



Senate

General Assembly

File No. 532

February Session, 2022

Substitute Senate Bill No. 460

Senate, April 19, 2022

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (e) and (f) of section 54-124a of the 2022
2 supplement to the general statutes are repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2022*):

4 (e) (1) Each parole release panel, including any such panel for the
5 purpose of compassionate parole release or medical parole release, shall
6 be composed of three members, one of whom shall be the chairperson
7 or a full-time member designated by the chairperson to serve
8 temporarily as chairperson.

9 (2) Each pardons panel shall be composed of three members, one of
10 whom may be the chairperson, except that for hearings on
11 commutations from the penalty of death, one member of the panel shall
12 be the chairperson.

13 (3) Each panel that discharges persons on parole from the custody of
14 the Commissioner of Correction or that terminates the period of special
15 parole for persons shall be composed of three members, one of whom
16 shall be the chairperson or a full-time member designated by the
17 chairperson to serve temporarily as chairperson.

18 (f) The Board of Pardons and Paroles shall have independent
19 decision-making authority to (1) grant or deny parole in accordance
20 with sections 54-125, 54-125a, 54-125e and 54-125g, medical parole in
21 accordance with the provisions of sections 54-131a to 54-131g, inclusive,
22 as amended by this act, or compassionate parole in accordance with the
23 provisions of section 54-131k, as amended by this act, (2) establish
24 conditions of parole, medical parole, compassionate parole or special
25 parole supervision in accordance with section 54-126, (3) rescind or
26 revoke parole, medical parole, compassionate parole or special parole
27 in accordance with sections 54-127, as amended by this act, and 54-128,
28 as amended by this act, (4) grant commutations of punishment or
29 releases, conditioned or absolute, in the case of any person convicted of
30 any offense against the state and commutations from the penalty of
31 death in accordance with section 54-130a, (5) discharge any person on
32 parole, medical parole or compassionate parole or inmate eligible for
33 parole from the custody of the Commissioner of Correction pursuant to
34 section 54-129, as amended by this act, and (6) terminate special parole
35 in accordance with section 54-129, as amended by this act.

36 Sec. 2. Section 54-127 of the general statutes is repealed and the
37 following is substituted in lieu thereof (*Effective October 1, 2022*):

38 The request of the Commissioner of Correction or any officer of the
39 Department of Correction so designated by the commissioner, or of the
40 Board of Pardons and Paroles or its chairman shall be sufficient warrant
41 to authorize any officer of the Department of Correction or any officer
42 authorized by law to serve criminal process within this state, to return
43 any convict or inmate on parole, medical parole or compassionate
44 parole into actual custody; and any such officer, police officer, constable
45 or state marshal shall arrest and hold any parolee or inmate when so

46 requested, without any written warrant.

47 Sec. 3. Section 54-127a of the general statutes is repealed and the
48 following is substituted in lieu thereof (*Effective October 1, 2022*):

49 All parole revocation and rescission hearings shall be conducted by
50 an employee of the Board of Pardons and Paroles. The parole of a person
51 who has been allowed to go on parole in accordance with subsection (a)
52 of section 54-125a or section 54-125g, or sections 54-131a to 54-131g,
53 inclusive, as amended by this act, or section 54-131k, as amended by this
54 act, or who has been sentenced to a period of special parole in
55 accordance with subdivision (9) of subsection (b) of section 53a-28, shall
56 be revoked or rescinded if, after such hearing, the employee
57 recommends such revocation or rescission and such recommendation is
58 approved by at least two members of a panel of the board.

59 Sec. 4. Subsection (a) of section 54-128 of the general statutes is
60 repealed and the following is substituted in lieu thereof (*Effective October*
61 *1, 2022*):

62 (a) Any paroled inmate, including an inmate allowed to go on parole
63 pursuant to sections 54-131a to 54-131g, inclusive, as amended by this
64 act, or section 54-131k, as amended by this act, who has been returned
65 to any institution of the Department of Correction for violation of such
66 inmate's parole may be retained in a correctional institution for a period
67 equal to the unexpired portion of the term of such inmate's sentence at
68 the date of the request or order for such inmate's return less any
69 commutation or diminution of such inmate's sentence earned, except
70 that the Board of Pardons and Paroles may, in its discretion, determine
71 that such inmate shall forfeit any or all of such earned time, or may be
72 again paroled by said board.

73 Sec. 5. Subsection (a) of section 54-129 of the general statutes is
74 repealed and the following is substituted in lieu thereof (*Effective October*
75 *1, 2022*):

76 (a) If it appears to the appropriate panel of the Board of Pardons and

77 Paroles that any person on parole, medical parole or compassionate
78 parole or inmate eligible for parole, medical parole or compassionate
79 parole or any person serving a period of special parole will lead an
80 orderly life, the panel, by a unanimous vote, may (1) declare such person
81 on parole, medical parole or compassionate parole or inmate discharged
82 from the custody of the Commissioner of Correction, or (2) at any time
83 during such person's period of special parole, terminate such period,
84 without a court order, before such person completes such period.

