

The GRACE Act, S. 2471: Increasing Public Safety Through Compassion

The Problem: In 1984, Congress gave the federal Bureau of Prisons (BOP) the power to recommend “compassionate release” for federal prisoners who were elderly, terminally ill, or facing other “extraordinary and compelling circumstances.” But in the last several decades, the process has been neglected, with the following results:

- Families and prisoners often do not know that compassionate release is available;
- Very few compassionate release requests are granted – there have been only 306 grants and more than 2,400 denials since 2014;
- Families and prisoners wait between 4.7 and 6.5 months for an answer to a request;
- Since 2014, 81 families have watched loved ones die in prison before getting a decision on their compassionate release requests.

This neglect harms public safety because elderly and ill prisoners are far less likely to reoffend, but far more expensive to incarcerate, than younger or healthier prisoners. Unnecessarily keeping elderly and ill people in prison depletes public safety resources that could be better invested elsewhere, and it is cruel and inhumane to prisoners and their loved ones who can care for them.

The Solution: The Granting Release and Compassion Effectively (GRACE) Act increases accountability and transparency in the BOP’s management of compassionate release requests by

➤ **Holding the BOP to the same standards as other federal agencies by granting prisoners access to courts when administrative options have been exhausted.**

Under the bill, prisoners seeking compassionate release may file a motion in federal district court:

- Once the prisoner has exhausted all administrative rights to appeal the BOP’s failure to request a compassionate release for the prisoner, or
- Upon expiration of the 30-day period beginning on the date on which the prisoner first submitted the compassionate release request.

➤ **Expediting review of compassionate release requests from terminally ill prisoners.**

The GRACE Act requires that the BOP ensure that

- Families are given prompt notice and an opportunity to visit an incarcerated loved one once he or she is diagnosed with a terminal illness;
- Families or their legal representatives are notified that they may file a compassionate release request on their loved one’s behalf;
- Compassionate release requests submitted by terminally ill prisoners, their families, or their representatives are processed quickly.

➤ **Ensuring that prisoners, their representatives, and their families are given proper notification of the availability of compassionate release.**

The bill requires the BOP to

- Post adequate notice throughout BOP prisons, medical facilities, and prisoner handbooks of the availability of and criteria for compassionate release;
- Ensure that prisoners receive assistance from their families or representatives or BOP staff, if needed, with the preparation, drafting, and submission of a compassionate release request. This assistance is often necessary because many elderly and ill prisoners may not be physically or mentally able to prepare the paperwork themselves.

➤ **Defining “terminal illness” to conform to the U.S. Sentencing Guidelines definition.**

The bill defines “terminal illness” as a “disease or condition with an end-of-life trajectory.” This provision brings federal law in line with the guidelines provided by the U.S. Sentencing Commission.

➤ **Increasing transparency and accountability.**

The GRACE Act would require annual reporting by BOP on its use of compassionate release, including

- How many grants and denials of compassionate release were issued;
- Average wait times for those decisions; and
- Compliance with the notification requirements of the GRACE Act.

Bill Sponsors: Senators Brian Schatz (D-HI), Mike Lee (R-UT), Patrick Leahy (D-VT)

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