

Requested by Senator DEMBROW

**PROPOSED AMENDMENTS TO
SENATE BILL 520**

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,**
3 **an adult in custody may apply for early medical release from custody**
4 **under sections 1 to 7 of this 2023 Act.**

5 **“(2)(a) An adult in custody who is serving a sentence required by**
6 **ORS 137.635, 137.690, 137.700, 137.707, 164.061, 475.907, 475.925, 475.930 or**
7 **813.011 is not eligible to apply for early medical release under sections**
8 **1 to 7 of this 2023 Act on that sentence.**

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

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

20 **“(3) As used in sections 1 to 7 of this 2023 Act, ‘adult in custody’**
21 **means a person who is committed to the legal and physical custody**

1 of the Department of Corrections by a sentencing court under ORS
2 137.124 or 137.707.”.

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

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

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

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

13 **“(b) If an application is complete, the panel shall notify the appli-**
14 **cant that the application has been accepted and shall forward the ap-**
15 **plication to the full committee for consideration. The notice to the**
16 **applicant must include the date on which the application was deter-**
17 **mined to be complete.**

18 **“(c) If an application is incomplete, the panel shall promptly notify**
19 **the applicant concerning what additional information is needed to re-**
20 **view the application, including necessary medical records, and allow**
21 **the applicant an opportunity to provide the additional information.**

22 **“(d) If the panel determines that an applicant or a referred adult**
23 **in custody is not eligible for early medical release under section 1 of**
24 **this 2023 Act, the panel shall notify the applicant or referred adult in**
25 **custody and cease any further review of the application or direct re-**
26 **ferral.**

27 **“(e) Upon acceptance of an application to be considered by the**
28 **committee, or upon receipt of a direct referral from the Department**
29 **of Corrections, the committee shall assign a release navigator to assist**
30 **the applicant or referred adult in custody with reentry planning and**

1 ensuring continuity of care in the community. The release navigator
2 shall assist the applicant or referred adult in custody with planning
3 for obtaining housing and medical care in the community.

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

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

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

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

1 **passion.**

2 **“(b) A committee member may consult with an outside expert or**
3 **specialist concerning an application or direct referral under consider-**
4 **ation before the panel. Upon request by the committee, the State**
5 **Board of Parole and Post-Prison Supervision shall authorize funds for**
6 **consultation with an expert or specialist that is necessary for the**
7 **committee to carry out the duties described in this section, contingent**
8 **upon appropriation by the Legislative Assembly to the board of funds**
9 **for such consultations.**

10 **“(c) The committee shall make a written recommendation decision,**
11 **including written findings, when recommending or declining to re-**
12 **commend release.**

13 **“(d) Each month, the committee shall review no more than five**
14 **applications to decide whether to recommend early medical release.**
15 **Direct referrals from the Department of Corrections do not count to-**
16 **ward the five-application limit. The committee shall give priority to**
17 **applications based on the applicant’s having a terminal illness with a**
18 **prognosis of 12 months or less to live, but shall otherwise consider**
19 **applications in the order in which the panel accepted the applications**
20 **as complete under subsection (2) of this section.**

21 **“(e) The limit on applications considered by the committee de-**
22 **scribed in paragraph (d) of this subsection may be exceeded during any**
23 **month that a state of emergency has been declared under ORS 401.165**
24 **or is ongoing, or a public health emergency has been declared under**
25 **ORS 433.441 or is ongoing, and the committee determines that the**
26 **emergency presents a serious risk to the health or safety of adults in**
27 **custody at the specific correctional facility in which the applicant is**
28 **housed, but the committee shall continue to prioritize the consider-**
29 **ation of applications based on the applicant’s having a terminal illness**
30 **with a prognosis of 12 months or less to live.**

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

3 **“(a) Pursuant to ORS 151.216 and 151.219, the Public Defense Ser-**
4 **vices Commission shall provide for the representation of financially**
5 **eligible applicants and referred adults in custody at all subsequent**
6 **proceedings, including hearings before the board under section 4 of**
7 **this 2023 Act and before the court on motions for resentencing under**
8 **section 5 of this 2023 Act. If the commission determines that the ap-**
9 **plicant or referred adult in custody is not financially eligible for ap-**
10 **pointed counsel at state expense, the applicant or referred adult in**
11 **custody may request review of the determination as provided in ORS**
12 **144.337.**

