

Utah releases eligible incarcerated individuals who have a medical condition or who are older through its **Compassionate Release** program.¹

COMPASSIONATE RELEASE

I. ELIGIBILITY

Medical Condition/Age – An incarcerated individual may be eligible for Compassionate Release if there is a “significantly reduced” risk to public safety due to any of the following:

- A medical infirmity, disease, or disability;
- A mental health disease or disability; or
- “Advancing age.”² (Note that the Compassionate Release law does not define this term.)

In addition, an individual with a “serious and persistent” medical condition that requires extensive medical attention, nursing home care, or palliative care may also be eligible.³

Exclusions – There is nothing in Utah law that appears to exclude any individual from consideration due to the type of crime committed and/or the sentence being served.

II. APPLICATION/REFERRAL

To start the process, the Utah Department of Corrections (Department) submits a written request to the Utah Board of Pardons and Parole (Board) detailing how an incarcerated individual meets the required medical and/or age eligibility criteria.⁴

- The request must include a report detailing (1) the specific conditions, health effects, or symptoms to be considered; (2) the medical treatments available; and (3) the individual’s prognosis, when possible.⁵

III. DOCUMENTATION AND ASSESSMENT

Other than a brief sentence about the request needing to include the medical information detailed above, there is nothing in state law or Board policy regarding additional documentation required or Department procedures that must be completed before the Department submits the request to the Board.

IV. DECISION-MAKING PROCESS

Decision-Maker – The Utah Board of Pardons and Parole is responsible for making all Compassionate Release decisions.⁶

Hearings – If the incarcerated individual previously had an initial hearing to determine whether “parole or other disposition” may be granted (also referred to as an original hearing), the Board can make a decision on the Compassionate Release request with or without a hearing.⁷ If the individual has not yet had an original hearing, the Board will hold a hearing on the Compassionate Release request.⁸

Notice – Before granting Compassionate Release without a hearing, the Board must make a “reasonable effort” to contact, inform, and consider the input of any victim of record in the case who has requested notice.⁹

Conditions and Prerelease Planning – There is nothing in Utah law or agency policy that details what type of prerelease planning is done or the conditions that may be set in Compassionate Release cases.

V. POST-DECISION

Appeal Rights – There is no information in state law or agency policy about appeals.

Effect of Compassionate Release Request on Other Eligibility – A Compassionate Release request does not “limit or preclude other requests for special attention or redetermination consideration.”¹⁰

Supervision – The Compassionate Release rules do not include provisions addressing supervision after release.

Revocation – There is no information in state law or agency policy about Compassionate Release revocation or termination.

VI. REPORTING/STATISTICS

The Compassionate Release regulation does not include any reporting requirements, and there are no publicly available statistics on the number of individuals who have been granted Compassionate Release by the Board.

- The Department issued a press release in August 2020 stating that 29 Compassionate Release requests were granted in the first half of 2020.¹¹
- The Board did not respond to FAMM’s request for information confirming that number or providing updated statistics.

UTAH COMPASSIONATE RELEASE

PRIMARY LEGAL SOURCE

COMPASSIONATE RELEASE

Regulations

Utah Administrative Code, Rule 671-314-1 (1) (2020), available through the Utah Office of Administrative Rules,
<https://adminrules.utah.gov/public/search/compassionate%20release/Current%20Rules>.

NOTES

* *Id. means see prior note.*

¹ Utah Admin. Code r. 671-314-1.

² *Id.* at (4) (a).

³ *Id.* at (4) (b).

⁴ *Id.* at (3) and (4).

⁵ *Id.* at (5).

⁶ *Id.* at (1).

⁷ *Id.* at (7).

⁸ *Id.* at (8). See also the Board's summary of its rules on scheduling original hearings, <https://bop.utah.gov/index.php/hearings-top-public-menu/types>.

⁹ *Id.* at (9), referencing Utah Code § 77-38-3 (8).

¹⁰ *Id.* at (2)

¹¹ Communications Office, "Clinical Services Bureau Earns Governor's Award," Utah Department of Corrections (Aug. 26, 2020), <https://corrections.utah.gov/index.php/home/alerts-2/1255-clinical-services-bureau-earns-governor-s-award>.