

March 26, 2021

Senator Floyd Prozanski  
Chair, Senate Judiciary Committee  
900 Court Street NE, S-413  
Salem, Oregon 97301

Senator Kim Thatcher  
Vice-Chair, Senate Judiciary Committee  
900 Court Street NE, S-307  
Salem, Oregon 97301

Dear Chair Prozanski, Vice-Chair Thatcher, and members of the Senate Judiciary Committee:

We, the undersigned organizations, write today in strong support of Senate Bill 835. This bill would bring much needed improvements to Oregon's medical release laws, allowing the state to safely release medically vulnerable individuals from custody. A 2018 report from FAMM found that, while compassionate release laws existed in all but one state, those systems were plagued by obstacles including strict or vague eligibility requirements; categorical exclusions; missing or contradictory rules; complex and time-consuming review processes; and unrealistic time frames.<sup>1</sup> Unfortunately, Oregon's system suffers from many of these familiar barriers. The current release mechanisms available to Oregon's adults in custody are too narrowly drawn and exclude most individuals. Application procedures are unclear and forms are inaccessible. The review process fails to solicit meaningful input from medical experts, and reviews of requests for release take far too long to complete. For the good of Oregon's public safety, budget, and the dignity of these incarcerated individuals, we urge you to support Senate Bill 835 this year.

This legislation would reach individuals who are the most costly to incarcerate and the least likely to pose a risk to public safety. Prison spending increased 10-fold between 1976 and 2013 and 10% of that \$77 billion figure was from healthcare related costs.<sup>2</sup> In 2015, medical care accounted for one-fifth of state prison expenditures nationwide<sup>3</sup> — a figure that is likely to continue to increase if the elderly (of which over 1,100 are currently under Oregon Department of Corrections (DOC) custody<sup>4</sup>) and severely ill remain a growing population in state prisons. Healthcare costs are currently the second highest expenditure in the Oregon DOC budget.<sup>5</sup>

Meanwhile, we have the least to fear from the elderly and medically vulnerable. The Department of Justice found that individuals released through the federal compassionate release system had a recidivism rate of 3.5 percent compared to the overall recidivism rate of 41 percent for federal prisoners.<sup>6</sup> Furthermore, the United States Sentencing Commission report on recidivism and age

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<sup>1</sup> Mary Price, "Everywhere and Nowhere: Compassionate Release in the States," FAMM (June 2018), 13. <https://famm.org/wp-content/uploads/Exec-Summary-Report.pdf>.

<sup>2</sup> Cyrus Ahalt et al., Paying the Price: The Pressing Need for Quality, Cost, and Outcomes Data to Improve Correctional Health Care for Older Prisoners, 61 J. of the Am. Geriatrics Society 2013, 2014 (2013), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3984258/>.

<sup>3</sup> "Prison Health Care: Costs and Quality," Pew Charitable Trust (Oct. 2017), <https://www.pewtrusts.org/en/research-and-analysis/reports/2017/10/prison-health-care-costs-and-quality>

<sup>4</sup> "Quick Facts" Oregon Department of Corrections. <https://www.oregon.gov/doc/Documents/agency-quick-facts.pdf>.

<sup>5</sup> Id

<sup>6</sup> Office of the Inspector General, U.S. Dep't of Justice, The Federal Bureau of Prisons' Compassionate Release Program (Apr. 2013), iv, <https://oig.justice.gov/reports/2013/e1306.pdf>.

concluded that, “recidivism measured by rearrest, reconviction, and reincarceration declined as age increased.”<sup>7</sup>

Senate Bill 835 would apply this body of evidence to Oregon’s medical release mechanisms and provide a more commonsense — and compassionate — approach to public safety. This bill would:

- Ensure that medical release is available to all adults in custody whose medical condition necessitates a safe and humane release from incarceration;
- Create an independent commission comprised of medical professionals to review and make release recommendations from a public health perspective;
- Institute deadlines throughout the medical release process so that release decisions are made in a timely manner; and,
- Ensure that adults in custody are made aware of these release mechanisms and that the application for release is simple and easy to complete.

The COVID-19 pandemic has underscored the longstanding need to improve medical release in Oregon. Current state law has made it nearly impossible for medically vulnerable individuals to be released from prison outside of receiving executive clemency. Meanwhile, federal courts have been able to release 2,866 individuals since March 2020 through the federal government’s compassionate release mechanism – which, while far from perfect, has become the best in the nation following reforms enacted in 2018. A functioning medical release system in Oregon could have helped protect medically vulnerable individuals.

Senate Bill 835 includes common-sense, evidence-based reforms to Oregon’s system of medical release. Medically vulnerable individuals pose little to no risk to public safety, stretch correctional budgets thin, and consume finite correctional resources that would be better focused on individuals with a greater need for rehabilitation. We urge this committee to support these important reforms.

Sincerely,

**FAMM**

**Justice Action Network**

**The Sentencing Project**

**The R Street Institute**

**National Association of Criminal Defense Lawyers**

**Due Process Institute**

**Fair and Just Prosecution**

**Law Enforcement Leaders to Reduce Crime and Incarceration**

**Law Enforcement Action Partnership**

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<sup>7</sup> Kim Steven Hunt and Billy Easley II, “The Effects of Aging on Recidivism Among Federal Offenders,” The United States Sentencing Commission (December 2017), 3, [https://www.uscc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171207\\_Recidivism-Age.pdf](https://www.uscc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171207_Recidivism-Age.pdf).