

SENATE AMENDMENTS TO SENATE BILL 520

By COMMITTEE ON HEALTH CARE

April 3

1 On page 1 of the printed bill, delete lines 5 through 15 and insert:

2 **“SECTION 1. (1) Except as provided in subsection (2) of this section, an adult in custody**
3 **may apply for early medical release from custody under sections 1 to 7 of this 2023 Act.**

4 **“(2)(a) An adult in custody who is serving a sentence required by ORS 137.635, 137.690,**
5 **137.700, 137.707, 164.061, 475.907, 475.925, 475.930 or 813.011 is not eligible to apply for early**
6 **medical release under sections 1 to 7 of this 2023 Act on that sentence.**

7 **“(b) A person who has been sentenced to death or who is serving a sentence of life**
8 **imprisonment without the possibility of release or parole under ORS 163.105, 163.150 or**
9 **163.155 is not eligible to apply for early medical release under sections 1 to 7 of this 2023 Act.**

10 **“(c) A person who is serving a sentence of life imprisonment under ORS 163.105 (1)(c),**
11 **163.107 (2)(a), 163.115 (5)(a) or 163.155 (5), who has not had the terms of the person’s con-**
12 **finement converted to life imprisonment with the possibility of parole, release to post-prison**
13 **supervision or work release under ORS 163.105 (3), 163.107 (3), 163.115 (5)(d) or 163.155 (7), is**
14 **not eligible to apply for early medical release under sections 1 to 7 of this 2023 Act.**

15 **“(3) As used in sections 1 to 7 of this 2023 Act, ‘adult in custody’ means a person who is**
16 **committed to the legal and physical custody of the Department of Corrections by a sen-**
17 **tencing court under ORS 137.124 or 137.707.”.**

18 On page 2, delete lines 44 and 45 and delete pages 3 and 4.

19 On page 5, delete lines 1 through 16 and insert:

20 **“SECTION 3. (1) An adult in custody who is eligible to apply for early medical release**
21 **from custody under section 1 of this 2023 Act may submit an application for early release to**
22 **the Medical Release Advisory Committee established under section 2 of this 2023 Act. The**
23 **committee shall also receive direct referrals of adults in custody from the Department of**
24 **Corrections under section 6 of this 2023 Act.**

25 **“(2)(a) After receipt of an application, a panel of the committee shall determine whether**
26 **the application is complete.**

27 **“(b) If an application is complete, the panel shall notify the applicant that the application**
28 **has been accepted and shall forward the application to the full committee for consideration.**
29 **The notice to the applicant must include the date on which the application was determined**
30 **to be complete.**

31 **“(c) If an application is incomplete, the panel shall promptly notify the applicant con-**
32 **cerning what additional information is needed to review the application, including necessary**
33 **medical records, and allow the applicant an opportunity to provide the additional informa-**
34 **tion.**

35 **“(d) If the panel determines that an applicant or a referred adult in custody is not eligible**

1 for early medical release under section 1 of this 2023 Act, the panel shall notify the applicant
2 or referred adult in custody and cease any further review of the application or direct refer-
3 ral.

4 “(e) Upon acceptance of an application to be considered by the committee, or upon re-
5 ceipt of a direct referral from the Department of Corrections, the committee shall assign a
6 release navigator to assist the applicant or referred adult in custody with reentry planning
7 and ensuring continuity of care in the community. The release navigator shall assist the
8 applicant or referred adult in custody with planning for obtaining housing and medical care
9 in the community.

10 “(3)(a) Except as provided in paragraphs (b) and (c) of this subsection, the committee
11 shall make a recommendation decision on a regular application or direct referral within 45
12 calendar days, and a recommendation decision on an expedited application or a direct referral
13 concerning an adult in custody with a terminal illness with a prognosis of 12 months or less
14 to live within 14 calendar days.

15 “(b) The committee may, for good cause, make a decision on an application or direct re-
16 ferral up to 14 days after the time requirements described in paragraph (a) of this sub-
17 section.

18 “(c) Upon the request of an applicant or referred adult in custody, the time requirements
19 described in paragraph (a) of this subsection are tolled until the applicant or referred adult
20 in custody subsequently requests that the panel proceed with considering the application or
21 direct referral.

