Delaware provides compassionate release to eligible incarcerated individuals with serious mental or physical conditions under two separate laws:

- Eligible individuals serving sentences for crimes committed on or after June 30, 1999, may be considered for **Sentence Modification**.[1]

- Eligible individuals serving sentences for crimes committed before June 30, 1999, (sometimes referred to as "old law prisoners") may be considered for **Medical Parole**.[2]

SENTENCE MODIFICATION

For incarcerated individuals serving sentences of more than one year at Level V, sentencing courts retain jurisdiction to modify the sentences and reduce the time the individuals serve.[3] Individuals are eligible to apply for a Sentence Modification if they (1) have a serious medical illness or infirmity; (2) are 60 years of age older, have served at least 15 years of their sentence, and apply based on rehabilitation; or (3) have served at least 25 years of their sentence and apply based on rehabilitation.[4]

I. ELIGIBILITY

Medical Condition – An individual with a "serious" medical illness or infirmity may be eligible for a Sentence Modification.[5] An individual has a serious medical illness or infirmity if they are cognitively incapacitated, permanently physically incapacitated, severely ill, or terminally ill.[6] These terms are defined as follows.

- Cognitively incapacitated means the individual has a cognitive condition that impairs activities of daily living and causes incarceration to be "nonpunitive and non-rehabilitative."[7] Activities of daily living include feeding, toileting, dressing, and bathing.[8] An example of a cognitive condition is dementia.[9]

- Permanently physically incapacitated is defined in two ways.

    - The individual has a physical condition caused by injury, disease, or illness that is "permanently and irreversibly" incapacitating so that the individual needs help with most activities of daily living or no "significant" physical activity is possible.[10] Activities of daily living include feeding, toileting, dressing, and bathing.[11] An example of permanent physical incapacitation is a persistent vegetative state.[12]

    - The individual has an incurable progressive condition that "substantially" diminishes their capacity to function in a correctional setting.[13]

- Severely ill means the individual has a "significant and permanent or chronic" physical or mental condition that requires extensive treatment with little to no possibility of recovery and significantly impairs rehabilitation.[14]

- An individual is terminally ill if they have a condition caused by disease, illness, or injury, which to a "reasonable degree of medical certainty" will lead to profound functional, cognitive, or physical decline and death is likely within 18 months.[15]

Age – An incarcerated individual is also eligible for Sentence Modification if they are 60 years of age or older, have served 15 years of their original sentence, and apply based on their rehabilitation.[16] Rehabilitation means the individual has been restored to "a useful and constructive place in society" as demonstrated in part by vocational, correctional, or therapeutic training.[17]

Exclusions – Delaware law makes no mention of any individual who is ineligible to apply. In addition, there is no "minimum time served" requirement if a Sentence Modification request is based solely upon an incarcerated individual's serious medical illness or infirmity.[18]

II. APPLICATION OR REFERRAL

The Department of Correction (Department) must biennially determine if an individual is eligible for Sentence Modification and whether the Department recommends the individual for Sentence Modification.[19] If the Department recommends a modification, the Department, with the individual's consent, must file an application with the Court.[20] Applications for Sentence Modification may also be filed by an incarcerated individual or the individual's attorney based on a medical condition or age at any time.[21] The Department may also file an application outside the biennial review if based on a medical condition.[22]

An individual has the right to counsel while the Department is completing their eligibility review and the Department must provide individuals with information on their right to counsel.[23] The individual or their attorney must be allowed access to any information the Department has that is necessary for the application.[24] The individual or their attorney may supplement or amend an application submitted by either the Department or the individual.[25]

III. DOCUMENTATION AND ASSESSMENT

Department Review – If the Department recommends Sentence Modification, it must include a written statement with the application that lists the eligibility requirements the individual meets.[26] The Department must provide notice of filing to the individual, the individual's attorney, or the Office of Defense Services.[27]

If the Department does not recommend Sentence Modification, the Department must provide the reasons in writing to the individual, their attorney, or the Office of Defense Services.[28] If the Department does not recommend Sentence Modification, the individual or their attorney may file an application with the Court if the individual meets the eligibility criteria and must attach a copy of the Department's reasons for not recommending.[29]

