



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES		POLICY NUMBER 1.5.G.12	PAGE NUMBER 1 OF 5
		DISTRIBUTION:	Public
		SUBJECT:	Inmate Compassionate Parole
RELATED STANDARDS:		None	EFFECTIVE DATE: June 01, 2022
			SUPERSESSION: 08/19/2018
DESCRIPTION: Parole	REVIEW MONTH: May	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the Department of Corrections (DOC) and Board of Pardons and Paroles that they may promulgate procedural rules for the effective implementation of discretionary conditional release of inmates who meet specific criteria set by policy and statute.

II. PURPOSE

The purpose of this policy is to establish the criteria and procedures for granting compassionate parole to DOC offenders.

III. DEFINITIONS

Compassionate Parole:

The discretionary conditional release from confinement of a geriatric or ill inmate pursuant to chapter 24-15A.

IV PROCEDURES

1. Referral:

- A. The Secretary of Corrections may consider the referral of an inmate for compassionate parole from the inmate's health care provider or the Warden (See SDCL § 24-15A-56).
- B. Referrals from the health care provider will be forwarded to the Warden or designee for supplemental information and review. The Warden or his/her designee will ensure the referral is forwarded to the Secretary.
- C. A referral for compassionate parole consideration shall specify the provision of eligibility under which the inmate is referred (section 2), and include a release plan that includes provisions, a payment plan for medical care, and the information outlined in the Compassionate Parole Referral form (See Attachment 1).

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- D. If, after review of the referral, the Secretary determines the inmate meets the criteria for compassionate parole, as set forth in Section 2 of this policy and SDCL § 24-15A-55, the Secretary will review other information about the inmate, such as the inmate's release plan, booking summary, dates, victim information, etc. to determine if the inmate is likely to pose a detriment to themselves, victims of the inmate's crime(s) or the community if the inmate is released to compassionate parole. After review of the information and referral, the Secretary may deny or refer the inmate for a compassionate parole hearing (See SDCL § 24-15A-56).
1. A denial by the Secretary to refer an inmate to the Board of Pardons and Paroles for compassionate parole consideration is final and not subject to the inmate Administrative Remedy process. Inmates are not entitled to compassionate parole or consideration for compassionate parole.
 2. The inmate's health care provider or the Warden, may submit a referral for an inmate to be considered for compassionate parole to the Secretary once a year. If there is a significant deterioration of the inmate's health condition, or a significant increase in the inmate's care requirements, a referral may be submitted to the Secretary sooner.
- E. Upon referral of the inmate by the Secretary, the Executive Director of the Board of Pardons and Paroles shall schedule the inmate for a discretionary, compassionate parole hearing with the Board within three months of receipt of referral (See SDCL § 24-15A-56 and Parole Board Policy 8.1.A16 *Compassionate Parole*).

2. Eligibility:

- A. Inmates who meet the following criteria are eligible for compassionate parole consideration (See SDCL § 24-15A-55):
1. Has a terminal illness;
 2. Is seriously ill and not likely to recover;
 3. Requires extensive medical care or significant chronic medical care;
 4. Is at least sixty-five years of age, has served at least ten consecutive years of his/her sentence incarcerated, whose current sentences are for convictions of a Class 3 felony or below, and whose medical care needs are at least double the average annual medical cost of the inmate population; or
 5. Is at least seventy years of age and has served at least thirty consecutive years of his/her sentence in custody; and
 6. Is not serving a capital punishment sentence.
- B. If the inmate meets the eligibility requirements of a medically indigent person under the provisions of chapter 28-13, the inmate is not eligible for release on compassionate parole (See SDCL § 24-15A-58).
- C. The inmate's release plan must ensure the inmate's health care expenses will be paid, either by the inmate or a third-party payer, which shall include Medicare, Medicaid, Indian Health Service, veteran's assistance or private insurance (See SDCL § 24-15A-58).
- D. An inmate is ineligible for compassionate parole once he/she reaches their parole eligibility date, pursuant to SDCL § 24-15-5, or initial parole date, pursuant to SDCL § 24-15A-32. However, if an inmate previously referred by the Secretary for compassionate parole continues to meet the criteria for compassionate parole consideration, as outlined in section 2 of this policy, the factors listed in Section 3 of this policy and SDCL § 24-15A-57 shall be considered in any subsequent discretionary parole release decision (See SDCL § 24-15A-60).

