

Prison Break: Compassionate Release for Iowa’s Growing Older Adult Prison Population

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ABSTRACT: Iowa’s prison system desperately needs intervention. The population of older adults in Iowa’s prisons is growing at a rapid rate and threatens to overwhelm the system unless there is a solution. These individuals are contributing to prison overcrowding: The state prisons are over capacity by twenty percent on average with no end in sight. In the next few short years, it’s projected that Iowa will reach ten thousand incarcerated individuals—the highest prison population the State has ever seen. Unless action is taken to release these older incarcerated individuals, already poor prison conditions will continue to worsen. The costs to the State to treat those older inmates who require specialty health care services, like hospice, are on the rise, too. This Note argues that Iowa needs compassionate release. This commonplace program that exists in every state except Iowa holds potential to remedy Iowa’s overcrowding issue and rising carceral health care costs, while also promoting humanitarian ideals throughout the State.

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* J.D. Candidate, The University of Iowa College of Law, 2026; B.A., Social Work, Texas Tech University, 2023. This Note is dedicated in thanks to the other four-fifths of Team ONB—Liz, David, Dr. Natalie, and Emily—because of whom I am a better person and a better advocate. Many thanks are due to my *Iowa Law Review* colleagues, both past and present, for all their help in the formation and publication of this Note. Finally, thank you to my close friends and my partner Thomas for their constant support throughout law school and the creation of this Note.

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INTRODUCTION

“My, look how much you’ve grown!” Although this is usually exclaimed by grandparents to grandchildren, this is also an applicable marvel at the State of Iowa’s prison population, which is rising in part due to the growing population of older incarcerated individuals. Iowa’s prisons are over capacity by an average of twenty percent,¹ and individuals over the age of fifty-one now make up nineteen percent of Iowa’s prison population, up from fourteen percent in 2012.² Additionally, there is no getting around the fact that everything is expensive right now.³ Groceries, bills, rent, and gas can all have a real impact on your bank account, and the Iowa Department of Corrections (“DOC”) is feeling the impact, too. The cost of keeping an individual incarcerated is on the rise, and the additional expenses that come with incarcerating someone who is geriatric—pharmacy needs, physical changes to jail structures, and more—are no different.⁴

Overcrowding and rising costs present a myriad of consequences for both the individuals in Iowa’s prisons and the State as a whole. Unfortunately, Iowa is overlooking an obvious solution: to join the rest of the United States and implement a compassionate release program. Compassionate release programs allow for the release of inmates from state or federal prisons if they meet a

1. See *Daily Statistics 8/17/2025*, IOWA OFFENDER SEARCH, <https://doc-search.iowa.gov/dailystatistics> [<https://perma.cc/V57R-NLMW>].

2. Jerome Greenfield, PowerPoint Presentation, *Aging Issues in Corrections*, at slide 26, available at <https://hhs.iowa.gov/media/12525> [<https://perma.cc/7V6F-PKVU>].

3. Sarah Foster, *Inflation Stayed Steady Last Month as Trump’s Tariffs Hit Some Prices—Here’s What Might Feel Most Expensive*, BANKRATE (Aug. 12, 2025), <https://www.bankrate.com/banking/federal-reserve/latest-inflation-statistics> [<https://perma.cc/4E9S-TFM2>] (showing a high price of goods in 2025).

4. See LEGIS. SERVS. AGENCY, *AVERAGE ANNUAL COST PER INMATE BY IOWA PRISON* [hereinafter *AVERAGE ANNUAL COST*], <https://www.legis.iowa.gov/docs/publications/FCTA/1220168.pdf> [<https://perma.cc/7F2S-WNU2>].

variety of criteria. For Iowa, an ideal compassionate release program would include eligibility based on age and medical need.

