



# Pennsylvania

Overall Grade for Pennsylvania

Total Grade

**41** /100

Letter Grade

**F**

Program Grades

**Deferment of Sentence**

Total Grade

**41/100**

Letter Grade

**F**

# Deferment of Sentence

Total Grade

**41** /100

Letter Grade

**F**

## Eligibility Criteria

18/30

**5/10** Clearly set out with understandable and measurable standards.

**3/10** Generous or not unduly restrictive.

**10/10** No categorical exclusions/everyone is eligible for consideration.

✘ **Extra credit:** Terminal illness time-left-to-live provisions are reasonable and sufficiently long to permit the completion of the review and decision-making processes. **0**

## Procedures

0/10

**0/5** Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.

**0/5** Time frames for completing review and/or decision-making exist and are designed to keep the process moving along.

✘ **Extra credit:** Expedited time frames exist for terminal cases. **0**

## Engaging the Process

8/15

**3/5** Clinical and other staff can identify potentially eligible individuals and initiate the process.

**5/5** Incarcerated people, their loved ones, and advocates can initiate the process.

**0/5** Corrections staff have an affirmative duty to identify incarcerated people eligible for compassionate release and take the steps necessary to begin the process.

## Release Planning Support

0/10

**0/5** Agencies provide comprehensive release planning.

✘ **Extra credit:** Release planning includes helping the incarcerated person apply for benefits prior to release, including housing, Medicaid, Medicare, and/or veterans benefits. **0**

**0/5 UTD\*** Release planning begins early in the process.

## Agency Policy Design

5/15

**0/5** Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

**0/5** Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.

**5/5** Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

## Data Collection and Public Reporting

0/10

**0/5** Agencies are obliged to gather, compile, and report release data to legislature.

**0/5** Reporting is made available to the public via annual reports or other means.

10/10

## Right to Counsel and Appeals

**5/5** Program allows counsel to represent people before decision-maker (i.e., parole board, commissioner, or court).

**+ Extra credit:** Denials are appealable. **+5**

**0/5 UTD** Individuals have the right to reapply should conditions change.

**× Extra credit:** Revocations are not used to return people to prison because their condition improves or goes into remission or because the individual outlives the prognosis. **0**

\* UTD stands for "Unable to Determine" and is graded zero. This is when there are no rules, guidelines, regulations, or other authority that FMM could find addressing the graded category. For example, if there are no published provisions for release planning or telling an agency how it is to evaluate an incarcerated person's eligibility, that results in a zero UTD grade.

## The Numbers

Pennsylvania does not publish statistics about Deferment of Sentence. Former Secretary of Corrections John Wetzel said of the law in 2020, "It's not compassionate, nor do we release anybody."

## High and Low Marks

### HIGH MARKS

- **Eligibility criteria:** Pennsylvania does not categorically exclude anyone from eligibility for Deferment of Sentence.
- The sentencing court has the authority to grant Deferment of Sentence. Incarcerated people may have **counsel represent** them for the proceeding, and they may **appeal a court's denial**.

### LOW MARKS

- **Eligibility criteria** are exceptionally narrow; only people who are dying, either those within 12 months of death or for whom death is "likely in the near future" and who cannot walk, may benefit.
- The sentencing court may grant Deferment of Sentence. Pennsylvania fails at both **agency policy design** and **procedures** because the Department of Corrections has no policy and plays no role in the program. It does not assist individuals to draft a request to the court, help with documentation or certification, or collaborate on release planning. The program gets a mark for having rules that guide actors about steps to take and standards to apply but only because the statute lays those out clearly.
- Unlike in the majority of states, the Department plays no role in helping incarcerated individuals **initiate the Deferment of Sentence process** or document conditions. The law requires that individuals petition the court and include in their petition proof that, among other things, they meet the medical criteria; that their placement will not pose an undue risk of escape; and that they have provided legal notice to others that they are seeking release. The Department also plays no role in assisting individuals in gathering the information, including the medical information, it requires to supply that proof to the court.
- The law requires petitioners to include the name of the facility they believe will accept them into care and affirm they reasonably believe that facility will accept them. The Department does not play any role we can discern in assisting with **release planning**. FMM believes the Department should help people with this and other post-release preparation, especially given the challenges people who are dying undoubtedly have making such arrangements on their own.