

AB 960

Compassionate Release

Assemblymember
Phil Ting
19TH DISTRICT



SUMMARY

AB 960 would streamline and improve California's Compassionate Release program under the California Department of Corrections and Rehabilitation (CDCR) in order to address our State's most vulnerable population's needs.

BACKGROUND

According to a 2004 study by the National Institute of Corrections, the average annual cost of incarcerating people age 55 and older with chronic and terminal illnesses is two to three times above the average. Additionally, a 2016 study by the U.S. Department of Justice concluded that the recidivism rate for individuals released through the federal compassionate release program was 3.5 percent.

The Recall of Sentence process under California law, also known as compassionate release resentencing, allows courts to consider and resentence individuals to time served if doing so would not pose a threat to public safety. To be eligible for recall and resentencing, an individual must have a terminal illness that will lead to death within 12 months or be permanently medically incapacitated, requiring 24-hour care. Medical eligibility is established by and confirmed by licensed health care professionals within CDCR. Once a person has been deemed to meet the medical criteria, the CDCR Secretary must sign off on the case in order for the court to consider the case.

Despite reforms in 2020, the eligibility criteria for the Compassionate Release program remain too narrow and the process too cumbersome. As a result, very few people are granted relief and, consequently, many die while awaiting a referral to the court. For instance, between January 2015 and

April 2021, 306 people were referred for compassionate release, yet 95 people died before the process could be completed and only 53 people were successfully released. Of the most prominent factors for rejection was the Secretary's denial for referral to the courts, despite their medical eligibility and the courts ability to determine public safety risk.

A functioning compassionate release system is crucial as concerns about crime continue to grow in California. Too many tax dollars are spent on incarcerating people who are nearing death and those who require round-the-clock attention, despite the fact that they pose the lowest risk to public safety.

Medically high-risk people, including those with end-stage cancers and advanced dementia, cannot get their basic needs adequately met in CDCR facilities.

Improving California's Compassionate Release program has new urgency as Medical Parole has been greatly curtailed because nursing homes cannot receive Medicaid reimbursements for people serving medical parole. Consequently, the State is spending more money to cover costly health care services for a population that is nearing death or requiring thoughtful medical attention.

THIS BILL

AB 960 is a thoughtful, comprehensive approach to improving the Compassionate Release program. The bill:

- Codifies timelines to ensure timely responses to applications,
- Establishes a presumption in favor of the individual unless the Court finds they are a risk to public safety,
- Expands medical eligibility,

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- Allows additional designated, licensed, health care professionals to begin compassionate release process,
- Requires a health care professional be available to attend the individual's court hearing,
- Ensures a person's due process rights to an attorney,
- Removes the Secretary from the approval process, and
- Includes data reporting.

SPONSORS

California Coalition for Women Prisoners (Co-Sponsor)
FAMM (Co-Sponsor)
Root & Rebound (Co-Sponsor)
UnCommon Law (Co-Sponsor)
Union of American Physicians and Dentists (Co-Sponsor)
White Coats for Black Lives (Co-Sponsor)

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