Motion – The Superior Court of Delaware provides instructions on filing a motion for a Sentence Modification and a form for the Department or the individual or their attorney to fill out.[30] The motion must include all grounds for relief and supporting facts, date of sentencing, and name of the sentencing judge.[31] The Department or the individual or their attorney may attach documentation as exhibits.[32] The Department, or the individual or the individual's attorney must submit the original motion document to the prothonotary in the county that sentenced the individual and mail a copy of the signed motion to the Delaware Attorney General with the provided Certificate of Service form.[33]

IV. DECISION-MAKING PROCESS

Decision-Maker – The incarcerated individual's sentencing court may grant or deny the application for a Sentence Modification.[34]

Decision Criteria – The Court may modify a sentence if the court is authorized to do so, finds good cause for modification, and determines the individual's release does not pose a substantial risk to the community, a victim or witness, or the individual.[35] "Good cause" is a finding of rehabilitation, serious medical illness or infirmity, or prison overcrowding.[36] The Court's review must include a review of the facts of the offense including the underlying circumstances, felony classification, and length of sentence.[37]

For an application based on a serious medical illness or infirmity, the Court must consider the diagnosis, likelihood of recovery, ability of the Department to meet the individual's medical needs, and the impact continued incarceration may have on the provision of medical care in the Department.[38] For an application based on rehabilitation, the Court must consider the individual's participation in programs, such as drug and alcohol treatment, education, or employment.[39]

Notice and Victim Rights – The Court must provide the Department of Justice and victim with a "reasonable period" of time to be heard in writing or in person.[40]

Victims generally have a right to be notified of requests for postconviction remedies, related hearings, and results of a postconviction decision.[41] They also have a right to a voice in the process. The Department of Justice must make a reasonable attempt to notify the victim of a sentence reduction or modification order or any request for a postconviction remedy, including hearings and resulting decisions.[42]

Decision – The Court may grant or deny Sentence Modification on receipt of the application or request further information.[43] Court rules state a motion for Sentence Modification will be considered without a hearing unless otherwise ordered by the Court.[44] If an application is based on a serious medical illness or infirmity, the Court may require the Department provide a medical release plan.[45] That plan may include the proposed course of treatment, proposed site for treatment, and the insurance program in place to cover care.[46]

The Court must put its findings of the criteria on the record and provide its rationale for granting or denying an application.[47] The Court may summarily dismiss an application if the individual is not eligible, the application is a subsequent application submitted before the allowed timeframe, the Department's required statement is not included, or the Court determines dismissal is appropriate.[48]

V. POST-DECISION

Denials – If the Court denies a Sentence Modification because the individual's release is determined to be a substantial risk or for lack of good cause, the individual may not apply again for a period determined by the Court.[49] If the Court denies a Sentence Modification based on a serious medical illness or infirmity, the individual may reapply after 60 days if there is a material change in circumstance.[50] The rules for the Superior Court of Delaware state the Court will not "consider repetitive requests for reduction of sentence."[51]

Discharge Planning – The Department provides discharge planning for individuals incarcerated for at least 30 days in a Level 4 or 5 facility who have been diagnosed with a serious medical or behavioral health condition, a physical or intellectual disability, or are over 65 years of age.[52]

Medical discharge planning for a medical health condition may include the following.

- Scheduling follow-up appointments in the community.
- Providing a 30-day supply of non-controlled medication or a 7-day supply of controlled medication.
- Educating the individual on medication and management of their condition.
- Referring individuals for follow-up services, specialists, case management programs, or admission to a hospital as needed.[53]

Discharge planning for behavioral health conditions may include the following.

- Arranging for continuity of care for psychotropic medication.
- Ensuring enrollment in public insurance before discharge.

- Assisting with applications for public benefits, disability benefits, and housing.

- Referring individuals for hospitalization, long-term care, or community mental health services as needed.

- Referring individuals to the Division of Developmental Disabilities Services, case management services, and behavioral health services via Delaware Treatment Referral Network.[54]

When an individual is released, they are provided with the relevant health care information they may need, including the following.