3. Parole Board Consideration:

- A. The following factors are considered by the Board in determining to grant or deny an inmate compassionate parole (See SDCL § 24-15A-57):
1. The inmate's assessed risk level;
 2. The inmate's conduct in prison;

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3. The inmate's conduct while on extended confinement, if applicable;
 4. Sentence served and sentence remaining;
 5. Offense and chronicity of criminal behavior;
 6. Prognosis and incapacitation level;
 7. The inmate's compliance with health care ordered by a health care provider;
 8. Release plan, including provisions for health care;
 9. Input, if any, of the sentencing judge, the prosecuting attorney, and the victim(s);
 10. If the care and supervision the inmate requires and is anticipated to require can be provided in a more medically appropriate or cost effective manner;
 11. Whether to allow a geriatric or terminally ill inmate to be housed at a location outside of prison prior to death; and
 12. The ability to adequately monitor the inmate after release to the community and to ensure public safety.
- B. If the Board denies an inmate's release to compassionate parole, the Board will set the date for the next consideration of compassionate parole, not to exceed one year. The Board may elect to review the inmate sooner than one year (See SDCL § 24-15A-59).
- C. If, at any time, the inmate no longer meets the criteria for compassionate parole, as set forth in Section 2 of this policy, the inmate's health care provider or the Warden shall notify the Secretary. The Secretary may remove the inmate from compassionate parole consideration by notifying the Executive Director of Parole (See SDCL § 24-15A-59).
1. If the Secretary no longer recommends the inmate be considered, the inmate shall be removed from compassionate parole consideration and any scheduled compassionate parole hearing will be canceled. The Board may not consider an inmate not recommended by the Secretary for compassionate parole.
 2. An inmate removed from compassionate parole consideration is subject to applicable parole provisions under chapters 24-13, 24-15, and 24-15A.
- D. Inmates released on compassionate parole, who are compliant with the terms of their supervision, as determined by Parole Services, who no longer meet the criteria for compassionate release, are not subject to revocation of their release to compassionate parole for no longer meeting the criteria (See SDCL § 24-15A-59).
- E. Nothing in SDCL §§ 24-15A-55 to 24-15A-68, inclusive, or its application may be the basis for establishing a constitutionally protected liberty, property or due process interest in any inmate. An inmate is not entitled to compassionate parole or to be considered for compassionate parole. Compassionate parole may be recommended by the Secretary and granted by the Board if, in the judgement of the Secretary and the Board, the inmate meets the eligibility criteria for compassionate parole and their release is unlikely to pose a detriment to the inmate, victim(s) or the community. The decision of the Board is final and not subject to appeal by the inmate (See SDCL § 24-15A-62).
- F. Nothing in this policy or SDCL §§ 24-15A-55 to 24-15A-68, inclusive, or its application, impacts the ability of the Warden and Secretary of Corrections to place an inmate on extended confinement pursuant to SDCL §§ 24-2-25 and 24-32-27 or to place an inmate on extended confinement pending release to compassionate parole or consideration for compassionate parole (See SDCL § 24-15A-63).

4. Supervision and Revocation:

- A. An inmate granted compassionate parole is subject to the provisions of chapters 24-13, 24-15, and 24-15A, including the provisions related to supervision, early final discharge, and revocation of parole, so far as those provisions are consistent with SDCL §§ 24-15A-55 to 24-15A-68, inclusive (See SDCL § 24-15A-61).

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- B. Any inmate released on compassionate parole shall be compliant with medical care and maintain responsibility for health care expenses through self-pay or third-party payer (See SDCL § 24-15A-67).
- C. An inmate on parole through a compassionate parole release is ineligible for earned discharge credits until the inmate reaches their initial parole date, pursuant SDCL § 24-15A-32 or their parole eligibility date, pursuant to SDCL § 24-15-5 (See SDCL § 24-15A-65).
- D. If an inmate on compassionate parole release has their parole revoked, a subsequent consideration of compassionate parole by the Board on the inmate’s same sentence requires a new referral from the Secretary (See SDCL § 24-15A-66).
- E. When a parolee on compassionate parole release reaches their initial parole date, pursuant to SDCL § 24-15A-32, or their parole eligibility date, pursuant to SDCL § 24-15-5 and is paroled subject to the provisions of chapters 24-15 and 24-15A, the parolee is subject to all conditions of their parole, as set by the supervising parole agent.

V. RESPONSIBILITY

The Director of Parole Services and Deputy Secretary of Corrections will review this policy annually and update as necessary.

VI. AUTHORITY

SDCL §§ 24-2-25, 24-13, 24-15, 24-15A, 24-15-5, 24-15A-32, 24-15A-55 to 24-15A-68, 24-32-27, 28-13

VII. HISTORY

May 2022

July 2019

June 2018: New policy

ATTACHMENTS (Published in PolicyTech unless otherwise noted)

1. South Dakota DOC Compassionate Parole Referral
2. DOC Policy Implementation / Adjustments

DOC POLICY IMPLEMENTATION/ADJUSTMENTS

DESCRIPTION	TITLE	POLICY #	EFFECTIVE
Parole	Inmate Compassionate Parole	1.5.G.12	06/01/2022

(FACILITY/WORK UNIT NAME)

WILL ACCEPT AND IMPLEMENT THE PROVISIONS OF THE ABOVE ADMINISTRATIVE REGULATION:

AS WRITTEN

NOT APPLICABLE

WITH THE FOLLOWING PROCEDURES TO ACCOMPLISH THE INTENT OF THE POLICY

(SIGNED) _____ (DATE) _____
Warden / Director