



# Senate

General Assembly

**File No. 615**

January Session, 2021

Substitute Senate Bill No. 1058

*Senate, April 26, 2021*

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (e) and (f) of section 54-124a of the general  
2 statutes are repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2021*):

4 (e) (1) Each parole release panel, including any such panel for the  
5 purpose of compassionate parole release or medical parole release, shall  
6 be composed of three members, one of whom shall be the chairperson  
7 or a full-time member designated by the chairperson to serve  
8 temporarily as chairperson.

9 (2) Each pardons panel shall be composed of three members, one of  
10 whom may be the chairperson, except that for hearings on  
11 commutations from the penalty of death, one member of the panel shall  
12 be the chairperson.

13 (3) Each panel that discharges persons on parole from the custody of  
14 the Commissioner of Correction or that terminates the period of special  
15 parole for persons shall be composed of three members, one of whom  
16 shall be the chairperson or a full-time member designated by the  
17 chairperson to serve temporarily as chairperson.

18 (f) The Board of Pardons and Paroles shall have independent  
19 decision-making authority to (1) grant or deny parole in accordance  
20 with sections 54-125, 54-125a, 54-125e and 54-125g, medical parole in  
21 accordance with the provisions of sections 54-131a to 54-131g, inclusive,  
22 as amended by this act, or compassionate parole in accordance with the  
23 provisions of section 54-131k, as amended by this act, (2) establish  
24 conditions of parole, medical parole, compassionate parole or special  
25 parole supervision in accordance with section 54-126, (3) rescind or  
26 revoke parole, medical parole, compassionate parole or special parole  
27 in accordance with sections 54-127, as amended by this act, and 54-128,  
28 as amended by this act, (4) grant commutations of punishment or  
29 releases, conditioned or absolute, in the case of any person convicted of  
30 any offense against the state and commutations from the penalty of  
31 death in accordance with section 54-130a, (5) discharge any person on  
32 parole, medical parole or compassionate parole or inmate eligible for  
33 parole from the custody of the Commissioner of Correction pursuant to  
34 section 54-129, and (6) terminate special parole in accordance with  
35 section 54-129.

36 Sec. 2. Section 54-127 of the general statutes is repealed and the  
37 following is substituted in lieu thereof (*Effective October 1, 2021*):

38 The request of the Commissioner of Correction or any officer of the  
39 Department of Correction so designated by the commissioner, or of the  
40 Board of Pardons and Paroles or its chairman shall be sufficient warrant  
41 to authorize any officer of the Department of Correction or any officer  
42 authorized by law to serve criminal process within this state, to return  
43 any convict or inmate on parole, medical parole or compassionate  
44 parole into actual custody; and any such officer, police officer, constable  
45 or state marshal shall arrest and hold any parolee or inmate when so

46 requested, without any written warrant.

47 Sec. 3. Section 54-127a of the general statutes is repealed and the  
48 following is substituted in lieu thereof (*Effective October 1, 2021*):

49 All parole revocation and rescission hearings shall be conducted by  
50 an employee of the Board of Pardons and Paroles. The parole of a person  
51 who has been allowed to go on parole in accordance with subsection (a)  
52 of section 54-125a or section 54-125g, or sections 54-131a to 54-131g,  
53 inclusive, as amended by this act, or section 54-131k, as amended by this  
54 act, or who has been sentenced to a period of special parole in  
55 accordance with subdivision (9) of subsection (b) of section 53a-28, shall  
56 be revoked or rescinded if, after such hearing, the employee  
57 recommends such revocation or rescission and such recommendation is  
58 approved by at least two members of a panel of the board.

59 Sec. 4. Subsection (a) of section 54-128 of the general statutes is  
60 repealed and the following is substituted in lieu thereof (*Effective October*  
61 *1, 2021*):

62 (a) Any paroled inmate, including an inmate allowed to go on parole  
63 pursuant to sections 54-131a to 54-131g, inclusive, as amended by this  
64 act, or section 54-131k, as amended by this act, who has been returned  
65 to any institution of the Department of Correction for violation of such  
66 inmate's parole may be retained in a correctional institution for a period  
67 equal to the unexpired portion of the term of such inmate's sentence at  
68 the date of the request or order for such inmate's return less any  
69 commutation or diminution of such inmate's sentence earned, except  
70 that the Board of Pardons and Paroles may, in its discretion, determine  
71 that such inmate shall forfeit any or all of such earned time, or may be  
72 again paroled by said board.

73 Sec. 5. Section 54-131a of the general statutes is repealed and the  
74 following is substituted in lieu thereof (*Effective October 1, 2021*):

75 [The] A panel of the Board of Pardons and Paroles may determine, in  
76 accordance with sections 54-131a to 54-131g, inclusive, as amended by

77 this act, when and under what conditions an inmate serving any  
78 sentence of imprisonment may be released on medical parole.

79 Sec. 6. Section 54-131b of the general statutes is repealed and the  
80 following is substituted in lieu thereof (*Effective October 1, 2021*):

81 [The] A panel of the Board of Pardons and Paroles may release on  
82 medical parole any inmate serving any sentence of imprisonment,  
83 except an inmate convicted of a capital felony under the provisions of  
84 section 53a-54b in effect prior to April 25, 2012, or murder with special  
85 circumstances under the provisions of section 53a-54b in effect on or  
86 after April 25, 2012, who has been diagnosed pursuant to section 54-131c  
87 as suffering from a terminal condition, disease or syndrome, and is so  
88 debilitated or incapacitated by such condition, disease or syndrome as  
89 to be physically incapable of presenting a danger to society.  
90 Notwithstanding any provision of the general statutes to the contrary,  
91 the Board of Pardons and Paroles may release such inmate at any time  
92 during the term of such inmate's sentence.

