

Senior Incarceration Review Act

To reduce a person's sentence under this Act, a judge must find that they are not a danger to the public and that the interests of justice would be better served by a reduced sentence.

This Act authorizes judges to reduce the sentences of prisoners who are at least 60 years old and who have been incarcerated for at least 20 years. These individuals are very unlikely to reoffend, are particularly vulnerable in prison, and are the most expensive individuals to incarcerate.

This Act targets individuals least likely to reoffend

It is well-established that older people are less likely to reoffend than younger individuals, and that people who have served substantial periods of time are less likely to reoffend than individuals who served only short sentences. Accordingly, this bill targets those who are at least 60 years old and have served at least 20 years. In Maryland, less than 3% of such individuals who were released following the Unger decision have reoffended. None of the individuals released under the Juvenile Restoration Act who were at least 60 years old with at least 20 years' incarceration have reoffended.

This bill will save money

As of October 2023, there were 624 people in Maryland's prisons age 60 or older with 20+ years served. The *per capita* cost to imprison a person in Maryland is almost \$60,000 per year.¹ A 2019 report estimated the variable cost of incarcerating a person age 60 or older (i.e., the amount saved by releasing a person without reducing overhead like staff or facility costs) at \$18,361 per year, taking into account higher health care costs.² If enough individuals are released that DPSCS can reduce overtime hours or close tiers, this could reduce overhead and increase the savings that are recognized.

This group is especially vulnerable because incarcerated individuals experience "accelerated aging"

"[P]risons define their 'elderly' population as 55 years and older because the incarcerated population experiences 'accelerated aging' and is clinically 10 years ahead of the non-incarcerated population."³ A 2018 study that compared 238 older jail inmates (age 55 or older) to 6871 older adults in the community found that incarcerated individuals with an average age of 59 experienced four out of six geriatric conditions (mobility impairment, hearing impairment, functional impairment, and incontinence) at rates similar to those found in non-incarcerated persons age 75 or older. For the other two geriatric conditions (falls and multimorbidity), the study found that the incarcerated individuals (average age 59) experienced these at rates similar to those found in non-incarcerated persons age 65 to 69.⁴

¹ Division of Correction, Operations Annual Report FY 2022, p. 19, [https://dlslibrary.state.md.us/publications/Exec/DPSCS/DOC/COR3-207\(d\)_2022.pdf](https://dlslibrary.state.md.us/publications/Exec/DPSCS/DOC/COR3-207(d)_2022.pdf) (reporting that "[i]n FY 22, in the Division of Correction, the inmate variable rate per incarcerated person per month was \$4,968, including medical").

² Open Society Inst. - Baltimore (OSI), Building on the Unger Experience: A cost-benefit analysis of releasing aging prisoners, p.8 (Jan. 2019), <https://goccp.maryland.gov/wp-content/uploads/Unger-Cost-Benefit3.pdf> (analysis done by the JFA Institute and The Pandit Group).

³ OSI, supra, at pp. 7-8 (footnotes omitted); see also Rebecca Silber, et al., Aging Out: Using Compassionate Release to Address the Growth of Aging and Infirm Prison Populations, p.2, Vera Inst. of Justice (Dec. 2017) (footnote omitted), <https://www.vera.org/downloads/publications/Using-Compassionate-Release-to-Address-the-Growth-of-Aging-and-Infirm-Prison-Populations%E2%80%94Full-Report.pdf>.

⁴ Meredith Greene, et al, Older adults in jail: high rates and early onset of geriatric conditions, Health & Justice, vol. 6 (Dec. 2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5816733/>.



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