



Legislative Testimony

OREGON DEPARTMENT OF CORRECTIONS

February 8, 2022

The Honorable Floyd Prozanski, Chair
The Honorable Kim Thatcher, Vice Chair
Senate Committee on Judiciary and Ballot Measure 110 Implementation

RE: Senate Bill 1568

Chair Prozanski and members of the committee, my name is Joe Bugher, and I serve as Assistant Director of the Health Services Division for the Oregon Department of Corrections (DOC). I am here today to provide information regarding Senate Bill (SB) 1568.

What the Bill Does:

SB 1568 in part, creates a new means for the Board of Parole and Post-Prison Supervision (Board) to release individuals from DOC custody and establishes the Medical Release Advisory Committee (MRAC) within the Board. Specific to DOC, SB 1568 requires the agency to post information about this process on the website and in the AIC handbook. Additionally, it requires DOC to make the application forms available to the AICs.

Background Information:

Under the current system, Health Services may identify an AIC who appears suitable for early medical release. Upon confirmation the judgment language allows eligibility for early release, DOC's Reentry and Release Unit will reach out to Health Services for documentation of the AIC's medical condition to include age, activities of daily living needs, and whether the AIC has a terminal illness. (If ineligible for early release, the matter is closed.) Reentry and Release then works with Community Corrections and others to identify a potential release plan for the AIC. AICs with higher acuity needs are released in partnership with Oregon Department of Human Services' Aging and People with Disabilities (APD)¹ to secure appropriate housing, be it subsidized or private with appropriate levels of wrap-around medical services. There are numerous meetings, assessments, and interviews that must take place to secure housing.

Reentry and Release also contacts the District Attorney's office for their input on the prospective release. All of this takes time and is commensurate with the AIC's needs and resources. Once approved, Reentry and Release sends a letter to the Board outlining the release plan, to include approvals of the plan from the county Community Corrections and APD if applicable, and medical situation from Health Services. The Board typically provides approval or denial within 24 to 48 hours.

As we all know, finding appropriate medical care and housing for any Oregonian is a challenge. Finding this housing for releasing AICs with charges like sex offenses and arson are incredibly difficult and can take months (up to a year in some cases) and often require a series of interviews, community corrections investigations, waiver requests, etc.

¹ ADP is an essential partner in this process. DOC believes ADP would have critical information to contribute toward the bill discussions and work sessions.

When DOC sends a name forward for early medical release to the Board, the agency has identified potential housing beforehand because appropriate housing is such a challenge. Not surprisingly, several AICs referred for this process have terminal illnesses. Often, they are ineligible based on their sentencing information and are never afforded consideration. Sometimes they pass away within days of submission of the request or prior to identification of an approved release plan.

On a positive note, we have seen AICs release under this system and spend the last moments they have with friends and family. Sometimes they have a few months; other times it might just be a couple of weeks. Regardless, we understand it is much appreciated by the family that their loved one did not have to die in custody with people they don't know.

Impact:

The requirements for DOC to provide information about the process to AICs and its website, and to make forms available to AICs, will have minimal impact to DOC. The approval of early medical release while under the cap until January 1, 2025, is expected to have a minimal impact on the agency. However, as currently written, during any state of emergency or after January 1, 2025, this process could result in the release of large numbers of AICs and this would have a significant, but currently unquantifiable impact on Health Services, Reentry and Release Services, and Community Corrections.

Although there will be a release navigator at the Board, it is unclear how DOC is to handle a case in which suitable housing and services cannot be coordinated yet the AIC has been approved for release, "within a reasonable period of time," which is undefined. Due to the known issues around finding housing, DOC recommends this be defined and include the amount of time it takes to find suitable housing for the releasing AIC. This also could potentially increase DOC workload outside of the normal release services provided to AICs.

There is also significant potential for costs resulting from referrals for off-site health care ordered by the MRAC. This could have impacts on both Health Services and DOC Transport resources, which are already limited and strained. The bill does not speak directly to who is responsible for the cost and logistics for this issue and rule promulgation may directly impact this area.

Lastly, it is not clear if an emergency declaration would be required to have a direct impact on DOC to enable the lifting of the cap under Section 3(4)(e) of the bill. As written, this may enact the emergency clause of the statute any time an emergency is declared, even if it is unrelated to DOC.

Thank you for your time and consideration. I am happy to answer any questions you may have.

Submitted by:

Oregon Department of Corrections

Joe Bugher, Assistant Director for Health Services

Joe.A.Bugher@doc.oregon.gov