

Kansas provides compassionate release to eligible prisoners with (1) debilitating medical conditions through **Functional Incapacitation Release**¹ and (2) terminal medical conditions through **Terminal Medical Release**.²

FUNCTIONAL INCAPACITATION RELEASE

I. ELIGIBILITY

Medical Condition - Prisoners who are seriously ill or disabled can request a Functional Incapacitation Release.³ “Functionally incapacitated” is defined as having an injury, disease, or illness (including dementia) that permanently renders the prisoner physically or mentally incapacitated to the extent he or she lacks the capacity to cause physical harm.⁴

Exclusions - Prisoners are not eligible for Functional Incapacitation Release if they are serving any of the following sentences: (1) a death sentence; (2) life without the possibility of parole; or (3) a sentence for an “off-grid” offense.⁵

II. APPLICATION/REFERRAL

Application - Any of the following individuals can submit a written request/application⁶ to the prisoner’s “unit team” to initiate the Functional Incapacitation Release process:

- The prisoner;
- A prisoner’s family member;
- Any staff member of the Kansas Department of Corrections;
- Any staff member of the Kansas Prisoner Review Board; or
- Any Department of Corrections contractor.⁷

Informal Review of Application - The “unit team” in the facility housing the prisoner takes the following steps before the application can be formally processed:

- *Initial Review and Assessment* - A unit team counselor reviews the application, collects all medical information needed, and discusses the case with the unit team manager.⁸ The team manager then consults with the classification administrator.⁹
- *Review and Consultations* - The classification administrator “consults” with the appropriate Warden (or designee), and the Warden then “consults” with the Deputy Secretary for Facilities Management regarding the application. The Deputy Secretary reviews all the facts and documentation, and then “consults” with the Corrections

Secretary and the Chair of the Kansas Prisoner Review Board.¹⁰ It is not clear from the statute or Department policy as to precisely what these consultations involve.¹¹

Once the Deputy Secretary finishes this “informal” review, he or she notifies the prisoner’s institution whether to begin formal processing of the application.¹²

III. DOCUMENTATION AND ASSESSMENT

Documentation - The Department of Corrections (Department) is responsible for gathering the documentation needed by the Kansas Prisoner Review Board (Board) to make its release decision.¹³ The specific documentation that must be reviewed at the different approval steps, and ultimately presented to the Board, includes the following:

- A comprehensive description of the prisoner’s condition and prognosis, including information on whether the condition is terminal;¹⁴
- Age and personal history;¹⁵
- Criminal history;¹⁶
- Length of sentence and time served;¹⁷
- Nature and circumstances of the current offense;¹⁸
- Risk or threat to the community if released;¹⁹
- Whether an appropriate release plan has been established;²⁰
- Any other factors that might be relevant.²¹

Process - The assessment process includes the following mandated steps and forms:

- **Medical Information Form/Health Authority** - The Department’s Health Authority completes the *Medical Information for Application for Release of an Inmate Based on Functional Incapacitation/Imminent Death* form.²² Department policy says “lengthy medical records” are not required but that it needs a “thorough description” of the prisoner’s medical condition and how it renders him or her incapable of causing physical harm.²³
- **Application for Release Form/Unit Team** - The prisoner’s unit team counselor prepares the *Application for Release Based on Functional Incapacitation/Imminent Death* form,²⁴ which includes gathering information from the prosecuting attorney and any issues related to the victim or survivor.²⁵ The unit team manager contacts the Director of Victim Services to review any issues related to victim services and to make any necessary contact with the victim or survivor.²⁶
 - The unit team counselor also consults with the Institutional Parole Officer

(IPO) about a release plan.²⁷ The IPO forwards a proposed residence plan to the “parole director” (of the region to which the prisoner will be released) for feedback and recommendations.²⁸

