

TESTIMONY IN *SUPPORT* OF HB 300
INMATES – LIFE IMPRISONMENT – PAROLE REFORM

To: Hon. Luke Clippinger, Chair, and Members of the House Judiciary Committee

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We are second year law students and student attorneys in the Youth, Education, and Justice Clinic (“Clinic”) at the University of Maryland Francis King Carey School of Law. The Clinic represents children who have been excluded from school through suspension, expulsion or other means, as well as individuals who have served decades in Maryland prisons for crimes they committed as children and who are now eligible to be considered for parole. We write in support of House Bill 300, which would allow the Maryland Parole Commission (“the Commission”) to grant parole to an eligible individual—who has been sentenced to life in prison and has served 30 years of that sentence—without the approval of the Governor.

Since 1995, the State of Maryland has given the Governor the final say on parole decisions for individuals who have been sentenced to life in prison. Maryland is one of only three states that allow the Governor to serve as the final authority on parole decisions for those who are serving life sentences. As an elected official, the Governor is not well positioned to make decisions of such enormous consequence. Quite simply, these decisions are best left to the Commission, whose members are bound by laws and regulations that delineate the various factors they must consider in every parole determination. The members of the Commission are experienced in applying these parole factors and considering the individualized circumstances in each matter, and are able to make parole determinations based solely on these individualized circumstances. In stark contrast, the Governor has total discretion to deny parole recommendations without articulating, in detail, the reasons for the denial. Also, as the Maryland’s highest-ranking elected official, the Governor’s decisions in these contexts are, by their very nature, political. Thus, political factors often take precedence over the legal merits and other circumstances specific to the individual whose release is subject to a final gubernatorial stamp of approval.

HB 300 seeks to bring Maryland more in line with the vast majority of other states, albeit modestly. If enacted, HB 300 would only remove the Governor from the parole process in those categories of cases where individuals have already served 30 years on their life sentences, without application of diminution of confinement credits. For all other life sentences, the parole process will remain the same as it is today: the final decision-making authority will remain with the Governor. Moreover, if HB 300 is enacted, individuals who are seeking parole after serving at least 30 years must still earn the recommendation of the Commission and final approval from the Secretary of Public Safety & Correctional Services.¹ Curiously, HB 300 has been

¹ H.D. 300, 438th Gen. Assemb., Reg. Sess. (Md. 2020).

characterized as a “get out of jail” [card] in Maryland” precisely because the Governor would be removed from the parole process.² This contention is wrong.

For an individual to be eligible for parole, Maryland law mandates that the Commission undertake a rigorous assessment of the individual and the circumstances of the underlying crime.³ This holistic assessment includes a consideration of the nature of the offense, the individual’s progress while incarcerated, and the individual’s likelihood to recidivate.⁴ The Commission must also determine that the individual’s release would be “compatible with the welfare of society.”⁵ Once an individual is released on parole, he or she continues to live under the supervision of the Department of Public Safety & Correctional Services (“DPSCS”). Release on parole is “discretionary and conditional.”⁶ Parolees must conform to various conditions set by the DPSCS. Failing to do so will result in the individual’s parole revocation and a return to prison. To be clear, although released from prison, individuals on parole are not free.

HB 300, if enacted, would focus parole decisions squarely on rehabilitation, transformation, and redemption. Political considerations will rightly be taken out of the parole calculus. Former Maryland Governor Paris Glendening explained the political dilemma that presents itself in every parole decision. As he articulated, for governors, “[i]f you give a parole, you’ll be criticized. If you refuse to give a parole, you’ll be criticized.”⁷ This dilemma is especially pronounced when the individual seeking parole has been sentenced to life imprisonment. Accordingly, governors of both parties have essentially removed parole as a possibility for those serving life sentences.

And so, enacting HB 300 into law would by no means make it easy for individuals serving life terms to be released. It will, however, make parole a meaningful possibility for those who have rehabilitated and transformed over their decades of incarceration. There are over 300 individuals serving life sentences in Maryland prisons for crimes they committed when they were children. Certainly, these crimes are serious, with devastating impact on victims’ families. Indeed, each of our clients has been punished thoroughly, as they have spent the entirety of their adult life incarcerated. Over these decades, they have transformed despite the challenges of incarceration.

Our clients have long realized that nothing can undo their past wrongdoing, despite their wishes to the contrary. However, with age, maturity, and reflection, they understand what science has shown they could not understand as children: that they were impulsive, living lives of chaos, and could not fully appreciate the consequences of their actions.

² David Collins, *Some look to change governor’s power over parole board decisions*, WBALTV (Feb. 13, 2020, 11:00 PM), <https://www.wbalv.com/article/change-maryland-governors-power-parole-board-decisions/30915678>.

³ See Md. Code Ann., Corr. Servs. § 7-305 (2017).

⁴ Md. Code Ann., Corr. Servs. § 7-305(1)–(5) (2017).

⁵ Md. Code Ann., Corr. Servs. § 7-305(6) (2017).

⁶ Frequently Asked Questions, Maryland Parole Commission, <https://www.dpscs.state.md.us/about/FAQmpc.shtml>.

⁷ Michael Dresser, *Former Maryland Governors Glendening, Ehrlich Join to Support Smart’ Approaches to Crime*, BALTIMORE SUN, Mar. 6, 2018, <https://www.baltimoresun.com/politics/bs-md-glendening-ehrllich-20180306-story.html>.

Our clients share nothing in common with the children they were when they committed their respective crimes and began to serve their life sentences decades ago. These men have held jobs, obtained education, earned certificates and awards, mentored children and adults, have married, and are now middle-aged. They have come to realize the tumult in their young lives that led to their crimes. They have long been remorseful for the harms they have caused. They have transformed in every way possible. This legislation would allow individuals who have changed, matured, rehabilitated and transformed over their decades of incarceration a meaningful opportunity to live some of their days outside of prison and in their communities. Indeed, the individuals who have done so have earned and deserve this opportunity. Importantly, a decision by the Commission that recommends parole is community-focused. In these instances, the Commission recognizes, and has determined, that parole benefits, enhances, and services the interests of society.

For these reasons, we respectfully ask that the House Judiciary Committee report favorably on HB 300.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.