YES on LC 142
Compassionate Medical Release

Oregon's compassionate release laws, ORS 144.122 and ORS 144.126, recognize that it is in the best interest of our communities for incarcerated Oregonians to be released when, due to medical conditions, their continued incarceration is inhumane and no longer furthers the purposes of imprisonment.

The Problem

Our current compassionate release process is ineffective and inconsistent with its purpose.

- The eligibility criteria are too narrow and not available to most adults in custody (AICs) in need of compassionate release.
- The application process is unclear and inaccessible to most AICs and their loved ones.
- Review of requests is done by non-health professionals and can take a significant amount of time to complete.

The Solution

The proposed legislation establishes an independent Medical Release Advisory Committee (MRAC) that sits within the Board of Parole, but is operationally independent. It will consist of 7-13 licensed medical professionals, appointed by the governor, and compensated for their time, to review applications and make release recommendations solely and objectively from a medical and public health perspective using the newly established criteria.

Important Features

- The MRAC will have rule-making authority to ensure they can fully and meaningfully implement the mandates of this policy as it is intended — a functional compassionate release mechanism.
- Creates a release navigator position to assist AICs with re-entry planning and ensure continuity of care in the community.
- If the MRAC recommends release, the applicant will be appointed counsel to assist them with the release court and the Board of Parole's review.
- The sentencing courts and the Board of Parole can affirm MRAC's recommendation for release or deny release if the board finds, by clear and convincing evidence, that the AIC poses a danger to the safety of another person or the public and the danger outweighs any compassionate reasons for the release.

> *There are a number of sound reasons for the robust use of compassionate release. Among them is the cost of housing, accommodating, and providing medical care for aging prisoners and those suffering from limiting disabilities or terminal conditions. Such prisoners are the most expensive to confine and the least likely to recidivate. Also, families suffer when they cannot comfort loved ones, settle affairs, and restore relationships with prisoners at the end of life.*
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> *Our system imprisons people to deter crime, punish those who commit crimes, protect the public, and rehabilitate prisoners who will one day return home. Prisoners should be released when they are too debilitated to commit further crimes, too compromised to benefit from rehabilitation, or too impaired to be aware of punishment.*
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> - Families Against Mandatory Minimums

In an effort to ensure a successful and sustainable system, this proposal will contain several phases and components of ramping up, including an articulated timeline, limitations of the number of individuals who can apply, and prioritizing who is eligible for review.

Ninety-first day after sine die until January 1, 2025:

- Only Section 5(5)(a), (b) and (d) criteria will be eligible for consideration by the MRAC.
    - (a) The applicant has a terminal illness with a prognosis of 12 months or less to live.
    - (b) The applicant is unable to independently complete the activities of eating, toileting, grooming, dressing, bathing or physical transfers or is unable to independently move from place to place, even with the use of a mobility device.
    - (d) The applicant has an underlying condition that places the applicant at increased risk of illness, medical complications or death if the applicant is exposed to disease, and a state of emergency has been declared under ORS 401.165 or a public health emergency has been declared under ORS 433.441.
- A monthly cap will be imposed until January 1, 2025, which will limit the MRAC to considering 5 completed applications per month *with* sufficient information to move forward.
- Priority will go to applicants with a terminal illness and a prognosis of 12 months or less to live (Section 5(5)(a)).

After January 1, 2025:

- AIC's in Section 5(5)(c) criterion will become eligible.
    - (c) The applicant has a debilitating or progressively debilitating medical condition, including but not limited to an injury, illness, disease, physiological or psychological condition or disorder that:
        - (A) Poses an immediate risk to the applicant's health or life;
        - (B) Requires complex medical intervention or intensive, high needs or specialized care; or
        - (C) Is otherwise described in the rules of the committee.
- The monthly cap will be lifted.
- Individuals serving Measure 11 (ORS 137.700) sentences may apply to the MRAC for a recommendation, but will not be eligible for release. The staff attorney may help them explore other legally available options for release, such as clemency.

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