

1 H.408

2 Introduced by Representatives Burke of Brattleboro and Dodge of Essex

3 Referred to Committee on

4 Date:

5 Subject: Corrections; parole; compassionate release

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 and inmates who have served their
10 minimum 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
18 where the sentence was imposed for an order granting compassionate release.

19 The petition may be informal but shall be in writing and shall include the
20 inmate's name, offense, date of sentencing, sentence, and an explanation of

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

5 § 7142. NOTICE, HEARING, AND DECISION

6 (a) Unless the petition and the files and records of the case conclusively
7 show that the inmate 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 receive notice may
10 elect to appear as parties.

11 (b) The court may decide the petition 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 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
18 life expectancy of 18 months or less;

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

21 (i) cannot provide self-care and is confined to a bed or chair; or

1 (ii) can only provide limited self-care and is confined to a bed or
2 chair for at least 50 percent of the inmate's 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 the inmate's ability to function in a correctional facility;

7 (2) the inmate is not a danger to the community and the inmate's release
8 will 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
11 and may impose a term of probation or supervised release with or without
12 conditions 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
18 employ counsel, and may order that all necessary costs and expenses, including
19 court costs, stenographic services, printing, and reasonable compensation for
20 legal services, be paid by the State from the appropriation to the court where

1 the sentence was imposed. On appeal, the Supreme Court may make a similar
2 order.

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

4 § 501. ELIGIBILITY FOR PAROLE CONSIDERATION

5 (a) An inmate who is serving a sentence of imprisonment who is not
6 eligible for presumptive parole pursuant to section 501a of this title shall be
7 eligible for parole ~~consideration~~ as follows:

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

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

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

19 (4) If the inmate is 55 years of age or older but under 65 years of age, is
20 designated low-risk, and has served ten years but not served the minimum of
21 the sentence, the inmate shall be paroled, unless the inmate has programming

1 requirements that have not been fulfilled or has received a major disciplinary
2 report within the previous 12 months.

3 (5) If the inmate is 65 years of age or older, has served five years but not
4 served the minimum term of the sentence, and is designated low-risk, the
5 inmate shall be paroled, unless the inmate has programming requirements that
6 have not been fulfilled or has received a major disciplinary report within the
7 previous 12 months.

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

11 Sec. 3. EFFECTIVE DATE

12 This act shall take effect on July 1, 2023.