Legislative Analysis

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PAROLE FOR MEDICALLY FRAIL PRISONERS

House Bill 4129 (H-3) as passed by the House
Sponsor: Rep. Beau Matthew LaFave

House Bill 4130 (H-2) as passed by the House
Sponsor: Rep. Tyrone A. Carter

House Bill 4131 (H-1) as passed by the House
Sponsor: Rep. Beth Griffin

House Bill 4132 as passed by the House
Sponsor: Rep. Kyra Harris Bolden

Committee: Judiciary
Complete to 3-20-19

BRIEF SUMMARY: Taken together, the bills would implement a medical parole for medically frail prisoners.

House Bill 4129 would do all of the following:

- Replace the current medical parole process with one for the medically frail.
- Exclude from eligibility prisoners convicted of first-degree criminal sexual conduct or any crime punishable by a term of life without parole.
- Define ***medically frail***.
- Require a medically frail parolee to adhere to the terms of the parole for the length of his or her parole term.
- Require a medically frail parolee to agree to being placed in a medical facility approved by the Department of Corrections (DOC) and require that certain notice requirements be met if the parolee no longer needed the care or level of care provided at the facility.
- Provide a medically frail parolee with the same rights and responsibilities as any other resident of a medical facility.

House Bill 4130 would do all of the following:

- Require notification by the parole board to the prosecutor and victim regarding the decision to consider a prisoner for a medically frail parole.
- Allow the prosecutor or victim to file an objection in circuit court.
- Allow a prosecutor to seek an independent medical examination of the prisoner.
- Specify that the sentencing or successor judge would determine whether a prisoner is eligible for a medically frail parole, and make that decision binding on the parole board as to whether the prisoner could be considered medically frail.
- Allow the decision of the sentencing or successor judge regarding a prisoner's being medically frail to be appealed to the Court of Appeals by DOC, the prosecutor, or the victim.

House Bill 4131 would create a misdemeanor penalty for selling or furnishing certain contraband to a medically frail parolee, assisting the parolee to abscond from DOC supervision, or knowingly causing the parolee to have contact with a person with whom contact is prohibited.

House Bill 4132 would make changes to provisions within the Corrections Code that are technical corrections or editorial in nature for consistency within that act.

FISCAL IMPACT: House Bills 4129, 4130, and 4132 would have no fiscal impact on local government and would result in minimal savings for the state. House Bill 4131 would have no fiscal impact on the state, but could on local units of government. (See ***Fiscal Information***, below, for a detailed discussion.)

THE APPARENT PROBLEM:

Despite the decline of Michigan's prison population to just under 40,000, the DOC budget remains one of the highest at about $2.0 billion a year, with 98% supplied by the state's general fund. The high costs are due in part to the adoption of long sentences for many crimes during the 1990s, when the "tough on crime" philosophy swept the country. In addition, the Truth-in-Sentencing law, enacted during the same time period, requires any prisoner eligible for parole to first serve his or her minimum sentence in a secure facility before being considered by the parole board. One impact of those policies is that Michigan is now housing an increasingly older prison population. By the end of 2016, inmates at least 50 years old accounted for 23% of the DOC prison population, up from 17% at the end of 2009. As inmates age, the prevalence of age-related diseases, including arthritis, cancer, and Alzheimer's disease, and the costs to treat such ailments, increase. Terminal and debilitating diseases aren't limited to the old or those facing decades in prison, however. Even younger inmates, and those with short sentences, contract serious physical illnesses or terminal illnesses or develop a serious mental illness that necessitates specialized and costly care.