- Diagnosis, list of recent hospitalizations or surgeries, list of allergies, and diagnostic test results.

- Patient action plan and instructions.

- Medication list and reason for prescription.

- Schedule of upcoming appointments and provider information.

- List of immunizations received during incarceration and proof of vaccination.

- Instructions for reentry needs and how to access health records.[55]

No information specific to release or supervision for Sentence Modification is available at the time this memo was published.

VI. REPORTING AND STATISTICS

Starting in 2026, the Delaware Statistical Analysis Center (Center) is required to make an annual report with information from the Department of Correction and the Delaware Courts, publish it on its website, and submit it to the Chair of the Senate Corrections and Public Safety Committee, Chair of the House of Representatives Corrections Committee, Chief Justice, Attorney General, Chief Defender, Director of the Division of Legislative Services, State Archivist, and Governor.[56]

The report must include the following information provided by the Department.

- Number of individuals determined to be eligible for Sentence Modification.

- Number of applications submitted to the Courts by the Department and the basis for the applications.

- Number of individuals the Department did not recommend for Sentence Modification and the reasoning.

- Number of individuals released from Level V custody via Sentence Modification and the basis for the applications.

- Number of individuals receiving full-time medical care or assistance with activities of daily living within Department facilities, whether the care is provided by a medical practitioner or other professional.

- Number of individuals who spent more than one month in hospital care outside Department facilities.

- The demographic data for each of these sets, including race, ethnicity, gender, age, and correctional facility for each individual.[57]

The Courts must provide the following information for the report.[58]

- Number of individuals granted a Sentence Modification.

- Number of individuals denied a Sentence Modification.

- Number of individuals whose application is summarily dismissed.[59]

The Center must also report demographic data for each set of individuals, including race, ethnicity, gender, age, basis of application, and correctional facility for each individual.[60] The fiscal note for Senate Bill 10 estimates 2,498 individuals are eligible to apply for Sentence Modification under any of the criteria in effect January 2026.[61] Based on the age-related criteria alone, an estimated 124 individuals are eligible; there is no estimate on how many individuals are eligible based only on the serious medical illness or infirmity criteria.[62]

MEDICAL PAROLE

I. ELIGIBILITY

Medical Condition – Eligibility for Medical Parole has the same criteria as eligibility for a Sentence Modification for a serious illness or infirmity.[63] An individual has a serious medical illness or infirmity if they are cognitively incapacitated, permanently physically incapacitated, severely ill, or terminally ill.[64] These terms are defined as follows.

- Cognitively incapacitated means the individual has a cognitive condition that impairs activities of daily living and causes incarceration to be "nonpunitive and non-rehabilitative."[65] Activities of daily living include feeding, toileting,

dressing, and bathing.[66] An example of a cognitive condition is dementia.[67]

- Permanently physically incapacitated is defined in two ways.
    - The individual has a physical condition caused by injury, disease, or illness that is "permanently and irreversibly" incapacitating so that the individual needs help with most activities of daily living or no "significant" physical activity is possible.[68] Activities of daily living include feeding, toileting, dressing, and bathing.[69] An example of permanent physical incapacitation is a persistent vegetative state.[70]
    - The individual has an incurable progressive condition that "substantially" diminishes their capacity to function in a correctional setting.[71]
- Severely ill means the individual has a "significant and permanent or chronic" physical or mental condition that requires extensive treatment with little to no possibility of recovery and significantly impairs rehabilitation.[72]
- An individual is terminally ill if they have a condition caused by disease, illness, or injury, which to a "reasonable degree of medical certainty" will lead to profound functional, cognitive, or physical decline and death is likely within 18 months.[73]

Exclusions – Delaware law makes no mention of any individual who is ineligible to apply. In addition, there is no "minimum time served" requirement if a Sentence Modification request is based solely upon an incarcerated individual's serious medical illness or infirmity.[74]

II. APPLICATION OR REFERRAL

The Department of Correction (Department) must recommend individuals who meet eligibility criteria to the Delaware Board of Parole (Board).[75] An incarcerated individual may also request their case be heard by the Board.[76] There is currently no further information on the application process for Medical Parole.

