



AGING INMATE POPULATION

By: Christopher Reinhart, Chief Attorney

- Over the past few years, several New York bills proposed creating “geriatric parole” but did not become law.
- Connecticut does not have a “geriatric parole” law, but three laws allow the release of inmates with serious medical conditions from prison under certain circumstances.
- For information on how other states are addressing the aging or medically infirm inmate population, see OLR report [2013-R-0166](#).

QUESTION

Did New York adopt the “Geriatric and Elderly Inmate Act of 2007”? Does Connecticut have a similar law or other laws addressing the aging inmate population?

SUMMARY

It does not appear that New York adopted the “Geriatric and Elderly Inmate Act of 2007,” which proposed creating geriatric parole. We found bills in a number of recent years on this topic. As an example, A 4594 in 2013 proposed making inmates eligible for geriatric parole after reaching age 60 and serving half of their required sentences. Before releasing someone, the bill would have required the parole board to consider whether (1) there is a reasonable

probability that the inmate would not violate the law if released, (2) the release is compatible with society’s welfare, and (3) the release does not diminish the crime’s seriousness in a way that undermines respect for the law. Inmates who committed certain crimes would have been ineligible. This bill did not become law.

Connecticut does not have a geriatric parole law but three laws allow either the Department of Correction (DOC) or Board of Pardons and Paroles to release certain inmates with serious medical conditions from incarceration. Because they tend to have more serious health problems, elderly inmates are more likely to be eligible for release under these laws. These laws allow the:

1. DOC commissioner to release certain inmates from custody for nursing home placement for palliative and end-of-life care and
2. board to grant certain inmates medical parole or compassionate parole release.

INMATE NURSING HOME PLACEMENT

Connecticut law generally gives the DOC commissioner discretion to release from custody any inmate, other than one convicted of a capital felony or murder with special circumstances, for nursing home placement for palliative and end-of-life care.

The placement must be in a licensed community-based nursing home under contract with the state. Before the commissioner can authorize such a placement, the DOC medical director must determine that the inmate is suffering from a terminal condition, disease, or syndrome or is so debilitated or incapacitated by it as to (1) need continuous palliative or end-of-life care or (2) be physically incapable of presenting a danger to society.

DOC must supervise any inmate released in this manner. The DOC commissioner, as a condition of placement, can require the medical director to periodically review and diagnose the inmate during his or her release. An inmate must be returned to DOC custody if the medical director determines that he or she no longer meets the criteria for release described above ([CGS § 18-100i](#)).

DOC currently places inmates released under this program at a private facility under contract with DOC in Rocky Hill.

MEDICAL PAROLE RELEASE

Connecticut law allows the Board of Pardons and Paroles to grant an inmate, other than one convicted of a capital felony or murder with special circumstances, a medical parole release. The inmate must have a terminal condition, disease, or syndrome, and be so debilitated or incapacitated by it as to be physically incapable of presenting a danger to society.

A Connecticut-licensed doctor must make the diagnosis and describe the condition, likelihood of recovery, and inmate's incapacity. The board, DOC commissioner, or a prison warden or superintendent can request a diagnosis to determine eligibility for medical parole. An inmate, certain relatives, and his or her attorney can also ask

one of these entities or people for a diagnosis. The DOC medical director or a DOC-appointed physician may review a diagnosis made by a doctor who is not employed by DOC or a medical facility used by DOC.

A parolee released on medical parole must agree to placement and be able to be placed in a hospital, hospice, or other housing accommodation suitable to his or her medical condition as specified by the board. An inmate may be placed in his or her family home. The board can require periodic diagnoses and an inmate must be returned to a DOC facility if he or she no longer qualifies for medical parole.

The law allows the board to set up a special panel to consider medical parole requests and requires the board or panel to decide requests on an emergency basis and otherwise as expeditiously as possible ([CGS § 54-131a](#) et seq.).

COMPASSIONATE PAROLE RELEASE

Connecticut law allows the Board of Pardons and Paroles to grant an inmate, other than one convicted of a capital felony or murder with special circumstances, compassionate parole release. To qualify for release, the inmate must:

1. be physically incapable of endangering society because he or she is physically or mentally debilitated, incapacitated, or infirm because of advanced age or a non-terminal condition, disease, or syndrome and
2. have served at least half of his or her sentence or half of the remaining sentence after the board commuted the original sentence ([CGS § 54-131k](#)).

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