In response, DOC has implemented numerous measures to rein in costs while still providing appropriate care. For example, the Duane Waters Health Center in Jackson can treat even serious health needs, including administering on-site chemotherapy; three prisons provide on-site dialysis treatment; several have specialized residential treatment units that administer mental health programs and/or programs to assist prisoners who have a developmental disability or cognitive impairment; and even limited hospice care is available in at least one prison. Provision of such services within DOC facilities is more cost-effective than transporting and supervising a prisoner for treatment at a non-prison facility, but the costs are still higher than similar care provided to the general public in hospitals or nursing homes. Moreover, since federal law prohibits a person from receiving benefits under Medicaid or Medicare while incarcerated, the costs of providing medical and mental health care to prisoners—regardless of where provided—are fully borne by the state.

Recently, the state of Connecticut has begun providing certain kinds of care, such as end-of-life care, in non-prison facilities to prisoners who pose a minimal risk to public safety. Reportedly, because the prisoners are not housed in facilities under the direct supervision of the state's prison system, many are eligible to receive medical care under Medicare or Medicaid. Many criminal justice stakeholders in Michigan believe that adopting a similar approach could be a way for the state to reduce its expenses related to providing certain types of needed medical or mental health services without negatively impacting the safety of its citizens.

THE CONTENT OF THE BILLS:

House Bill 4129 would amend section 35 of the Corrections Code. Currently, the parole board may grant a medical parole for a prisoner determined to be physically or mentally incapacitated. Instead, the bill would allow the parole board to grant a medical parole for a prisoner determined to be ***medically frail***. The bill would retain the requirement that a medical

parole be initiated on the recommendation of the Bureau of Health Care Services, but would eliminate the requirement that the decision be reached only after a review of the medical, institutional, and criminal records of the prisoner. A parole eligibility report would have to be prepared at the request of the parole board for a prisoner being considered for a medically frail parole. A prisoner convicted of first-degree criminal sexual conduct (CSC) or any crime that is punishable by life without parole would not be eligible for a medically frail parole.

> ***Medically frail*** would describe an individual who is a minimal threat to society as a result of his or her medical condition, who has received a risk score of low on a validated risk assessment, whose recent conduct in prison indicates that he or she is unlikely to engage in assaultive conduct, and who has one or both of the following:
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> - A permanent or terminal physical disability or serious and complex medical condition resulting in the inability to walk, stand, and/or sit without personal assistance.
> - A permanent or terminal disabling mental disorder, including dementia, Alzheimer's, or a similar degenerative brain disorder that results in the need for nursing home level of care, and a significantly impaired ability to perform two or more ***activities of daily living***.
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> ***Activities of daily living*** would mean basic personal care and everyday activities as described in the Code of Federal Regulations and would include such tasks as eating, toileting, grooming, dressing, bathing, and transferring from one physical position to another (including moving from a reclining position to a sitting or standing position).

Medical parole for the medically frail

The Bureau of Health Care Services within DOC coordinates and monitors health care services for prisoners and the treatment of seriously mentally ill prisoners via DOC's mental health services program. If the Bureau believed a prisoner to be medically frail, the Bureau would utilize a specialist in the appropriate medical field, who is not a DOC employee, to evaluate and report to the Bureau on the prisoner's condition.

The determination of whether the prisoner is medically frail would be made by the parole board in consultation with the Bureau. If the parole board determined that a prisoner was medically frail and would be considered for a medically frail parole, the parole board would have to provide notice and medical records required under provisions of House Bill 4130 (see below). The parole board could grant parole to a medically frail prisoner unless the prosecutor from the county from which the prisoner was committed filed a motion opposing the parole as provided in House Bill 4130. If a motion was filed and the court found that the prisoner was eligible for parole as a result of being medically frail, then the parole board could grant parole to the prisoner, but only if no additional appeals were pending.

DOC would not retain authority over the medical plan for a medically frail parolee. A medically frail parolee would have to have full patient rights at the ***medical facility*** where he or she is placed. Both DOC and parole board would have to ensure that the placement and terms and conditions of a medically frail parole do not violate any other state or federal regulations. A medical facility housing medically frail parolees would have to be operated in a manner that ensures the safety of its residents. A parolee placed in a medical facility would have the same patient rights and responsibilities as any other individual who is a resident of or has been admitted to the medical facility. In addition, the process for a medically frail parole

determination would not change or affect any rights afforded to a victim under the William Van Regenmorter Crime Victim's Rights Act.

