



Nevada

Overall Grade for Nevada

Total Grade

47
/100

Letter Grade

F

Program Grades

	Total Grade	Letter Grade
Residential Confinement	45/100	F
Geriatric Parole	49/100	F

Residential Confinement

Total Grade

45 /100

Letter Grade

F

Eligibility Criteria

28/30

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

10/10 Generous or not unduly restrictive.

8/10 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. **+5**

Procedures

0/10

0/5 UTD* 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

10/15

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

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 Release planning begins early in the process.

Agency Policy Design

2/15

2/5 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

0/10

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.

5/10

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. **+5**

The Numbers

In response to FAMM's request for data about the Residential Confinement program in 2019 and 2020, the Department of Corrections said it could not provide the information due to the volume of public records requests. A news account from 2021 said no one was released to Residential Confinement for medical reasons in 2019 and 2020.

High and Low Marks

HIGH MARKS

- Nevada's Residential Confinement **eligibility criteria** are a mixed bag. On the one hand, the terminal illness standard is straightforward and measurable – a person is eligible for consideration if within 18 months of death. The other criteria, being physically incapacitated or in "ill health" such that the individual cannot pose a threat, are vague and undefined. That said, the criteria earned high marks as not unduly restrictive and for having few exclusions. The 18-month prognosis gained the program some **extra credit**. That standard is long enough, in FAMM's view, to allow for documentation, assessment, and decision-making before the individual passes away. The program thus earned strong marks for eligibility criteria.
- A wide variety of people can **initiate the process**, including the incarcerated person, a family member, attorney, prison officials, prison employees, and medical or mental health professionals. Permitting anyone in contact with the incarcerated individual to begin the application process helps ensure the Department does not neglect beginning the process for people who may be eligible for Residential Confinement.

* 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.

LOW MARKS

- Nevada flunked both **policy design** and **procedures**. The Nevada Department of Corrections' regulation governing Residential Confinement is quite short and provides minimal guidance, beyond a statement that two physicians must certify the medical condition, and an administrator must make a recommendation to the Director of the Department who must then decide whether to grant Residential Confinement. FAMM found no guidance to staff or officials about the steps to take, standards to apply, or things to consider with respect to the documentation, assessment, and final decision-making. Without rules to follow, staff and officials may not have confidence to advance worthy cases. The regulation is also out of date. In 2020, a law revised the program, expanding the prognosis of time left to live for the terminal criterion from 12 to 18 months. The Department has not updated its regulation to reflect that change and still refers to a 12-month limitation.
- It appears the Department does not support **release planning**. In fact, the only reference to prerelease planning is a statement in the Department regulation explaining that it is not financially responsible for the care or costs of an individual on Residential Confinement.

Geriatric Parole

Total Grade

49 /100

Letter Grade

F

Eligibility Criteria

20/30

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

7/10 Generous or not unduly restrictive.

3/10 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

6/10

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

1/5 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

10/15

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

0/10

0/5 UTD* 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

7/15

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

3/5 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

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.

6/10

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. **0**

1/5 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, the Board of Parole Commissioners confirmed that as of April 2021, no individuals received Geriatric Parole and the Department of Corrections had not referred any eligible people to the Board since the law went into effect in July 2020.

High and Low Marks

HIGH MARKS

- **Eligibility criteria** are clearly set out, straightforward, and easy to measure, being simply age plus time served.
- Geriatric Parole permits **counsel** to represent people going to the Board of Parole Commissioners for mill run parole hearings and, FAMM believes, for Geriatric Parole hearings as well.

LOW MARKS

- Numerous categorical exclusions act to bar a number of people from **eligibility** for Geriatric Parole.
- The program received half marks for **agency policy design** and **procedures** due to the dearth of rules governing the Department of Corrections role in Geriatric Parole. We could not find much in the way of guidance to the Department regarding the procedures it follows in providing information to the Board to help the Board assess Geriatric Parole applications. The Board, on the other hand, uses its generic rules when considering Geriatric Parole applications.
- FAMM could not determine whether the Department assists individuals with **release planning**. In the general parole context, in advance of an individual's parole eligibility date, Department staff work with that individual to put together a release plan, including applications for medical assistance. Geriatric parole rules require an individual to initiate the request for Geriatric Parole and include in their application a parole plan and documentation concerning Medicaid or Medicare eligibility. It is not clear whether Department staff assist in the documentation or in the parole planning.
- Individuals may not **appeal** the denial of Geriatric Parole. Those denied Geriatric Parole must wait two years before reapplying unless the Board prescribes a shorter period or the Director of the Department of Corrections requests an earlier hearing due to the individual's "adverse health."