



**Written Testimony of Celeste Trusty**  
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**In Support of SB 1560**  
Oregon Senate Committee on Judiciary  
February 6, 2024

I would like to thank the Chair, Vice-Chair, and members of the Senate Committee on Judiciary for the opportunity to submit written testimony in support of SB 1560. This piece of legislation would create a Task Force on Compassionate Medical Release with a mandate to create a report highlighting recommended statutory changes for the upcoming 2025 session, as well as any suggested changes to strengthen institutional policies and procedures. **FAMM supports this effort and encourages the Committee members to vote in favor of SB 1560.**

For more than two decades, FAMM has been a leading voice for measures that allow for the safe release of people who are aging or in declining health from our nation's prisons. Incarceration is meant as a form of punishment and to protect the public, but also meant to rehabilitate, educate, and support people as they prepare for successful return to the community. FAMM believes that people should have ample meaningful opportunities to be released back into the community when their continued incarceration no longer serves any public benefit. At a bare minimum, we should be dedicated to solidifying robust pathways for relief for people who are aging, and those who are too debilitated to further offend, too compromised to benefit from rehabilitation, or too impaired to be aware they are being punished. The state of this dedication in Oregon is woefully lacking.

Since 2018, FAMM has conducted comprehensive research into state compassionate release programs.<sup>1</sup> We maintain a set of memos and report cards

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<sup>1</sup> While we use the term “compassionate release” to describe this authority, we are aware that many jurisdictions have different names for programs that enable early release for qualifying prisoners. Because of what we have learned of the insurmountable barriers to early release programs encountered by many sick and dying prisoners, we believe every program could benefit from taking a compassion-based look at what it means to go through

on our website that document every existing compassionate release program in the 50 states and the District of Columbia.<sup>2</sup> For each jurisdiction we describe eligibility criteria, application requirements, documentation, and decision-making, as well as post-decision and post-release issues. We most recently updated these memoranda in December 2021, including an updated assessment of Oregon’s current Early Medical Release program.

We set out our findings in a report, “Everywhere and Nowhere: Compassionate Release in the States.”<sup>3</sup> Our most disturbing finding was that while nearly every state has some form of compassionate release, it is scarcely used. To understand why this critical mechanism is so severely underused, FAMM examined and reported on the policies and practices that pose barriers to release. We also explored those jurisdictions that exemplify best practices. Finally, we included a set of recommendations for states working to implement or update compassionate release programs.<sup>4</sup>

In 2022, FAMM followed up our 2018 report and subsequent memos with a project in which we graded the medical release policies in all 50 states and the District of Columbia. We graded each policy based on key components of a well-crafted medical release policy, including eligibility criteria, an engaging process, agency policy design, procedures, release planning support, data collection and public reporting, and a right to counsel and appeals. Based on these grading criteria, **Oregon received a failing grade of 22% - the 6<sup>th</sup> lowest score in the entire nation.**<sup>5</sup>

That research and analysis has informed FAMM’s support of recent efforts to reform Oregon’s medical release mechanisms as well as our support for SB 1560. We hope that the Task Force on Compassionate Medical Release can pull together urgently needed reforms for Oregon’s beleaguered medical release policies. Oregon’s current Early Medical Release program has some decent features, but also includes a concerning number of barriers, such as narrow eligibility criteria and missing guidance. This has led to extremely poor outcomes, with only eight people released from 2013 to 2020. In that same period, 11 people died awaiting assessment, decision, or release. Two people granted early parole waited over a year for release

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the process. We call these programs “compassionate release” so that the human experience is foremost in our minds and those of policy makers.

<sup>2</sup> FAMM, Compassionate Release: State Memos (Dec. 2021), <https://famm.org/our-work/compassionate-release/everywhere-and-nowhere/#memos>.

<sup>3</sup> Mary Price, Everywhere and Nowhere: Compassionate Release in the States (June 2018), (Everywhere and Nowhere), <https://famm.org/wp-content/uploads/Exec-Summary-Report.pdf>.

<sup>4</sup> Everywhere and Nowhere, Executive Summary, <https://famm.org/wp-content/uploads/Exec-Summary-2-page.pdf>.

<sup>5</sup> FAMM, Compassionate Release, Oregon State Report Card, Early Medical Release (Oct. 2022); <https://famm.org/wp-content/uploads/or-report-card-final.pdf>.

due to difficulties finding placements.<sup>6</sup> This demonstrates neither dedication to compassion, nor release.

Under SB 1560, the Task Force on Compassionate Medical Release would be ordered to evaluate Oregon's existing medical release statutes, as well as compassionate release programs in other states and the federal system; cost of medical care for people who are very sick or of diminished capacity living in Oregon's prisons, and potential fiscal savings from strengthening and expanding the Early Medical Release program. At a cost of \$140.87 per day, it costs an average of \$51,417.55 annually to incarcerate a person in the Oregon Department of Corrections, with the cost of incarcerating older and sick people significantly higher than for younger people.<sup>7</sup> The Task Force on Compassionate Medical Release would also be tasked with recommending processes for ensuring a quality continuum of care post-release.

The Task Force on Compassionate Medical Release would include an array of representatives, including members from the Oregon General Assembly, Oregon Department of Corrections, independent medical professionals, an advocate for adults in custody, representatives from the Parole Board, and other legal and official experts. Importantly, the task force would include two advocates for survivors of crime, and two formerly incarcerated adults or their family members with lived experience with the medical system in the Department of Corrections.

FAMM supports the creation of the Task Force on Compassionate Medical Release, and the stated goals of presenting findings that would lead to the passage of drastically improved compassionate release statutes in 2025, and streamline and expand existing procedures around medical release in Oregon. FAMM asks the Committee members to support this critical effort for Oregon.

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<sup>6</sup> Letter from Michelle Dodson, Oregon Dept. of Corrections to Hawah Cyllah, FAMM (Jan. 14, 2021) (on file in FAMM Office of the General Counsel).

<sup>7</sup> Oregon Department of Corrections, Issue Brief <https://www.oregon.gov/doc/Documents/agency-quick-facts.pdf>