III. DOCUMENTATION AND ASSESSMENT

There is currently no information on what documentation or assessment may be needed for Medical Parole. Previously, the Department would provide documentation on the individual's physical or medical condition and acceptance for treatment at an appropriate institution after release.[77] For parole generally, the Department submits a progress report and a parole plan with an application and provides any information the Board requests, such as the individual's institutional plan and relevant material on the individual's relatives or community.[78]

IV. DECISION-MAKING PROCESS

Decision-Maker – The Delaware Board of Parole makes all final Medical Parole decisions.[79] There is currently no information on the parole process specific to Medical Parole. The Board's rules do not specify which, if any, of its general procedures and guidelines apply to Medical Parole cases it considers.[80]

Parole Term – For parole generally, the parole term is until the expiration of the maximum term of sentence or the Board orders an individual discharged.[81] An individual must serve one year minimum on parole before being discharged, unless the sentence expires earlier.[82]

Notice and Victim Rights – For parole generally, the Board must notify victims at least 30 days before a scheduled hearing.[83] Victims have the right to address the Board in writing or in person.[84] Victims also have the right to notice of an individual's release date.[85]

The Board must notify the Attorney General of the hearing and publish the hearing information in a newspaper at least 30 days before the hearing.[86] The Board also notifies the Bureau of Community Corrections, Office of Defense Services, and the individual's attorney of the hearing.[87]

Hearings – For parole generally, the Board allows for outside input in support of or in opposition to an individual's parole; prior to the hearing, presenters must provide a reason for attending and may not exceed five minutes.[88] Written information must be submitted at least one week prior to the hearing.[89]

Conditions – The Board may impose conditions on the individual.[90] For parole generally, the Board may add conditions at any time and the individual may request an amendment to conditions.[91]

Factors – There is no information on how the Board assesses risk for Medical Parole. For parole generally, the Board considers the following factors when deciding on parole.

- Prior criminal history.
- Prior performance under supervision.
- Indications of violent behavior during incarceration and offense patterns suggesting a disregard for community safety.
- Rehabilitative efforts, such as addressing substance abuse, education, or vocational training.

- Input from prison counselors, victims, treatment providers, and other individuals including police agencies, family members, and community members.
- Institutional conduct, including attitudes towards correctional staff.
- Time served.
- Mental health evaluation results.
- Victim restoration.
- Release plan.
- Offense and attitude towards crime.[92]

Decision – If the Board is satisfied that good cause exists based on serious medical illness or infirmity and that the individual's release does not pose a "substantial risk" to the community, a victim or witness, or the individual, the Board may order release.[93] The Board must provide notice to victims and the Attorney General of its decision and publish the results in the newspaper no later than 10 days after the hearing.[94] There is no further information on release provided.

V. POST-DECISION

Denials and Appeals – For parole generally, when the Board denies parole, it must provide the incarcerated individual with the reasons for the denial in writing.[95] If the incarcerated individual is eligible for a rehearing, the Board will either provide information on the earliest rehearing application date[96] or order that no further consideration be given.[97] The Board can consider an early hearing or rehearing date if there are medical treatment concerns.[98]

The Board may review any of its decisions if it receives "information of substantial significance" that was unavailable on the date of the hearing and that could have influenced its decision.[99] A request for review must be made by the individual or the individual's attorney **and** the Department in writing within 30 days of the decision or within 30 days of knowledge of new information.[100]

Discharge Planning – The Department provides discharge planning for individuals incarcerated for at least 30 days in a Level 4 or 5 facility who have a diagnosed serious medical or behavioral health condition, a physical or intellectual disability, or is over 65 years of age.[101]

Medical discharge planning for a medical health condition may include the following.

- Scheduling follow-up appointments in the community.

- Providing a 30-day supply of non-controlled medication or a 7-day supply of controlled medication.
- Educating the individual on medication and management of their condition.
- Referring individuals for follow-up services, specialists, case management programs, or admission to a hospital as needed.[102]

Discharge planning for behavioral health conditions may include the following.

- Arranging for continuity of care for psychotropic medication.
- Ensuring enrollment in public insurance before discharge.
- Assisting with applications for public benefits, disability benefits, and housing.
- Referring individuals for hospitalization, long-term care, or community mental health services as needed.
- Referring individuals to the Division of Developmental Disabilities Services, case management services, and behavioral health services via Delaware Treatment Referral Network.[103]

When an individual is released, they are provided with relevant health care information, including the following.

- Diagnosis, list of recent hospitalizations or surgeries, list of allergies, and diagnostic test results.
- Patient action plan and instructions.
- Medication list and reason for prescription.
- Schedule of upcoming appointments and provider information.
- List of immunizations received during incarceration and proof of vaccination.
- Instructions for reentry needs and how to access health records.[104]

Revocation – The Board can revoke Medical Parole without a hearing "at any time and for any cause" and order the individual returned to Department custody.[105] Violations of parole generally result in the individual being returned to custody pending a hearing.[106] If the Board decides to follow the violation process for parole generally, a preliminary hearing occurs within ten days of the violation report to

determine if probable cause exists that a violation of parole has occurred on "technical" grounds.[107] The Board must attempt to hold a final hearing within two months of learning an individual has a new conviction or receipt of results of the preliminary hearing.[108] The individual has the following rights for a revocation hearing: advanced written notice of the hearing and alleged violations; written copy of charges; presence of counsel or to have appointed counsel; opportunity to be heard, present evidence, and cross-examine witnesses; and a timely written decision.[109] If parole is revoked, the individual serves the remainder of their sentence.[110]

VI. REPORTING AND STATISTICS

There is no publicly available information on the number of individuals granted Medical Parole.

DELAWARE COMPASSIONATE RELEASE
PRIMARY LEGAL SOURCES

SENTENCE MODIFICATION

Statute

Delaware Code, Title 11, § 4217 (amended version effective Jan. 10, 2026), available through the Delaware General Assembly, https://delcode.delaware.gov/title11/c042/index.html (click " § 4217" link at top of page).

Court Rules

Superior Court of Delaware, Rule 35, *Rules of Criminal Procedure for the Superior Court of the State of Delaware* (2025), https://courts.delaware.gov/forms/download.aspx?id=304498 (start at source link https://courts.delaware.gov/rules/ and scroll to "Superior Court" heading, then click link for "Rules for Criminal Procedure, Superior Court of Delaware").

MEDICAL PAROLE

Statute

Delaware Code, Title 11, § 4346(e) (amended version effective Jan. 10, 2026), available through the Delaware General Assembly at https://delcode.delaware.gov/title11/c043/sc04/index.html (click " § 4346" link at top of page).

Rule

62 Delaware Administrative Code § 000-002 (2025), available through the Delaware Board of Parole, https://boardofparole.delaware.gov/rules/.

NOTES

* *Id. means see prior note. Supra means refer to specified note for full citation.*

[1] Del. Code Ann. tit. 11, §§ 4217 (amended version effective Jan. 10, 2026), 4354 (2025).

Note Delaware changed its Sentence Modification statute and related statutes in 2025 (Richard 'Mouse' Smith Compassionate Release Act, S. Substitute 1 for S.B.10, 153rd Gen. Assemb., (Del. 2025), https://legis.delaware.gov/BillDetail/142344). This memo cites to the version of the statutes that will be in effect beginning January 10, 2026.

The Truth in Sentencing Act of 1989 abolished parole in Delaware and established the Sentence Modification process for individuals eligible for a reduction in sentence under certain circumstances for crimes committed on or after June 30, 1990. (Truth in Sentencing Act of 1989, S.B. 58, 135th Gen. Assemb., (Del. 1989), https://legis.delaware.gov/SessionLaws/Chapter?id=21933).

[2] Del. Code Ann. tit. 11, §§ 4346(e) (amended version effective Jan. 10, 2026), 4354 (2025).

Note the Medical Parole statute was also affected by the 2025 changes (Richard 'Mouse' Smith Compassionate Release Act, S. Substitute 1 for S.B.10, 153rd Gen. Assemb., (Del. 2025)). This memo cites to the version of the statute that will be in effect beginning January 10, 2026.

