



**Written Testimony of Celeste Trusty**  
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**In Support of SB 128**  
Maryland Senate Judicial Proceedings Committee  
February 7, 2024

I would like to thank the Chair, Vice Chair, and committee members for the opportunity to submit written testimony in support of SB 128, a bill that would make technical corrections and improve Maryland’s parole and release process for sick and elderly people living in state prisons. **FAMM supports SB 128 and encourages the Committee to vote favorably on this common-sense piece of legislation.**

FAMM is a nonpartisan, nonprofit organization that advocates sentencing and prison policies that are individualized and fair, protect public safety, and preserve families. Among one of FAMM’s priorities is advocating the creation and expansion of avenues for compassionate release - opportunities for aging and sick people to be released from prison if their incarceration serves no further public safety benefit.<sup>1</sup> People across the country overwhelmingly support compassionate release programs - by a wide margin of 70% to 25%,

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<sup>1</sup> While we use the term “compassionate release” to describe this authority, we are aware that many jurisdictions have different names for programs that enable early release for qualifying prisoners. Because of what we have learned of the insurmountable barriers to early release programs encountered by many sick and dying prisoners, we believe every program could benefit from taking a compassion-based look at what it means to go through the process. We call these programs “compassionate release” so that the human experience is foremost in our minds and those of policy makers.

and voters believe that people who are not a risk to public safety should be considered for early release from prison.<sup>2</sup>

For more than two decades, FAMM has been a leading voice for measures that allow for the safe release of people who are aging or in declining health from our nation's prisons. Incarceration is meant as a form of punishment and to protect the public, but also meant to rehabilitate, educate, and support people as they prepare for a successful return to the community. FAMM believes that people should have ample meaningful opportunities to be released back into the community when their continued incarceration no longer serves any public benefit. At a bare minimum, we should be dedicated to solidifying robust pathways for relief for people who are aging, and those who are too debilitated to further offend, too compromised to benefit from rehabilitation, or too impaired to be aware they are being punished. The state of this dedication in Maryland is woefully lacking.

Since 2018, FAMM has conducted comprehensive research into state compassionate release programs.<sup>3</sup> We maintain a set of memos and report cards on our website that document every existing compassionate release program in the 50 states and the District of Columbia.<sup>4</sup> For each jurisdiction we describe eligibility criteria, application requirements, documentation, and decision-making, as well as post-decision and post-release issues. We most recently updated these memoranda in December 2021, including an updated assessment of Maryland's current state of compassionate release.

We set out our findings in a report, "Everywhere and Nowhere: Compassionate Release in the States."<sup>5</sup> Our most disturbing finding was that while nearly every state has some form of compassionate release, it is scarcely used. To understand why this critical mechanism is so severely underused, FAMM examined and reported on the policies and practices that pose barriers to release. We also explored those jurisdictions that exemplify best practices. Finally, we included a set of recommendations for states working to implement or update compassionate release programs.<sup>6</sup>

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<sup>2</sup> <https://famm.org/wp-content/uploads/FAMM-POS-CR-deck.pdf>

<sup>3</sup> FAMM, Compassionate Release: State Memos (Dec. 2021), <https://famm.org/our-work/compassionate-release/everywhere-and-nowhere/#memos>.

<sup>4</sup> Compassionate Release Report Card, Maryland, October 2022, FAMM, <https://famm.org/wp-content/uploads/md-report-card-final.pdf>

<sup>5</sup> Everywhere and Nowhere, Executive Summary, <https://famm.org/wp-content/uploads/Exec-Summary-2-page.pdf>.

<sup>6</sup> Everywhere and Nowhere, Executive Summary, <https://famm.org/wp-content/uploads/Exec-Summary-2-page.pdf>.

In 2022, FAMM followed up our 2018 report and subsequent memos with a project in which we graded the medical release policies in all 50 states and the District of Columbia. We graded each policy based on key components of a well-crafted medical release policy, including eligibility criteria, an engaging process, agency policy design, procedures, release planning support, data collection and public reporting, and a right to counsel and appeals. Based on these grading criteria, Maryland received an overall grade of 16/100 - a horribly failing grade that puts Maryland at third worst in the country.<sup>7</sup> Maryland's medical parole system received a 9/100, and the geriatric parole system received a 23/100 - both failing grades.<sup>8</sup>

SB 128 would allow people who are at least age 60 and have served 15 years or more of incarceration; or incarcerated people suffering from chronic or terminal physical or mental health conditions to seek relief through parole. SB 128 would also address important technical concerns that aim to clarify the process around medical parole in Maryland, including a prior drafting error that continues to require people serving life and seeking release under the medical parole statute to have the approval of the Governor prior to release. Another technical concern addressed in SB 128 would expand eligibility for release under this act to include a much larger group of people who are currently incarcerated and over age 60.

