



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 1400-10	PAGE NUMBER 1 OF 4
		DISTRIBUTION: Public	
		SUBJECT: Offender Compassionate Parole	
RELATED STANDARDS:	None	EFFECTIVE DATE: April 01, 2024	
		SUPERSESSION: 06/01/2022	
DESCRIPTION: Parole Services	REVIEW MONTH: March	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota 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 offenders 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 offender pursuant to SDCL.

IV. PROCEDURES

1. Referral:

- A. The secretary of corrections (SOC) may consider the referral of an offender for compassionate parole from clinical services or the warden.
 1. Referrals from clinical services 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 SOC.

- B. A referral for compassionate parole consideration shall specify the provision of eligibility under which the offender is referred, 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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- C. If, after review of the referral, the SOC determines the offender meets the criteria for compassionate parole, as set forth in this policy and SDCL, the SOC will review other information about the offender, such as the offender's release plan, booking summary, dates, victim information, etc., to determine if the offender is likely to pose a detriment to themselves, victims of the offender's crime(s), or the community if the offender is released to compassionate parole. After review of the information and referral, the SOC may deny or refer the offender for a compassionate parole hearing.
1. A denial by the SOC to refer an offender to the Board of Pardons and Paroles for compassionate parole consideration is final and not subject to the offender grievance process. Offenders are not entitled to compassionate parole or consideration for compassionate parole.
 2. Clinical services or the warden may resubmit a referral for an offender to be considered for compassionate parole to the SOC any time there is a significant deterioration of the offender's health condition, or a significant increase in the offender's care requirements.
- D. Upon referral of the offender by the SOC, the Board of Pardons and Paroles shall schedule the offender for a discretionary compassionate parole hearing with the board immediately upon receipt of referral.

2. Eligibility:

- A. Offenders who meet the following criteria may be considered for compassionate parole:
1. Terminal illness.
 2. Seriously ill and not likely to recover.
 3. Requires extensive medical care or significant chronic medical care.
 4. At least sixty-five (65) years of age, served at least ten (10) 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 offender population, or
 5. Is not serving a capital punishment sentence.
- B. If the offender meets the eligibility requirements of a medically indigent person under the provisions of SDCL, the offender is not eligible for release on compassionate parole.
- C. The offender's release plan must ensure the offender's health care expenses will be paid, either by the offender or a third-party payer, which shall include Medicare, Medicaid, Indian Health Service (IHS), veteran's assistance, or private insurance.
- D. An offender is ineligible for compassionate parole once he/she reaches their parole eligibility date, pursuant to SDCL, or initial parole date. However, if an offender previously referred by the secretary for compassionate parole continues to meet the eligibility criteria for compassionate parole consideration, Parole Board consideration factors, and SDCL shall be considered in any subsequent discretionary parole release decision.
- E. If, at any time, the offender no longer meets the criteria for compassionate parole, as set forth in this policy, the warden shall notify the SOC. The SOC may remove the offender from compassionate parole consideration.
1. If the SOC no longer recommends the offender be considered, the offender shall be removed from compassionate parole consideration and any scheduled compassionate parole hearing will be canceled.
 - a. An offender removed from compassionate parole consideration is subject to applicable parole provisions.
- F. Offenders 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.

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- G. Nothing in SDCL or its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest in any offender. An offender is not entitled to compassionate parole or to be considered for compassionate parole. Compassionate parole may be recommended by the SOC and granted by the board if, in the judgement of the SOC and the board, the offender meets the eligibility criteria for compassionate parole and their release is unlikely to pose a detriment to the offender, victim(s), or the community. The decision of the board is final and not subject to appeal by the offender.
- H. Nothing in this policy or SDCL or its application, impacts the ability of the SOC to place an offender on extension of confinement, or to place an offender on extension of confinement pending release to compassionate parole or consideration for compassionate parole.

