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H.580

Introduced by Representatives Wizowaty of Burlington and Mrowicki of
Putney

Referred to Committee on

Date:

Subject: Crimes and criminal procedure; judgment, sentence, and execution

Statement of purpose of bill as introduced: This bill proposes to establish a
judicial procedure to allow for the compassionate release of certain prisoners,
including those who have been diagnosed with a terminal disease.

An act relating to establishing a judicial procedure to allow for the
compassionate release of certain prisoners, including those who have been
diagnosed with a terminal disease

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 13 V.S.A. chapter 221, subchapter 5 is added to read:

Subchapter 5. Motion for Compassionate Release

§ 7140. MOTION

A prisoner who is serving a sentence of incarceration in the custody of the
Commissioner of Corrections may move the Superior Court of the county
where the sentence was imposed for an order granting compassionate release.
The motion may be informal, but shall be in writing, and shall include the
prisoner's name, offense, date of sentencing, sentence, and an explanation of

1 why the prisoner is appropriate for compassionate release and satisfies the
2 factors set forth in section 7141 of this subchapter. The prisoner shall serve a
3 copy of his or her motion upon the superintendent of the facility in which he or
4 she is incarcerated.

5 § 7141. NOTICE, HEARING, AND DECISION

6 (a) Unless the motion and the files and records of the case conclusively
7 show that the prisoner is not entitled to relief, the Court shall cause notice to be
8 served upon the Office of the Attorney General and the State's Attorney. The
9 Office of the Attorney General and a State's Attorney who receives notice may
10 elect to appear as a party.

11 (b) The Court may decide the motion upon the files and records of the case,
12 or may grant a hearing. If the Court grants a hearing, the Court may entertain
13 and decide the motion without requiring the production of the prisoner at the
14 hearing.

15 (c) The Court shall grant the motion if it finds by a preponderance of the
16 evidence that:

17 (1) the prisoner:

18 (A) has been diagnosed with a terminal, incurable disease and has a
19 life expectancy of 18 months or less;

20 (B) has been diagnosed with an incurable and progressive illness, or
21 has suffered a debilitating injury, and;

1 (i) cannot care for himself or herself and is confined to a bed or
2 chair; or

3 (ii) can only care for himself or herself on a limited basis and is
4 confined to a bed or chair for at least 50 percent of his or her waking hours; or

5 (C) is 65 years of age or older, and:

6 (i) suffers from a chronic or serious medical condition; and

7 (ii) is experiencing deteriorating mental or physical health that
8 diminishes his or her ability to function in a correctional facility; and

9 (2) the prisoner is not a danger to the community and his or her release
10 shall not endanger public safety; and

11 (3) compassionate release is appropriate.

12 (d) If the Court grants the motion, it may reduce the term of imprisonment
13 and may impose a term of probation or supervised release with or without
14 conditions that does not exceed the original term of imprisonment.

15 § 7142. APPEALS

16 An appeal may be taken to the Supreme Court from the order entered on the
17 motion.

18 § 7143. ASSIGNMENT OF COUNSEL

19 The Court may appoint counsel if the prisoner is unable financially to
20 employ counsel, and may order that all necessary costs and expenses, including
21 court costs, stenographic services, printing, and reasonable compensation for

1 legal services, be paid by the State from the appropriation to the Court where
2 the sentence was imposed. On appeal, the Supreme Court may make a similar
3 order.

4 Sec. 2. EFFECTIVE DATE

5 This act shall take effect on July 1, 2014.