This Note argues that the rising number of older incarcerated individuals in Iowa has no end in sight. Iowa prisons will continue to be overcrowded and the costs of carceral health care for these individuals will continue to increase. Without a change, Iowa will continue to: (1) increase the DOC's budget, thus taking away from other public services; and (2) decrease the quality of prison conditions and care for both older adults and all other inmates.⁵ To resolve these issues, Iowa needs to implement a compassionate-release-style program and finally catch up to the rest of the United States in this much-needed area.

I. AGING BEHIND BARS

This Part discusses the current prison population in Iowa, as well as the issues facing Iowa prisons as a result of the increasing older adult demographic in prison: expensive carceral health care and prison overcrowding. An overview of Iowa's current prison system population and its issues is needed to understand why compassionate release in Iowa is an apropos solution. Section I.A explains the current trend of rising numbers of older inmates both nationwide and in Iowa. Sections I.B and I.C then examine the most emergent issues as a result of this trend: rising health care costs and prison overcrowding.

A. RISING NUMBERS OF INCARCERATED OLDER ADULTS

Across the United States, it's no secret that “[t]he incarceration crisis . . . ‘is one of the most pressing civil rights issues of our time.’”⁶ One component of this crisis is that the number of older incarcerated individuals is growing at an unprecedented rate.⁷ In 2022, the number of state and federal incarcerated individuals who were *geriatric*—typically considered those fifty-five years or

5. Although not addressed in this Note, the implications regarding the funding of the state prison system being partially taxpayer funded is all the more reason for Iowa to implement some sort of prison population control solution. If the prisons require less funding, or at least not a major increase in funding annually, a solution would save taxpayer money or divert tax dollars to more necessary areas in which Iowa could stand for more funds, such as economic development. See Caleb McCullough, *Iowa Budget Adds Education Division, Raises for Judges*, GAZETTE (May 10, 2024, 8:21 AM), <https://www.thegazette.com/state-government/iowa-budget-adds-education-division-raises-for-judges> [<https://perma.cc/5RD6-ALGD>].

6. Robert J. Smith, Zoë Robinson & Emily Hughes, *State Constitutionalism and the Crisis of Excessive Punishment*, 108 IOWA L. REV. 537, 540 (2023) (quoting Press Release, Econ. Pol’y Inst., Mass Incarceration Is One of the Most Pressing Civil Rights Issues Today (Jan. 16, 2015), <https://www.epi.org/press/mass-incarceration-is-one-of-the-most-pressing-civil-rights-issues-today> [<https://perma.cc/Q935-7YK6>]).

7. See Sue Coyle, *End-of-Life Care in Prison*, SOC. WORK TODAY, <https://www.socialworktoday.com/archive/ND18p16.shtml> [<https://perma.cc/B55T-WBEM>]; Renagh O’Leary, *Compassionate Release and Decarceration in the States*, 107 IOWA L. REV. 621, 623 (2022).

older⁸—was 186,000, which is almost five times what it was thirty years ago.⁹ Put differently, the geriatric population has gone from being just three percent of the nationwide prison population in 1991 “to a whopping 15%” in 2021.¹⁰ This makes geriatric incarcerated individuals the fastest-growing demographic in prisons,¹¹ as the number of younger individuals only increased by three percent in that same time frame.¹²

In Iowa, older incarcerated adults make up about 15.7 percent of the total prison population.¹³ If we include those over fifty-one, they make up about nineteen percent of the prison population, which equates to an increase of five percentage points over ten years.¹⁴ All of these individuals are housed in one of Iowa’s nine prisons, with a total of roughly 8,500 people incarcerated across the state.¹⁵ Although that number may seem small to states like Texas, where 134,000 people are in prison at any given time,¹⁶ Iowa’s prison system is at 120 percent capacity—exceeding the state’s official capacity of 6,990 by over 1,500 individuals.¹⁷ The State has been at or near that number for more than ten years.¹⁸ Alarming, by 2027, Iowa is projected to have a prison population of ten thousand individuals, which would be the highest number of incarcerated individuals Iowa has ever seen.¹⁹