85 Sec. 6. Section 54-131a of the general statutes is repealed and the
86 following is substituted in lieu thereof (*Effective October 1, 2022*):

87 [The] A panel of the Board of Pardons and Paroles may determine, in
88 accordance with sections 54-131a to 54-131g, inclusive, as amended by
89 this act, when and under what conditions an inmate serving any
90 sentence of imprisonment may be released on medical parole.

91 Sec. 7. Section 54-131b of the general statutes is repealed and the
92 following is substituted in lieu thereof (*Effective October 1, 2022*):

93 [The] A panel of the Board of Pardons and Paroles may release on
94 medical parole any inmate serving any sentence of imprisonment,
95 except an inmate convicted of a capital felony under the provisions of
96 section 53a-54b in effect prior to April 25, 2012, or murder with special
97 circumstances under the provisions of section 53a-54b in effect on or
98 after April 25, 2012, who has been diagnosed pursuant to section 54-131c
99 as suffering from a terminal condition, disease or syndrome, and is so
100 debilitated or incapacitated by such condition, disease or syndrome as
101 to be physically incapable of presenting a danger to society.
102 Notwithstanding any provision of the general statutes to the contrary,
103 the Board of Pardons and Paroles may release such inmate at any time
104 during the term of such inmate's sentence.

105 Sec. 8. Section 54-131k of the general statutes is repealed and the
106 following is substituted in lieu thereof (*Effective October 1, 2022*):

107 (a) The Board of Pardons and Paroles may grant a compassionate

108 parole release to any inmate serving any sentence of imprisonment,
109 except an inmate convicted of a capital felony under the provisions of
110 section 53a-54b in effect prior to April 25, 2012, or murder with special
111 circumstances under the provisions of section 53a-54b in effect on or
112 after April 25, 2012, if [it] the panel finds that such inmate (1) is so
113 physically or mentally debilitated, incapacitated or infirm as a result of
114 advanced age or as a result of a condition, disease or syndrome that is
115 not terminal as to [be physically incapable of presenting a] present a
116 significantly reduced risk of danger to society, and (2) (A) has served
117 not less than one-half of such inmate's definite or aggregate sentence, or
118 (B) has served not less than one-half of such inmate's remaining definite
119 or aggregate sentence after commutation of the original sentence by the
120 Board of Pardons and Paroles.

121 (b) (1) During a major disaster or an emergency declaration by the
122 President of the United States covering any part of the state, or an
123 emergency declaration issued by the Governor, that shall include, but
124 need not be limited to, those declarations issued concerning the COVID-
125 19 pandemic, any other disease epidemic or public health emergency or
126 a natural disaster, a panel of the Board of Pardons and Paroles may grant
127 a compassionate parole release to any inmate serving any sentence of
128 imprisonment, except an inmate convicted of a capital felony under the
129 provisions of section 53a-54b in effect prior to April 25, 2012, or murder
130 with special circumstances under the provisions of section 53a-54b in
131 effect on or after April 25, 2012, at any time during the term of such
132 inmate's sentence, if the panel finds (A) circumstances exist which pose
133 a higher risk of harm to such inmate should such inmate remain
134 confined, and (B) such inmate presents a reduced risk of presenting any
135 danger to society.

136 (2) For purposes of this subsection, "COVID-19" means the
137 respiratory disease designated by the World Health Organization on
138 February 11, 2020, as coronavirus 2019, and any related mutation thereof
139 recognized by said organization as a communicable respiratory disease.

140 (3) Any person granted a compassionate parole release pursuant to

141 this subsection shall, upon expiration or termination of the major
142 disaster or emergency declaration, be ordered to appear before the
143 Board of Pardons of Paroles or any special panel thereof appointed
144 pursuant to this section not later than twenty days after such expiration
145 or termination for a hearing as to whether such compassionate parole
146 release shall be revoked, continued or modified. The Board of Pardons
147 of Paroles or any special panel thereof shall revoke a compassionate
148 parole release if the Board or panel finds (A) the risk of harm to such
149 person should such person be confined is no longer higher than prior to
150 the major disaster or emergency declaration, and (B) returning such
151 person to confinement is in the best interest of public safety.

152 [(b)] (c) Any person granted a compassionate parole release pursuant
153 to this section shall be released subject to such terms and conditions as
154 may be established by the Board of Pardons and Paroles and [shall be
155 supervised by the Department of Correction] the rules and regulations
156 established pursuant to section 54-126.

157 (d) The chairperson of the Board of Pardons and Paroles may appoint
158 a special panel to implement the provisions of this section and review
159 and decide requests for compassionate parole under this section on an
160 emergency basis, and in all cases shall act in as expeditious a manner as
161 possible.

