



TO: Members of the Senate Committee on Institutions
FROM: Jay Diaz, Staff Attorney / Public Advocate, ACLU of VT
DATE: February 5, 2016
SUBJECT: S. 207 (2016) – Compassionate Release and Parole Eligibility

On behalf of the ACLU of Vermont, I am here today because Vermont does not need to allow incarcerated individuals to die in prison and should be able to access parole when they are no longer a danger. The elderly, immobile, hearing-impaired, sight-impaired, disabled, and terminally ill experience a greater level of punishment when imprisoned because prison facilities are not designed to care for them. And, the vast majority of prison employees, from medical providers to guards, are not well-equipped to care for this population. In addition, it is vastly more expensive for the state to provide for these inmates than if they were free. Basically, prisons make terrible nursing homes. With an aging, and therefore increasingly costly, prison population, we must provide opportunities for those who are no longer dangerous to be released.

Regarding compassionate release, S. 207 is a forward thinking step toward appropriately treating a limited subset of this population, saving significant state resources, and honoring the human rights of this population. Invaluably, the legislation provides a judicial process for infirm inmates to ask an impartial body to consider releasing them because of their severe infirmities, access to assistance of counsel, and the opportunity to appeal. As will be discussed by experts, infirmed and elderly individuals have exceedingly low recidivism rates, and can be eligible for additional federal resources to cover the cost of medical care and benefits.

Regarding amendments to parole eligibility, we also feel the legislation promotes state goals of reducing the prison population and allowing incarcerated individuals to move on with their lives after serving their time when they are no longer a danger.

S. 207 should be clarified to avoid unnecessary and costly litigation regarding:

- 1) Remove (c)(3) (court must determine that compassionate release is “appropriate”) from the Compassionate Release section because it is unnecessary and lacks clarity.
- 2) Define “Major Disciplinary Report” from the Parole Eligibility section because MDRs can include non-violent and non-drug related conduct in DOC’s Inmate Discipline Rule 410.01.

Thank you for the opportunity to testify on this important bill. With minor tweaks, the S. 207 ensures that safe infirm and parole eligible prisoners receive a fair and transparent opportunity to be released, saving precious state resources and honoring human rights in the process.