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## OLR Bill Analysis

### sSB 460

#### ***AN ACT CONCERNING COMPASSIONATE OR MEDICAL PAROLE AND CREDITS AWARDED FOR RELEASE DURING AN EMERGENCY DECLARATION.***

#### **SUMMARY**

This bill expands the circumstances under which the Board of Pardons and Parole may grant compassionate parole. It does so by (1) lowering the “danger to society” threshold for certain inmates’ conditions for release and (2) generally allowing these releases during a major disaster or emergency declaration, such as the COVID-19 pandemic. Releases may be made at any time during the inmate’s sentence if the parole release panel finds that (1) circumstances exist that pose a higher risk of harm to the inmate if he or she remains confined and (2) the inmate presents a reduced risk of presenting any danger to society.

The bill also conforms the law to current practice by specifying that three-member panels determine when and under what conditions an inmate serving an imprisonment sentence may be released on medical or compassionate parole. As under existing law, the release panel (1) is composed of three members and (2) may, with certain conditions, release any inmate on medical or compassionate parole, except inmates convicted of a capital felony or murder with special circumstances.

The bill, with certain exceptions, establishes a public health release credit awarded to inmates toward release from imprisonment during a declared major disaster or emergency. It requires the Department of Correction (DOC) commissioner to grant credits to inmates serving a sentence of imprisonment whose scheduled release date is within one year after such a declaration. Under this new credit system, the commissioner must reduce an eligible inmate’s term of imprisonment by 122 days for each month he or she is imprisoned during the period

covered by the declaration (prorated for partial months), up to 244 days' worth of credit during that period.

The bill also makes minor, technical, and conforming changes to the medical and compassionate parole statutes.

EFFECTIVE DATE: October 1, 2022

### **§§ 1-7 — MEDICAL AND COMPASSIONATE PAROLE**

The bill explicitly gives the Board of Pardons and Paroles independent decision-making authority to grant medical parole or compassionate parole; establish their conditions; and rescind, revoke, or discharge anyone under these paroles.

It also brings medical and compassionate parole under certain procedures for parole release. Under current law:

1. upon a request to return a person to custody made by certain individuals (e.g., DOC commissioner) authorized to serve criminal process, a law enforcement official must arrest and hold the person without written warrant (CGS § 54-127);
2. a parolee's parole must be revoked or rescinded after a hearing when a board employee recommends it and at least two members of a board panel approve it (CGS § 54-127a);
3. inmates returned to a DOC institution for violating parole may generally be retained in a correctional institution for the unexpired portion of their sentence with certain possible deductions (CGS § 54-128); and
4. if it appears to the appropriate panel that a person or inmate on parole will lead an orderly life, the panel may, by unanimous vote, declare the person discharged from DOC custody or terminate the period of special parole, without a court order, before the period is completed (CGS § 54-129).

The bill expands these provisions to also cover those on medical and compassionate parole.

## **§ 8 — COMPASSIONATE PAROLE**

The bill lowers the “danger to society” threshold for certain inmates’ conditions for release under a compassionate parole.

Under current law, the board may grant compassionate parole release to an inmate if, among other things, he or she is so physically or mentally debilitated, incapacitated, or infirm due to advanced age or a non-terminal condition, disease, or syndrome, as to be physically incapable of presenting a danger to society. Under the bill, the inmate must instead present a significantly reduced risk of danger to society rather than being physically incapable of presenting a danger to society.

As under existing law, to be eligible for compassionate release, an inmate must also have served at least half of his or her sentence, or half after the board commuted the original sentence.

### ***Emergency Declaration or Major Disaster***

The bill allows the panel to grant a compassionate parole release to any inmate (other than those convicted of a capital felony or murder with special circumstances as described above) serving any sentences of imprisonment during certain major disaster or emergency declarations. These declarations are those issued by the President covering any part of the state or by the governor, including those related to the COVID-19 pandemic or any other disease epidemic or public health emergency, or a natural disaster.