162 (e) The provisions of this section shall not affect an inmate's eligibility
163 for any other form of parole or release provided by law.

164 (f) Not later than October 1, 2023, and annually thereafter, the Board
165 of Pardons and Paroles shall report, in accordance with the provisions
166 of section 11-4a, to the joint standing committee of the General
167 Assembly having cognizance of matters relating to the judiciary (1) the
168 number of persons granted compassionate parole release in the prior
169 year, (2) the number of such persons released who have been arrested
170 in the prior year, (3) the number of such persons released who have been
171 ordered reconfined based upon violations of the terms or conditions of
172 compassionate parole release in the prior year, and (4) the number of
173 such persons released who have been sentenced to confinement

174 pursuant to a separate and unrelated offense.

175 Sec. 9. (NEW) (*Effective October 1, 2022*) (a) The Commissioner of
176 Correction shall grant public health emergency release credits in
177 accordance with subsection (b) of this section to any inmate who is
178 serving a sentence of imprisonment whose scheduled release date is
179 within one year of the issuance of a declaration described in subsection
180 (b) of this section, except to an inmate who is sentenced for a violation
181 of section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a, 53a-70a,
182 53a-70c or 53a-100aa of the general statutes, or who is a persistent
183 dangerous felony offender or persistent dangerous sexual offender
184 pursuant to section 53a-40 of the general statutes.

185 (b) (1) Notwithstanding any provision of the general statutes, during
186 a major disaster or an emergency declaration by the President of the
187 United States covering any part of the state, or an emergency declaration
188 issued by the Governor, that shall include, but need not be limited to,
189 those declarations issued concerning the COVID-19 pandemic, any
190 other disease epidemic or public health emergency or a natural disaster,
191 the commissioner shall award public health emergency release credits
192 to any inmate described in subsection (a) of this section who is serving
193 a sentence of imprisonment during the time period covered by such
194 major disaster or declaration toward a reduction of such inmate's term
195 of imprisonment, in an amount equal to one hundred twenty-two days
196 per month for each month such inmate is imprisoned during the period
197 covered by such declaration, the amount of which shall be reduced pro
198 rata for any month that did not fall entirely during the period covered
199 by such declaration. The commissioner shall not award more than two
200 hundred forty-four days' worth of credits to any such inmate during the
201 time period covered by any such declaration.

202 (2) For purposes of this subsection, "COVID-19" means the
203 respiratory disease designated by the World Health Organization on
204 February 11, 2020, as coronavirus 2019, and any related mutation thereof
205 recognized by said organization as a communicable respiratory disease.

206 (c) Any credit awarded under this section may only be awarded

207 during the period of time that the inmate is sentenced to a term of
 208 imprisonment and committed to the custody of the commissioner and
 209 may not be transferred or applied to a subsequent term of
 210 imprisonment. In no event shall any credit awarded under this section
 211 be applied so as to reduce a mandatory minimum term of imprisonment
 212 such inmate is required to serve by statute.

213 (d) The provisions of this section shall not affect an inmate's eligibility
 214 for any other form of parole or release provided by law.

| | | |
|---|-----------------|--------------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2022 | 54-124a(e) and (f) |
| Sec. 2 | October 1, 2022 | 54-127 |
| Sec. 3 | October 1, 2022 | 54-127a |
| Sec. 4 | October 1, 2022 | 54-128(a) |
| Sec. 5 | October 1, 2022 | 54-129(a) |
| Sec. 6 | October 1, 2022 | 54-131a |
| Sec. 7 | October 1, 2022 | 54-131b |
| Sec. 8 | October 1, 2022 | 54-131k |
| Sec. 9 | October 1, 2022 | New section |

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 23 \$ | FY 24 \$ |
|-------------------|------------------------|-----------|-----------|
| Correction, Dept. | GF - Potential Savings | See Below | See Below |

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes various changes to certain parole types and creates inmate credits awarded for release during an emergency resulting in a marginal savings described below.

The bill expands the eligibility for medical or compassionate parole resulting in a potential marginal savings to the Department of Correction (DOC) to the extent additional inmates receive parole. On average, the annual marginal savings to the state for releasing an offender is \$2,500.¹

The bill also creates public health emergency release credits to be awarded to certain inmates during major disasters or emergency declarations resulting in a potential marginal savings to the DOC to the extent credits are awarded and inmate sentences are reduced. On average, the annual marginal savings to the state for releasing an

¹ Inmate marginal savings is based on decreased consumables (e.g. food, clothing, water, sewage, living supplies, etc.). This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility closed.

offender is \$2,500.²

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of compassionate or medical parole issued and the number of emergency release credits issued.

² Inmate marginal savings is based on decreased consumables (e.g. food, clothing, water, sewage, living supplies, etc.). This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility closed.

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)