- **Initial Decision/Warden** - The application then goes to the facility’s Classification Administrator, who submits it to the Warden. The Warden decides whether to “initially approve or disapprove” the application.²⁹
 - If the Warden *disapproves* the application, it is returned to the unit team counselor.³⁰
 - If the Warden *approves* the application, it is forwarded with the supporting documentation to the Office of the Deputy Secretary for Facilities Management.³¹
- **Approval Decision/Deputy Secretary** - The Deputy Secretary coordinates processing of the application, which includes distribution of copies of the application to appropriate personnel for review and consideration (e.g., the Director of Release Planning and the Director of Victim Services). Based on a review of the available information, the Deputy Secretary makes a decision regarding the application.³²
 - If the Deputy Secretary *disapproves* the application, it is returned to the Warden, who is responsible for notify the prisoner or the individual applying on his or her behalf.³³
 - If the Deputy Secretary *approves* the application, it is forwarded to the Secretary of Corrections, with a recommendation that the Secretary apply to the Prisoner Review Board for release of the prisoner based on functional incapacitation.³⁴
- **Approval Decision/Secretary of Corrections** - If the Secretary agrees and wants to continue with the application process, notices are sent regarding the prisoner’s application to the prosecuting attorney and sentencing judge, and to the victim.³⁵ Based on the documentation, and any comments received from the prosecuting attorney, judge, and victim, the Secretary of Corrections approves or disapproves the application.³⁶

Disapproved applications are returned to the Warden with a statement on the reasons for the disapproved.³⁷ Any future applications from the same prisoner must specifically address what has changed since the disapproval that would warrant new consideration.³⁸ Approved applications are forwarded to the Board.³⁹

IV. DECISION-MAKING PROCESS

Decision Maker - The Kansas Prisoner Review Board makes all Functional Incapacitation Release decisions.

Decisions - Once the Board receives the approved application from the Secretary, a

member of the Board reviews the application and, with assistance from Department staff, carries out the following tasks.

- *Notice* - The Board must provide written notification of the application to each prosecuting attorney and the judge of each court where the prisoner was convicted at least 30 days before granting any release.⁴⁰ The notice must include confidential copies of the prisoner's medical or mental health report documenting the incapacitating condition.⁴¹ The Board must also notify the victim (or the victim's family) of the application.⁴² The victim's notice must not include any of the prisoner's confidential medical or mental health reports but must include a general description of the prisoner's incapacity.⁴³
- *Consideration of Factors/Optional Hearing* - At the discretion of the Board member reviewing the prisoner's application for Functional Incapacitation Release, and after considering all available information, a final decision on the application can be made *with or without* a formal hearing.⁴⁴ If a hearing *is* scheduled, the Board may ask for additional information or evidence from the medical/mental health providers that prepared reports, and/or from anyone else having "relevant information or knowledge."⁴⁵ All of the following factors and documentation will be considered:
 - Documentation prepared by a medical doctor and, as needed, a mental health professional, which attests to the prisoner's condition, describes his or her functional incapacity, and includes a comprehensive description of the condition and prognosis (including whether the condition is terminal).⁴⁶ Note that all medical and treatment records concerning the prisoner must be available for review by the Board.⁴⁷ The Board can also request additional information or evidence it deems necessary from a medical or mental health practitioner.⁴⁸
 - The prisoner's health care needs.⁴⁹ Note that a prisoner's need for long-term care can be considered by the Board but is not by itself sufficient to warrant approval of Functional Incapacitation Release.⁵⁰
 - The prisoner's release plan.⁵¹
 - Any comments received from the prosecuting attorney, judge, crime victim, or member of the victim's family.⁵²
 - The prisoner's age, personal history, criminal history, length of sentence and time served, nature and circumstances of the current offense.⁵³
 - The prisoner's custody classification.⁵⁴
 - The prisoner's "level of risk of violence,"⁵⁵ capacity to cause physical harm,⁵⁶ and the risk or threat to the community if he or she is released.⁵⁷

If the Board finds that the documentation supports a finding that the prisoner is functionally incapacitated and does not represent a risk to public safety, it may order his or her release.⁵⁸

