
OLR Bill Analysis

sSB 1058

AN ACT CONCERNING COMPASSIONATE OR MEDICAL PAROLE RELEASE BY THE BOARD OF PARDONS AND PAROLES AND CONCERNING STAFF OF THE DEPARTMENT OF CORRECTION.

SUMMARY

This bill expands the instances where compassionate parole may be granted by (1) lowering the danger to society threshold for certain inmates' conditions for release and (2) generally allowing these releases during an emergency declaration or major disaster, including the COVID-19 pandemic. These emergency declaration releases may be at any time during the inmate's sentence if circumstances exist that pose a higher risk of harm to the inmate if he or she remains confined.

The bill establishes a panel to determine medical or compassionate parole, rather than the full Board of Pardons and Parole determining these paroles as under current law. It also makes various minor and conforming changes to the medical and compassionate parole statutes.

Additionally, the bill extends a state whistleblower law to protect Department of Correction (DOC) officers who intervene or report other officer's use of unreasonable, excessive, or illegal force from retaliation.

EFFECTIVE DATE: October 1, 2021, except the whistleblower provision is effective upon passage.

§§ 1-6 — MEDICAL AND COMPASSIONATE PAROLE

The bill specifically provides the Board of Pardons and Paroles the independent decision-making authority to grant medical parole or compassionate parole; establish their conditions; and rescind, revoke, or discharge anyone under these paroles.

The bill incorporates medical and compassionate parole into the

following procedures in current law for parole:

1. upon the request of certain individuals (e.g., DOC commissioner) authorized to serve criminal process to return a person to custody, having a law enforcement official arrest and hold the person without written warrant (CGS § 54-127);
2. a parolee having his or her parole revoked or rescinded after a hearing when a board employee recommends it and at least two members of a board panel approve it (CGS § 54-127a); and
3. inmates returned to any DOC institution for violating parole may generally be retained in a correctional institution for the unexpired portion of the inmate's sentence with certain possible deductions (CGS § 54-128).

Medical and Compassionate Parole Release Panel (§§ 1 & 5-7)

Under current law, the Board of Pardons and Parole may determine when and under what conditions an inmate serving an imprisonment sentence may be released on medical or compassionate parole. The bill instead creates a release panel to make these decisions. As under existing law for other parole panels, the release panel is composed of three members, one of whom serves as chairperson or a full-time member designated by them to chair temporarily.

As under current law for the board, the release panel may release any inmate on medical or compassionate parole except inmates convicted of a capital felony before April 25, 2012, or murder with special circumstances on or after April 25, 2012.

§ 7 — COMPASSIONATE PAROLE

The bill lowers the danger to society threshold for certain inmates' conditions for them to be released under a compassionate parole.

Under current law, the board can grant compassionate parole release to an inmate if he or she is so physically or mentally debilitated, incapacitated, or infirm due to advanced age or a non-terminal condition, disease, or syndrome, as to be physically incapable

of presenting a danger to society. Under the bill, the inmate must instead present a significantly reduced risk of danger to society rather than being physically incapable of presenting a danger to society.

As under existing law, an inmate must also have served at least half of their sentence, or half after the board commuted the original sentence.

Emergency Declaration or Major Disaster

The bill allows the panel to grant a compassionate parole release to any inmate (other than those convicted of a capital felony or murder with special circumstances as described above) serving any sentences of imprisonment during certain major disasters or an emergency declaration. These declarations are by the President covering any part of the state or an emergency declaration the governor issues, including those related to the COVID-19 pandemic or any other disease epidemic or public health emergency, or a natural disaster.

The release may be at any time during the inmate's sentence if the panel finds circumstances exist that pose a higher risk of harm to the inmate if he or she remain confined.

Under the bill, "COVID-19" means the respiratory disease designated by the World Health Organization (WHO) on February 11, 2020, as coronavirus 2019, and any related mutation WHO recognizes as a communicable respiratory disease.

Rules and Regulations After Release

Under current law, anyone granted compassionate parole must be released subject to the board's terms and conditions and supervised by DOC. The bill instead requires them to be supervised by rules and regulations the board established. As under existing law, the chairperson enforces the rules, regulations, and provisions and can retake and imprison the parolee for any reason the panel, or the chairperson with the panel's approval, deems sufficient. The chairperson can detain a person pending the panel's approval (CGS § 54-126).

Special Panel

The bill allows the board's chairperson to appoint a special panel to implement the compassionate parole provisions and review and decide requests for these paroles on an emergency basis. The bill requires the chairperson to, in all cases, act as expeditiously as possible.

Applicability for Other Paroles

The bill specifies that the compassionate parole provisions, both under existing law and the bill, do not affect an inmate's eligibility for any other form of parole or release provided by law.

§ 8 — DOC WHISTLEBLOWER PROTECTIONS

The bill extends a state whistleblower law (CGS § 31-51m) to protect DOC correction officers who intervene or report other officer's use of unreasonable, excessive, or illegal force from retaliation.

By law, DOC is prohibited from taking retaliatory personnel action or discriminating against a correction officer for intervening or reporting another officer's use of unreasonable, excessive, or illegal force. Among other things, this means DOC cannot discharge, discipline, or penalize intervening or reporting officers.

The bill allows correction officers who are discharged, disciplined, or penalized in violation of this law, after exhausting all administrative remedies, to bring a civil action within 90 days after the violation or final administrative decision.

By law, these officers are already protected by another whistleblower law specifically for state employees (CGS § 4-61dd). Under that law, officers who believe they have been retaliated against may, among other actions, file a complaint with the chief human rights referee at the Commission on Human Rights and Opportunities.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 31 Nay 6 (04/05/2021)