

FAVORABLE WITH AMENDMENT HB 118 – Geriatric and Medical Parole



TO: Chair Luke Clippinger and House Judiciary Com.
FROM: Phil Caroom, MAJR Executive Committee
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Maryland Alliance for Justice Reform (MAJR-www.ma4jr.org) strongly supports HB 118 substantive provisions to better facilitate parole of Marylanders who, with age and medical conditions, pose no risk to public safety. But, MAJR also requests an amendment to the savings / funding provisions of the bill which, inadvertently, could cause the loss and conversion of millions in Justice Reinvestment funds to the general fund.

Substantive provisions: The Parole Commission will have extensive documentation from medical and correctional personnel in every such case. They will have input from victims and prosecutors. Life sentences are the most serious category of case that Parole Commissioners, themselves selected by the Governor, will face in their careers. Legislators can have confidence that the Parole Commissioners will make sound decisions in these important cases.

Public safety concerns are greatly reduced with older and disabled inmates, as national studies show. See, e.g., “*Graying Prisons- States Face the Challenge of an Aging Inmate Population (2014)*,” Council of State Governments. A study of more than 130 older Maryland inmates released as a result of the Maryland Court of Appeals Unger decision indicated virtually no recidivism. Maryland’s DPSCS, in 2006, also reported a zero recidivism rate for inmates paroled over age 60. *Ageing Inmate Population, supra.*

Funding provisions: Savings from parole of these older and medically-disable inmates to the State Budget and, especially, the DPSCS medical budget, via transfer of these costs to Medicaid, will be great. The Pew Institute has reported: “***The older inmate population has a substantial impact on prison budgets. ...The National Institute of Corrections pegged the annual cost of incarcerating prisoners age 55 and older with chronic and terminal illnesses at, on average, two to three times that of the expense for all other inmates, particularly younger ones. More recently, other researchers have found that the cost differential may be wider.***” See 7/14 Pew State Prison Health Care Spending Report.

One fiscal analysis has projected that continued confinement of people in this age group at \$53,000 a year for an additional 18 years (based on the expected period of incarceration) would amount to nearly \$1 million per person. See Justice Policy Institute, “The Ungers, 5 Years and Counting: A Case Study in Safely Reducing Long Prison Terms and Saving Taxpayer Dollars,” 11/5/18. ***These savings, perhaps, may be the single largest taxpayer savings in Maryland’s Justice Reinvestment process.*** By contrast, the current DLIS Fiscal and Policy Note for HB 118 “does not reflect any potential savings in incarceration costs” and discusses only minimal costs for staffing changes.

Amendment requests: Applying Maryland’s Justice Reinvestment policy, funds saved from medical parole should be redirected towards for younger, higher-risk inmates who pose much greater threats to

public safety without appropriate services. MAJR requests three small but important revisions to the savings / budget provision of HB 118:

First, as written, HB 118 provides that such savings shall “SHALL REVERT TO THE DEPARTMENT.” By contrast, all other Justice Reinvestment savings are deposited into a “special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.” It is NOT necessary to “revert” funds in order to apply savings to the bill’s purposes and large “reverted” savings, if not used in one fiscal year could be absorbed into Maryland’s general fund. Therefore, the first requested amendment would provide that savings should not “revert” but instead should be deposited into the “special, nonlapsing Justice Reinvestment fund that is not subject to § 7–302 of the State Finance and Procurement Article.”

Second, as written, HB 118 excessively narrows potential Justice Reinvest uses of geriatric / medical savings and provides such savings only for

(1) CONDUCTING HEARINGS FOR INCARCERATED INDIVIDUALS AS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION; AND

(2) PROVIDING PRERELEASE AND REENTRY CASE MANAGEMENT AND **RESOURCES FOR INCARCERATED INDIVIDUALS** WHO ARE SUBJECT TO THIS SECTION **AND RELEASED ON PAROLE.**

It should be recalled that the official Fiscal and Policy Note on HB 118 estimates the staffing costs for hearings at \$85,500 or less per year; but, by contrast, JPI and other analysts estimate of savings range to many, many times that amount. So, where might DPSCS apply those savings? Only for “incarcerated individuals...released on parole.” Currently, according to [JPI reports](#), only 28% of eligible geriatric individuals are reduced on Parole, compared to much higher release rates elsewhere in the U.S.; the remainder return to the community via mandatory release with good behavior credits. While HB 118 aspires to shift this ratio, will elderly returning citizens be penalized and deprived of resources if they are released by means other than Parole?

The second requested amendment would do two things: a) delete “released on parole” to permit resources to be used for assistance of any geriatric or medical parole candidate; and b) add “(3) PROVIDING SAVINGS NOT REQUIRED FOR THE ABOVE PURPOSES SHALL BE RETAINED FOR OTHER JUSTICE REINVESTMENT PURPOSES PROVIDED IN STATE GOVT § 9-3207 (B).” While still prioritizing uses for those released with medical and geriatric concerns, any excess savings could be used for wider Justice Reinvestment needs for reentry and recidivism reduction.

The third amendment relates to the calculation of savings: Currently, HB 118 provides that the Parole Commission “SHALL REPORT TO THE JUSTICE REINVESTMENT OVERSIGHT BOARD ON THE OUTCOMES OF PAROLE CONSIDERATIONS MADE UNDER THIS SECTION”; but, it does not provide for Justice Reinvestment Oversight Board’s involvement in the calculation of the savings.

By contrast, State Government Art., sec. 9-3207(b) provides that “[i]n collaboration with the Department of Public Safety and Correctional Services, the[Justice Reinvestment Oversight] Board shall determine the annual savings...” The third amendment, similarly, should provide that

“7-310 (d)(4) Savings accrued under this section, including reductions in health-related costs, shall be calculated by the Justice Reinvestment Oversight Board in collaboration with the Department of Public Safety and Correctional Services.”

For all these reasons, Maryland Alliance for Justice Reform strongly supports passage of HB 118 with an appropriate amendments to avoid “reverting” of savings to the general fund and to permit use of excess savings, if any, for other Justice Reinvestment purposes.

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PLEASE NOTE: Phil Caroom offers this testimony for Md. Alliance for Justice Reform and not for the Md. Judiciary or any other unit of state government.