Nevada provides compassionate release to eligible prisoners who are ill or physically incapacitated through its Residential Confinement program.¹

**RESIDENTIAL CONFINEMENT DUE TO PHYSICAL INCAPACITATION OR ILL HEALTH**

**I. ELIGIBILITY**

**Medical Condition** - To be eligible for Residential Confinement a prisoner must be: (1) physically incapacitated or in ill health to such a degree that he or she does not pose a threat to public safety;² or (2) in ill health, expected to die within 12 months, and posing no threat to public safety.³

**Exclusions** - Prisoners cannot be released to Residential Confinement if they are sentenced to death or to life imprisonment without the possibility of parole.⁴

**II. APPLICATION/REFERRAL**

The Department of Corrections (Department) medical staff is directed to identify prisoners who might be eligible for Residential Confinement.⁵ At least two licensed physicians, one of whom is not employed by the Department, must verify in writing that the prisoner is physically incapacitated or in ill health, or in ill health and expected to die within 12 months.⁶

**III. DOCUMENTATION/ASSESSMENT**

The Department’s Offender Management Administrator (OMA) reviews the medical recommendation and documentation, and makes a recommendation to the Department Director.⁷

**IV. DECISION-MAKING PROCESS**

**Decision Maker** - The Director of the Department of Corrections makes the decision whether to assign a prisoner to Residential Confinement.

**Notice** -

- If a victim has requested notification of the prisoner’s release, the Victim’s Services Officer will notify him or her that the Director intends to assign the prisoner to Residential Confinement, in the custody of the Division of Parole and Probation, and the victim can submit comments.⁸
• The OMA must notify the Division of Parole and Probation\(^9\) and the board of county commissioners of the county where the prisoner is going to live at least 45 days before the expected release.\(^10\)

**Pre-Release Planning** - There is no detailed information about pre-release planning or assistance with an appropriate placement for the prisoner. A statutory reference to medical records briefly mentions planning, but does not say who will provide assistance:

The Director [of the Department of Corrections], through the designated medical director, may provide to the Division of Public and Behavioral Health of the Department of Health and Human Services or to other community medical or mental health care providers, relevant medical and mental health records of an offender serving a term of imprisonment under the custody of the Department of Corrections, *for the purposes of planning the discharge of the offender and assuring the continuity of evaluation, care and treatment of the offender in the community after release from incarceration*.\(^11\) (emphasis added)

Note that the Department states it is not responsible for the medical care or costs of prisoners placed in Residential Confinement.\(^12\)

**Release** - The OMA coordinates the release of the prisoner to the Division of Parole and Probation (DPP) 45 days after notice is given to the county commissioners.\(^13\) The prisoner is released when all DPP residential reviews and approvals are completed.\(^14\)

**V. POST-DECISION**

**Supervision** - The Division of Parole and Probation supervises prisoners assigned to Residential Confinement and may use electronic monitoring devices.\(^15\)

**Revocation/Termination** - The term of confinement is for the remainder of the prisoner’s sentence.\(^16\) If a prisoner assigned to Residential Confinement escapes or violates any conditions set by the Department, he or she is returned to custody.\(^17\)

**VI. REPORTING/STATISTICS**

The most recent statistics available from the Nevada Department of Corrections are in their 2014-2015 annual report, which states that only one person applied, and was accepted for, Compassionate Release/Residential Confinement.\(^18\)

**NOTES**

1. Nev. Rev. Stat. §§ 176A.060 and 209.3925; Nevada Department of Corrections Administrative Regulation (DOC Regulation) 523.04. Residential Confinement is considered “compassionate release” and is also referred to as the “298 Program.” See Nevada Department of Public Safety at http://npp.dps.nv.gov/Programs/Residential_Confinement/. Note that although it is referred to as a “compassionate release” rule, the statute says that Residential Confinement is “a continuation of the offender’s imprisonment and not a release on parole…” Nev. Rev. Stat. § 209.3925-5 (a).
Nev. Rev. Stat. § 209.3925-1 (a) (2); DOC Regulation 523.04, § 2.B.


DOC Regulation 523.04, § 2.


DOC Regulation 523.04, § 3.

Nev. Rev. Stat. §§ 209.3925-3 (a) and (b); DOC Regulation 523.04, § 4.B. If the Director approves the assignment, the prisoner must authorize the release of his medical information to the victims of his crime. DOC Regulation 523.04, § 4.A. Although not clearly stated in the regulation, it is assumed that this would only be applicable when a victim has requested notification pursuant to Nev. Rev Stat. § 213.131-4.

The Division of Parole and Probation is part of the Nevada Department of Public Safety, not the Department of Corrections.

Nev. Rev. Stat. § 209.3925-2; DOC Regulation 523.04, §§ 4.C and 4.D. Note the regulation says the Division of Parole and Probation will also be given a copy of the “release plan.” No other reference to a release plan is made.


DOC Regulation 5203.04, § 6.

Id. at § 5.

Id.

Id. at § 4. See also Nevada Department of Public Safety, Parole and Probation, Residential Confinement web page at http://npp.dps.nv.gov/Programs/Residential_Confinement/.


Id. at § 209.3925-4; DOC Regulation 5203.04, §§ 4 (a) - (4) (b).