> ***Medical facility*** would mean a hospital, hospice, nursing home, or other housing accommodation providing medical treatment suitable to the condition or conditions rendering the parolee medically frail.

Under the bill, a medical facility would not be responsible for the enforcement of conditions of parole or reporting violations of parole conditions for a parolee placed in the facility. Regardless of the conditions of parole imposed on a resident parolee, the medical facility would be required to comply with state and federal laws and regulations that protect the rights of residents and state and federal laws and regulations for skilled nursing facilities.

Conditions for medically frail parole

The bill would not apply to certain requirements in the Corrections Code pertaining to when a prisoner is eligible for parole—for example, completion of a minimum term. Further, the following conditions would apply to a medically frail parole:

- Before release on parole, the prisoner would have to agree to all of the following:
  - His or her placement or, if he or she is unable to consent due to the physical or mental health condition, an individual legally entitled to agree to the placement would have to agree that the parolee be placed in a parole board-approved medical facility where medical care and treatment can be provided.
  - The release, to the prosecutor and sentencing or successor judge of the county from which the prisoner was committed, of medical records that are directly relevant to the condition or conditions rendering the prisoner medically frail. This would have to be done before the parole board determined whether to grant a medically frail parole.
  - An independent medical examination, if sought by the prosecutor. If possible, the exam would have to occur at a DOC facility. DOC would have to pay the reasonable costs of the exam.
- The parolee would have to adhere to the terms of the parole for the length of the parole term.
- The parole would have to be for a term of at least the time necessary to reach the prisoner's earliest release date (i.e., the date on which the prisoner completes his or her minimum sentence).
- A parolee who no longer met the definition of medically frail or who had violated the parole terms could be transferred to a setting more appropriate for his or her medical needs or be subject to the parole violation process as determined by the parole board and DOC.
- The parolee could only be placed in a medical facility that agrees to accept the parolee and that is agreed upon by the parolee.

If the parolee no longer needed the level of care

The parolee or individual legally entitled to agree to the parolee's placement, other than the medical facility in which a parolee was placed, would have to immediately inform the parole board if any of the following were met:

- The parolee is no longer eligible for care at the medical facility at which he or she was placed.
- The parolee must be moved to another location for medical care.

- The parolee is no longer at the medical facility approved by the parole board.
- The parolee no longer needs the level of care that resulted in placement at the medical facility.

The parole board would have to immediately notify the prosecutor and the sentencing or successor judge if the parolee were no longer eligible for care or no longer needed the level of care for which he or she was placed at the medical facility.

MCL 791.235

House Bill 4130 would amend sections 33 and 34 of the Corrections Code to establish that most prisoners could be eligible for a medically frail parole before being, or despite not being, generally or otherwise eligible for parole. A prisoner convicted of first-degree criminal sexual conduct in the first degree or any crime punishable for a term of life without parole would not be eligible for a medically frail parole, though he or she could still be eligible for an expedited medical commutation, a reprieve, or a pardon.

Currently, the parole board is required to provide notice to the prosecuting attorney of the county in which the prisoner was convicted before granting parole to prisoners convicted of certain controlled substance offenses. The bill would require the parole board to similarly provide notice to the prosecuting attorney before granting a medically frail parole and at the same time require the prisoner's relevant medical records to be released to the prosecuting attorney. The parole board would also have to provide notice to any known victim or, in the case of a homicide, to the victim's immediate family.