8. For the purposes of this Note, a geriatric or elderly prisoner (here referred to as an “older adult”) is someone who is incarcerated and is over the age of fifty-five. There are variations as to what the age threshold is or should be, and it often varies from state to state. There is research documenting how those in prison age faster than their non-incarcerated counterparts, so what an outsider might consider *elderly* may be a younger age in prison. See Meg Anderson, *The U.S. Prison Population Is Rapidly Graying. Prisons Aren’t Built for What’s Coming*, NPR (Mar. 11, 2024, 5:12 AM), <https://www.npr.org/2024/03/11/1234655082> [<https://perma.cc/KE8T-MEQJ>].

9. *Id.*

10. Emily Widra, *The Aging Prison Population: Causes, Costs, and Consequences*, PRISON POL’Y INITIATIVE (Aug. 2, 2023), <https://www.prisonpolicy.org/blog/2023/08/02/aging> [<https://perma.cc/7QW4-HJQ6>]; see Anderson, *supra* note 8.

11. See Coyle, *supra* note 7.

12. Matt McKillop & Alex Boucher, *Aging Prison Populations Drive Up Costs*, PEW (Feb. 20, 2018), <https://www.pew.org/en/research-and-analysis/articles/2018/02/20/aging-prison-populations-drive-up-costs> [<https://perma.cc/L96H-U2XV>]. Further, at least forty-four states are feeling this growth: In those states, the number of geriatric incarcerated individuals in state prisons rose from seven percent of the prison population to ten percent from 2010 to 2015. See *id.*

13. *Iowa Correctional System Population*, IOWA: OPEN DATA, <https://data.iowa.gov/stories/s/e7er-326q> (on file with the *Iowa Law Review*) (filter for Region Type “Institution”).

14. See Greenfield, *supra* note 2, at slide 26.

15. See *Daily Statistics 10/16/2025*, IOWA OFFENDER SEARCH (Oct. 16, 2025), <https://doc-search.iowa.gov/dailystatistics> [<https://perma.cc/H4QC-DYYD>].

16. *Texas Profile*, PRISON POL’Y INITIATIVE, <https://www.prisonpolicy.org/profiles/TX.html> [<https://perma.cc/5KGT-CPWZ>].

17. See *Iowa Correctional System Population*, *supra* note 13.

18. FISCAL SERVS. DIV., IOWA LEGIS. SERVS. AGENCY, PRISON POPULATION AND CAPACITY 5 (2022) [hereinafter PRISON POPULATION AND CAPACITY], <https://www.legis.iowa.gov/docs/publications/FRB/1294232.pdf> [<https://perma.cc/LYD5-7NSM>].

19. See AM. C.L. UNION, BLUEPRINT FOR SMART JUSTICE: IOWA 5 (2019), <https://50stateblueprint.aclu.org/assets/reports/SJ-Blueprint-IA.pdf> [<https://perma.cc/J4KA-CVL2>]. An

In addition to capacity concerns, the number of incarcerated individuals is relevant because the cost per inmate has also been on the rise in Iowa. In 2021, the cost per inmate per day was \$106.69,²⁰ and the annual costs per inmate for each Iowa's prisons ranged from \$27,027 to \$71,948.²¹ This is almost double what it cost to incarcerate an inmate in 1999,²² when the average annual cost per inmate in Iowa averaged \$21,736 and ranged from \$15,256 to \$33,056, depending on the specific prison.²³

