

Judiciary Committee JOINT FAVORABLE REPORT

Bill No.: SB-460

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

Title: DECLARATION.

Vote Date: 3/31/2022

Vote Action: Joint Favorable Substitute

PH Date: 3/25/2022

File No.: 532

***Disclaimer:** The following JOINT FAVORABLE Report is prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose.*

SPONSORS OF BILL:

Rep. David Michel, 146th Dist.

Rep. Travis Simms, 140th Dist.

Judiciary Committee

REASONS FOR BILL:

COVID-19 continues to impact our state, and prisons have been identified as particularly high-risk areas where the virus is easily spread as treatment and testing resources are extremely limited. Close quarters living situations inside of prisons mean that outbreaks spread rapidly, and there is little to nothing inmates can do to avoid infection. For some older and/or immunocompromised individuals, this has led to serious illness and death while in DOC custody. In the event of an emergency declaration, SB460 seeks to provide a mechanism for those who have a high risk of death and pose an exceptionally low risk to communities, to receive compassionate release or medical parole. It is expected that this effort will save lives by removing eligible inmates from custody when the DOC is unable to provide for their safety.

RESPONSE FROM ADMINISTRATION/AGENCY:

CT Commission on Women, Children, Seniors, Equity and Opportunity

The CWCSEO offered testimony in support of SB460, asserting that the objectives of incarceration are undermined in cases where prisoners are too ill or cognitively impaired to participate in rehabilitation or too functionally compromised to pose a risk to public safety. The Commission also notes the exorbitant cost of housing and providing for sick and disabled patients. They point out that this burden falls on taxpayers, and it would be both more humane and cost effective for people to receive end of life treatment and healthcare outside of the prison system.

State of Connecticut Office of the Victim Advocate – Natasha M. Pierre

The CT OVA testified in response to SB460, supporting and opposing specific sections. The OVA supports Sections 2-4, which allow for released inmates to be returned to custody should they violate conditions of their parole. The OVA opposes Section 7 of SB460, which changes the threshold for release from "[an inmate] being *physically incapable* of presenting a danger to society", to "[an inmate] presenting a *significantly reduced* risk to society." The OVA argues that only the highest possible standard should be used when considering compassionate release. Further, the OVA opposes subsection (b) of Section 7, arguing that authority to grant compassionate release is too broad, and that generally DOC should be left to its own devices to respond to crisis. Finally, the OVA opposes Section 8, which creates a credit system for inmates to secure compassionate release. They oppose new mechanisms for inmates to pursue release.

State of Connecticut, Division of Criminal Justice

The Division of Criminal Justice testified in opposition to SB460, however it recommends the inclusion of certain changes should the bill be voted out of committee. First, The Division recommends that some notice be given to the victim and prosecutor of a given crime before the release of the perpetrator. Second, they recommend the bill include guidance for the Board of Pardons to evaluate risk to the inmate and risk to the community before granting release.

State of Connecticut Division of Public Defender Services – Deborah Del Prete Sullivan, Office of Chief Public Defender

The Office of the Chief Public Defender supports SB460, noting that the bill does not allow for automatic release, but only applies in cases of natural disaster or public health crisis. They also emphasize that to be released, in addition to other considerations, it must also be the case that "circumstances exist which pose a higher risk of harm" if the inmate were to remain incarcerated.

NATURE AND SOURCES OF SUPPORT:

ACLU – Jess Zaccagnino, Policy Council

Ms. Zaccagnino testified in support of SB460. She explains that since the outbreak of the pandemic, 19 people in DOC custody have died due to COVID, and 4249 have tested positive. She also observes that discretionary releases remained the same during the pandemic and subsequent emergency declaration, as previous years. The current discretionary release policy maintains the same standards regardless of public health context. Ms. Zaccagnino quotes the Executive Director of the BOPP, who notes that the compassionate release "statutory criteria were not drafted to handle a virus such as this". She argues that through it's inaction, the state of Connecticut essentially sentenced 19 people to death by subjecting them to conditions in which they became infected and died as a result. Ms. Zaccagnino urges adoption of the bill to save lives of incarcerated people.

