

SB 1560 -1 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/5, 2/6, 2/12

WHAT THE MEASURE DOES:

Establishes the Medical Release Advisory Committee (MRAC) within the Oregon Board of Parole and Post-Prison Supervision (Board) to review and make recommendations to the full Board on up to five applications per month for early medical release.

Detailed Summary:

Establishes the MRAC within the Board. The MRAC is responsible for recommending early release if a majority of the committee agrees that the applicant meets one or more of the specified medical considerations.

Directs the governor to appoint the members of the committee. The committee would be comprised of three to five people with specified medical backgrounds. Directs the Board to provide staff support.

Allows an Adult in Custody (AIC) to apply for early medical release from incarceration, or for the Department of Corrections (DOC) to refer a person for consideration of early medical release. Mandates that DOC refer AICs who have a year or less to live, provided the AIC consents to the referral. Persons who have been convicted of certain crimes or have certain sentences such as those with a determinate sentence, mandatory minimum, those with a death sentence, or convictions for certain controlled substance crimes are ineligible.

Requires the DOC to ensure the process and the forms for obtaining early medical release are provided to AICs and available on DOC's website.

Requires the MRAC to create two panels, one to consider regular early medical release requests (Committee recommendation due to the Board within 45 days) and one to consider expedited requests (Committee recommendation due to the Board within 14 days) (a 14-day good cause extension is allowed for the Committee). Requires the Board to hire a release navigator to provide support: to the Committee; to AICs who apply for early medical release; and with reentry planning.

Directs the Committee to create an application form and to adopt specific rules. Limits the Committee to consideration of no more than five direct applications per month (this does not include DOC referrals and this number may be increased under certain circumstances, such as a state of emergency). Requires the committee to consider applications in order of receipt, while prioritizing those from AICs with terminal prognosis who have less than a year to live.

Allows a committee member to seek paid consult from an outside specialist in making a determination. Requires the committee to make written findings when recommending or declining to recommend release. If the committee declines to recommend early medical release, the AIC may reapply under certain circumstances.

Requires the Oregon Public Defense Commission (OPDC) to provide counsel for financially eligible applicants or referrals at any proceedings related to this process, if the committee recommends release.

Requires the Board to review the recommendations of the MRAC and either hold a hearing within 45 days or provide prompt written notification of its decision. Directs the board to affirm the recommendation of the MRAC unless it finds, by clear and convincing evidence, that the AIC poses a danger to the safety of another person or

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the public and the danger outweighs any compassionate reasons for release. Requires certain steps be completed if the Board determines that the sentencing court must authorize release and specifies procedural process for the court. Provides victim notification requirements. States that a decision by the Board is not subject to judicial review.

Provides civil and criminal immunity for the committee members for proceedings arising from official committee actions. Directs the MRAC, in collaboration with the Board and OJD to track early medical release data, and to report to the Judiciary Committees every year. Sunsets the five-per-month application limit in 2027. Prohibits a prosecuting attorney from conditioning a defendant's plea offer on waiver of eligibility for early medical release. Increases the membership of the Board from five to six members. Modernizes statutory language. Takes effect on the 91st day after sine die.

ISSUES DISCUSSED:

- Challenges with current compassionate medical release process
- Changes made to the process in federal prisons
- [SB 819 \(2021\)](#)
- Governor clemency and pardon powers
- Medical leave versus medical release
- Difficulty for family and loved ones to say goodbye because of the visitation procedures and limitations
- AICs who do not have the physical capacity to hurt anyone
- DOC lacks the proper resources / environment for end-of-life care
- Applicants sometimes pass away while waiting for an answer on their medical release eligibility
- Twelve out of 166 people in the last eight years were granted early medical release
- National ranking of Oregon's early medical release program
- Price per day to keep a person in DOC custody
- Changing the bill to a task force staffed by LPRO

EFFECT OF AMENDMENT:

-1 Replaces the measure. Creates the Task Force on Compassionate Medical Release (the Task Force). Comprised of 23 members including two nonvoting members of the House and two nonvoting members of the Senate, one member appointed by the Chief Justice, with the remaining members appointed by the Governor. Specifies membership. Requires the Task Force examine existing law authorizing early medical release from custody and to identify barriers that are impeding or delaying the process; analyze other states practice; calculate related costs, in addition to other directives. Requires the Task Force to submit a report to the interim judiciary committees by December 31, 2024. Staffing to be provided by the Legislative Policy and Research Office. Declares an emergency, effective on passage.

REVENUE: No revenue impact

FISCAL:

BACKGROUND:

Major functions of the Oregon Board of Parole and Post-Prison Supervision (Board) include setting release dates for individuals who are eligible for parole and establishing community supervision conditions for individuals. To qualify for early medical release, an application must be submitted to the Board. When making a decision to advance the release date of an adult in custody (AIC), the Board must consider a variety of factors, including the age of the AIC, a medical authority's determination of whether the AIC is unable to move from place to place without the assistance of another person, and whether the AIC has a terminal illness defined as a medical authority's reasonable belief that the AIC's life expectancy is less than twelve months. The process can take several weeks to several months.