22 “(4)(a) The committee shall review each application or direct referral to determine
23 whether the applicant or referred adult in custody meets one or more of the criteria de-
24 scribed in subsection (6) of this section. The committee will evaluate the application or direct
25 referral and the criteria by assessing considerations including, but not limited to, the balance
26 between time the applicant or referred adult in custody has left to serve, the quality of life
27 living with the medical condition and whether continued care in a custodial setting is no
28 longer appropriate. If the committee determines, by a vote of the majority of the committee,
29 that the applicant or referred adult in custody meets one or more of the criteria described
30 in subsection (6) of this section, the committee shall recommend early release from custody
31 of the applicant or referred adult in custody based on medical need and compassion.

32 “(b) A committee member may consult with an outside expert or specialist concerning
33 an application or direct referral under consideration before the panel. Upon request by the
34 committee, the State Board of Parole and Post-Prison Supervision shall authorize funds for
35 consultation with an expert or specialist that is necessary for the committee to carry out
36 the duties described in this section, contingent upon appropriation by the Legislative As-
37 sembly to the board of funds for such consultations.

38 “(c) The committee shall make a written recommendation decision, including written
39 findings, when recommending or declining to recommend release.

40 “(d) Each month, the committee shall review no more than five applications to decide
41 whether to recommend early medical release. Direct referrals from the Department of Cor-
42 rections do not count toward the five-application limit. The committee shall give priority to
43 applications based on the applicant’s having a terminal illness with a prognosis of 12 months
44 or less to live, but shall otherwise consider applications in the order in which the panel ac-
45 cepted the applications as complete under subsection (2) of this section.

1 “(e) The limit on applications considered by the committee described in paragraph (d) of
2 this subsection may be exceeded during any month that a state of emergency has been de-
3 clared under ORS 401.165 or is ongoing, or a public health emergency has been declared un-
4 der ORS 433.441 or is ongoing, and the committee determines that the emergency presents
5 a serious risk to the health or safety of adults in custody at the specific correctional facility
6 in which the applicant is housed, but the committee shall continue to prioritize the consid-
7 eration of applications based on the applicant’s having a terminal illness with a prognosis of
8 12 months or less to live.

9 “(5) If the committee recommends release under subsection (4) of this section:

10 “(a) Pursuant to ORS 151.216 and 151.219, the Public Defense Services Commission shall
11 provide for the representation of financially eligible applicants and referred adults in custody
12 at all subsequent proceedings, including hearings before the board under section 4 of this
13 2023 Act and before the court on motions for resentencing under section 5 of this 2023 Act.
14 If the commission determines that the applicant or referred adult in custody is not finan-
15 cially eligible for appointed counsel at state expense, the applicant or referred adult in cus-
16 tody may request review of the determination as provided in ORS 144.337.

17 “(b) The release navigator assigned by the committee may coordinate with the depart-
18 ment or any other outside agency or organization in order to continue to assist the applicant
19 or referred adult in custody with reentry planning and ensuring continuity of care in the
20 community.

21 “(c) The committee shall submit the application or direct referral and recommendation
22 to the board for review as provided under section 4 of this 2023 Act.

23 “(6) An applicant or referred adult in custody may be recommended for early medical
24 release if the applicant or referred adult in custody meets one or more of the following cri-
25 teria, as further defined in the rules of the committee:

26 “(a) The applicant or referred adult in custody has a terminal illness with a prognosis
27 of 12 months or less to live;

28 “(b) The applicant or referred adult in custody is unable to independently complete the
29 activities of eating, toileting, grooming, dressing, bathing or physical transfers or is unable
30 to independently move from place to place, even with the use of a mobility device; or

31 “(c) The applicant or referred adult in custody has a debilitating or progressively debili-
32 tating medical condition that:

33 “(A) Poses an immediate risk to the health or life of the applicant or referred adult in
34 custody; or

35 “(B) Requires complex medical intervention or intensive or high needs care.

36 “(7) If the committee declines to recommend an applicant for early medical release, the
37 applicant may reapply for release provided that the applicant can show that:

38 “(a) There has been a substantial change in the medical condition or other circum-
39 stances, as defined in rules adopted by the committee, since the previous application; or

40 “(b) New information has been obtained regarding the medical condition or other cir-
41 cumstance since the previous application.

42 “(8) An early medical release recommendation decision, or a determination under sub-
43 section (2) of this section that an applicant or referred adult in custody is not eligible for
44 early medical release, is not subject to judicial review under ORS 144.335 or 183.480 to
45 183.497.”.

1 On page 10, delete lines 28 through 45 and delete pages 11 and 12.

2 On page 13, delete lines 1 through 17 and insert:

3 “**SECTION 12.** Section 1 of this 2023 Act is amended to read:

4 “**Sec. 1.** (1) Except as provided in subsection (2) of this section, an adult in custody may apply
5 for early medical release from custody under sections 1 to 7 of this 2023 Act.

