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POSITION ON PROPOSED LEGISLATION

BILL: HB0067

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 01/28/2022

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 67. This bill would provide for a step-down program that the Commissioner of Correction is required to provide to all incarcerated persons (unless certain conditions are met) before transfer from restrictive housing to the general population or before the direct release of an incarcerated person from a facility to the community. The bill also allows for formerly incarcerated persons who were denied participation in a step-down program to file a civil action for damages if certain conditions are met.

Most people serving sentences in the Division of Correction (“DOC”) eventually leave custody. In 2019, Department of Public Safety and Correctional Services (“DPSCS”) Secretary Robert Green estimated that 4,000 people would leave DOC that year.¹ The vast majority of those people are of working age.² All of the people who leave DOC custody rejoin our community and deserve to do so with support.

A stated policy purpose of incarceration is rehabilitation. The United States Sentencing Commission examined 25,431 federal offenders released in 2005, using a follow-up period of eight years for its definition of recidivism.³ For the eight years after their release, the Commission calculated a rearrest (not re-conviction) rate of 64.8% for the released persons younger than 30, 53.6% for the released

¹ Francis, D. C. R., & Caroom, P. (2019). *Maryland reentry roundtable report 2019*. Maryland Alliance for Justice Reform. Available online at: <https://www.ma4jr.org/wp-content/uploads/2020/01/2019-Reentry-Roundtable-Booklet.pdf>.

² The Maryland Department of Public Safety and Correctional Services reports that as of fiscal year 2019, 18,244 people were housed within the Division of Correction. Maryland Department of Public Safety and Correctional Services, Division of Correction, *Operations*, 41 (Nov. 14, 2019), [http://dlslibrary.state.md.us/publications/Exec/DPSCS/DOC/COR3-207\(d\)_2019.pdf](http://dlslibrary.state.md.us/publications/Exec/DPSCS/DOC/COR3-207(d)_2019.pdf). Of those, 2,362 were between the ages of 51 and 60 and 962 were over 60. *Id.*

³ Kim Steven Hunt & Billy Easley, U.S. Sent’g Comm’n, *The Effects of Aging on Recidivism Among Federal Offenders* (2017), https://www.uscc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171207_Recidivism-Age.pdf.

persons between the ages of 30 and 39, 43.2% for the released persons between 40 and 49, 26.8% for the released persons between 50 and 59, and 16.4% for the released persons older than 59. *Id.* Across age groups, the recidivism rate in Maryland is estimated to be 40%.⁴ Virginia maintains the lowest recidivism rate in the country at 23.4%, and credits that low rate to robust re-entry programming within the state's institutions.⁵

Our experience as advocates for incarcerated clients shows us that incarcerated persons need and deserve support in rejoining our community when they have completed their sentences. Many of our clients serve decades-long sentences and leave DOC to re-enter a community that is vastly different from the one they knew. They re-enter the life we take for granted to see the world has changed dramatically: technology, infrastructure, the job market, and the housing market are all unfamiliar. Re-entry programming helps people prepare to rejoin a changed community and thrive.

This bill would require the Commissioner to implement a step-down program that would help people prepare for life in the community. Programming would be tailored to the needs of each person through a multi-disciplinary approach. Individualized programming is important because each person's circumstances, health, capabilities, and needs are different. One size does not fit all, and this bill takes that fact into account.

Our clients deserve the support that this program would provide so they can be prepared to lead successful lives after serving their sentences. A robust step-down program would also decrease the likelihood that a person would be convicted of a crime in future.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on House Bill 67.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

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⁴ Francis, D. C. R., & Caroom, P. (2019). *Maryland reentry roundtable report 2019*. Maryland Alliance for Justice Reform. Available online at: <https://www.ma4jr.org/wp-content/uploads/2020/01/2019-Reentry-Roundtable-Booklet.pdf>.

⁵ Virginia Department of Corrections (2019). Virginia maintains the lowest recidivism rate in the country. [Press Release]. Available online at: <https://vadoc.virginia.gov/news-press-releases/2019/virginia-maintains-the-lowest-recidivism-rate-in-the-country>.