Conditions and Pre-Release Planning - The prisoner's Functionally Incapacitated Release is subject to the terms of an approved release plan and any other terms or conditions the Board decides are necessary.⁵⁹

V. POST-DECISION

Effect of Functional Incapacitation Request on Parole or Other Release Eligibility - Nothing in the Functional Incapacitation Release rules limits or precludes submission of an application for pardon or commutation of sentence.⁶⁰

Denials and Appeal Rights -The decisions (approvals or disapprovals) made in the assessment process leading up to the Board's decision are *not* subject to appeals "of any kind."⁶¹ The decision of the Board on the application, or on any revocation of release, is final and not subject to review by any administrative agency or court.⁶²

Supervision - The Department's Division of Community and Field Services supervises former prisoners on Functional Incapacitation Release.⁶³

Revocation/Termination - The former prisoner remains on supervision until his or her maximum sentence expires, the Board discharges him or her, or the Functional Incapacitation Release is revoked.⁶⁴ The Board can revoke release due to functional incapacitation if (1) the functional incapacity "significantly diminishes;" (2) the former prisoner does not comply with any condition of release; or (3) the Board decides he or she presents a threat or risk to public safety.⁶⁵

VI. REPORTING/STATISTICS

The Kansas Department of Corrections publishes annual reports, which are available online.⁶⁶ Unfortunately, assuming the reports are accurate, they document that the Board has granted Functional Incapacitation Release to just seven prisoners in the past nine years:

- **2014, 2015, and 2016 Reports** - The reports for these years confirm that one of the Board's primary responsibilities is to make decisions on requests for Functional Incapacitation Release. However, despite providing numbers related to their other responsibilities (e.g., in 2015 the Board reviewed six clemency applications), the reports for these three years do not mention consideration of any prisoner requests for Functional Incapacitation Release or Terminal Medical Release.
- **2013 Report** - The report states the Board approved two requests for release based on functional incapacitation.
- **2011 and 2012 Reports** - Both of these say that the Prisoner Review Board did not receive or review any applications for Functional Incapacitation Release.

- 2010 Report - The Board received three applications for Functional Incapacitation Release and approved one.⁶⁷
- 2008 and 2009 Reports - In each of these years, the Board received three applications for Functionally Incapacitated Release and did not approve any of them.

TERMINAL MEDICAL RELEASE

A prisoner with a terminal medical condition can request consideration for Terminal Medical Release.⁶⁸

- The Terminal Medical Release process is, according to the statute, intended to be quicker than that for Functional Incapacitation Release. However, the only significant differences appear to be that (1) approval can be given by the chair of the Prisoner Review Board chair, rather than requiring action by the full Board; and (2) the Department of Corrections (Department) provides notice *after* release is granted rather than at the time of application.

I. ELIGIBILITY

Medical Condition - To be eligible for Terminal Medical Release, a prisoner must have a terminal condition where death is imminent, meaning it is likely to cause death within 30 days.⁶⁹

Exclusions - Prisoners who are serving sentences for “off-grid” offenses are not eligible for Terminal Medical Release.⁷⁰

II. APPLICATION/REFERRAL

Application - Any of the following individuals can submit a written request/application to the prisoner’s “unit team” to initiate the Terminal Medical Release process:⁷¹

- The prisoner;
- A prisoner’s family member;
- Any staff member of the Department of Corrections;
- Any staff member of the Prisoner Review Board; or
- Any Department contractor.⁷²

Informal Review of Application - The unit team takes the following steps before the application will be formally processed:⁷³

- **Initial Review and Assessment** - The assigned unit team counselor reviews the application, collects all information needed to assess the prisoner's medical condition, and discusses the case with the unit team manager.⁷⁴ The team manager then consults with the classification administrator.⁷⁵
- **Review and Consultations** - The classification administrator "consults" with the appropriate Warden (or his/her designee), who then "consults" with the Deputy Secretary for Facilities Management, regarding the application.⁷⁶ The Deputy Secretary reviews all the documentation, and consults with the Secretary and the Board Chair.⁷⁷