The release may be at any time during the inmate’s sentence if the panel finds (1) circumstances exist that pose a higher risk of harm to the inmate if he or she remains confined and (2) the inmate presents a reduced risk of presenting any danger to society.

Under the bill, “COVID-19” means the respiratory disease designated by the World Health Organization (WHO) on February 11, 2020, as coronavirus 2019, and any related mutation WHO recognizes as a communicable respiratory disease.

Under the bill, anyone granted compassionate parole release must, upon the emergency declaration’s expiration or termination, be ordered

to appear before the board or an appointed special panel within 20 days after the expiration or termination for a hearing on whether the parole should be revoked, continued, or modified. The board or panel must revoke the parole release if it finds (1) the risk of harm to the person if confined is no longer higher than before the major disaster or emergency declaration and (2) returning the person to confinement is in the best interest of public safety.

### ***Rules and Regulations After Release***

Under current law, anyone granted compassionate parole must be released subject to the board's terms and conditions and supervised by DOC. The bill instead requires that they be supervised by rules and regulations the board established. As under existing law, the chairperson enforces the rules, regulations, and provisions and can retake and imprison the parolee for any reason the panel, or the chairperson with the panel's approval, deems sufficient. The chairperson can detain a person pending the panel's approval (CGS § 54-126).

### ***Special Panel***

The bill allows the board's chairperson to appoint a special panel to implement the bill's compassionate parole provisions and review and decide requests for these paroles on an emergency basis. The bill requires the chairperson to act as expeditiously as possible in all cases.

### ***Applicability for Other Paroles***

The bill specifies that the compassionate parole provisions, both under existing law and the bill, do not affect an inmate's eligibility for any other form of parole or release provided by law.

### ***Reporting***

Starting by October 1, 2023, the bill requires the board to annually report to the Judiciary Committee, the number of:

1. inmates granted compassionate parole release in the prior year,
2. individuals released who were arrested in the prior year,

3. individuals released who were ordered re-confined for violating their release terms or conditions in the prior year, and
4. individuals released who were sentenced to confinement on a separate and unrelated offense.

### **§ 9 — PUBLIC HEALTH EMERGENCY RELEASE CREDITS**

The bill requires the DOC commissioner to grant public health release credits to any inmate serving a sentence of imprisonment whose scheduled release date is within one year after certain major disaster or emergency declarations. This does not apply to an inmate who is a persistent dangerous felony offender, persistent dangerous sexual offender, or those who committed:

1. murder (CGS § 53a-54a),
2. murder with special circumstances (CGS § 53a-54b),
3. felony murder (CGS § 53a-54c),
4. arson murder (CGS § 53a-54d),
5. 1st degree manslaughter (CGS § 53a-55),
6. 1st degree manslaughter with a firearm (CGS § 53a-55a),
7. 1st degree aggravated sexual assault (CGS § 53a-70a),
8. aggravated sexual assault of a minor (CGS § 53a-70c), or
9. home invasion (CGS § 53a-100aa).

Regardless of any provision in existing law, the DOC commissioner must award to any eligible inmate serving a sentence during the period covered by the declaration public health release credits toward reducing the inmate's imprisonment term by 122 days for each month the inmate is imprisoned during the period covered by the declaration. The credit must be prorated for partial months within the period. A covered declaration is the same as those for compassionate parole release during a major disaster or emergency declaration (see above). The

commissioner must not award more than 244 days' worth of credit to any inmate during any declaration.

Under the bill, any credit awarded may only be awarded during the time an inmate is sentenced to an imprisonment term and committed to the DOC commissioner's custody. It may not (1) be transferred or applied to a subsequent imprisonment term, (2) be applied to reduce a mandatory minimum term the inmate must serve by law, or (3) affect an inmate's eligibility for any other form of parole or release.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 34 Nay 5 (03/31/2022)