Under the Truth in Sentencing Act, Medical Parole applies only to incarcerated individuals serving sentences for crimes committed prior to June 30, 1990 (Truth in Sentencing Act of 1989, S.B. 58, 135th Gen. Assemb., (Del. 1989)).

[3] Del. Code Ann. tit. 11, § 4217(a)(1)-(2); Superior Court of Delaware, Rule 35, *Rules of Criminal Procedure for the Superior Court of the State of Delaware* 33 (2025) [hereinafter *Rules for the Superior Court*], https://courts.delaware.gov/forms/download.aspx?id=304498 (start at source link https://courts.delaware.gov/rules/ and scroll to "Superior Court" heading, then click link for "Rules of Criminal Procedure, Superior Court of Delaware").

Note the *Rules for the Superior Court* have not been updated since the most recent statutory changes and may change, however, as they are not in conflict with the changes to the statute they are cited in this memo as needed. Additionally, a Sentence Modification is sometimes referred to as a "reduction of sentence."

Note Delaware also allows for a Sentence Modification for sentences of one year or less, however, this is outside the scope of this memo (Del. Code Ann. tit. 11, § 4221 (2025)).

[4] Del. Code Ann. tit. 11, § 4217(a)(3). For purposes of this memo, eligibility solely based on time served and rehabilitation will not be discussed.

Note that Delaware also allows individuals to apply for Sentence Modification generally and not based on age, illness, or rehabilitation. S*ee id.* § 4217(a)(5). For Sentence Modification generally, individuals serving sentences for violent felonies are not eligible for Sentence Modification until they have served at least half of their sentence, and those serving mandatory terms are not eligible for a Sentence Modification during the mandatory portion of their sentence (*Id.*).

Violent felonies include first- and second-degree assault, vehicular homicide and assault, manslaughter, first- and second-degree murder, murder by abuse or neglect, rape, first- and second-degree sexual contact, first- and second-degree kidnapping, various child sexual abuse offenses, first- and second-degree burglary, first- and second-degree robbery, first- and second-degree arson, first- and second-degree carjacking, hate crimes, stalking, various weapons offenses, various drug offenses, and attempts to commit any of these offenses (*Id.* § 4201(c)). *See id.* for specific list. For the purposes of this memo, Sentence Modification generally will not be discussed further.

[5] *Id.* § 4217(a)(3)(a).

[6] *Id.* § 4217(c)(4).

[7] *Id.* § 4217(c)(4)(a).

[8] *Id.*

[9] *Id.*

[10] *Id.* § 4217(c)(4)(b)(1).

[11] *Id.*

[12] *Id.*

[13] *Id.* § 4217(c)(4)(b)(2).

[14] *Id.* § 4217(c)(4)(c).

[15] *Id.* § 4217(c)(4)(d).

[16] *Id.* § 4217(a)(3)(b).

[17] *Id.* § 4217(c)(3).

[18] *Id.* § 4217 (a)(4).

[19] *Id.* § 4217(d)(1).

Note Department policy states that when a responsible physician determines care in the community is preferable for a terminally ill individual, a review is made to determine if a recommendation for early release is appropriate. *See* Delaware Department of Correction, Policy No. 11-F-07, *Care for the Terminally Ill* 2 (Nov. 12, 2021), https://doc.delaware.gov/assets/documents/policies/policy_11-F-07.pdf (start at source page https://doc.delaware.gov/views/policy_and_regulations.blade.shtml and scroll to "11. Medical Services" then to "Section F Special Needs and Services" and click "show more" box to the right, then click link for "11-F-07 Care for the Terminally Ill").

[20] Del. Code Ann. tit. 11, § 4217(d)(2)(a).

Note "Court" in this memo refers to the individual's sentencing court with the jurisdiction to modify the individual's sentence.

[21] *Id.* § 4217(b)(2).

Note whichever party files the application must provide a copy to the Department of Justice (*Id.* § 4217(b)(10)).

[22] *Id.* § 4217(b)(2)(c).

[23] *Id.* § 4217(b)(7)(a).

Note the individual may either retain a private attorney at their own expense, request the Court refer them to the Office of Defense Services, or proceed without an attorney under Court rules (*Id.* § 4217(b)(7)(b)-(d)). If an individual's application is not summarily dismissed, they must be referred to the Office of Defense Services (*Id.* § 4217(b)(7)(c)).

