

1 S.167

2 Introduced by Senator White

3 Referred to Committee on

4 Date:

5 Subject: Corrections, compassionate release, parole eligibility

6 Statement of purpose of bill as introduced: This bill proposes to establish a
7 judicial procedure to allow for the compassionate release of certain inmates,
8 including those who have been diagnosed with a terminal disease, and to
9 increase parole eligibility for older inmates who have served their minimum
10 sentence.

11 An act relating to compassionate release and parole eligibility

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

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

14 Subchapter 5. Petition for Compassionate Release

15 § 7141. PETITION

16 An inmate who is serving a sentence of incarceration in the custody of the
17 Commissioner of Corrections may petition the Superior Court of the county where
18 the sentence was imposed for an order granting compassionate release. The
19 petition may be informal, but shall be in writing, and shall include the inmate's
20 name, offense, date of sentencing, sentence, and an explanation of why

1 compassionate release is appropriate for the inmate and how the inmate satisfies
2 the factors set forth in section 7142 of this subchapter. The inmate shall serve a
3 copy of his or her petition upon the superintendent of the facility in which he or
4 she is incarcerated.

5 § 7142. NOTICE, HEARING, AND DECISION

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

11 (b) The court may decide the petition upon the files and records of the case or
12 may grant a hearing. If the court grants a hearing, the court may entertain and
13 decide the petition without requiring the inmate to attend the hearing.

14 (c) The court shall grant the petition if it finds by a preponderance of the
15 evidence that:

16 (1) the inmate:

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

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

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

22 or

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

3 (C) is 65 years of age or older; and:

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

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

7 (2) the inmate is not a danger to the community and his or her release will
8 not endanger public safety; and

9 (3) compassionate release is appropriate.

10 (d) If the court grants the petition, it may reduce the term of imprisonment and
11 may impose a term of probation or supervised release with or without conditions
12 that does not exceed the original term of imprisonment.

13 § 7143. APPEALS

14 An appeal may be taken to the Supreme Court from the order entered on the
15 petition.

16 § 7144. ASSIGNMENT OF COUNSEL

17 The court may appoint counsel if, financially, the inmate is unable to employ
18 counsel, and may order that all necessary costs and expenses, including court
19 costs, stenographic services, printing, and reasonable compensation for legal
20 services, be paid by the State from the appropriation to the court where the
21 sentence was imposed. On appeal, the Supreme Court may make a similar order.

1 Sec. 2. 28 V.S.A. § 501 is amended to read:

2 § 501. ELIGIBILITY FOR PAROLE CONSIDERATION

3 (a) An inmate who is serving a sentence of imprisonment shall be eligible for
4 parole ~~consideration~~ as follows:

5 (1) If the inmate's sentence has no minimum term or a zero minimum term,
6 the inmate shall be eligible for parole consideration within 12 months after
7 commitment to a correctional facility.

8 (2) If the inmate's sentence has a minimum term, the inmate shall be
9 ~~eligible for parole consideration~~ paroled after the inmate has served the minimum
10 term of the sentence unless the inmate has programming requirements that have
11 not been fulfilled or has received a major disciplinary report within the previous
12 months.

13 (3) If the inmate has a serious medical condition that requires regular
14 hospital visits and the inmate is designated low-risk, the inmate shall be eligible
15 for parole.

16 (4) If the inmate is 55 years of age or older but under 65 years of age, is
17 designated low-risk, and has served 10 years but not served the minimum of the
18 sentence, the inmate shall be paroled, unless the inmate has programming
19 requirements that have not been fulfilled or has received a major disciplinary
20 report within the previous 12 months.

21 (5) If the inmate is 65 years of age or older, has served five years but not
22 served the minimum term of the sentence, and is designated low-risk, the inmate

1 shall be paroled, unless the inmate has programming requirements that have not
2 been fulfilled or has received a major disciplinary report within the previous
3 12 months.

4 (b) As used in this section, “major disciplinary report” includes violations for
5 violent acts or serious threats to institutional security or personal safety and does
6 not include drug possession.

7 Sec. 3. EFFECTIVE DATE

8 This act shall take effect on July 16, 2019.