

Compassionate Release Report Card • October 2022

Washington

Overall Grade for Washington

Total Grade

41 /100

Letter Grade

F

Program Grades

	Total Grade	Letter Grade
Extraordinary Medical Placement	61/100	D-
Extraordinary Release	22/100	F

Find all compassionate release resources on FAMM's site →

famm.org



Extraordinary Medical Placement

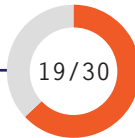
Total Grade

61 /100

Letter Grade

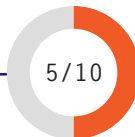
D-

Eligibility Criteria



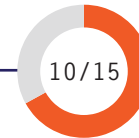
- 5/10** Clearly set out with understandable and measurable standards.
- 7/10** Generous or not unduly restrictive.
- 7/10** No categorical exclusions/everyone is eligible for consideration.
 - × **Extra credit:** Terminal illness time-left-to-live provisions are reasonable and sufficiently long to permit the completion of the review and decision-making processes. **0**

Procedures



- 5/5** 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



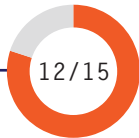
- 5/5** Clinical and other staff can identify potentially eligible individuals and initiate the process.
- 5/5** Incarcerated people, their loved ones, and advocates can initiate the process.
- 0/5** Corrections staff have an affirmative duty to identify incarcerated people eligible for compassionate release and take the steps necessary to begin the process.

Release Planning Support



- 5/5** 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**
- 5/5** Release planning begins early in the process.

Agency Policy Design



- 5/5** Agency rules exist for all stages of identification, initiation, assessment, and decision-making.
- 5/5** Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.
- 2/5** Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Data Collection and Public Reporting



- 5/5** Agencies are obliged to gather, compile, and report release data to legislature.
- 5/5** Reporting is made available to the public via annual reports or other means.

Right to Counsel and Appeals

5/10

0/5 Program allows counsel to represent people before decision-maker (i.e., parole board, commissioner, or court).

✘ **Extra credit:** Denials are appealable. **0**

5/5 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**



Overall Penalty

-10 Despite being a rather well-designed program, Extraordinary Medical Placement failed to live up to its name. In 2019 and 2020, only four people secured release.

The Numbers

The Department of Corrections Secretary must report statistics and data to the state on the number of people considered, granted, and denied Extraordinary Medical Release as well as any savings for the state. The Department Health Services publicly reported the following:

2019 The Department considered 32 individuals and did not approve release for any individuals.

2020 The Department considered 75 individuals and granted release to four.

High and Low Marks

HIGH MARKS

- Only people serving life without parole or those who wish to be released out of state are categorically excluded from **eligibility**.
- Incarcerated people, community members, and health services leadership may **engage the process** by submitting a referral form.
- Washington's Extraordinary Medical Placement earned top marks for **release planning**. It appears that the Department of Corrections is responsible for developing release plans and doing so early in the process. Washington requires a release plan as a necessary condition for eligibility, not just for ultimate release. For example, a person without community care resources such as funding, housing, or a family sponsor cannot be considered for Extraordinary Medical Placement, much less be released. The fact that the program requires the Department to do prerelease planning means individuals will not be shut out of consideration, which is often the case in other states that do not oblige agencies to provide such support.

LOW MARKS

- Washington's Extraordinary Medical Placement earns only middling marks for **eligibility criteria**. Those criteria are loosely defined and likely difficult to apply by those responsible for assessing individuals for release. For example, to be eligible, the applicant's medical condition must be so serious that it is costly. But the program does not provide parameters for how serious and how costly the care must be. Furthermore, release must result in cost savings for the state, but the program does not seem to offer a means to register that. Absent clear criteria, evaluators are likely to overlook people in need of compassionate release. The program received half marks because its description of another criterion – incapacitation – was more descriptive and understandable.
- While **policy** and **procedures** are in generally good shape, the program does not include time frames within which tasks must be completed, and guidance for reviewers and decision-makers is scant or difficult to apply (for example, determining whether the release will result in a cost saving for the state).

Extraordinary Release

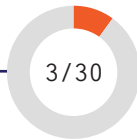
Total Grade

22 /100

Letter Grade

F

Eligibility Criteria



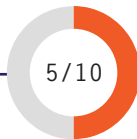
3/10 Clearly set out with understandable and measurable standards.

0/10 Generous or not unduly restrictive.

0/10 UTD* 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

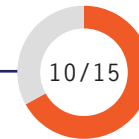


5/5 Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.

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

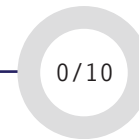


5/5 Clinical and other staff can identify potentially eligible individuals and initiate the process.

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

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Release Planning Support

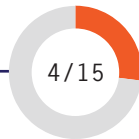


0/5 Agencies provide comprehensive release planning.

× **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 Release planning begins early in the process.

Agency Policy Design

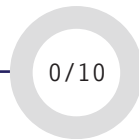


2/5 Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

2/5 Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.

0/5 Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Data Collection and Public Reporting



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.

0/10

Right to Counsel and Appeals

0/5 Program allows counsel to represent people before decision-maker (i.e., parole board, commissioner, or court).

✘ **Extra credit:** Denials are appealable. **0**

0/5 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 FAMM 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

In response to FAMM's request for information about data and outcomes, the Governor's office explained that it does not track "the circumstances" of release and could not identify how many Extraordinary Releases the Governor granted due to medical or age-related concerns.

High and Low Marks

HIGH MARKS

- Various individuals, such as incarcerated people, prison health leadership, or community members, may **initiate** the Extraordinary Release process by filling out a referral form.
- In the ordinary course, the Clemency and Pardons Board, which refers candidates for Extraordinary Release to the Governor, has a set **procedure**, including notice and a hearing. We cannot determine whether the Board makes any special provisions for those applying due to serious health problems, dementia, or advanced age.

LOW MARKS

- Washington is one of only a handful of states that fails **eligibility criteria**. Washington's Governor may commute the sentence of a person whom the Clemency and Pardons Board recommends and grant "extraordinary release from incarceration" to an individual with serious health problems, senility, advanced age, or other extraordinary circumstances. None of those eligibility criteria have definitions, and it is impossible to determine how generous the criteria are or whether anyone is categorically excluded.
- Washington's Extraordinary Release program has very little **agency policy**, no time frames, and no standards to guide reviewers and decision-makers.
- **Release planning support** does not appear to exist.
- Similarly, there is no **right to counsel** or **reapplication** provisions.