[24] *Id.* § 4217(b)(8).

[25] *Id.* § 4217(b)(9).

[26] *Id.* § 4217(b)(3)(a), (d)(2)(b).

Note if the application is based on a medical condition, the written statement is not required (*Id.* § 4217(b)(3)(b)).

[27] *Id.* § 4217(d)(2)(c).

[28] *Id.* § 4217(d)(3)(a)-(b).

[29] *Id.* § 4217(d)(4).

[30] Note the form says the Department files the motion, however, under the statutory changes in effect January 2026, an individual or their attorney may file as well. *See id.*

[31] Superior Court of Delaware, *Motion for Reduction/Modification of Sentence Instructions* 1 (July 3, 2008), https://courts.delaware.gov/Forms/Download.aspx?id=6118 (start at source link https://courts.delaware.gov/forms/ and search "sentence").

Note the motion form has not been updated to reflect recent statutory changes and the form and process may change.

[32] *Id.*

[33] *Id.*

[34] Del. Code Ann. tit. 11, § 4217(a)(1).

[35] *Id.* § 4217(b)(1), (b)(4)(a).

[36] *Id.* § 4217(c)(1).

[37] *Id.* § 4217(b)(4)(a).

[38] *Id.* § 4217(b)(4)(c).

[39] *Id.* § 4217(b)(4)(b).

[40] *Id.* § 4217(e)(3).

[41] *Id.* § 9403(7)(b), (8).

[42] *Id.* § 9411(12), (13).

[43] *Id.* § 4217(e)(1).

[44] *Rules for the Superior Court*, *supra* note 3.

[45] Del. Ann. Code tit. 11, § 4217(e)(2).

[46] *Id.*

The insurance program may be eligibility for enrollment in commercial insurance, Medicare, or Medicaid or access to other resources, including partnerships with agencies or organizations.

[47] *Id.* § 4217(b)(5).

[48] *Id.* § 4217(b)(6).

[49] *Id.* § 4217(e)(4). This period may not exceed three years.

[50] *Id.* § 4217(e)(5).

[51] *Rules for the Superior Court*, *supra* note 3.

[52] Delaware Department of Correction, Policy No. 11-E-10, *Discharge Planning* 2 (June 24, 2024), https://doc.delaware.gov/assets/documents/policies/policy_11-E-10.pdf (start at source page https://doc.delaware.gov/views/policy_and_regulations.blade.shtml and scroll to "11. Medical Services" then to "Section E Patient Care and Treatment" and click "show more" box to the right, then click link for "11-E-10 Discharge Planning").

[53] *Id.* at 3-5.

[54] *Id.* at 5-6.

[55] *Id.* at 5-6.

[56] Del. Code Ann. tit. 11, § 4217(i)(1), (i)(2).

[57] *Id.* § 4217(i)(1)(a).

[58] *Id.* § 4217(i)(1)(b)(1).

[59] *Id.* § 4217(i)(1)(b)(1).

[60] *Id.* § 4217(i)(1)(b)(2).

[61] S. Fiscal Note, 153rd Gen. Assemb., S. Substitute No. 1 for S.B. No. 10, at 1 (May 20, 2025), https://legis.delaware.gov/BillDetail/142344 (start at link, then scroll down to “Bill Details” then “Fiscal Note/Fee Impact” and click link “View PDF”).

[62] *Id.*

[63] Del. Code Ann. tit. 11, § 4346(e).

[64] *Id.* § 4217(c)(4).

[65] *Id.* § 4217(c)(4)(a).

[66] *Id.*

[67] *Id.*

[68] *Id.* § 4217(c)(4)(b)(1).

[69] *Id.*

[70] *Id.*

[71] *Id.* § 4217(c)(4)(b)(2).

[72] *Id.* § 4217(c)(4)(c).

[73] *Id.* § 4217(c)(4)(d).

[74] *Id.* § 4217(a)(4).

[75] *Id.* § 4217(e).