Once the Deputy Secretary finishes this "informal" review, he or she notifies the prisoner's institution whether to begin the more formal processing of the application.⁷⁸ If the Deputy Secretary decides *not* to process the application, it is documented in the prisoner's file.⁷⁹ If the Deputy Secretary decides to process the application, the more formal assessment steps take place, as described below.⁸⁰

III. DOCUMENTATION AND ASSESSMENT

Process - The assessment process includes the following mandated steps and forms:

- **Medical Information Form/Health Authority** - The Department's Health Authority completes and signs the *Medical Information for Application for Release of an Inmate Based on Functional Incapacitation/Imminent Death* form,⁸¹ including a thorough description of the prisoner's medical condition, and a statement as to whether the condition renders him or her incapable of causing physical harm.⁸²
- **Application for Release Form/Unit Team** - The Unit Team Counselor for the prisoner prepares the *Application for Release*,⁸³ gathering information on the prosecuting attorney's version of the prisoner's crime and any issues related to the victim or survivor. The Counselor also consults with the Institutional Parole Officer (IPO) about a release plan.⁸⁴ The IPO forwards a proposed residence plan to the parole director of the region to which the prisoner will be released for feedback and recommendations.⁸⁵
- **Initial Decision/Warden** - The application then goes to the facility's Classification Administrator, who submits it to the Warden. The Warden decides whether to "initially approve or disapprove" the application.⁸⁶
 - If the Warden *disapproves* the application, it is returned to the unit team counselor.⁸⁷ It is up to the Warden how to advise the person initiating the application regarding the outcome.⁸⁸

- If the Warden *approves* the application, it is forwarded with the supporting documentation to the Office of the Deputy Secretary for Facilities Management.⁸⁹
- **Approval Decision/Deputy Secretary** - The Deputy Secretary coordinates processing of the application, which includes distribution of copies of the application to appropriate personnel for review and consideration (e.g., the Director of Release Planning and the Director of Victim Services). Based on a review of the available information, the Deputy Secretary makes a decision regarding the application.⁹⁰
 - If the Deputy Secretary *disapproves* the application, it is returned to the Warden, who has the discretion to determine how to notify the prisoner or the individual applying on his or her behalf.⁹¹
 - If the Deputy Secretary *approves* the application, it is forwarded to the Secretary of Corrections, with a recommendation that the Secretary apply to the Kansas Prisoner Review Board for release of the prisoner based on a terminal illness.⁹²
- **Approval Decision/Secretary of Corrections** - Based on all of the information, the Secretary of Corrections approves or disapproves the application:
 - Disapproved applications are returned to the Warden with a statement as to why the application was disapproved.⁹³
 - In applications from prisoners whose condition is likely to result in death within 30 days, approved applications are forwarded directly to the chair of the Prisoner Review Board.⁹⁴

IV. DECISION-MAKING PROCESS

Decision Maker - The Chair of the Kansas Prisoner Review Board examines each Terminal Medical Release application and is responsible for approving applications and granting release.⁹⁵

Decisions - To grant release, the Chair must find that the prisoner (1) has a terminal medical condition likely to cause death within 30 days, as determined by a doctor licensed to practice medicine in Kansas; and (2) does not represent a future risk to public safety.⁹⁶

- In addition to the prisoner's medical condition, the Chair considers the following: (1) the prisoner's age and personal history; (2) criminal history; (3) length of sentence and time served; (4) nature and circumstances of the current offense; (5) the risk to the community if he or she is released; (6) whether an appropriate release plan has been established; and (7) any other factors the chair decides are relevant.⁹⁷

Conditions and Pre-Release Planning - The Chair can establish any conditions he or she feels are appropriate related to the prisoner's release.⁹⁸

Notice of Release - Unlike Functional Incapacitation Release, Board does not have to give written notice to anyone until *after* it grants a Terminal Medical Release. At that time, the Board will notify the following of the prisoner's release: the prosecuting attorney, judge of the court in which the person was convicted, and the victim of the person's crime or the victim's family (if there is a known address).⁹⁹

