

Safe & Just Michigan

Safe & Just Michigan Testimony In Support of SB 599

*House Criminal Justice Committee
Room 519, House Office Building, Lansing, MI
June 18, 2024*

Good morning. My name is Jazmine Wells, and I am the Policy Advocacy Manager at Safe & Just Michigan, a nonpartisan, nonprofit criminal justice research and advocacy organization based in Lansing. I appreciate the opportunity to provide testimony today in support of SB 599.

Introduction

SB 599 is a technical fix to the 2019 “Medically Frail Parole” law that is designed to address implementation issues that have prevented the law from functioning as intended.

The original Medically Frail Parole law was passed in 2019 in recognition of the challenge of providing care to a large and growing number of prisoners who were either dying or mentally or physically incapacitated.¹ Parole would allow MDOC to transition both the *responsibility* of care for medically frail people to outside medical professionals, and to transition the *cost* of care to Medicaid, from Michigan’s General Fund. This outcome was seen as desirable for MDOC, the medically frail person and their family, and for the State, which stood to save millions annually on health care costs.

However, to date, the law has failed to deliver on its promise: we are aware of only one parole to date under this statute, and it is our understanding from MDOC that this is unlikely to change without modifications to the original statute. SB 599, which is a bipartisan bill drafted with input from MDOC, seeks to make the changes necessary for the Medically Frail Parole law to function as originally intended.

Why Safe & Just Michigan Supports SB 599

Safe & Just Michigan supports SB 599 as written, for the following reasons:

1. SB 599 is Needed to Fulfill the Original Intent of the Law

As noted above, only 1 person has been paroled under this law since it passed almost 5 years ago. In contrast, 158 people died of COVID in MDOC custody during this same time period.

S.B. 599, which has bipartisan support, corrects the issues in the original bill that have led to this outcome and will help the law function as it was intended to. If utilized properly, the bill will promote lower correctional costs by potentially saving the state of Michigan millions of dollars annually with no impact on public safety; it could also provide better placement options for

¹ See *Testimony of MDOC Legislative Liaison Kyle Kaminski*, House Appropriations Subcommittee on Corrections (Oct. 18, 2017) (estimating there were as many as 850 people in MDOC custody that could be medically frail).

medically frail individuals.

2. Medical Parole Promotes Better Placement Options & Lower Costs

Prisons are not designed to house medically vulnerable people, but absent a parole option for medically frail people, MDOC must address any medical needs that arise for those who are not otherwise parole-eligible (the vast majority of the prison population) - no matter how complex or costly they may be.

Medical parole allows MDOC to get out of the business of hospice and nursing care while shifting the costs of that care from 100% General Fund to Medicaid, Medicare, or private insurance. This will allow MDOC to focus on its core operations, and it could help alleviate current staffing concerns for health care staff and correctional officers alike. It could also free up resources to invest in better outcomes for the rest of the prison population (more than 90% of whom will be released) in areas such as in-prison programming, vocational training, and reentry support services.

In addition to shifting the costs of care, paroling medically frail individuals will also provide more appropriate placements for them than prison. Prisons are not designed to house medically vulnerable people, many of which often have complex, time- and resource-intensive medical needs. The care of medically frail incarcerated people is better placed in the hands of medical professionals in settings designed to meet their needs and provide an appropriate level of care.

3. Medical Parole Should Not Raise Public Safety Concerns

Medically frail people are, by definition, terminally ill or mentally or physically incapacitated. Based on their medical condition alone, they do not pose a threat to the public.

Furthermore, this is a *discretionary process* that MDOC can be trusted to operate in a way that does not pose a risk to the public. It can also act to mitigate concerns about a person's mobility by authorizing the use of a tether or other conditions of release if it deems necessary.

4. The Original Case for Passage Is Stronger Today & Will Get Worse If Not Addressed

Michigan's prison population has continued to age since 2019,² and this will lead - if it has not already - to an increasing number of medically frail people. Researchers use either 50 or 55 as the geriatric cut-off for incarcerated people due to the fact that people in this age range tend to present as 10-15 years older than their chronological age due to a variety of risk factors for poor health.³ Older incarcerated people also have higher rates of disability than younger incarcerated people.⁴

² Compare 2018 MDOC Statistical Report (Nov. 14, 2019) at C-77 (reporting that the average prisoner age is 39) with 2022 MDOC Statistical Report (May 31, 2023) (reporting average prisoner age is 41).

³ See <https://www.prisonpolicy.org/blog/2020/05/11/55plus/>;
<https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2012.300704>.

⁴ See *id.*

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Prison health care costs have continued to increase as well,⁵ and the overall costs for older incarcerated people are approximately 3 times as high as younger incarcerated people. Since 2018, the number of people over age 55 in MDOC has increased from 5,813 at the end of 2018 (14.9% of MDOC population) to 5,904 (18.2% of MDOC population). According to the 2021 MDOC Statistical Report, current trends suggest that by 2026, 1 in 5 people in MDOC custody will be age 55 or older.⁶ So the aging population will continue to drive up health care costs. Furthermore, staffing shortages - both in health care and among correctional officers - have also worsened, and a reduction in the very labor-intensive population could help address staffing pressures.

Conclusion

Parole for medically frail people allows MDOC to (1) focus on its core functions (instead of complex health care needs), (2) transition medically frail people into more appropriate care, and (3) shift the cost of their care from the General Fund to Medicaid (70% federal dollars), or Medicare or private insurance in some cases.

SB 599 makes important changes to the original Medically Frail Parole statute that are needed to help the original law function as intended. For all these reasons, Safe & Just Michigan supports SB 599 and urges committee members to do so as well.

Thank you for the opportunity to testify today.

Sincerely,

/s/ Jazmine Wells

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⁵ See 2022 MDOC Statistical Report (May 31, 2023) at F-18 (reporting that average per prisoner healthcare costs increased from \$9,076 at the end of 2018 to \$11,012 at the end of 2022 - a 21.3% increase).

⁶ 2022 MDOC Statistical Report (Oct. 25, 2022), *available at*

<https://www.michigan.gov/corrections/-/media/Project/Websites/corrections/Files/Statistical-Reports/Statistical-Reports/2021-Statistical-Report.pdf?rev=771589b8a67d4beab1df90d5a359b8a4&hash=6DEAF68B2521637574AE97B2416ADEA7>