



**Senate Judiciary Committee**

**April 25, 2019**

**HB 4129-4132 Medically frail legislation**

**Position: Support**

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The ACLU of Michigan has long supported parole reforms to qualify more low risk individuals for release. Medical parole laws have the potential to counteract an unintended consequence of tough on crime laws that allocate significant state expenditures on the incarceration of individuals who do not need to be supervised. Given the seriousness of the crimes for which most elderly and severely ill prisoners were incarcerated, the strictness of statutory eligibility standards is understandable. But given common the eligibility restrictions, the extremely high rate of denials across the country is counter-effective. If properly utilized, HB 4129-4132 will be a step towards finally addressing this problem.

Prison sentences are long and getting longer, and our swelling prison systems are a humanitarian and financial disaster. Today, people are spending longer in prison than ever before—not only because of long sentences at the front-end but also because of the criminal justice system’s failure to release people at the back-end. Long after people are no longer a safety risk, hundreds of people remain incarcerated because of the criminal justice system’s failure to release them. As a result, prisoners who are chronically or terminally ill, require regular and intensive treatments, have family and assistance waiting in the community, and are not at a risk of reoffending if released to their families are instead staying in prison where they may be unable to receive adequate care—draining MDOC’s already limited resources.

The aging prison population has been well documented for many years,<sup>1</sup> leading to nearly every state has enacted or significantly amended their medical parole laws.<sup>2</sup> In 2007, 15% of Michigan’s prison population was over age 50, which increased to 23% in 2017.<sup>3</sup> The significant increase is attributed to determinate sentencing and mandatory minimum laws,<sup>4</sup> lengthening sentences and resulting in an increase in the elderly and medically frail prison population. Exact costs are unknown, but medically frail prisoners’ health care costs are estimated from three to five times the rate of an average prisoner. The legislation would allow MDOC to focus its resources—both financial and personnel—on assisting other prisoners towards rehabilitation and success through vocational training and other prison programs. In addition to the financial benefit to MDOC, these individuals will receive a higher quality of treatment outside of prison.<sup>5</sup>

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<sup>1</sup> See, e.g., R.V. Rikard & Ed Rosenberg, *Aging Inmates: A Convergence of Trends in the American Criminal Justice System*, 13 J. CORRECTIONAL HEALTH CARE 150 (2007).

<sup>2</sup> National Conference of State Legislatures, *STATE MEDICAL AND GERIATRIC PAROLE LAWS* (2018).

<sup>3</sup> Michigan House Fiscal Analysis of House bill 4101 and House bill 4102 (Dec. 2017).

<sup>4</sup> Rikard & Rosenberg, *supra* note 5 at 152.

<sup>5</sup> Jessica Pupovac, *Guarding Grandpa*, CHICAGO READER, Jan. 6 2011 (providing nursing home care would cost about \$16,000 less per inmate per year than providing treatment in an Illinois prison. Further, Illinois DOC employees report being understaffed and undersupplied).



While this legislation is a step in the right direction, including individuals with life sentences and expanding the definition of medically frail is critical to having an actual effective medical parole policy that fully serves MDOC's ailing prisoners. These expansions will permit dozens of prisoners to be eligible to receive adequate medical care without draining MDOC's resources and still subject to a risk screening.

Respectfully submitted,

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