The cause of the rising rates of older adults incarcerated nationwide is varied, but at least some thanks is due to the "tough-on-crime" periods of the 1960s and 1970s, which introduced sentencing methods like mandatory minimum sentencing, three-strike laws, and increases in the number of life sentences.²⁴ In Iowa specifically, the causes are much the same: mandatory minimum sentencing, "changes in parole policy, and the state's mood for law and order."²⁵ These methods have been called "a prescription for an increase in older inmates: more prisoners, more prison beds, more lifers, and less parole."²⁶ This approach has panned out: Individuals who were caught in the crosshairs of the moral panic regarding crime and punishment in that era and were sentenced with these harsh methods would now be the individuals constituting the geriatric demographic in state prisons. From 1993 to 2013, the expected average time served on a commitment across all age groups and offense categories rose from twenty-nine months to thirty-nine months.²⁷ Older adults are also more likely to be caught up in the criminal justice system due to heightened policing, which often targets groups that have a high number of older adults: unhoused individuals, people with substance use issues, or people with mental disabilities or illness.²⁸ For instance, individuals over fifty years old are the fastest growing demographic amongst the unhoused

unprecedented projected population of over ten thousand incarcerated individuals makes it difficult to predict the ramifications of such a number, but one could surmise that the fact that prisons are struggling to handle just under nine thousand individuals does not bode well for the future and their projected populations.

20. PRISON POPULATION AND CAPACITY, *supra* note 18, at 2.

21. See AVERAGE ANNUAL COST, *supra* note 4.

22. See *id.*

23. See *id.*

24. See Alex Stamm & Inimai Chettiar, *Blame Mass Incarceration on Sentencing Policies, Not Mass Crime*, AM. C.L. UNION (June 6, 2012), <https://www.aclu.org/news/national-security/blame-mas-s-incarceration-sentencing-policies-not-mass-crime> [<https://perma.cc/E7FW-QUQM>] (discussing the factors contributing to the boom in American prison populations); Smith et al., *supra* note 6, at 548–50 (detailing public perception of crime and the moral panics associated with the late twentieth century); McKillop & Boucher, *supra* note 12.

25. R. Dean Wright, *Emergency Prison Release Policies: The Iowa Example*, 64 PRISON J. 88, 92 (1984).

26. R.V. Rikard & Ed Rosenberg, *Aging Inmates: A Convergence of Trends in the American Criminal Justice System*, 13 J. CORR. HEALTH CARE 150, 157 (2007).

27. McKillop & Boucher, *supra* note 12.

28. See Widra, *supra* note 10.

population, and “drug-related arrests among people aged 50 and older nearly doubled from 2000 to 2018, indicating a dramatic increase in criminal legal system involvement.”²⁹

B. CARCERAL HEALTH CARE IN IOWA

The Eighth Amendment to the U.S. Constitution prohibits cruel and unusual punishment, which, after the Supreme Court decided *Estelle v. Gamble*, includes requirements for carceral health care.³⁰ Prisons and jails are required by both the Constitution and the standards of the American Correctional Association to provide adequate health care to older adults, which can include hospice care.³¹ Older incarcerated adults typically have worse health than their younger counterparts, especially in the areas of “chronic conditions, substance abuse, and psychological disorders.”³² This means they are often twice as costly to imprison than younger inmates,³³ largely due to the cost of health care spent on geriatric needs—things like increased institutional medical care, medications, and out-of-prison care.³⁴

Although incarceration generally is “a key element of social determinants of health and is linked to a wide range of adverse health outcomes,”³⁵ the illnesses befalling the older demographic specifically are costly and urgent:

29. *Id.*; accord Adam Nagourney, *Old and on the Street: The Graying of America's Homeless*, N.Y. TIMES (May 31, 2016), <https://www.nytimes.com/2016/05/31/us/americas-aging-homeless-ol-d-and-on-the-street.html> (on file with the *Iowa Law Review*).

30. See generally *Estelle v. Gamble*, 429 U.S. 97 (1976) (establishing a constitutional right to adequate carceral health care); see also Emily F. Street, Note, *The Simple Bare Necessities: Why Iowa Should Enact Legislation Providing Incarcerated Individuals with Outdoor Recreation Time*, 109 IOWA L. REV. 1399, 1405–06 (2024) (synthesizing two Supreme Court holdings that depriving inmates of life necessities is a violation of the Eighth Amendment).