The prosecuting attorney or victim or, in the case of a homicide, the victim's immediate family could object to the parole board's decision to recommend parole by filing a motion in the circuit court in the county in which the prisoner was convicted within 30 days of receiving the notice. Before making a decision regarding whether to object to the parole board's determination, the prosecuting attorney would have to confer with the victim, or with the family of a homicide victim, if so requested. The prosecutor would have to inform the parole board if a motion objecting to the parole were filed, and the motion would have to be heard by the sentencing judge or the judge's successor. The prosecutor could also seek an independent medical examination of the prisoner.

At the hearing, the prosecutor and the parole board could present evidence in support of or in opposition to the determination that a prisoner is medically frail, including the results of any independent medical examination. The sentencing or successor judge would have to determine whether the prisoner is eligible for parole as a result of being medically frail. The decision of the sentencing or successor judge would be binding on the parole board with respect to whether a prisoner must be considered medically frail. If filing the motion to object to the medically frail parole under this provision, the prosecutor and victim could not also file an appeal under the current, general appeal mechanism that allows a prosecutor or victim to appeal to the circuit court the action of the parole board in granting a parole. However, the decision of the sentencing or successor judge as to whether the prisoner was eligible for a medically frail parole could be appealed by any of the parties by leave to the Court of Appeals.

MCL 791.233 and 791.234

House Bill 4131 would add a new section to the Michigan Penal Code to provide that a person who does any of the following is guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of up to $1,000, or both:

- Directly or indirectly sells, gives, or furnishes poison, a controlled substance, or a weapon to an individual whom the person knows to be a medically frail parolee. (This penalty would not apply to a person providing a controlled substance prescribed by a physician to that parolee.)
- With the intent to assist a medically frail parolee in violating the parole, assist the parolee in absconding or attempting to abscond from supervision by leaving a medical facility in which the parolee has agreed to reside as a condition of his or her parole without permission of the parolee's supervising agent.
- Knowingly cause a medically frail parolee to have contact with a person with whom the parolee is prohibited from having contact as a condition of the parole or a valid personal protection order.

Exceptions

The bill would not apply to a person who aids or assists a medically frail parolee in leaving or attempting to leave the medical facility to which he or she has been placed because of any of the following:

- The medically frail parolee requires a medical service that must be performed at, or has a medical emergency that requires medical service at, a different medical facility.
- A natural disaster, fire, or infrastructural failure at the medical facility necessitates evacuating the medically frail parolee.

Proposed MCL 750.197d

House Bill 4132 would amend the Corrections Code to except prisoners granted medically frail parole from a provision that bars individuals convicted and sentenced for committing certain crimes from eligibility for special parole or for parole before he or she has served the minimum term imposed by the court (less an allowance for disciplinary credits). The bill would also make several technical and editorial changes.

MCL 791.233b and 791.265

Tie-bars: House Bill 4129 is tie-barred to House Bills 4130 and 4132, and House Bills 4130, 4131, and 4132 are tie-barred to House Bill 4129. A bill that is tie-barred to another bill cannot take effect unless that other bill is also enacted.

Effective date: Each bill would take effect 90 days after its enactment.

BACKGROUND INFORMATION:

The bills are similar to House Bills 4101 to 4103 of the 2017-18 legislative session.

FISCAL INFORMATION:

House Bills 4129, 4130, and 4132 would have no fiscal impact on local government and would result in minimal savings to the state. Savings would be realized by the Department of Corrections, as it is assumed that Medicaid would cover health care-related costs for medically frail prisoners, as that term is defined in HB 4129, who are released on medical parole.

Providing health care to an aging prison population is a large and growing cost for the state. Though the prison population has declined overall, the population of prisoners over the age of 50 has increased. In 2009, 17.3% of the prison population was over age 50. Currently, 25% are over age 50.

Caring for prisoners inside the prison environment is far more expensive than it is on the outside. Under the 1965 law that created Medicaid, anyone entering a state prison forfeited Medicaid eligibility. However, an exception to that general rule opened up in 1997 when the United States Department of Health and Human Services wrote to state Medicaid directors saying that prisoners who leave state or local facilities to receive care in hospitals or nursing homes could be covered by Medicaid if they would otherwise qualify for Medicaid. Most elderly or disabled prisoners qualify under existing Medicaid rules, as long as they receive care outside of prison facilities.

