

Iowa does not have any compassionate release laws allowing for a prisoner's early release due to a serious or terminal medical condition or advanced age. However, there is at least one well-publicized compassionate release case, discussed below.

IOWA BOARD OF PAROLE

The Iowa Board of Parole (Board) specifically addresses the question of Medical Parole on its *Frequently Asked Questions* web page:

Question: How can we get a hardship or medical parole for our loved one?

Answer: The Board of Parole does not grant paroles due to medical reasons or for family hardship cases.¹ (Emphasis in original.)

The Board rules do not include advanced age, serious medical conditions, or terminal illnesses in its list of factors that must be considered in making parole decisions. However, the rules *do* say the Board will consider other factors "deemed relevant."²

- In 2016, the Board chair commented that a prisoner's health *may* be a factor when considering "regular" parole: "The Board does not grant paroles due to medical reasons or for family hardship cases. However, if a parolee is eligible for parole, an offender's health or medical condition may be taken into account as a 'factor deemed relevant' when considering release at a review hearing."³
- A 2004 Iowa Legislative Services Agency report included a similar statement and also said that elderly and ill prisoners could have their sentences commuted:

The Iowa Board of Parole does grant parole to offenders who pose a limited risk to re-offend due to age or illness. Under current law, only those serving non-mandatory minimum terms, or those who have served the mandatory minimum sentence portion, are eligible for this type of release. Most elderly or ill inmates are serving mandatory minimum terms and are not eligible to be considered for early release. Under current Iowa law, these offenders are eligible to be released through the commutation of sentence process, which is quite lengthy. Case reviews are currently being conducted for requests for executive clemency that were submitted in 1995.⁴

There is no information in the Governor's current Executive Clemency/Commutation webpage, or on the commutation application, that indicates there is any consideration of age or medical condition when making clemency decisions.⁵

COMPASSIONATE RELEASE: KRISTINA FETTERS CASE

In December 2013, the Board granted release to Kristina Fetters, a prisoner with inoperable Stage 4 breast cancer. State and national press coverage referred to her release as “compassionate release,” but the Board said it was simply parole.

- “Granting a ‘compassionate release’ to Kristina Joy Fetters, 33, marks a historic decision by the [Iowa] parole board. Once the state’s youngest inmate serving a life sentence without the possibility of parole, Fetters will be the first Iowa inmate released because of last year’s U.S. Supreme Court ruling that made mandatory life sentences for juveniles unconstitutional.”⁶
- “Fetters’ friends and family pleaded with the parole board, which reviewed her case and determined she would receive better care outside of prison. The board also determined that, while Fetters had not been a model prisoner, she did not pose a threat to society due to her condition.”⁷ (Note that the Board’s reasoning - that Ms. Fetters would receive better care outside of prison and that she did not pose a threat to society because of her condition - resembles the medical parole eligibility criteria in a number of states.)

The case received a lot of publicity and even support from the Governor: “Gov. Branstad believes the Iowa Board of Parole made a thoughtful, humane decision in this case, and thinks they made a good decision.”⁸ Although the publicity reflected Fetters’ notoriety more than an outpouring of support for compassionate release, it generated new discussions on compassionate release and medical parole in Iowa. Kristina Fetters died in a hospice facility approximately eight months after she was released.⁹

LEGISLATIVE ACTIVITY

There is no medical or geriatric parole state legislation currently being considered in the Iowa Legislature. Although there has been significant grassroots activity on criminal justice reform the last few years in Iowa, there is not any visible advocacy on the issue of compassionate release, medical parole, or geriatric parole.¹⁰

In 2011, the Governor signed into law Senate Bill 510, which, among other things, established a Legislative Council “interim study committee” to examine “the treatment and placement options for geriatric and psychiatric patients” housed in Iowa’s correctional facilities. The Inmate Geriatric and Psychiatric Patients Study Committee was tasked with reviewing relevant federal and state programs and policies, including compassionate release, and its 2012 final report included several references to Medical Parole:¹¹

- The Iowa Board of Parole said that it was open to working with the committee regarding medical parole but that it was concerned about public safety.¹²
- Prior to enacting any form of geriatric or medical parole, the Board suggested the General Assembly conduct public hearings to develop support.¹³

The final Committee report included a recommendation that the Governor establish an

executive branch task force to further study the issue of medical parole.¹⁴ However, there is no publicly available information indicating that this was ever done.

NOTES

¹ Iowa Board of Parole, Frequently Asked Questions/Information, <http://www.bop.state.ia.us/BoardFAQ>.

² Iowa Admin. Code r. 205-8.10(1).

³ Robina Institute of Criminal Law and Criminal Justice/University of Minnesota, Profiles in Parole Release and Revocation: Examining the Legal Framework in the United States - Iowa (2016), 9, quoting correspondence on Aug. 4, 2016 with John F. Hodges, Chair of the Iowa Board of Parole, <https://robinainstitute.umn.edu/publications/profiles-parole-release-and-revocation-iowa>.

⁴ Iowa Legislative Services Agency/Fiscal Services, "Medical Costs of the State Prison System," Issue Review, Oct. 26, 2004, at 3, <https://www.legis.iowa.gov/docs/publications/IR/2739.pdf>.

⁵ See Office of the Governor or Iowa, Frequently Asked Questions - Commutation, at <https://governor.iowa.gov/documents/faq-commutation>, and Application for Commutation, at <https://governor.iowa.gov/documents/faq-commutation>.

⁶ See Grant Rodgers, "Killer Fetters release is first of its kind in Iowa," Des Moines Register, Dec. 4, 2013, <https://www.desmoinesregister.com/story/news/2013/12/04/killer-fetters-release-is-first-of-its-kind-in-iowa/3866105/>, referencing the Supreme Court decision in *Miller v. Alabama*, 567 U.S. 469 (2012).

⁷ Gabrielle Levy, "Dying inmate with life sentence paroled for cancer treatment," UPI Home/Blog, Dec. 4, 2013, <https://www.upi.com/blog/2013/12/03/Dying-inmate-with-life-sentence-paroled-for-cancer-treatment/8611386109562/>.

⁸ Grant Rodgers, *supra* note 6.

⁹ Kristina Fetters was released to hospice care and died in July 2014. See Laura Terrell, "Friend of Kristina Fetters speaks about her death," KCCI Des Moines, July 28, 2014, <http://www.kcci.com/article/friend-of-kristina-fetters-speaks-about-her-death-1/6895184>.

¹⁰ In 2012, an Iowa group called the Justice Reform Consortium advocated for medical parole. The Consortium is made up of 18 organizations, including the ACLU and several faith-based groups, which "work together for the purpose of reform of the criminal justice system, from one based on retributive justice to one based on restorative justice." Although they are still active on a range of criminal justice issues, they do not appear to be currently working on compassionate release or medical parole issues. See <http://justicereformconsortium.org/>.

¹¹ Inmate Geriatric and Psychiatric Patients Study Committee, Final Report (Apr. 2012), <https://www.legis.iowa.gov/docs/publications/IP/15545.pdf>.

¹² *Id.* at 3.

¹³ *Id.*

¹⁴ *Id.* at 5.