



SPONSOR: Sen. Townsend & Sen. Lockman & Sen. Pinkney &  
Rep. Minor-Brown & Rep. Harris & Rep. Wilson-Anton  
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Rep. Baumbach & Sen. Sokola  
Sen. Sturgeon

DELAWARE STATE SENATE  
152nd GENERAL ASSEMBLY

SENATE CONCURRENT RESOLUTION NO. 98

RECOGNIZING THE IMPORTANCE OF COMPASSIONATE RELEASE AND MAKING A COMMITMENT TO CONSIDER MODIFICATIONS TO DELAWARE'S EARLY RELEASE FRAMEWORK FOR INCARCERATED PEOPLE.

1 WHEREAS, a core principle of Delaware's criminal justice and corrections system should be efficiently ensuring  
2 public safety; and

3 WHEREAS, a second core principle of Delaware's criminal justice and corrections system should be to account  
4 for an incarcerated person's unique individual circumstances; and

5 WHEREAS, the federal system and most states' systems provide some form of early release for incarcerated  
6 people, such as in the case of terminal illness, advanced age, severe illness, or other incapacitation; and

7 WHEREAS, such form of release often is referred to as "compassionate release"; and

8 WHEREAS, the compassionate release of incarcerated people can promote individual and community-wide justice  
9 while preserving public safety and realizing fiscal efficiencies; and

10 WHEREAS, by statute, Delaware's system provides the possibility of early release via sentence modification for  
11 serious medical illness or infirmity among incarcerated people who committed crimes on or after June 30, 1990, and early  
12 release via medical parole for limited medical reasons among incarcerated people who committed crimes prior to June 30,  
13 1990; and

14 WHEREAS, old age and associated infirmity are not strict bases for early release under Delaware's statutory  
15 system, regardless of how many years an incarcerated person has been incarcerated, how well that person has behaved and  
16 rehabilitated while incarcerated, and whether the incarcerated person would pose no threat to individuals or the community  
17 upon early release; and

18 WHEREAS, in addition to a limited statutory framework for early release, Delaware has a constitutional  
19 framework whereby an incarcerated person can submit an application for a commutation to the Board of Pardons; and

20 WHEREAS, the Board of Pardons, which is comprised of the Chancellor of the Court of Chancery, the Lieutenant  
21 Governor, the Secretary of State, the State Treasurer, and the Auditor of Accounts, can recommend commutations to the  
22 Governor, who has the sole authority to grant commutations; and

23 WHEREAS, notwithstanding the statutory avenues for early release and constitutional framework for  
24 commutations, as of 2021 there were nearly 200 Delawareans over the age of 50 who had been incarcerated for more than  
25 30 years, including approximately 130 over the age of 60; and

26 WHEREAS, these older incarcerated individuals are disproportionately Black; and

27 WHEREAS, a detailed review of, and enhanced focus on, these incarcerated individuals' personal backgrounds  
28 and present circumstances, including their demonstrated efforts to maximize participation in educational and other  
29 rehabilitative opportunities while incarcerated, would reveal opportunities to seek early release or commutation while  
30 preserving public safety and achieving fiscal efficiencies; and

31 WHEREAS, following a detailed review and enhanced focus, there may be an increase in meritorious and  
32 compelling applications for commutation to the Board of Pardons or for early release pursuant to statute; and

33 WHEREAS, Delaware's statutory system for early release may merit changes that expand the bases for early  
34 release without posing a risk to public safety, including on the basis of a comparative analysis of other states' systems and  
35 outcomes under models of compassionate release.

36 NOW, THEREFORE:

37 BE IT RESOLVED by the Senate of the 152nd General Assembly of the State of Delaware, the House of  
38 Representatives concurring therein, that there is merit, on individual and community-wide bases, to immediately consider  
39 early release for all statutorily eligible incarcerated persons and commutation for individuals who would be eligible under  
40 the stronger model of compassionate release.

41 BE IT FURTHER RESOLVED that the General Assembly encourages all stakeholders in the present processes of  
42 early release and commutation to embrace the tenants of compassionate release, including the Board of Pardons, the  
43 Governor, the Board of Parole, the Department of Justice, the Department of Corrections, the Office of Defense Services,  
44 and all law enforcement agencies and other stakeholders who can assist with applications for early release or commutation  
45 or who provide input in the processing of those applications.

46 BE IT FURTHER RESOLVED that the General Assembly believes a system of compassionate release stands the  
47 strongest prospect of achieving justice, fiscal efficiencies, and public safety, and accordingly will explore and consider  
48 potential modifications to Delaware's statutory framework for early release that would adopt more elements of a  
49 compassionate-release framework or would provide clarity on the import of infirmities or illnesses associated with old age

50 and of demonstrated efforts to maximize participation in educational and other rehabilitative opportunities while  
51 incarcerated.

#### SYNOPSIS

This resolution recognizes that the compassionate release of incarcerated people—such as elderly individuals experiencing infirmities, in addition to individuals in terminal or severe medical circumstances—can promote individual and community-wide justice while preserving public safety and realizing fiscal efficiencies. The resolution acknowledges the merit of immediately considering early release of all statutorily eligible incarcerated persons and commutation for individuals who would be eligible if Delaware were to have a stronger model of compassionate release, encourages all stakeholders involved in such consideration to assist, and pledges that the General Assembly will explore and consider potential modifications to Delaware’s early-release framework.

Author: Senator Townsend