



**Testimony Submitted to the Joint Committee on Public Safety and Homeland Security
In Support of S.1547 and H.2397
An Act relative to parole review for aging incarcerated people
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The League of Women Voters of Massachusetts asks the Joint Committee on Public Safety and Homeland Security to support S.1547/H.2397 and to report it favorably. If passed, this bill would grant a parole hearing to anyone who has reached the age of 55 and has also served at least 15 years and at least one half of their sentence, including people sentenced to life in prison without the possibility of parole.

Holding people in prison who are in poor health and no longer pose a risk to public safety is contrary to League of Women Voters' positions on sentencing and incarceration. The League of Women Voters of the United States supports policies and procedures that ensure that all correctional systems provide humane, dignified, non-discriminatory treatment of incarcerated people and personnel, including appropriate health care; the elimination of systemic bias, including the disproportionate policing and incarceration of marginalized communities; and reliance on evidence-based research in decision-making about criminal justice programs and policies. The League of Women Voters of Massachusetts supports sentence lengths that encourage rehabilitation and reintegration into society.

Extremely long sentences routinely handed down in Massachusetts, including life without parole, have contributed to a growing population of older people in our state's correctional system. Without significant reforms, far too many who are sick and dying will continue to be held in prison at great expense to the Commonwealth under inhumane conditions. A wealth of evidence provides both humane and pragmatic reasons for increasing parole opportunities for older incarcerated people.

- **In Massachusetts, the number of people over the age of 60 in state correctional facilities has been rising steadily.** In January of 2023, the criminally-sentenced over-60 population was 845, 49% higher than in January of 2010. During the same time period, the incarcerated population as a whole has declined by 46% (MA DOC, 2010 & MA DOC, 2023). Given that more than 1,000 people are currently serving sentences of life without the possibility of parole, the population of older people in our correctional facilities will remain high for the foreseeable future.
- **Incarcerated people experience declines in physical and mental health at an earlier age than those in the general population.** The aging process is accelerated to such an extent that the National Institute of Corrections has defined incarcerated people 50 years of age and over as "aging" (U.S. DOJ Office of the Inspector General, 2015). Inadequate medical care, substance abuse and the stress of incarceration have been suggested as contributors to premature aging (Williams et al., 2012). Among people incarcerated in Massachusetts, prevalent medical conditions include asthma, COPD, congestive heart disease, stroke, diabetes, thyroid disease, HIV, Hepatitis, seizures, stroke, kidney disease and cancer (Massachusetts DOC, 2022b).
- **Allegations of inadequate health care in DOC facilities have persisted for years.** There is a history of legal action taken against the Department of Correction for failing to provide adequate health care (Alsan, et al., 2023 & Kapoor, R., 2023), and continuing complaints by people with first-hand knowledge have regularly been reported in news media (Becker, 2022 & Weill-

Greenberg, 2023). Moreover, WBUR has reported that DOC's own contracted care provider has admitted to staffing problems in "various correctional facilities" (Becker, 2022). A recent Boston Globe editorial reported that DOC acknowledged that "it doesn't even have data on those incarcerated with dementia or Alzheimer's" (Boston Globe, 2023). DOC's failure to meet the health care needs in a humane and effective manner has dire consequences for older incarcerated people who are suffering with serious illness and must rely on DOC for care.

- **All correctional facilities have a legal obligation to provide health care to people who are incarcerated.** In the 1976 *Estelle v. Gamble* decision, the U.S. Supreme Court ruled that people who are incarcerated have a constitutional right to timely access to appropriate medical care (*Estelle v. Gamble*, 429 U.S. 97, 104 (1976)). Massachusetts DOC is failing to meet the legal requirement to provide "appropriate medical care" for people held in custody.
- **Racial disparities are pervasive throughout our legal system, but they are most egregious for life-without-parole and other extremely long sentences.** Among criminally-sentenced people held in custody by DOC, Black people are grossly over-represented relative to white people. Moreover, racial disparities are generally widest among those serving the longest sentences (Li, 2019; Nellis, 2023; & U.S. Sentencing Commission, 2017), and that pattern is likely to prevail in Massachusetts as well.
- **The medical parole provisions of the 2018 Criminal Justice Reform Act have not provided the intended relief to people who are sick and dying in prison.** From FY2018 through FY2022, only 11% of the petitions for medical parole were granted (MA DOC, 2019 – MA DOC, 2022b). Moreover, there are clear racial disparities in medical parole rates. While 16% of the white petitioners were granted medical parole from FY 2018 through FY 2022, only 6% of the Black petitioners were successful (Massachusetts DOC, 2019-2022b). Discrimination in granting medical parole, on top of underlying racial disparities, means that Black people incarcerated in Massachusetts are likely to endure greater medical neglect than white people.
- **The costs of caring for incarcerated people with serious and chronic medical conditions is enormous.** In FY 2015, the total health care spending for the Massachusetts Department of Correction was \$96,447,502 (Pew Charitable Trusts 2017), and there is no doubt that costs have increased since then.
- **Extremely long sentences do not benefit public safety in proportion to their costs.** As people incarcerated for violent crimes age, their inclination to commit another crime diminishes. Based on an analysis of previous studies, published in the *Notre Dame Law Review*, (Prescott et al., 2020), the authors concluded that individuals with prior homicide convictions who are older at release, are unlikely to reoffend. Clearly there are a great many incarcerated people who would not pose a public safety risk if they were released.

Passage and implementation of this bill would alleviate the suffering of many who could be better cared for elsewhere and begin to redress structural racism in our criminal legal system. It would also drastically reduce the cost of prison health care born by the Commonwealth. The League of Women Voters of Massachusetts, representing 43 local Leagues across the Commonwealth, asks this committee to report S.1547/H.2397 favorably in a timely manner.

Thank you for your consideration.

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