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Subject: CJO: CSG responses to compassionate release questions
Date: Thursday, October 28, 2021 9:09:00 AM

Committee:

Below are the responses from the Council of State Governments (CSG) Justice Center on questions that were asked yesterday during their compassionate release presentation.

Respectfully,

Meredith Fry, Research Analyst

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Sent: Wednesday, October 27, 2021 4:36 PM
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Cc: Stephanie Duriez <sduriez@csg.org>
Subject: RE: FW: Joint Committee on Corrections and Juvenile Justice Oversight

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Hi Meredith,

Thank you for your help in getting us set up for today's meeting. We received two questions from the committee and wanted to make sure we got back to folks. Please see the promised information below and don't hesitate with any additional questions.

1. Request for language related to Medicaid exemption for people in correctional custody who

receive care outside state/local institutions:

- [Here](#) is a CSG Justice Center brief that includes the CMS memo “Clarification of Medicaid Coverage Policy for Inmates of a Public Institution” which is the language for the 1997 exemption. The memo starts on [pg. 16](#).

2. Request for additional information related to victim notification and input regarding compassionate release:

- In most states, victim notification happens a set amount of time prior to the ultimate release decision being made by DOC or the paroling authority. This also often includes an opportunity for victim input. In cases of medical/geriatric parole, the victim input process often mirrors that of the regular parole process. For example, [Colorado](#) allows a victim impact statement to be included in the parole packet for someone being considered for compassionate release. In [South Dakota](#), victim input is one of the factors the parole board should consider when deciding whether or not to grant release.
- In particular, I would bring your attention to the below from the [Vera Institute of Justice’s report, Aging Out: Using Compassionate Release to Address the Growth of Aging and Infirm Prison Populations](#). It provides a good summary of how states handle victim input and some of the associated challenges:
 - *Many compassionate release policies provide victims/survivors, law enforcement, prosecutors, and/or the courts an opportunity to veto or comment on a release decision. Some policies require that these stakeholders affirmatively consent to release; others allow victims, law enforcement, and judges to veto an application. This process is important to many parole board members who want to know what victims/survivors and law enforcement officers—the people most deeply affected by a crime or most knowledgeable about it—have to say about whether the person applying for parole should be released. Some states grant victims/survivors and law enforcement greater rights to object to and veto compassionate release than they would under a typical parole process. While victim and law enforcement input can help inform parole decisions, if not streamlined, these notification or consent requirements create barriers to compassionate release or, at a minimum, delays in the process when timing is urgent.*

Thank you!

Madeleine Dardeau (she, her, hers)

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