V. POST-DECISION

Effect of Terminal Medical Release on Other Release Eligibility - Nothing in the Terminal Medical Release rules appears to limit or preclude submission of an application for pardon or commutation of sentence.¹⁰⁰

Denials and Appeal Rights - The Board Chair's decision on the application is final and not subject to review by any administrative agency or court.¹⁰¹

Supervision - Former prisoners remain on "release supervision" until the release is revoked or discharged by the Board, or his or her maximum sentence expires.¹⁰²

Revocation/Termination - The Board can revoke the release if (1) the former prisoner's illness or condition significantly improves; (2) if he or she does not die within 30 days of release; (3) if there is a failure to comply with any condition of release; or (4) if the Board concludes for any reason that the former prisoner presents a threat or risk to public safety.¹⁰³

VI. REPORTING/STATISTICS

Kansas law does not require that the Department or Prisoner Review Board report on how many prisoners are granted Terminal Medical Release and there is no mention of any prisoners being released in the 2011-2016 annual reports published by the Department and the Prisoner Review Board.

- Note that a 2016 newspaper article reporting on a terminally ill prisoner who was granted release in July 2016 noted that only two prisoners had received "Medical Releases" since 2014: "Such laws are known more broadly as compassionate release, allowing the early release of inmates who are either terminally ill or functionally incapacitated who don't threaten public safety. Adam Pfannenstiel, director of communications for the Kansas Department of Corrections, said Friday that Kansas has granted compassionate release only twice since the current laws on the matter passed in 2014."¹⁰⁴

NOTES

¹ Kan. Stat. Ann. § 22-3728 (a).

² Kan. Stat. Ann. § 22-3729.

³ Kan. Stat. Ann. § 22-3728 (a).

⁴ Kan. Admin. Regs. § 45-700-1 (b).

⁵ Kan. Stat. Ann. §§ 22-3728 (d) and (e); Kansas Department of Corrections, Internal Management Policies and Procedures (DOC IMPP) 11-110, Application for Release of Functionally Incapacitated Inmates or Release

Pending Imminent Death (2011). Note that “off-grid” felonies in Kansas are the most serious crimes, and include capital murder, murder in the first degree, and treason. See Kansas Legislative Research Department, Kansas Legislator Briefing Book 2017, <http://www.kslegresearch.org/KLRD-web/Publications/BriefingBook/2017Briefs/G-7-Sentencing.pdf>.

⁶ DOC IMPP 11-110.I.B.

⁷ Id. at I.A.

⁸ Id. at I.C.

⁹ Id. at II.A.

¹⁰ Id. at II.C. Note that the Prisoner Review Board succeeded the Kansas Parole Board in 2011. See Kansas Government Information Online Library, Kansas Prisoner Review Board, at http://cdm16884.contentdm.oclc.org/ui/custom/default/collection/default/resources/custompages/agencylist/Agency_Pages/Prisoner.php.

¹¹ DOC IMPP 11-110.II.A and B.

¹² Id. at II.D.

¹³ Id. at III.B and C. If the Deputy Secretary’s decides not to process the application, this is simply noted in the prisoner’s file. Id. at A.

¹⁴ Kan. Admin. Regs. § 45-700-1 (a). The medical documentation must be prepared by a medical doctor and, as needed, by a mental health professional.” Id. Note that if the condition is terminal, the prisoner will generally be considered, instead, under Kan. Stat. Ann. 22-3729, Terminal Medical Release. See Kan. Stat. Ann. § 22-3728 (c).

¹⁵ DOC IMPP 11-110.III.C.

¹⁶ Id.

¹⁷ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Kan. Stat. Ann. § 22-3728 (a) (8); Kan. Admin. Regs. § 45-700-2 (b) (1) (C); DOC IMPP 11-110.III.C.

²¹ DOC IMPP 11-110.III.D.2, Attachment B.

²² DOC IMPP 11-110.III.D.2.

²³ Id. at D.3.

²⁴ Id.

²⁵ Id. at D.3.b.

²⁶ A release plan needs to provide details about where the prisoner will live and identify all treatment providers and facilities he or she will be using. The plan is subject to Department review and approval. Kan. Admin. Regs. § 45-700-1 (c). See also Kan. Admin. Regs. § 45-400-2.

²⁷ DOC IMPP 11-110.III.D.3.c.

²⁹ Id. at D.4 and D.5.

³⁰ Id. at D.6.

³¹ Id. at D.7.

³² Id.

³³ Id. at D.8.

³⁴ Id. at D.9.

³⁵ Id. at D.10. The Parole Board rules also list notice requirements. Although they are at different stages of the process, it is not completely clear if they are separate requirements or inadvertently duplicative.

³⁶ Id. at D.11.

³⁷ Id. at D.11.a.

³⁸ Id. at D.12.

³⁹ Id. at D.11.b.

⁴⁰ Kans. Stat. Ann. § 22-3728 (a) (3); Kan. Admin. Regs. § 45-700-2 (a) (1).

⁴¹ Kan. Admin. Regs. § 45-700-2 (a) (1).

⁴² Kan. Stat. Ann. § 22-3728 (a) (3); Kan. Admin. Regs. § 45-700-2 (a) (2). If there is no known address for the victim, if alive, or the victim’s family, if deceased, the Board shall not grant or deny the application until at least 30 days after notification is given by publication in the county of conviction. Kan. Stat. Ann. § 22-3728 (a) (3).

⁴³ Kan. Admin. Regs. § 45-700-2 (a) (2).

⁴⁴ Kan. Stat. Ann. § 22-3728 (a) (4); Kan. Admin. Regs. § 45-700-2 (b) (1).

⁴⁵ Kan. Admin. Regs. § 45-700-2 (b) (2).

- ⁴⁶ Id. at (b) (1) (A) and (b) (1) (C) (i).
- ⁴⁷ Kan. Admin. Regs. § 45-700-1 (d).
- ⁴⁸ Kan. Stat. Ann. § 22-3728 (a) (4).
- ⁴⁹ Kan. Admin. Regs. § 45-700-2 (b) (1) (C) (ii).
- ⁵⁰ Id. at (b) (1) (C). See also DOC IMPP 11-110, Definitions.
- ⁵¹ Kan. Admin. Regs. § 45-700-2 (b) (1) (C), referencing Kans. Stat. Ann. § 22-3728 (a) (8).
- ⁵² Id. at (b) (1) (B).
- ⁵³ Id. at (b) (1) (C), referencing Kans. Stat. Ann. § 22-3728 (a) (8).
- ⁵⁴ Id. at (b) (1) (C) (iii).
- ⁵⁵ Id.
- ⁵⁶ Id. at (b) (1) (C) (iv).
- ⁵⁷ Kans. Stat. Ann. § 22-3728 (a) (8) (F).
- ⁵⁸ Kans. Admin. Regs. § 45-700-2 (c). Note that the Board has statutory voting requirements that are fairly detailed and generally based on the seriousness of the crime. See Kans. Admin. Regs. §§ 45-700-2 (c) (1) and (c) (2).
- ⁵⁹ Kan. Stat. Ann. § 22-3728 (a) (5); Kan. Admin. Regs. § 45-700-2 (c).
- ⁶⁰ Kan. Stat. Ann. § 22-3728 (b).
- ⁶¹ DOC IMPP 11-110.III.D.
- ⁶² Kan. Stat. Ann. § 22-3728 (a) (7).
- ⁶³ Id. at (a) (6); DOC IMPP 11-110.III.14.
- ⁶⁴ Kan. Stat. Ann. §§ 22-3728 (a) (5) and (6). Credit for the time during which the person is on Functional Incapacitation Release will count toward “service of the prison and post-release supervision obligations of determinate sentences or indeterminate sentences.” Kan. Stat. Ann. § 22-3728 (a) (5). See also DOC IMPP 11-110.III.14.b and c.
- ⁶⁵ Kan. Stat. Ann. § 22-3728 (a) (5); DOC IMPP 11-110.IV.1-3.
- ⁶⁶ The annual reports are available on the Department of Corrections website at <https://www.doc.ks.gov/publications/publications/Reports>.
- ⁶⁷ Kansas Parole Board (now the Prisoner Review Board), FY 2010 Annual Report, <https://www.doc.ks.gov/publications/CFS/annual-reports/Annual%20Report%20FY2010.pdf>.
- ⁶⁸ Kan. Stat. Ann. § 22-3729 (a) (1). Note that the statute says this determination must be made by a doctor licensed to practice medicine and surgery in Kansas.
- ⁶⁹ Id. at (a) (2); DOC IMPP 11-110.
- ⁷⁰ DOC IMPP 11-110. As referenced above in note 4, “off-grid” felonies in Kansas are the most serious crimes, and include capital murder, murder in the first degree, and treason. See Kansas Legislative Research Department, Kansas Legislator Briefing Book 2017, <http://www.kslegresearch.org/KLRD-web/Publications/BriefingBook/2017Briefs/G-7-Sentencing.pdf>.
- ⁷¹ DOC IMPP 11-110.I.B.
- ⁷² Id. at I.A.
- ⁷³ Id. at I.B.
- ⁷⁴ Id. at I.C.
- ⁷⁵ DOC IMPP 11-110.II.A.
- ⁷⁶ Id. at II.A and II.B.
- ⁷⁷ DOC IMPP 11-110.II.C.
- ⁷⁸ Id. at II.D.
- ⁷⁹ Id. at III.A.
- ⁸⁰ Id. at III.B.
- ⁸¹ DOC IMPP 11-110, Attachment B.
- ⁸² DOC IMPP 11-110.III.D.2.
- ⁸³ Id. at D.3.
- ⁸⁴ Release plans need to include where the prisoner will live and treatment providers and facilities that will be used. They are subject to Department review and approval. Kan. Admin. Regs. 45-700-1 (c). See also Kan. Admin. Regs. § 45-400-2.
- ⁸⁵ DOC IMPP 11-110.III.D.3.
- ⁸⁶ Id. at D.4 and D.5.
- ⁸⁷ Id. at D.6.
- ⁸⁸ Id.

⁸⁹ Id. at D.7.

⁹⁰ Id.

⁹¹ Id. at D.8.

⁹² Id. at D.9.

⁹³ Id. at D.11.a.

⁹⁴ Id. at D.11.c.

⁹⁵ Kan. Stat. Ann. § 22-3729 (a) (3).

⁹⁶ Id. The chair may request additional medical information or evidence.

⁹⁷ Kan. Stat. Ann. § 22-3729 (a) (7).

⁹⁸ Id. at (a) (4). Note that although the statute says the Board chair can consider whether an appropriate release plan is in place, there is no detailed information in the statute or regulations on whether there is available assistance for the terminally ill prisoner in preparing a plan.

⁹⁹ Kan. Stat. Ann. § 22-3729 (c). The Department uses the form Notice Regarding Release of Inmate Based on Imminent Death, DOC IMPP 11-110.III.14.a, referencing DOC 11-110, Attachment E.

¹⁰⁰ Kan. Stat. Ann. § 22-3729 (b).

¹⁰¹ Id. at (a) (6).

¹⁰² Id. at (a) (4) and (5).

¹⁰³ Kan. Stat. Ann. § 22-3729 (a) (4) and (5); DOC IMPP 11-110.IV.1-4.

¹⁰⁴ Adam Stewart, “Compassionate release: A law allowed an inmate with cancer to spend last days with family,” Hutchinson News, Jul. 20, 2016, <http://www.hutchnews.com/5ba306c5-b6ea-5a71-9a3d-c679650cf3e4.html>.