6 “(2)(a) An adult in custody who is serving a sentence required by ORS 137.635, 137.690, 137.700,
7 137.707, 164.061, 475.907, 475.925, 475.930 or 813.011 is [*not*] eligible to apply for early medical re-
8 lease under sections 1 to 7 of this 2023 Act, **but the State Board of Parole and Post-Prison**
9 **Supervision may not order release under section 4 of this 2023 Act, and the sentencing court**
10 **may not authorize release under section 5 of this 2023 Act**, on that sentence.

11 “(b) A person who has been sentenced to death or who is serving a sentence of life imprisonment
12 without the possibility of release or parole under ORS 163.105, 163.150 or 163.155 is [*not*] eligible to
13 apply for early medical release under sections 1 to 7 of this 2023 Act, **but the board may not order**
14 **release under section 4 of this 2023 Act, and the sentencing court may not authorize release**
15 **under section 5 of this 2023 Act.**

16 “(c) A person who is serving a sentence of life imprisonment under ORS 163.105 (1)(c), 163.107
17 (2)(a), 163.115 (5)(a) or 163.155 (5), who has not had the terms of the person’s confinement converted
18 to life imprisonment with the possibility of parole, release to post-prison supervision or work release
19 under ORS 163.105 (3), 163.107 (3), 163.115 (5)(d) or 163.155 (7), is [*not*] eligible to apply for early
20 medical release under sections 1 to 7 of this 2023 Act, **but the board may not order release under**
21 **section 4 of this 2023 Act, and the sentencing court may not authorize release under section**
22 **5 of this 2023 Act.**

23 “(3) As used in sections 1 to 7 of this 2023 Act, ‘adult in custody’ means a person who is com-
24 mitted to the legal and physical custody of the Department of Corrections by a sentencing court
25 under ORS 137.124 or 137.707.

26 “**SECTION 13.** Section 3 of this 2023 Act is amended to read:

27 “**Sec. 3.** (1) An adult in custody who is eligible to apply for early medical release from custody
28 under section 1 of this 2023 Act may submit an application for early release to the Medical Release
29 Advisory Committee established under section 2 of this 2023 Act. The committee shall also receive
30 direct referrals of adults in custody from the Department of Corrections under section 6 of this 2023
31 Act.

32 “(2)(a) After receipt of an application, a panel of the committee shall determine whether the
33 application is complete.

34 “(b) If an application is complete, the panel shall notify the applicant that the application has
35 been accepted and shall forward the application to the full committee for consideration. The notice
36 to the applicant must include the date on which the application was determined to be complete.

37 “(c) If an application is incomplete, the panel shall promptly notify the applicant concerning
38 what additional information is needed to review the application, including necessary medical re-
39 cords, and allow the applicant an opportunity to provide the additional information.

40 “(d) If the panel determines that an applicant or a referred adult in custody is not eligible for
41 early medical release under section 1 of this 2023 Act, the panel shall notify the applicant or re-
42 ferred adult in custody and cease any further review of the application or direct referral.

43 “(e) Upon acceptance of an application to be considered by the committee, or upon receipt of
44 a direct referral from the Department of Corrections, the committee shall assign a release navigator
45 to assist the applicant or referred adult in custody with reentry planning and ensuring continuity

1 of care in the community. The release navigator shall assist the applicant or referred adult in cus-
2 tody with planning for obtaining housing and medical care in the community.

3 “(3)(a) Except as provided in paragraphs (b) and (c) of this subsection, the committee shall make
4 a recommendation decision on a regular application or direct referral within 45 calendar days, and
5 a recommendation decision on an expedited application or a direct referral concerning an adult in
6 custody with a terminal illness with a prognosis of 12 months or less to live within 14 calendar days.

7 “(b) The committee may, for good cause, make a decision on an application or direct referral
8 up to 14 days after the time requirements described in paragraph (a) of this subsection.

9 “(c) Upon the request of an applicant or referred adult in custody, the time requirements de-
10 scribed in paragraph (a) of this subsection are tolled until the applicant or referred adult in custody
11 subsequently requests that the panel proceed with considering the application or direct referral.

12 “(4)(a) The committee shall review each application or direct referral to determine whether the
13 applicant or referred adult in custody meets one or more of the criteria described in subsection (6)
14 of this section. The committee will evaluate the application or direct referral and the criteria by
15 assessing considerations including, but not limited to, the balance between time the applicant or
16 referred adult in custody has left to serve, the quality of life living with the medical condition and
17 whether continued care in a custodial setting is no longer appropriate. If the committee determines,
18 by a vote of the majority of the committee, that the applicant or referred adult in custody meets one
19 or more of the criteria described in subsection (6) of this section, the committee shall recommend
20 early release from custody of the applicant or referred adult in custody based on medical need and
21 compassion.

