

Compassionate Release Report Card • October 2022

District of Columbia

Overall Grade for the District of Columbia

Total Grade

90 /100

Letter Grade

A-

Program Grades

Compassionate Release

Total Grade

90/100

Letter Grade

A-

Find all compassionate release resources on FAMM's site →

[famm.org](https://www.famm.org)



Compassionate Release

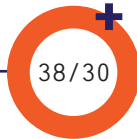
Total Grade

90 /100

Letter Grade

A-

Eligibility Criteria



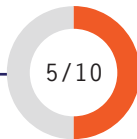
10/10 Clearly set out with understandable and measurable standards.

8/10 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. **+10**

Procedures*

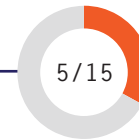


0/5 Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.

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

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

Engaging the Process

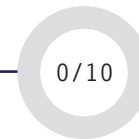


0/5 Clinical and other staff can identify potentially eligible individuals and initiate the process.

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

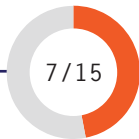


0/5 Agencies provide comprehensive release planning.

x 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*

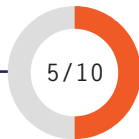


0/5 Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

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

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 UTD** 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.

* See "Low Marks" for explanation.

Right to Counsel and Appeals

20/10

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

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

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. **+5**



Overall Extra Credit

+5 The District of Columbia Compassionate Release program makes eligible incarcerated people 60 years old or older who are in danger of serious illness or death from COVID-19. It is one of the very few programs in the nation to address the pandemic.

+5 The program permits the D.C. Public Defender to represent individuals seeking Compassionate Release in the court.

** 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

The District of Columbia Information Council reported that between March 2020 and March 16, 2021, courts granted 143 people Compassionate Release, or roughly 33% of the motions the courts ruled on.

High and Low Marks

HIGH MARKS

- The District of Columbia's Compassionate Release program earned top marks for clear and generous **eligibility criteria**. The program covers not only medical conditions but also age and time-served criteria and even family circumstances provisions. The program earned **extra credit** for responding to the COVID-19 pandemic by extending eligibility to certain people with age-related medical conditions that render them vulnerable to serious illness or death should they contract COVID-19. That provision would have earned additional points except for the fact that it is limited to people 60 years old and older who have served the lesser of 15 years or 75% of their sentence. Younger people who are vulnerable are not eligible, nor are those aged 60 and older who have not served the requisite amount of time in prison.
- The program received a high grade for providing a **right to counsel** and **extra credit** for permitting the D.C. Public Defender Service to represent individuals before the court and for providing **appellate rights**. FAMM also assumes that individuals have the **right to reapply** by filing a new motion should their condition change following a denial.

LOW MARKS

- The District's Compassionate Release program would have received grades of zero for agency **policy design** and **procedures** because the law does not address any obligation of the federal Bureau of Prisons to identify, assist in the application process, or help with Compassionate Release planning. The D.C. Council cannot pass legislation assigning responsibilities to the federal Bureau of Prisons, where people convicted in the District and sentenced to prison are housed. Because the lack of policies and procedures are not the program's failure, FAMM instead gave the Compassionate Release program half marks in those categories.
- The Compassionate Release program **flunked release planning**. While resources are available to attorneys and incarcerated people, it appears no agency has been charged with helping secure housing, financial support, medical assistance, or other postrelease needs.