Meridian Monthly – New Haven Resident

Ms. Monthly offered strong support for SB460, arguing that it is both economically beneficial and ethically required. Other states such as Utah and Vermont have passed similar initiatives to curb prison overpopulation and the growing costs associated with an increasing elder population in state prison systems. It is Ms. Monthly's observation that as prisoners age, the cost to incarcerate them increases as the threat they pose to communities decreases. Therefore, there should be a mechanism to relieve the prison system in cases where it is

deemed necessary and safe to do so. She continues, citing the deaths of two Connecticut residents in DOC custody. One, Mr. Michael Ferguson, became infected with COVID-19 and died just a few months before completing a two-year sentence. Another, Mr. Harold Alling, the 19th inmate to die of COVID-19, had not been convicted when he passed away in DOC custody. Ms. Monthly explains that despite the relatively short sentences or even the total lack thereof, these people were effectively sentenced to a slow, painful death. She reassures the legislature that the standard to release is still very high, and the bill shouldn't be seen as a move to be lenient on criminals, but rather to ethically cut costs in a way that doesn't put communities at risk. She cites a review by the Department of Justice which found prisoners who were granted compassionate release have an average recidivism rate of 3.1%, compared to 30% when released on term.

Pierletta Jones, ACLU Leader

Mr. Jones testified in support of SB460. He explains that he spent over 27 years incarcerated at the York Correctional Institution. He worked in hospice and recalls how it is often impossible to receive medical care, and the increased demand following the outbreak of COVID-19 strained the already dwindling system. Of the 8374 infected inmates, 29 so far have died, and Mr. Jones explains that individuals in prisons are unable to take even personal measures to protect their lives from disease. Therefore, in times like these, Mr. Jones argues that access to compassionate release should be expanded in cases where individuals pose minimal risk to the community.

One Standard of Justice – Sharon Dorne

Ms. Dorne offered support with qualification for SB460. She argues that mandatory sentencing requirements have increased the number of elderly and feeble people who are incarcerated, and asks the state to recognize the reduced threat posed people in these conditions. OSJ does not support exclusions of any type based on classification of offense, arguing that the type of offense does not reflect a person's risk to public safety.

Katal Center for Equity, Health and Justice – Kenyatta Muzzanni

Kenyatta Muzzanni testified in tepid support of SB460. She commends the underlying purpose but recommends a number of additions to improve efficacy. She observes that the Department of Corrections does not presently have a legitimate or transparent plan to manage COVID-19 within their facilities, even as 90% of inmates have tested positive, versus less than 20% in the general community. Ms. Muzzanni expressed concern that although decarceration remains the "number one recommended public health response to COVID-19", the significant offense-based exclusions included in the bill may hamper the larger systemic benefits. She is also concerned that the proposed panel within the Board of Pardons and Parole, suffers from a lack of a public health perspective, and so she urges the mandatory inclusion of public health experts on the panel. While the Katal Center supports the underlying intent of SB460, Ms. Muzzanni recommends the following changes and additions:

- Extension of release credits to all incarcerated people regardless of charge or time unserved;
- Expansion of eligibility for compassionate release, particularly by removing exclusions based on the nature of the original conviction;
- Prioritization of inmates who are at particular risk (immunocompromised, disabled etc.);

- Creation of an independent council of public health experts, or the addition of public health experts to the BOPP panel and to monitor proposed releases; and
- A detailed and regularly updated public report by the DOC of the program, including the number of inmates who apply for and receive release credits.

NATURE AND SOURCES OF OPPOSITION:

Violent Crime Survivors – Michele Voight

Ms. Voight testified in opposition to SB460. She feels the interest of victims has been overlooked, and she rejects the notion that victims of crimes may be vindictive. Ms. Voight asks that victims' rights to notification and statement be honored, and that the mandatory supervision of the released offender must be specified. Further, she requests that the bill be amended to expand exclusions for release to those guilty of violent Class A, B, C, and D felonies. Next, Ms. Voight recommends that previous language be restored to the bill, re-establishing the standard for community threat evaluation as "physically incapable of presenting a risk or danger" from "presents a significantly reduced risk or danger". Finally, she recommends that collaborative community model releases for those convicted of intimate partner violence or sexual assault, be included.

CT Coalition Against Domestic Violence (CCA) – Liza Andrews, Director of Public Policy & Communications

Ms. Andrews testified in opposition to SB460 on behalf of the Connecticut Coalition Against Domestic Violence. She says, "the fact that an individual faces greater risk for being infected by a virus should they remain confined in no way makes them less of a risk to society", emphasizing that the individuals threat risk should be the primary consideration in determining whether to grant compassionate release. Further, she feels that "pandemic related compassionate release should be limited to immune-compromised or medically vulnerable inmates who are also found to pose a reduced risk to society". She also urges the inclusion of a system for victim notification and input.

Reported by: Foster Hall

Date: 4/28/2022