22 “(b) A committee member may consult with an outside expert or specialist concerning an ap-
23 plication or direct referral under consideration before the panel. Upon request by the committee, the
24 State Board of Parole and Post-Prison Supervision shall authorize funds for consultation with an
25 expert or specialist that is necessary for the committee to carry out the duties described in this
26 section, contingent upon appropriation by the Legislative Assembly to the board of funds for such
27 consultations.

28 “(c) The committee shall make a written recommendation decision, including written findings,
29 when recommending or declining to recommend release.

30 “[*(d) Each month, the committee shall review no more than five applications to decide whether to*
31 *recommend early medical release. Direct referrals from the Department of Corrections do not count to-*
32 *ward the five-application limit. The committee shall give priority to applications based on the*
33 *applicant’s having a terminal illness with a prognosis of 12 months or less to live, but shall otherwise*
34 *consider applications in the order in which the panel accepted the applications as complete under sub-*
35 *section (2) of this section.*]

36 “[*(e) The limit on applications considered by the committee described in paragraph (d) of this*
37 *subsection may be exceeded during any month that a state of emergency has been declared under ORS*
38 *401.165 or is ongoing, or a public health emergency has been declared under ORS 433.441 or is ongo-*
39 *ing, and the committee determines that the emergency presents a serious risk to the health or safety of*
40 *adults in custody at the specific correctional facility in which the applicant is housed, but the committee*
41 *shall continue to prioritize the consideration of applications based on the applicant’s having a terminal*
42 *illness with a prognosis of 12 months or less to live.*]

43 “(5)(a) If the committee recommends release under subsection (4) of this section:

44 “[*(a)*] **(A)** Pursuant to ORS 151.216 and 151.219, the Public Defense Services Commission shall
45 provide for the representation of financially eligible applicants and referred adults in custody at all

1 subsequent proceedings, including hearings before the board under section 4 of this 2023 Act and
2 before the court on motions for resentencing under section 5 of this 2023 Act. If the commission
3 determines that the applicant or referred adult in custody is not financially eligible for appointed
4 counsel at state expense, the applicant or referred adult in custody may request review of the de-
5 termination as provided in ORS 144.337.

6 “[b)] (B) The release navigator assigned by the committee may coordinate with the department
7 or any other outside agency or organization in order to continue to assist the applicant or referred
8 adult in custody with reentry planning and ensuring continuity of care in the community.

9 “[c)] (C) The committee shall submit the application or direct referral and recommendation to
10 the board for review as provided under section 4 of this 2023 Act.

11 **“(b) Notwithstanding paragraph (a) of this subsection, if the committee recommends re-**
12 **lease but the applicant or referred adult in custody is a person described in section 1 (2)(a),**
13 **(b) or (c) of this 2023 Act, the committee shall provide the applicant or referred adult in**
14 **custody with a certified copy of the release recommendation but may not submit the appli-**
15 **cation or direct referral and recommendation to the board for review.**

16 “(6) An applicant or referred adult in custody may be recommended for early medical release if
17 the applicant or referred adult in custody meets one or more of the following criteria, as further
18 defined in the rules of the committee:

19 “(a) The applicant or referred adult in custody has a terminal illness with a prognosis of 12
20 months or less to live;

21 “(b) The applicant or referred adult in custody is unable to independently complete the activities
22 of eating, toileting, grooming, dressing, bathing or physical transfers or is unable to independently
23 move from place to place, even with the use of a mobility device; or

24 “(c) The applicant or referred adult in custody has a debilitating or progressively debilitating
25 medical condition that:

26 “(A) Poses an immediate risk to the health or life of the applicant or referred adult in custody;
27 or

28 “(B) Requires complex medical intervention or intensive or high needs care.

29 “(7) If the committee declines to recommend an applicant for early medical release, the applicant
30 may reapply for release provided that the applicant can show that:

31 “(a) There has been a substantial change in the medical condition or other circumstances, as
32 defined in rules adopted by the committee, since the previous application; or

33 “(b) New information has been obtained regarding the medical condition or other circumstance
34 since the previous application.

35 “(8) An early medical release recommendation decision, or a determination under subsection (2)
36 of this section that an applicant or referred adult in custody is not eligible for early medical release,
37 is not subject to judicial review under ORS 144.335 or 183.480 to 183.497.”.