31. See COMM'N ON ACCREDITATION FOR CORR., AM. CORR. ASS'N, 2016 STANDARDS SUPPLEMENT 87 (2016), <https://www.aca.org/common/Uploaded%20files/2016%20Standard%20Supplement.pdf> [<https://perma.cc/T5MD-D8JP>]; *Estelle*, 429 U.S. at 103.

32. Rikard & Rosenberg, *supra* note 26, at 151.

33. Renee Hays, *The Aging Prison Population: A Rapidly Growing Issue*, INST. FOR PUB. HEALTH (Apr. 13, 2023), <https://publichealth.wustl.edu/the-aging-prison-population-a-rapidly-growing-issue> [<https://perma.cc/2L77-8Q7D>].

34. See Rikard & Rosenberg, *supra* note 26, at 151–53; OFF. OF THE INSPECTOR GEN., U.S. DEP'T. OF JUST., THE IMPACT OF AN AGING INMATE POPULATION ON THE FEDERAL BUREAU OF PRISONS 10 (2016) [hereinafter IMPACT ON BOP], <https://web.archive.org/web/20250314205137/https://oig.justice.gov/sites/default/files/reports/15-05.pdf> [<https://perma.cc/4T7G-SW4J>].

35. *New Study Finds Higher County-Level Jail and State-Level Prison Incarceration Rates Associated with Higher County- and State-Level Cancer Mortality Rates*, AM. CANCER SOC'Y (Sept. 17, 2024), <https://pressroom.cancer.org/study-incarceration-rates-cancer> [<https://perma.cc/QX2E-2YXJ>].

dementia,³⁶ heart disease,³⁷ and cancer.³⁸ Dementia and certain types of cancer are all more prevalent in incarcerated or formerly incarcerated individuals than those in the community, and incarcerated individuals may develop more risk factors associated with cardiovascular disease than their outside counterparts.³⁹ Nationwide, dementia has a prevalence rate in prisons of up to forty-four percent,⁴⁰ but that prevalence is expected to drastically increase with more than half of incarcerated seniors developing dementia by 2030.⁴¹ Cancer is also highly prevalent among the incarcerated population and is the leading cause of death for all demographics in prison.⁴² The higher the incarceration rate in a county, the higher the cancer mortality rate is in that county's jail or state prison.⁴³ Cardiovascular problems are another leading cause of death among incarcerated populations.⁴⁴ In 2013, the Bureau of Prisons ("BOP") found that the federal institutions with the highest percentage of geriatric inmates spend five times more per inmate on medical costs than institutions with the lowest percentage.⁴⁵ Now, over ten years later,

36. *Ageing and Health*, WORLD HEALTH ORG. (Oct. 1, 2025), <https://www.who.int/news-room/fact-sheets/detail/ageing-and-health> [<https://perma.cc/EA9G-YPZT>].

37. *See The Top 10 Most Common Chronic Conditions in Older Adults*, NAT'L COUNCIL ON AGING (July 2, 2025), <https://www.ncoa.org/article/the-top-10-most-common-chronic-conditions-in-older-adults> [<https://perma.cc/N4XZ-YV9G>].

38. Ramya Prathap, Sherlin Kirubha, Aravindhyan Thiyaga Rajan, Santhosh Manoharan & Karthikeyan Elumalai, *The Increasing Prevalence of Cancer in the Elderly: An Investigation of Epidemiological Trends*, 7 *AGING MED.* 516, 517 (2024).