Receiving federally subsidized long-term care outside of prison walls potentially could reduce the state's share of health care costs. A shift in medical costs to the Medicaid program would result in a net savings equal to approximately 64% of those costs, as the state generally must provide state match equal to 36% of Medicaid expenditures, with federal Medicaid reimbursement providing the other 64% of the cost. The average annual Medicaid cost for a nursing facility in the state is roughly $75,000. The cost to the state for that care would be a little over $27,000.

To be eligible for medical release under HB 4129, a prisoner must meet a number of requirements related to his or her medical condition and to his or her risk to public safety. According to the Department of Corrections, there are between 20 and 30 prisoners who would be eligible for medical release under the definition of medically frail and other conditions contained in the bills, but those prisoners have yet to be screened for risk or screened for placement, so it is not guaranteed that all 20 to 30 prisoners would be released. Also, there are another 450 to 500 prisoners who are not yet eligible for release under the medically frail criteria, but who could become eligible in the future based on their chronic care needs. They have chronic conditions which will require treatment for the rest of their lives.

In fiscal year 2018, the average health care cost for prisoners in the average prison population was roughly $7,900 per prisoner. Based on national research, it is estimated that medically frail prisoners cost anywhere from three to five times more than other prisoners in the average population. Using these estimates, the average health care cost for medically frail prisoners is roughly between $23,700 and $39,500 per prisoner.

Using an average of the cost estimates for medically frail prisoners, and shifting the group of between 20 and 30 prisoners to an outside nursing home setting, the fiscal impact to the department could yield a cost of savings of between $632,000 and $948,000 annually in health care-related costs. The savings could be slightly higher when other incidental costs, such as meals, transportation, and clothing, are included. Shifting the health care costs for these prisoners to Medicaid would cost the state between $540,000 and $810,000. So, the net annual savings to the state would be between $92,000 and $138,000. Savings would slowly grow over time as the medical parole population increases.

House Bill 4131 would have no fiscal impact on the state, but could have a fiscal impact on local units of government. To the extent that the bill results in a greater number of convictions, resulting in individuals being imprisoned for not more than a year or a fine of not more than

$1,000, or both, it could increase costs on local correctional systems. New misdemeanor convictions could increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

ARGUMENTS:

For:

The bill package would allow prisoners eligible for parole, except for an individual convicted of first-degree criminal sexual conduct, to be released to a medical facility if they met criteria of being ***medically frail***. A prisoner could receive a medically frail parole regardless of reaching his or her earliest parole date. Currently, a prisoner must serve his or her entire minimum sentence in a secure facility under the jurisdiction of DOC before being considered for parole by the parole board. Very few exceptions are allowed for a prisoner to leave the grounds of a prison, and even then, the prisoner must be supervised by guards at all times, even in a hospital setting.

However, as prisoners with long sentences and those sentenced to life without parole age, this policy is proving to be increasingly expensive to maintain. According to DOC, a Pew research study finds that the percentage of a state's prison population over 50 has a direct relationship on prison costs. Among the states, Michigan has the highest percentage of prisoners older than 50. But even younger prisoners develop terminal illnesses, or have a mental illness, developmental disability, or cognitive impairment for which appropriate care is beyond what prison infirmaries, hospitals, and residential programs can adequately and humanely provide. Specifically, the prison population to which the bills are intended to apply are those with serious or advanced chronic conditions that prisons are ill-equipped to handle.

