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SBoo26 OPPOSITION - Criminal Law - Manslaughter by Vehicle or Vessel - Increased Penalties (Jamari's Law)

My colleagues, Anne Bocchini Kirsch, PREPARE Director of Advocacy, Elizabeth Finne, Director of Development, and Kelli Loos, Director of Reentry, have addressed why the amendment is not justified on the basis of deterrence, rehabilitation, cost of incarceration, or future safety to the community. I would like to address why increasing the maximum sentence for Vehicular Manslaughter from 10 to 20 years (and from 15 to 30 years for a second or subsequent charge, or where there was a certain previous criminal conviction) is also not justified on **punitive** grounds.

As Director of Parole at PREPARE, one of my responsibilities is working one-to-one with incarcerated women at the Maryland Correctional Institution for Women (MCI-W) as they prepare their cases for parole. A not insignificant percentage of my caseload are women who have been convicted of Vehicular Manslaughter. These are a very distinct category of PREPARE clients, set off from other categories of crime by the offender's lack of intent to commit a crime, and by their treatment as a non-violent offense, despite the tragic loss of life.

As a parole advocate, I am struck by how different are the circumstances between our Vehicular Manslaughter cases. This charge encompasses a wide range of circumstances that led to the vehicle accident and loss of life. What they do have in common is that that day (or night) on which the accident happened, these offenders did not set out to commit a crime. The facts regularly cause me to take pause, because they happen on "normal" days that you or I may have today or tomorrow. They involve momentary errors of judgment and/or chance occurrences, scenarios that one is caused to think "there but for the grace of God go I."

When a PREPARE parole advocate supports a client with their parole preparation, the process involves detailed, personal discussions with our clients about the circumstances and decisions that led up to their crime, the crime itself, the immediate aftermath, their

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longer-term reflections about where things went wrong and what one could have done differently, and importantly, plans for the future, as people rebuild their lives within a new normal. Self-reflection, insight, and remorse are important processes for a parole candidate as they prepare their case for parole, and during their discussions with their advocate. An insight into the reflections of our PREPARE clients who have been convicted of Vehicular Manslaughter may provide some useful considerations as this bill is being considered.

As PREPARE's Director of Parole and a parole advocate, I have observed the remorse felt by those convicted of Vehicular Manslaughter to be particularly acute. These are people who did not set out to commit a crime that day. In a matter of seconds their lives tragically intersected with the lives of their victims and their victims' families. These are frequently law-abiding citizens who made a terrible mistake or were involved in a horrible sequence of events. Their punishment begins at the moment of their crime, with the knowledge that they have taken a life, and on occasions multiple lives. Bearing this heavy responsibility sets their lives on a new path. Of course, it will also have deep ramifications for their own family's lives, for their careers, and their personal relationships.

Importantly for this submission, I have not yet come across a Vehicular Manslaughter case among our clients where I felt that a sentence greater than the current ten years maximum would have been justified. In fact, most of our clients' sentences have been at the lower end of the sentence range.

For example, among our caseload are cases in which the culpability on the part of the offender was that they were in control of the wheel at the time of an otherwise chance accident. These include cases where there was a sudden chaotic event inside or outside of the car, which was out of the control of the driver of the vehicle.

There are also cases where an error of judgment was made. There is the decision to drive in the early hours of the morning, when someone is tired or under the influence of medication. Sometimes there was an urgency to the decision, for example to fetch medication for a family member. On reflection, an offender may not have made a best

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decision, but their decisions frequently fall in the realm of reasonable in the context of what was happening.

In cases where alcohol was consumed, as my colleague, Anne Bocchini Kirsch, points out, these are already addressed by subsection (d) (2) of the statute. Factors such as alcohol consumption or speeding will also, in all likelihood, be taken into account during a parole hearing, and will factor into whether or not a grant of parole is made, and how much time is served on the sentence. In this way, an offender convicted of Vehicular Manslaughter will end up doing more time on their sentence where it is considered that the circumstances warrant it.

Many cases of Vehicular Manslaughter involve the tragic death of victims in a second vehicle. In those cases where the victims rode in the same vehicle as the offender, an offender in all likelihood lost loved ones as well as bearing the heavy responsibility of causing loss of life. It is arguable that in cases of Vehicular Manslaughter, a sentence “never ends” in terms of remorse and responsibility felt by the offender. Where an offender also lost family members or friends in the accident, this argument is undeniably true. Under this bill, if multiple lives are lost in a vehicle accident, a sentence may stretch to something approaching an offender’s natural life. This is in addition to the unfathomable grief of losing multiple loved ones. I submit such a sentence would be harsh and onerous.

Thank you for the opportunity to submit this testimony.

Very respectfully,

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