39. *See* MEGAN MOORE & ANGIE WEIS GAMMELL, WILSON CTR. FOR SCI. & JUST., *THE AGING PRISON POPULATION AND DEMENTIA: BEST PRACTICES FOR CARE AND RELEASE 3* (2024), <https://w.csj.law.duke.edu/wp-content/uploads/2024/05/The-Aging-Prison-Population-and-Dementia.pdf> [<https://perma.cc/4BW2-ZFSU>] ("Older adults behind bars are at a greater risk for developing cognitive impairment . . ."); Christopher R. Manz, Varshini S. Odayar & Deborah Schrag, *Disparities in Cancer Prevalence, Incidence, and Mortality for Incarcerated and Formerly Incarcerated Patients: A Scoping Review*, 10 *CANCER MED.* 7277, 7286 (2021) ("Overall cancer incidence and prevalence may be relatively similar for incarcerated patients compared to the general population but elevated for specific diseases like cervical cancer . . ."); Emily A. Wang et al., *Cardiovascular Disease in Incarcerated Populations*, 69 *J. AM. COLL. CARDIOLOGY* 2967, 2971 (2017) (discussing how incarcerated individuals may have an elevated risk of developing cardiovascular disease).

40. Joanne Brooke, Alicia Diaz-Gil & Debra Jackson, *The Impact of Dementia in the Prison Setting: A Systematic Review*, 19 *DEMENTIA* 1509, 1511 (2020).

41. *See* MOORE & GAMMELL, *supra* note 39, at 3. This implies that Iowa has less than a five-year heads-up to figure out how their prisons are going to handle not only their growing senior population, but a growing population with serious mental health conditions that would usually necessitate a form of memory care nursing care.

42. *See Incarceration Associated with Higher Cancer Mortality, Yale Study Shows*, YALE SCH. MED. (Sept. 16, 2022), <https://medicine.yale.edu/news-article/incarceration-associated-with-higher-cancer-mortality-yale-study-shows> [<https://perma.cc/5R3W-SWL3>].

43. *New Study Finds Higher County-Level Jail and State-Level Prison Incarceration Rates Associated with Higher County- and State-Level Cancer Mortality Rates*, *supra* note 35.

44. Wang et al., *supra* note 39, at 2968.

45. *See* IMPACT ON BOP, *supra* note 34, at 12.

the geriatric prison population costs incarceration systems almost twice as much to take care of than the younger population.⁴⁶

In Iowa, it is difficult to pinpoint exactly how much the State spends on health care in prisons. Over twenty years ago, in a 2004 report, the fiscal services division of the Iowa legislature recognized the rising percentage that older inmates constitute in the state prisons and the budget issues they create.⁴⁷ Currently, about ninety-nine percent of Iowa's prison funding comes from the state general fund,⁴⁸ which is derived from income, sales, and certain other taxes.⁴⁹ The amount of general funds appropriated to the DOC grows by millions each year. Between fiscal years 2021 and 2022, the budget grew by twenty million dollars;⁵⁰ between fiscal years 2023 and 2024, by fifteen million dollars;⁵¹ between 2024 and 2025, by almost twelve million dollars;⁵² and between 2025 and 2026, it is expected to grow by almost eight million dollars.⁵³ Although the budget continues to grow, it's difficult to ascertain exactly how much of the DOC budget is utilized for prisoner health care or how much of a drastic increase we will see if the prison population continues to grow with no outlet. Additionally, despite the continual growth in the DOC's budget, the allocated funding for carceral health care in both prisons and jails is likely insufficient. For example, nine Iowa jails were recently found in violation of the Iowa Code by directly removing money from inmates' commissary accounts to pay for carceral health care, rather than going through

46. Hays, *supra* note 33.

47. See FISCAL SERVS., IOWA LEGIS. SERVS. AGENCY, MEDICAL COSTS OF THE STATE PRISON SYSTEM 4 (2004) [hereinafter MEDICAL COSTS], <https://www.legis.iowa.gov/docs/publications/IR/2739.pdf> [<https://perma.cc/V58B-9RGJ>].

48. IOWA DEP'T OF CORR., FINANCIAL STATUS REPORTS THROUGH THE PERIOD ENDING APRIL 2025, at 1 (2025), <https://www.legis.iowa.gov/docs/publications/DF/1529213.pdf> [<https://perma.cc/PgZR-GH3H>].