13 **“(b) The release navigator assigned by the committee may coordi-**
14 **nate with the department or any other outside agency or organization**
15 **in order to continue to assist the applicant or referred adult in custody**
16 **with reentry planning and ensuring continuity of care in the commu-**
17 **nity.**

18 **“(c) The committee shall submit the application or direct referral**
19 **and recommendation to the board for review as provided under section**
20 **4 of this 2023 Act.**

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

25 **“(a) The applicant or referred adult in custody has a terminal ill-**
26 **ness with a prognosis of 12 months or less to live;**

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

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

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

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

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

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

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

15 “(8) An early medical release recommendation decision, or a deter-
16 mination under subsection (2) of this section that an applicant or re-
17 ferred adult in custody is not eligible for early medical release, is not
18 subject to judicial review under ORS 144.335 or 183.480 to 183.497.”.

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

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

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

22 “**Sec. 1.** (1) Except as provided in subsection (2) of this section, an adult
23 in custody may apply for early medical release from custody under sections
24 1 to 7 of this 2023 Act.

25 “(2)(a) An adult in custody who is serving a sentence required by ORS
26 137.635, 137.690, 137.700, 137.707, 164.061, 475.907, 475.925, 475.930 or 813.011
27 is [not] eligible to apply for early medical release under sections 1 to 7 of
28 this 2023 Act, **but the State Board of Parole and Post-Prison Super-**
29 **vision may not order release under section 4 of this 2023 Act, and the**
30 **sentencing court may not authorize release under section 5 of this 2023**

1 **Act**, on that sentence.

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

8 “(c) A person who is serving a sentence of life imprisonment under ORS
9 163.105 (1)(c), 163.107 (2)(a), 163.115 (5)(a) or 163.155 (5), who has not had the
10 terms of the person’s confinement converted to life imprisonment with the
11 possibility of parole, release to post-prison supervision or work release under
12 ORS 163.105 (3), 163.107 (3), 163.115 (5)(d) or 163.155 (7), is [*not*] eligible to
13 apply for early medical release under sections 1 to 7 of this 2023 Act, **but**
14 **the board may not order release under section 4 of this 2023 Act, and**
15 **the sentencing court may not authorize release under section 5 of this**
16 **2023 Act.**

17 “(3) As used in sections 1 to 7 of this 2023 Act, ‘adult in custody’ means
18 a person who is committed to the legal and physical custody of the Depart-
19 ment of Corrections by a sentencing court under ORS 137.124 or 137.707.

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

21 **“Sec. 3.** (1) An adult in custody who is eligible to apply for early medical
22 release from custody under section 1 of this 2023 Act may submit an appli-
23 cation for early release to the Medical Release Advisory Committee estab-
24 lished under section 2 of this 2023 Act. The committee shall also receive
25 direct referrals of adults in custody from the Department of Corrections un-
26 der section 6 of this 2023 Act.

27 “(2)(a) After receipt of an application, a panel of the committee shall de-
28 termine whether the application is complete.

29 “(b) If an application is complete, the panel shall notify the applicant that
30 the application has been accepted and shall forward the application to the

1 full committee for consideration. The notice to the applicant must include
2 the date on which the application was determined to be complete.

3 “(c) If an application is incomplete, the panel shall promptly notify the
4 applicant concerning what additional information is needed to review the
5 application, including necessary medical records, and allow the applicant an
6 opportunity to provide the additional information.

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

11 “(e) Upon acceptance of an application to be considered by the committee,
12 or upon receipt of a direct referral from the Department of Corrections, the
13 committee shall assign a release navigator to assist the applicant or referred
14 adult in custody with reentry planning and ensuring continuity of care in
15 the community. The release navigator shall assist the applicant or referred
16 adult in custody with planning for obtaining housing and medical care in the
17 community.

