

Chair Prozanski, Vice-Chair Thatcher, members of the Judiciary Committee. My name is Dr. Ann Turner. I am retired Board-certified Internist or Adult Medicine doctor and formerly was a physician and Medical Director at Virginia Garcia Memorial Health Center. I am a member of Oregon Physicians for Social Responsibility.

The COVID-19 pandemic made Oregon Physicians for Social Responsibility aware of the need for a way to provide Compassionate Release for Adults in Custody (AIC's). Despite national recommendations for release of all those in prison who would not pose a safety risk, very few prisoners in Oregon have been released. And as of March 16<sup>th</sup>, 42 people in Oregon prisons have died. The time for this bill is **now** before more die or we face our next public health emergency. Mass incarceration is itself a public health issue. Compassionate release can be part of the solution.

The compassionate release of people with serious and debilitating illnesses is the right and humane thing to do. All human beings have inherent dignity and value. In recognizing this issue, Jennifer Black, a spokesperson for the Department of Corrections said "As these past days illustrate, Oregon's prisons have not escaped the devastating impacts of COVID-19. More than half of DOC's incarcerated population have been identified as COVID-19-vulnerable, based on community standard criteria. Generally, incarcerated people are in worse health than their peers in the community, and Oregon has one of the oldest incarcerated populations in the country."

As a state, we need a law that makes it possible for people in prison who have serious medical conditions to be released. As many as 40% of prisoners have chronic illnesses and that rate increases as those in prison age. If we do not address this public health challenge now, we can only expect that we will be in a public health crisis of our own making. The cost of caring for these individuals is high and their recidivism rate is very low. Prisons are generally ill-equipped to meet the needs of elderly and chronically-ill patients who may require intensive services for these conditions.

Current criteria for release are much too limited and subjective. The current statistics clearly demonstrate that virtually no one is able to benefit from it.

The proposed legislation provides a clear pathway for AIC's to be released because of their medical situation. What makes this bill work is that it includes the evaluation of AIC's application by an **independent medical advisory release committee** that will review the persons situation using a medical lens; it provides a clear process for those in prison, their family members, and prison staff to apply for compassionate release; decisions would be made in a timely way; and the results of this process would be tracked, tabulated, and evaluated annually.

The proposed legislation provides a clear pathway for AIC's to be released because of their medical condition. What makes this bill work is that an **independent medical advisory release committee** will review the person's situation using a medical lens. A recommendation would be made by the Medical Advisory Release Committee based on review of the relevant medical

records and/or medical testimony. I want to emphasize that it is not the diagnosis per se that would be considered by the Medical Advisory Release Committee but the overall state of health of the AIC, their illness or illnesses and co-morbidities, their functional status and their long-term prognosis in determining whether the person is eligible for compassionate release. And, importantly, the recommendation by the medical advisory committee can be rebutted because of public safety concerns.

I will walk through the medical criteria of the proposed statute. Please know that we are still working with stakeholders to amend these criteria:

As the proposed bill reads now, one or more of the following criteria could be applied:

- (a) The applicant has a terminal illness with a prognosis of 12 months or less to live.  
**Cancer is the obvious illness we think of but this could be to someone with end stage liver disease or congestive heart failure, illnesses with very poor prognoses.**
- (b) The applicant has a debilitating or progressively debilitating medical condition or injury.  
**Someone with a debilitating or progressively debilitating medical condition could be someone with Lou Gehrig's disease, severe emphysema or COPD, pulmonary fibrosis, kidney failure, severe coronary artery disease. The AIC could have a traumatic brain or spinal cord injury, seriously limiting his/her functional status.**
- (c) (c) was included under (b)
- (d) The applicant has an underlying condition that places the adult in custody at increased risk of illness, medical complications or death from exposure to disease. This will be amended to make clear that this would only be used during a pandemic or state of emergency.  
**This is the current situation of the COVID-19 pandemic which puts persons who are older and those with underlying illnesses, like asthma, hypertension, obesity and diabetes at increased risk of death from the infection.**
- (e) The applicant is physically handicapped and permanently incapacitated to such a degree as to be unable to move from place to place without assistance or unable to complete basic activities of daily living.  
**A person with severe lung or heart disease or neurologic disease like Parkinson's or multiple sclerosis.**
- (f) The applicant has been diagnosed with a mental, behavioral or emotional disorder resulting in serious functional impairment that substantially interferes with or limits one or more major life activities or personal safety.  
**A person with schizophrenia, bipolar disorder, depression or severe post-traumatic stress disorder not controlled with medication who is at risk for injury, victimization or death, including suicide.**
- (g) The applicant has significant limitations in intellectual functioning, including but not limited to reasoning, learning or problem solving  
**A person with dementia or significant cognitive impairment would be an example of someone with limitations in intellectual functioning**

- ~~(h) The applicant has significant limitations in adaptive behavior, including but not limited to conceptual, social and practical skills in everyday life. **deleted**~~
- ~~(i) The balance between time the applicant has left to serve and quality of life living with a medical condition in prison favors release- **deleted**~~
- ~~(j) The applicant is unable to receive care in prison that meets the community standard for care. **deleted**~~

(6) An applicant whose application for release under ORS 144.122 (2) or 144.126 is denied by the committee may reapply for release provided that the medical condition or other circumstance has changed since the previous application.

Prisons need a way to respond to public health emergencies like the current COVID-19 pandemic. The Medical Advisory Release Committee in partnership with the governor and the Oregon Health Authority could be charged with writing rules to address various public health emergencies including disasters such as wildfires and earthquakes.

In conclusion, SB 835 provides a reasonable, prudent and compassionate mechanism based upon medical criteria and medical review that addresses an important public health issue that we must not ignore. **I urge you to vote yes.** Thank you.

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