49. See *State Budget*, IOWA DEP'T MGMT., <https://dom.iowa.gov/state-government/state-budget> [<https://perma.cc/5FR2-TZUN>] (select "Frequently Asked Questions"; then click "What is the general fund?").

50. *Appropriations Committee – All-Bill Summary 2021*, IOWA SENATE DEMOCRATS, <https://iowasenate.com/2021/06/appropriations-committee-all-bill-summary-2021> [<https://perma.cc/2GCV-MRXU>].

51. See FISCAL SERVS. DIV., IOWA LEGIS. SERVS. AGENCY, JUSTICE SYSTEM APPROPRIATIONS BILL, S. File 562, 90th Gen. Assemb., 1st Sess., at 2 (2023), <https://www.legis.iowa.gov/docs/publications/NOBA/1373877.pdf> [<https://perma.cc/UDA6-AGLN>].

52. See FISCAL SERVS. DIV., IOWA LEGIS. SERVS. AGENCY, STATE BUDGET PREVIEW FY 2026, at 10 (2024), <https://www.legis.iowa.gov/docs/publications/LADR/1518316.pdf> [<https://perma.cc/G9QK-VYWA>]; see also FISCAL SERVS. DIV., IOWA LEGIS. SERVS. AGENCY, JUSTICE SYSTEM APPROPRIATIONS BILL, S. File 2434, 90th Gen. Assemb., 2d Sess., at 1 (2024) [hereinafter SF 2434], <https://www.legis.iowa.gov/docs/publications/NOBA/1448876.pdf> [<https://perma.cc/WR74-A3B8>] (stating that the DOC received "[a] net increase of \$11.9 million compared to estimated FY 2024" in appropriations from the general fund).

53. Andrzej Wiciorkowski, *The Iowa Budget Then and Now - FY26*, COMMON SENSE INST. IOWA (June 23, 2025), <https://www.commonsenseinstitute.org/iowa/research/state-budget/the-iowa-budget-then-and-now-fy26> [<https://perma.cc/5T2Q-S3WU>].

the proper channels.⁵⁴ The State is also considering contracting out health care provided in prisons to a private company, at least in part due to “the rising costs of pharmaceutical drugs.”⁵⁵

In 2023, about eight million dollars of the DOC’s total general fund appropriation was used for pharmaceuticals administered in the prisons.⁵⁶ These dollars “fund[] only the cost of pharmaceuticals, including drugs and biologicals,” and does not include things like “salaries, equipment, and utilities.”⁵⁷ In the 2025 DOC budget breakdown, there is an increase of almost four hundred thousand dollars for prison pharmaceutical costs.⁵⁸ Although it is unclear exactly what medications are being administered and for what medical needs, pharmacy costs generally have risen ten percent over seven years for incarcerated individuals age fifty-five and older.⁵⁹ However, pharmacy costs are a small fraction of what it costs to provide health care to ailing older adults.⁶⁰ Older inmates are more likely to have expensive medical conditions, so they “have a deepening impact on prison budgets”⁶¹—incarcerated individuals in that age group “use more prescription drugs than younger inmates and spend twice as much time in medical facilities.”⁶² The increased number of staff required and the training needed for officers and other staff can become costly, not to mention the cost of accommodating the physical needs of those with limited mobility as they age, such as adding wheelchair ramps.⁶³

54. Zachary Oren Smith, *Report Says Some Iowa Jails Unlawfully Charge Inmates for Health Care*, IOWA PUB. RADIO (Mar. 21, 2024, 9:22 AM), <https://www.iowapublicradio.org/ipr-news/2024-03-21/report-says-some-iowa-jails-unlawfully-charge-inmates-for-healthcare> [<https://perma.cc/WA8Z-ZEN5>].

55. Robin Opsahl, *State Considering Hiring Private Company to Provide Health Care in Iowa Prison System*, IOWA CAP. DISPATCH (July 8, 2025, 5:07 PM), <https://iowacapitaldispatch.com/2025/07/08/state-considering-hiring-private-company-to-provide-health-care-in-iowa-prison-system> [<https://perma.cc/NJK5-BMBJ>].