Importantly, the legislation would not shorten a prisoner's sentence as a commutation does. Instead, the bills provide a mechanism (medically frail parole) by which a prisoner meeting certain conditions, who needed specialized care, could be treated in a non-prison medical facility and thereby qualify to obtain those services under Medicaid, Medicare, private insurance, or payment by the prisoner or family members. Eligibility for a medically frail parole would be based on a prisoner's medical condition and medical needs as determined by physicians, and not on age or length of sentence left to be served. The prisoner would still be under the jurisdiction of DOC, but would be placed in a setting in which he or she is not under guard. Prosecutors and crime victims could object to the parole board's decision to grant a medically frail parole; however, if either filed an objection, a judge would determine whether the prisoner was eligible for a medically frail parole.

Public safety would not be compromised, as eligibility would only extend to those prisoners posing a minimal, or nonexistent, threat to others. For instance, some prisoners are currently in comas, others on ventilators. Many others are in the final months of life due to a terminal illness and are bedridden. Many can no longer walk, feed themselves, or lift a small object, let alone plan or execute another crime. For those with severe mental illnesses or dementias who pose a danger to themselves or others, private and state residential psychiatric hospitals can provide appropriate treatments in a secure setting that would protect the parolee from doing self-harm or harm to others and that would minimize, if not prevent, escape from the facility.

If a parolee no longer met the bills' physical or mental illness criteria for a medically frail parole, or violated conditions of the parole, he or she would be returned to prison to finish serving his or her sentence.

For:

According to DOC, medically frail parole could also be useful for certain prisoners who are approaching, or have approached, parole eligibility but whose medical or mental condition is such that there is no appropriate placement for them in the community. For such prisoners, a medical or mental health condition can make him or her vulnerable to abuse or assault by other prisoners, and thus prison becomes the least effective or safe place for medical or mental health treatment. DOC, and the House C.A.R.E.S. final report, agree that lack of suitable placements for certain offenders results in release delays (and therefore increased costs to the state).

The bill package would address this concern by enabling more of these medically fragile prisoners to be successfully released into the community without negatively impacting public safety.

For:

Without the bills, the only option for inmates suffering from terminal illnesses or needing specialized care that cannot be adequately provided within the prison system is to petition the parole board for medical commutation. A medical commutation can only be granted by the governor, and it is a very long process, typically taking more than a year to complete. All too often, a prisoner dies before a decision is finalized. Though an expedited commutation option for prisoners with serious medical conditions took effect in late June of 2017 and is expected to shave several months off the process, it is too early to tell how effective the new law will be.[1] Further, a commutation shortens a sentence so that the prisoner is released as if they had served their maximum sentence. By comparison, under the bill package, the prisoner receiving a medically frail parole would still be subject to oversight by DOC. The benefit would be that medical care could be provided in a setting that would allow coverage under Medicaid or Medicare or by personal insurance or to be paid privately. In addition, unlike a medical commutation, should the prisoner's condition improve or the prisoner pose a safety risk, he or she could be returned to a DOC facility to serve the remainder of his or her sentence.

For:

According to DOC, although the prison population is decreasing, the number of high-needs prisoners is increasing, both in percentage of the population and in raw numbers. Currently, about 850 prisoners are considered medically fragile and suffer from such diseases as late-stage cancers and kidney disease, dementia, Alzheimer's disease, and diabetes. DOC does work with an outside contractor to develop parole plans and services for some of the medically fragile prisoners; DOC estimates the expenditures for this program to be about $9.0 million per year. However, certain trends are alarming, and the bills could help address the economic challenges presented. For instance, 49% of the intake population (new offenses or former prisoners reoffending) are now being called back for medical follow-ups due to coming to prison with various health or mental health issues. Further, about 25 offenders a month processed through intake are being immediately placed in crisis stabilization or in a specialized residential treatment program. Establishing medically frail parole as an option for some prisoners could help mitigate future health care costs as their medical or mental health conditions deteriorate.