Mechanisms like compassionate medical and elderly release provide an amazing opportunity for our communities to benefit from returning credible messengers with lived experience to our communities after incarceration. Across the country and here in Maryland, FAMM advocates alongside incredible incarcerated people who have demonstrated readiness to return to their communities, yet for far too many of these people, there are an absence of opportunities to do so. Release mechanisms for longer-serving people have proven highly successful across the country and in Maryland as our society moves away from a past focus on harsh sentencing, and toward embracing mercy as a counterbalance to punishment.

In Maryland, it costs an average of nearly \$40,000 a year to incarcerate each person, and that number grows exponentially as people age.<sup>9</sup> In July of 2022, the Maryland Department of Public Safety and Correctional Services reported

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<sup>7</sup> Compassionate Release Report Card, Maryland, October 2022, FAMM, <https://famm.org/wp-content/uploads/md-report-card-final.pdf>

<sup>8</sup> Compassionate Release Report Card, Maryland, October 2022, FAMM, <https://famm.org/wp-content/uploads/md-report-card-final.pdf>

<sup>9</sup> MARYLAND DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES Incarcerated Individual Characteristics Report, July 1, 2022 <https://www.dpscs.state.md.us/publicinfo/publications/pdfs/Inmate%20Characteristics%20Report%20FY%202022%20Q4.pdf>

more than 3,100 people over age 51 living in its state prisons, with more than 1,100 of this group over age 60.<sup>10</sup> As people mature into adulthood, the likelihood of engaging in criminal behavior diminishes, therefore it makes sense to create pathways for incarcerated people to be released back into their communities instead of demanding continued incarceration. The provisions included in SB 128 should be considered a public safety effort, allowing invaluable taxpayer resources to be reallocated from keeping older and sick people in our overcrowded prisons, and into our communities. The release of over 200 incarcerated people through the *Unger v. Maryland* ruling has already saved Marylanders an estimated \$185 million and is expected to grow to a taxpayer savings of more than \$1 billion over the next decade.<sup>11</sup> SB 128 would allow Marylanders to continue to benefit from expanded release opportunities by strengthening and expanding Maryland's medical and geriatric release mechanisms, freeing up taxpayer resources to be reallocated from investing in incarceration to investing in things Maryland's communities really need.

Governor Moore and Attorney General Brown have expressed a desire to focus on addressing racial disparities in Maryland, and SB 128 would be a positive step toward that goal. Maryland's history with mass incarceration has placed the state atop the list of worst racial disparities among prison populations nationally, with the rate of incarceration for Black Marylanders greater than double the national average.<sup>12</sup> Maryland also tops the country for rates of Black people sentenced to incarceration between ages 18 and 24 who have already served 10 years or more in prison.<sup>13</sup>

SB 128 would help address these glaring racial disparities among Maryland's prison population, and, like the overwhelming taxpayer benefit resulting from the *Unger* decision, allow precious taxpayer resources to be reallocated from investing in incarceration to investing in things Maryland's communities really need. FAMM encourages the Committee to vote in favor of SB 128 and move this critical piece of legislation forward. Thank you for considering our feedback, and please do not hesitate to reach out with any questions at [ctrusty@famm.org](mailto:ctrusty@famm.org) or 267.559.0195.

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<sup>10</sup> MARYLAND DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES  
Incarcerated Individual Characteristics Report, July 1, 2022  
<https://www.dpccs.state.md.us/publicinfo/publications/pdfs/Inmate%20Characteristics%20Report%20FY%202022%20Q4.pdf>

<sup>11</sup> [https://justicepolicy.org/wp-content/uploads/2021/06/The\\_Ungers\\_5\\_Years\\_and\\_Counting.pdf](https://justicepolicy.org/wp-content/uploads/2021/06/The_Ungers_5_Years_and_Counting.pdf)

<sup>12</sup> <https://www.baltimoresun.com/2019/11/06/report-proportion-of-maryland-black-prison-population-is-more-than-double-the-national-average-of-32/>

<sup>13</sup> [https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/Rethinking\\_Approaches\\_to\\_Over\\_Incarceration\\_MD.pdf](https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/Rethinking_Approaches_to_Over_Incarceration_MD.pdf)