Note Department policy states that when a responsible physician determines care in the community is preferable for a terminally ill individual, a review is made to determine if a recommendation for early release is appropriate. *See* Delaware Department of Correction, Policy No. 11-F-07, *Care for the Terminally Ill* 2 (Nov. 12, 2021), https://doc.delaware.gov/assets/documents/policies/policy_11-F-07.pdf (start at source page https://doc.delaware.gov/views/policy_and_regulations.blade.shtml and scroll to "11. Medical Services" then to "Section F Special Needs and Services" and click "show more" box to the right, then click link for "11-F-07 Care for the Terminally Ill").

[76] Del. Code Ann. tit. 11, § 4217(e).

[77] 62 Del. Admin. Code § 000-002(7) (2025).

Note the Delaware Board of Parole (Board) Rules and Regulations have not been updated since 2007.

[78] Del. Code Ann. tit. 11, §§ 4347(d) (2025), 4349 (2025); 62 Del. Admin. Code § 000-002(4).

[79] Del. Code Ann. tit. 11, §§ 4343(1) (2025), 4346(e).

[80] *See* general parole rules at Del. Code Ann. tit. 11, §§ 4341-4352 (2025). *See also* 62 Del. Admin. Code § 000-002(1), (4), (8)-(21), (24) (2025).

[81] Del. Code Ann. tit. 11, § 4347(i); 62 Del. Code Admin. § 000-002(21).

[82] Del. Code Ann. tit. 11, § 4347(i); 62 Del. Code Admin. § 000-002(21).

[83] Del. Code Ann. tit. 11, § 4347(k)(1); 62 Del. Admin. Code § 000-002(9)(d), (10).

[84] Del. Code Ann. tit. 11, §§ 4350(d) (2025), 9403(8)(c); 62 Del. Code Admin. § 000-002(10).

[85] Del. Code Ann. tit. 11, § 9403(3)(e).

[86] *Id.* § 4347(k)(2)-(3); 62 Del. Code Admin. § 000-002(9)(d).

[87] 62 Del. Code Admin. § 000-002(9)(e).

Note the rule uses “Bureau of Community Custody” and “the Office of the Public Defender,” but these names are outdated.

[88] *Id.* § 000-002(11)(a)-(b), (d).

[89] *Id.* § 000-002(11)(d).

[90] Del. Code Ann. tit. 11, § 4346(e).

[91] 62 Del. Code Ann. tit. 11, § 000-002(20).

[92] Delaware Board of Parole, *Factors Considered by the Delaware Board of Parole*, https://boardofparole.delaware.gov/factors-

considered/ (last accessed Sept. 18, 2025).

[93] Del. Code Ann. tit. 11, § 4346(e), referencing Del. Code Ann. tit. 11, § 4217(b)(1)(c).

[94] *Id.* § 4347(l); 62 Del. Code Admin. § 000-002(9)(e).

[95] 62 Del. Admin. Code § 000-002(15).

[96] *Id.*; Del. Code. Ann. tit. 11, § 4347(a).

[97] 62 Del. Admin. Code § 000-002(15).

[98] *Id.* § 000-002(15)(a).

[99] *Id.* § 000-002(16).

[100] *Id.* Note the Department may request a review without the individual.

[101] Delaware Department of Correction, Policy No. 11-E-10, *Discharge Planning* 2 (June 24, 2024), https://doc.delaware.gov/assets/documents/policies/policy_11-E-10.pdf (start at source page https://doc.delaware.gov/views/policy_and_regulations.blade.shtml and scroll to "11. Medical Services" then to "Section E Patient Care and Treatment" and click "show more" box to the right, then click link for "11-E-10 Discharge Planning").

[102] *Id.* at 3-5.

[103] *Id.* at 5-6.

[104] *Id.* at 5-6.

[105] Del. Code Ann. tit. 11, § 4346(e).

[106] *Id.* § 4352(a)-(b) (2025); 62 Del. Admin. Code § 000-002(17)-(18).

[107] 62 Del. Code Admin. Code § 000-62(19)(a).

[108] *Id.* § 000-002(19)(b).

[109] *Id.* § 000-002(19)(b)(1)-(5).

[110] Del. Code Ann. tit. 11, § 4352(g).