[1] Public Act 8 of 2017 (Enrolled Senate Bill 12). See the HFA analysis:
http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-0012-7576D227.pdf

For:

The bills' provisions reflect findings and recommendations from the House C.A.R.E.S. Task Force, which promotes expanding custody options for prisoners with severe mental health and physical illnesses and asking Congress to allow Medicaid coverage during incarceration, as well as initiatives to improve mental health treatment to prisoners and other incarceration reforms that would be smart on crime and soft on taxpayers.

Against:

Although House Bill 4129 was amended in committee to absolve medical facilities from any responsibility for ensuring that medical parolees comply with parole conditions and for reporting parole violations, concerns raised by members of the long-term care industry remain. In particular, regulations of the federal Centers for Medicare and Medicaid Services (CMS), the regulatory body for long-term care facilities, establish certain rights and protections for residents of long-term care facilities and require the rights and protections to apply to all residents. Failure to comply with CMS regulations can result in loss of certification to receive Medicaid and Medicare reimbursement.

For example, the rights include the ability of residents to receive visits from those they wish and to participate in community activities both within and outside the facility. Facilities often offer off-campus activities (church, outings to malls or theaters, etc.) for those who are medically able to participate. In addition, certain community groups, even ones which include children, often sponsor on-campus activities such as music performances and reading to the residents. If parole conditions restricted rights afforded to non-parolee residents (e.g., being around children, having certain visitors, participating in off-campus outings), staff would be put in the untenable position of violating one set of laws in order to comply with another, even despite the amendment.

Further, some in the long-term care community advocate for the creation of separate nursing facilities dedicated to serving what CMS refers to as "justice-involved individuals" rather than commingling them with the other residents. At least one such facility operates in Georgia and serves parolees and those with medical reprieves. To ensure the safety of the residents and the community, the facility offers interior courtyards so residents can be outdoors without leaving the premises, security cameras, and fingerprint scanners.

Response:

It should be remembered that the definition of "medically frail" in House Bill 4129 would restrict parole eligibility to those deemed a minimal threat to society as a result of their medical conditions, who received a low score on a risk assessment, whose recent conduct in prison attests to their being unlikely to engage in assaultive conduct, and who had dementia or Alzheimer's or were unable to walk, sit, or stand without assistance. Therefore, the parolees would be unlikely to present any more of a danger to other residents or the public than residents of the facility's general population. Though it is unknown what types of parole conditions would be placed on medically frail parolees, the parole board could take the CMS regulations, as well as a medical parolee's medical condition, into consideration when determining appropriate parole conditions for a particular parolee.

Against:

House Bill 4129 would exclude any prisoner convicted of a crime for which parole is prohibited, as well as those convicted of first-degree criminal sexual conduct. To some, such a policy would be inhumane and continue to overburden taxpayers, as terminal illness, mental illness, and dementia (and the costs to provide care for those stricken) do not distinguish based

on the crime for which one was convicted. Eligibility, they say, should be based solely on medical condition and whether the prisoner would present a threat to the public safety.

POSITIONS:

Representatives of the following entities testified in support of the bills (3-5-19):

- Michigan Department of Corrections
- CorrectLife

The following entities indicated support for the bills:

- ACLU of Michigan (3-5-19)
- Safe and Just Michigan (3-5-19)
- Coalition of Justice Voters (3-12-19)
- American Friends Service Committee (HB 4129, with reservations) (3-5-19)
- Michigan League for Public Policy (HBs 4129, 4130, and 4132) (3-12-19)

A representative of the Prosecuting Attorneys Association of Michigan (PAAM) testified with a neutral position regarding the bills. (3-5-19)

A representative of the Michigan Elder Justice Initiative, Michigan Long Term Care Ombudsman Program, and MI Health Link Ombudsman testified in opposition to the bills. (3-5-19)

The Michigan Elder Justice Initiative and Michigan Long Term Care Ombudsman indicated that they remain opposed to HBs 4129 to 4131 as reported from committee. (3-12-19)

The Health Care Association of Michigan indicated opposition to the bills. (3-5-19)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko