Utah provides compassionate release to eligible prisoners who have a medical condition or terminal illness, or who are of “advanced age,” under its Compassionate Release program.¹

COMPASSIONATE RELEASE

I. ELIGIBILITY

Medical Condition/Age - A prisoner may be eligible for Compassionate Release if he or she:

- Has a significantly reduced “public safety and recidivism risk” due to the effects or symptoms of (1) a medical infirmity, disease, or disability; (2) a mental health disease or disability; or (3) advancing age;² or

- Has a serious and persistent medical condition that requires extensive medical attention, nursing home care, or palliative care.³

Exclusions - There is nothing in Utah law that appears to exclude any prisoners from consideration due to the type of crime committed and/or the sentence being served.

II. APPLICATION/REFERRAL

To start the process, the Utah Department of Corrections (Department) must submit a written request to the Utah Board of Pardons and Paroles (Board) detailing how the prisoner meets the required medical and/or age eligibility criteria. The request must include a report detailing (1) the specific effects, conditions, or symptoms; (2) the medical treatments available; and (3) when possible, the prognosis of the effects, conditions, or symptoms.⁴

III. DOCUMENTATION AND ASSESSMENT

Other than a brief sentence about the request needing to include the medical information detailed above, there is nothing in state law or Board policy regarding additional documentation needs or Department procedures that must be completed before the request is sent to the Board.

IV. DECISION-MAKING PROCESS

Decision Maker - The Utah Board of Pardons and Appeals is responsible for making all Compassionate Release decisions.⁵

Hearing - Generally, the Board can make a Compassionate Release decision with or without a hearing.⁶ However, if a Compassionate Release hearing would occur before the prisoner’s initial or “original” hearing, the Board will hold a hearing.⁷
Victim Notification - Before granting a Compassionate Release without a hearing, the Board must make a “reasonable effort” to contact, inform, and consider the input of any victim of record in the case for which the prisoner is incarcerated if the victim has previously requested notice of hearings.  

Conditions and Pre-Release Planning - There is nothing in Utah law or agency policy that details what type of pre-release planning is done or the conditions that may be set.

V. POST-DECISION

Appeal Rights - There is no information in state law or agency policy that references appeal rights or when a Compassionate Release can be revoked or terminated.

Effect of Compassionate Release Request on Other Eligibility - A Compassionate Release request does not “limit or preclude other requests for special attention or redetermination consideration.”

Supervision - The Compassionate Release rules do not include provisions addressing supervision after release.

VI. REPORTING/STATISTICS

The Board has not published any official statistics on how many prisoners have been granted Compassionate Release.

• In 2012, an article in the Salt Lake Tribune stated that the Board was granting four to six Compassionate Release requests per year for medical reasons.

NOTES

2 Id. at (4) (a).
3 Id. at (4) (b).
4 Id. at (5).
5 Utah Const. art. VII, § 12, Subsection (2); Utah Admin. Code r. 671-314-1 (1). Note that there are several older articles about Compassionate Release in Utah (e.g., the National Conference of State Legislatures’ Sentencing and Corrections State Profiles, http://www.ncsl.org/documents/cj/pew/UTplan.pdf) stating that the Board follows its “Special Attention Review and Decisions rules” at Utah Admin. Code r. 671-311-1 when deciding Compassionate Release cases. However, neither the current Utah Compassionate Release rule, enacted in 2015, nor the current “Special Attention” guidelines reference those rules.
6 Utah Admin. Code r. 671-314-1 (7)
7 Utah Id. at (8). See the Board’s summary of their rules on scheduling “original hearings” on their website at https://bop.utah.gov/index.php/hearings-top-public-menu/types.
8 Utah Admin. Code r. 671-314-1 (9), referencing Utah Code § 77-38-3(8).
9 Id. at (2)