18 “(3)(a) Except as provided in paragraphs (b) and (c) of this subsection, the
19 committee shall make a recommendation decision on a regular application
20 or direct referral within 45 calendar days, and a recommendation decision
21 on an expedited application or a direct referral concerning an adult in cus-
22 tody with a terminal illness with a prognosis of 12 months or less to live
23 within 14 calendar days.

24 “(b) The committee may, for good cause, make a decision on an applica-
25 tion or direct referral up to 14 days after the time requirements described in
26 paragraph (a) of this subsection.

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

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

13 “(b) A committee member may consult with an outside expert or specialist
14 concerning an application or direct referral under consideration before the
15 panel. Upon request by the committee, the State Board of Parole and Post-
16 Prison Supervision shall authorize funds for consultation with an expert or
17 specialist that is necessary for the committee to carry out the duties de-
18 scribed in this section, contingent upon appropriation by the Legislative
19 Assembly to the board of funds for such consultations.

20 “(c) The committee shall make a written recommendation decision, in-
21 cluding written findings, when recommending or declining to recommend re-
22 lease.

23 “*[(d) Each month, the committee shall review no more than five applications*
24 *to decide whether to recommend early medical release. Direct referrals from the*
25 *Department of Corrections do not count toward the five-application limit. The*
26 *committee shall give priority to applications based on the applicant’s having*
27 *a terminal illness with a prognosis of 12 months or less to live, but shall oth-*
28 *erwise consider applications in the order in which the panel accepted the ap-*
29 *plications as complete under subsection (2) of this section.]*

30 “*[(e) The limit on applications considered by the committee described in*

1 *paragraph (d) of this subsection may be exceeded during any month that a*
2 *state of emergency has been declared under ORS 401.165 or is ongoing, or a*
3 *public health emergency has been declared under ORS 433.441 or is ongoing,*
4 *and the committee determines that the emergency presents a serious risk to the*
5 *health or safety of adults in custody at the specific correctional facility in*
6 *which the applicant is housed, but the committee shall continue to prioritize*
7 *the consideration of applications based on the applicant's having a terminal*
8 *illness with a prognosis of 12 months or less to live.]*

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

11 “[a] (A) Pursuant to ORS 151.216 and 151.219, the Public Defense Ser-
12 vices Commission shall provide for the representation of financially eligible
13 applicants and referred adults in custody at all subsequent proceedings, in-
14 cluding hearings before the board under section 4 of this 2023 Act and before
15 the court on motions for resentencing under section 5 of this 2023 Act. If the
16 commission determines that the applicant or referred adult in custody is not
17 financially eligible for appointed counsel at state expense, the applicant or
18 referred adult in custody may request review of the determination as pro-
19 vided in ORS 144.337.

20 “[b] (B) The release navigator assigned by the committee may coordi-
21 nate with the department or any other outside agency or organization in
22 order to continue to assist the applicant or referred adult in custody with
23 reentry planning and ensuring continuity of care in the community.

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

27 “(b) **Notwithstanding paragraph (a) of this subsection, if the com-**
28 **mittee recommends release but the applicant or referred adult in cus-**
29 **tody is a person described in section 1 (2)(a), (b) or (c) of this 2023 Act,**
30 **the committee shall provide the applicant or referred adult in custody**

1 **with a certified copy of the release recommendation but may not**
2 **submit the application or direct referral and recommendation to the**
3 **board for review.**

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

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

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

14 “(c) The applicant or referred adult in custody has a debilitating or pro-
15 gressively debilitating medical condition that:

16 “(A) Poses an immediate risk to the health or life of the applicant or re-
17 ferred adult in custody; or

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

20 “(7) If the committee declines to recommend an applicant for early med-
21 ical release, the applicant may reapply for release provided that the appli-
22 cant can show that:

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

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

28 “(8) An early medical release recommendation decision, or a determi-
29 nation under subsection (2) of this section that an applicant or referred adult
30 in custody is not eligible for early medical release, is not subject to judicial

1 review under ORS 144.335 or 183.480 to 183.497.”

2
