

AB 1539 (KREKORIAN & LIEBER)

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Sen. Gil Cedillo; Sen. Sheila Keuhl; Sen. Jack Scott; and Sen. Darrell Steinberg

MEDICAL RELEASE & FISCAL SAVINGS BILL

As Amended 6/04/07

BACKGROUND

The medical release law was enacted in 1997 because prisons were never intended to act as long term health care providers for terminally ill prisoners. Medical care for terminally ill prisoners comprises a disproportionate portion of the budget of the California Department of Corrections and Rehabilitation (CDCR). The cost of imprisoning terminally ill prisoners is an unnecessary, exorbitant expense for the CDCR. This cost can exceed \$120,000 per prisoner a year, because not only is the CDCR paying for expensive end of life care, but also the cost of 24 hour guards for a person who is incapable of posing a threat to society—resulting in a tremendous waste of prison resources and taxpayer's money.

Under the medical release law, dying inmates, their family members, or designated agents may apply for recall and re-sentencing consideration. However, the process needs to be further streamlined to ensure effectiveness and fiscal savings. A lack of notification procedures and directives to prison medical staff have resulted in about a fifty percent reduction in the number of medical releases since the mid 1990s, when some people were released under the general recall and resentencing provisions of Penal Code § 1170(d) (which do not specifically mention medical release).

In 2004, the Legislature passed AB 1946 (Steinberg), the predecessor to AB 1539, with no registered opposition. The Governor vetoed the 2004 bill, but in response to prison crowding this year, he recently announced that “the potential release of the old, feeble, and sick who pose no threat to the public,” could be an approach to overcrowding that he would support.

Since 2005, the California Department of Corrections and Rehabilitation (CDCR) budget has increased by nearly \$2 billion. CDCR healthcare costs have increased by more than \$556 million.

EXISTING LAW

The medical release law currently allows a CDCR doctor who diagnoses a prisoner as terminally ill with six months or less to live to initiate a process whereby if the CDCR Secretary, the Board of Parole Hearings (BPH), or both, agree that the person has six months or less to live and does not pose a threat to public safety, they may recommend to the court that the prisoner's sentence be recalled. (Penal Code § 1170(e)(1)). Only if the sentencing court agrees to the sentence recall, the person can then be released to a family member's home, a hospice, or a more appropriate medical treatment facility.

SUMMARY

AB 1539 will change procedures in the law to ensure effective medical releases, relieving the CDCR of high medical costs in caring for terminally ill prisoners who cannot be a danger to society.

AB 1539 would also extend the reach of the law to also include permanently medically incapacitated people in prison, and would modify the CDCR medical release process by increasing the awareness of CDCR staff and families of medical release. "Permanently medically incapacitated" is defined as those that are rendered permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including but not limited to coma, persistent vegetative state, brain death, ventilator-dependency, loss of control of muscular/neurological function.

The release of terminally ill and permanently medically incapacitated people in prison under AB 1539 who do not pose a threat to the public will result in substantial cost savings to the State potentially in excess of \$10 million annually. This savings will result not merely because some people will be released and CDCR's population will decrease, but primarily because the people released are particularly expensive to house and provide medical care to in the prison setting.

SUPPORT

- **Justice Now (SPONSOR)**
- A New Way of Life Reentry Project
- ACLU
- AIDS Healthcare Foundation
- American Friends Service Committee
- Asian Communities for Reproductive Justice
- Breast Cancer Action
- California Attorneys for Criminal Justice
- California Coalition for Women Prisoners
- California Catholic Conference
- California Commission on the Status of Women
- California Prison Focus
- California Prison Moratorium Project
- California Public Defenders Association
- California School Employees Association
- California Women's Law Center
- Californians United for a Responsible Budget (CURB)
- Coalition for Effective Public Safety (CEPS)
- Coalition on Homelessness, San Francisco
- Critical Resistance
- Diocese of Oakland
- Diocese of San Bernardino
- Drug Policy Alliance Network
- East Bay Community Law Center
- Free Battered Women
- Friends Committee on Legislation of California
- Justice Policy Institute
- L.A. Youth Justice Coalition
- Legal Services for Prisoners with Children
- Los Angeles County District Attorney's Office
- Mary Magdalene Project, Inc.
- National Lawyers Guild San Francisco Bay Area Chapter
- Prison Law Office
- San Francisco AIDS Foundation
- Taxpayers for Improving Public Safety (TIPS)
- TGI Justice Project
- Union of American Physicians & Dentists
- United for No Injustice, Oppression or Neglect (UNION)
- Women of Color Resource Center
- Youth Against Youth Incarceration (YAYI)
- 6 Individuals

OPPOSITION

- California Districts Attorney Association

STATUS

- Assm. Public Safety Hearing, 4/17/07
- Assm. Appropriations Hearing, 5/9/07
- Assembly Floor, 6/07/07
- Senate Public Safety Comm., 6/26/07

VOTES

- Assm. Public Safety Hearing, (5-2)
- Assm. Appropriations, (11-5)
- Assm. Floor, (41-35)

FOR MORE INFORMATION

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