3. Supervision and Revocation:

- A. An offender granted compassionate parole is subject to the provisions of SDCL, including the provisions related to supervision, early final discharge, and revocation of parole, so far as those provisions are consistent with SDCL.
- B. Any offender released on compassionate parole shall be compliant with medical care and maintain responsibility for health care expenses through self-pay or third-party payer.
- C. An offender on parole through a compassionate parole release is ineligible for earned discharge credits.
- D. If an offender on compassionate parole release has their parole revoked, a subsequent consideration of compassionate parole by the Board on the offender's same sentence requires a new referral from the SOC.
- E. When a parolee on compassionate parole release reaches their initial parole date or their parole eligibility date, and is paroled, the parolee is subject to all conditions of their parole, as set by the supervising parole agent.

V. RESPONSIBILITY

The director of Parole and deputy secretary of corrections are responsible for the annual review and revision of this policy.

VI. AUTHORITY

- A. SDCL § [Chapter 24-13](#) Board of Pardons and Paroles.
- B. SDCL § [Chapter 24-15](#) Paroles From State Correctional Facilities.
- C. SDCL § [Chapter 24-15A](#) Adult State Correctional Parole System.
- D. SDCL § [Chapter 28-13](#) County Poor Relief.
- E. SDCL § [24-2-25](#) Extension of confinement limits to permit visits to designated places.
- F. SDCL § [24-15-5](#) Time of eligibility for parole.
- G. SDCL § [24-15A-32](#) Department's establishment of initial parole date--Calculation of parole date--Certain crimes deemed violent for purposes of parole--Minimum time to be served--Parole eligibility.
- H. SDCL § [24-15A-55](#) Eligibility for compassionate parole.
- I. SDCL § [24-15A-56](#) Referral for compassionate parole hearing.
- J. SDCL § [24-15A-57](#) Factors for consideration in determining grant or denial of compassionate parole.
- K. SDCL § [24-15A-58](#) Release plan to ensure health care expenses will be paid by inmate or third party payer.
- L. SDCL § [24-15A-59](#) Grant or denial of compassionate parole--Reconsideration--Removal from consideration.
- M. SDCL § [24-15A-60](#) Inmate who reaches parole eligibility date or initial parole date not eligible for compassionate parole.
- N. SDCL § [24-15A-61](#) Inmate granted compassionate parole subject to statutory requirements.
- O. SDCL § [24-15A-62](#) Due process interest in compassionate parole not created--Decision of board final.
- P. SDCL § [24-15A-63](#) Extended confinement.
- Q. SDCL § [24-15A-65](#) Inmate on compassionate parole ineligible for earned discharge credits.

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- R. SDCL § [24-15A-66](#) **Effect of revocation of compassionate parole.**
- S. SDCL § [24-15A-67](#) **Conditions of compassionate parole.**
- T. SDCL § [24-15A-68](#) **Compassionate parole requirements not applicable to paroled inmate who reached initial parole date or parole eligibility date.**

VII. HISTORY

April 2024

May 2022

July 2019

June 2018: New policy

ATTACHMENTS *(*Indicates document opens externally)*

1. Compassionate Parole Referral Form*
2. DOC Policy Implementation / Adjustments



COMPASSIONATE PAROLE REFERRAL FORM

Offender Name:

Offender Number:

Date Of Birth & Age:

Reason(S) For Referral: Terminal Illness Seriously Ill/Not Likely To Recover

Requires Extensive Medical Care/Chronic Care Services.

Is at least sixty-five (65) years of age or older, has served at least ten (10) consecutive years of sentence incarcerated – current sentences are class 3 felony or below, and medical care needs are at least double the average annual medical costs of offender population. (if using this criterion, please fill below).

Conviction(s):

Admission date & consecutive years served:

Current average cost for offender medical care:

This offender is at least seventy (70) years of age, has served at least thirty (30) consecutive years of the offender's sentence incarcerated.

Admission date & consecutive years served:

Is not serving a capital punishment sentence.

Medical Considerations:

Condition(S)/Diagnosis:

Cost:

Incapacitation:

Prognosis:

Care Needs:

Warden's Referral/Supplemental Information:

Offender Crime(S) & Class of Crime(S):

Sentence:

Offender Admission Date:

Consecutive Years Incarcerated:

Warden/ (or Designee) Referral Comments:

Information Submitted By:

DOC Staff:

Date:

Warden:

Date: