
- The bill should include language to define “major infraction” as “no category 1A infraction within the past three years.” This will provide clarity to individuals seeking geriatric parole and ensure the commissioners are applying the eligibility criteria uniformly.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a report of favorable with amendments.

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

Authored by: Lila Meadows & Brian Saccenti
Decarceration Initiative
Maryland Office of the Public Defender
lila.meadows@maryland.gov
brian.saccenti@maryland.gov