American Friends Service Committee

Michigan Criminal Justice Program
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Testimony supporting HB4129, with reservation
American Friends Service Committee
Michigan Criminal Justice Program
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The American Friends Service Committee's Michigan Criminal Justice Program has advocated with and for people in Michigan's prisons for over 30 years. We are committed to recognizing the worth of every person, even people who have done great harm in their communities.

AFSC fully supports the idea of a comprehensive, compassionate release bill and MDOC policies. HB 4129 was at one time a stronger bill that we supported in full. We go on record as supporting HB 4129 with reservations. We **cannot support** the elements of this bill that do the following:

- Excludes relief for people serving 1st degree life sentences
- Expands the power and reach of prosecutors to have lasting impact on decisions made by the parole board – the state entity recognized as the expert body for determining release. This bill also includes successor veto power language for judges. If years have passed, both judges and prosecutors could be incredibly removed from the facts of the case.

According to the MDOC's 2019 report to the legislature on Health Care and Mental Health Care, 25 percent of the Michigan prison population is considered elderly. And, 28% of those folks are serving life sentences.

We need a medical parole bill that can impact the most people through compassionate release.

In order to impact more people we ask that the bill be amended in the following ways:

1. **HB 4129 Is a step in the right direction,** but it is narrow in scope and has been politicized to the extent that it will not impact as many people as it could. **We hope that this bill will be amended to include people serving natural life sentences and that it will be amended to create a truly expedient process that will provide significant relief to the hardest kinds of cases.** We are hopeful that this will lead to a more meaningful, streamlined, and efficient

internal MDOC process to review and release medically frail people on parole to nursing care facilities, home hospice, hospice centers, or other placements where a person's medical complexities can be managed with care, compassion and expertise.

2. Adding more bureaucratic or legal hurdles to any process to release medically frail people makes neither fiscal or humanitarian sense. **The extra layer of the prosecutor's office having the authority to stop the parole and/or order a separate independent medical review of the person seeking parole elevates the authority of the prosecutor's role in the criminal legal process.** It further misaligns power of successor judges and prosecutors who may be years and years removed from the actual case. It replaces one bureaucratic hurdle (the commutation process) with another bureaucratic hurdle and one outside of the MDOC's purview—the courts.

   The parole board is well suited as experts on parole to discern with the help of MDOC medical providers and outside medical providers the parolability of prisoners based on multiple factors including health care status.

3. **One further point of caution with the current version of this bill rests in the reality of dementia.** Men and women suffering from dementia often have disruptive symptoms that could be considered violent. In prison, if officers are not aware of the person's declining mental health, this disruptive behavior could be considered BAD behavior. We have seen this happen in various contexts and prisoners accrue major misconducts that make them average to low probability of parole. I will not belabor the point in this testimony, but it is critical that this be taken into consideration when processing people with dementia through potential medical parole processes.

We also believe that it would benefit the process of addressing the extensive aging prison population to form a workgroup that is charged with exploring how to move forward to compassionate release for more aging people.

Case 2: First degree murder case—natural lifer

For years we have accompanied countless men and women in prison and the people who love them through the last months of their lives. One such case left a lasting imprint on all of us at AFSC. Mr. Irons was an elderly man in prison. He had served 50 years of a first-degree life sentence. He had claimed innocence throughout his incarceration (but that is not the substance of this story). His wife visited him every week of 48 years of the 50 that he lived in prison. She became too old and frail herself to continue weekly visits during the last two years of his incarceration and only visited on their birthdays.

Mr. Irons was diagnosed with terminal cancer about a year before he died. We asked the MDOC to look into a medical commutation for him and helped Mr. Irons file a medical commutation.
By the time he was considered to be terminal enough for commutation—or maybe the board knew the process was too arduous and just never started it—he was in hospice (or CHOICES) care at Duane Waters Hospital. I'm sure he benefited from the prisoner hospice aide program, but access to his family was limited as DWH is a level V facility with level V security.

Further, Mr. Irons was an 80 year old man when he died and he had been a model prisoner for years and years—no tickets, no trouble. He also had deep ties to his family and community.

His wife had to get permission to visit him bedside, and, ultimately, she had one half hour by his bed the morning her died. For people in prison who still have loved ones in the community who care about them, why not transfer the burden of dying to a community who cares deeply for the dying ones.

His end of life lead to myriad disconnects from his family and his wife and children were punished in addition to Mr. Irons.

Case 2: A medically frail / terminally ill case

To exemplify the serious obstacles to compassionate release for someone who is medically fragile and/or terminal, I will outline one case of the too many that I have witnessed throughout my sixteen years with AFSC. In August of 2013, the mother of a 21-year-old prisoner, Brandon, contacted AFSC to see if we could help in getting a medical commutation for her son. Brandon was 19 when he went to prison on a drug offense and an offense related to his drug distribution. He was diagnosed with cancer at age 16 but it was in remission at the time of sentencing. Brandon lived with bone cancer in Michigan's prisons for nearly 2.5 years. He had a 4 year 3 month minimum and had not yet reached his earliest release date. His cancer reappeared shortly after he entered the MDOC. He became very sick during the last year of his life and could have potentially qualified for research-based treatment if he could have been medically paroled. As a prisoner he did not qualify for any research related treatments. The MDOC did their best by him and he was, for a period of time, weekly transported from Macomb prison to Karmanos for treatment (a 35 to 40 minute van ride each way). These transports were exceedingly costly and very, very painful for Brandon as he was shackled during transport. Brandon wanted desperately to stay at Macomb prison while trying to get commuted because he feared that he would go to Duane Waters the prison hospital to die. And, he knew, that Duane Waters is not set up for visits and functions essentially as a level V prison with more rules restricting property access and freedom of movement in general.

The MDOC waited too long to start the medical commutation process. It took months for Brandon to be determined terminal and then processed. He lived in agonizing pain.

His mother visited him as much as possible, but when a person is that sick, prison is far from the ideal place to live with a complex and painful medical condition. Brandon had to go through the regular and arduous commutation process. During his February 11, 2014 public hearing—a mandated step toward release—he was wheel chair bound, bone thin, falling into sleep, disoriented from pain medications and end of life conditions. He was questioned by the Assistant Attorney General as though he was lucid and able to account for details of his past criminal activities (I was there and saw it all). With a medical parole statute like HB 4129 his release could have been expedited. By the time the commutation process was completed and the commutation granted he lived for nine days at Karmanos hospice. He died in early March of 2014. The only good thing to come out of this sad story was that his mother was able to have 24 hour access to Brandon during his final days because he was commuted.

There are countless other stories like Brandon's and Mr. Irons'.

This bill would open up the possibility for people with expensive, chronic, and complicated medical problems—people like Bandon—to experience an expedited parole process and be released to medical care in the community shifting some medical costs from the state all without having to navigate the costly commutation process.

In conclusion, our organization does not get weighed down by the political machinations of law enforcement and the state legislature. We believe in the worth of every person. We believe in redemption and mercy even for folks who are not riddled with disease, chronic illness and the ramifications of the human body simply growing old. **We believe that these politics of perpetual punishment are actually false dichotomies that pit folks against one another and leave us unable and unwilling to address the roots of violence and suffering in our communities. Almost every person in prison was also at one point in time a survivor of crime and violence.** With that being said, mercy and humane treatment are at the center of this bill. We have been waiting for years for more expansive relief for men and women who need it the most and believe this is the first step in the many needed steps toward compassionate release efforts that will enable the MDOC to process more medically frail people to the community and provide fiscal relief to the state and compassionate relief to prisoners and prisoners' loved ones.