93 Sec. 7. Section 54-131k of the general statutes is repealed and the  
94 following is substituted in lieu thereof (*Effective October 1, 2021*):

95 (a) The Board of Pardons and Paroles may grant a compassionate  
96 parole release to any inmate serving any sentence of imprisonment,  
97 except an inmate convicted of a capital felony under the provisions of  
98 section 53a-54b in effect prior to April 25, 2012, or murder with special  
99 circumstances under the provisions of section 53a-54b in effect on or  
100 after April 25, 2012, if [it] the panel finds that such inmate (1) is so  
101 physically or mentally debilitated, incapacitated or infirm as a result of  
102 advanced age or as a result of a condition, disease or syndrome that is  
103 not terminal as to [be physically incapable of presenting a] present a  
104 significantly reduced risk of danger to society, and (2) (A) has served  
105 not less than one-half of such inmate's definite or aggregate sentence, or  
106 (B) has served not less than one-half of such inmate's remaining definite  
107 or aggregate sentence after commutation of the original sentence by the  
108 Board of Pardons and Paroles.

109 (b) (1) During a major disaster or an emergency declaration by the  
110 President of the United States covering any part of the state, or an  
111 emergency declaration issued by the Governor, that shall include, but  
112 need not be limited to, those declarations issued concerning the COVID-  
113 19 pandemic, any other disease epidemic or public health emergency or  
114 a natural disaster, a panel of the Board of Pardons and Paroles may grant  
115 a compassionate parole release to any inmate serving any sentence of  
116 imprisonment, except an inmate convicted of a capital felony under the  
117 provisions of section 53a-54b in effect prior to April 25, 2012, or murder  
118 with special circumstances under the provisions of section 53a-54b in  
119 effect on or after April 25, 2012, at any time during the term of such  
120 inmate's sentence, if the panel finds circumstances exist which pose a  
121 higher risk of harm to such inmate should he or she remain confined.

122 (2) For purposes of this subsection, "COVID-19" means the  
123 respiratory disease designated by the World Health Organization on  
124 February 11, 2020, as coronavirus 2019, and any related mutation thereof  
125 recognized by said organization as a communicable respiratory disease.

126 ~~[(b)]~~ (c) Any person granted a compassionate parole release pursuant  
127 to this section shall be released subject to such terms and conditions as  
128 may be established by the Board of Pardons and Paroles and [shall be  
129 supervised by the Department of Correction] the rules and regulations  
130 established pursuant to section 54-126.

131 (d) The chairperson of the Board of Pardons and Paroles may appoint  
132 a special panel to implement the provisions of this section and review  
133 and decide requests for compassionate parole under this section on an  
134 emergency basis, and in all cases shall act in as expeditious a manner as  
135 possible.

136 (e) The provisions of this section shall not affect an inmate's eligibility  
137 for any other form of parole or release provided by law.

138 Sec. 8. Section 18-81nn of the general statutes is repealed and the  
139 following is substituted in lieu thereof (*Effective from passage*):

140 (a) Any correction officer who witnesses another correction officer  
 141 use what the witnessing correction officer objectively knows to be  
 142 excessive or illegal use of force shall intervene and attempt to stop such  
 143 other correction officer from using such force. Any correction officer  
 144 who fails to intervene in such an incident may be prosecuted and  
 145 punished in accordance with the provisions of section 53a-8 for the same  
 146 acts as the correction officer who used unreasonable, excessive or illegal  
 147 force.

148 (b) Any correction officer who witnesses another correction officer  
 149 use what the witnessing correction officer objectively knows to be  
 150 unreasonable, excessive or illegal use of force or is otherwise aware of  
 151 such use of force by another correction officer shall report, as soon as is  
 152 practicable, such use of force to the witnessing correction officer's  
 153 immediate supervisor. Such supervisor shall immediately report such  
 154 use of force to the immediate supervisor of the correction officer who is  
 155 reported to have used such force. Any correction officer required to  
 156 report such an incident who fails to do so may be prosecuted and  
 157 punished in accordance with the provisions of sections 53a-165 to 53a-  
 158 167, inclusive.

159 (c) The Department of Correction or any employee of the department  
 160 shall not take any retaliatory personnel action or discriminate against a  
 161 correction officer because such correction officer intervened in an  
 162 incident pursuant to subsection (a) of this section or reported an incident  
 163 pursuant to subsection (b) of this section. Such intervening or reporting  
 164 correction officer shall be protected by the provisions of section 4-61dd  
 165 or 31-51m, as applicable.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	54-124a(e) and (f)
Sec. 2	October 1, 2021	54-127
Sec. 3	October 1, 2021	54-127a
Sec. 4	October 1, 2021	54-128(a)
Sec. 5	October 1, 2021	54-131a

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Sec. 6	<i>October 1, 2021</i>	54-131b
Sec. 7	<i>October 1, 2021</i>	54-131k
Sec. 8	<i>from passage</i>	18-81nn

**Statement of Legislative Commissioners:**

In Section 1(e)(1), the new language was moved for clarity, and in Section 7, Subsecs. (b) and (c) were made Subsecs. (b)(1) and (2) and the remaining Subsecs. were renumbered and the notwithstanding language was deleted for accuracy and to conform with standard drafting conventions.

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Correction, Dept.	GF - Potential Savings	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill makes various changes regarding compassionate or medical parole resulting in a potential marginal savings to the Department of Correction (DOC) to the extent inmates are released sooner from DOC facilities as a result of the bill. On average, the annual marginal savings to the state for releasing an offender is \$2,200.<sup>1</sup>

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of inmates receiving compassionate or medical parole.

<sup>1</sup> Inmate marginal savings is based on decreased consumables (e.g. food, clothing, water, sewage, living supplies, etc.). This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility closed.



**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)