56. IOWA DEP’T OF CORR., FINANCIAL STATUS REPORTS THROUGH THE PERIOD ENDING MARCH 2023, at 1 (2023), <https://www.legis.iowa.gov/docs/publications/DF/1376629.pdf> [<https://perma.cc/E2PB-3EFQ>].

57. FISCAL SERVS. DIV., IOWA LEGIS. SERVS. AGENCY, DEPARTMENT OF CORRECTIONS PHARMACEUTICALS 1–2 (2022), <https://www.legis.iowa.gov/docs/publications/FTNO/1462684.pdf> [<https://perma.cc/B59D-KMTV>]. One ramification of the rising older adult population is the requirement of additional staff and training to care for their needs. If this eight-million-dollar pharmaceuticals budget does not even include these additional salaries, benefits, and trainings, then the actual cost of caring for the rising number of geriatric incarcerated individuals is likely quite a bit higher and hard to estimate.

58. SF 2434, *supra* note 52, at 2.

59. Greenfield, *supra* note 2, at slide 13.

60. See McKillop & Boucher, *supra* note 12.

61. *Id.*

62. Rikard & Rosenberg, *supra* note 26, at 151.

63. See McKillop & Boucher, *supra* note 12. Other limited mobility considerations could be the addition of single beds as opposed to bunk beds, wheelchair-accessible bathroom equipment, and other accommodations having to be made to the physical structure of the prison to accommodate those with limited mobility, or age-induced hearing or sight problems.

Regardless of actual age, individuals age faster in prisons than they do outside of prison;⁶⁴ incarcerated individuals can have up to a ten-year difference between their physiological age and their actual age.⁶⁵ Incarcerated individuals aged fifty-nine have the same geriatric conditions, like functionality or hearing and mobility limitations, as those aged seventy-five who reside outside of prison.⁶⁶ So, even individuals who are up to ten years younger than the geriatric threshold of fifty-five may be experiencing the same or similar costly medical needs.

C. OVERCROWDING IN PRISONS

“America has a problem”⁶⁷—an incarceration problem. This problem is “largely state-created and state-enforced,” with ninety percent of those incarcerated “confined under laws, procedures, and norms created and carried out at the local and state level.”⁶⁸ The population in prisons can be affected by any number of things. The three biggest factors identified by the State of Iowa as having influence over prison population are: (1) prison admission rates; (2) how long each individual stays in prison; and (3) how often individuals are released.⁶⁹ Iterated above in Section I.A are some of the many reasons that prison admissions are continuing to rise, and Iowa is doing little to nothing to improve its number of prison releases.⁷⁰ As for the length of an incarcerated individual’s stay, Iowa implements an “85 percent sentence law,” which requires that violent inmates complete at least eighty-five percent of their sentence before being considered for any type of release or parole.⁷¹ This state-made mandatory minimum service law, as well as the commonplace mandatory minimum sentences of the 1960s and 1970s, ensures that individuals sentenced in Iowa state courts are serving lengthy sentences. This does not exactly place Iowa at the forefront of sentencing reform efforts. As identified by the State, mitigating the length of incarceration can impact the prison population, thereby aiding population control and avoiding other consequences; if a state chooses to not implement an early release program, like Iowa, then sentencing mitigation is a more urgent issue.

Iowa prisons are simply not built to accommodate as many incarcerated individuals as they do. A 2022 report from fiscal services found that prison overcapacity:

64. Brooke et al., *supra* note 40, at 1510–11.

65. *Id.* at 1510.

66. See Farah Acher Kaikow, Lars Brown & Kristin Brunzell Merse, *Caring for the Rapidly Aging Incarcerated Population: The Role of Policy*, J. GERONTOLOGICAL NURSING, Mar. 2023, at 2–3.

67. BEYONCÉ, *America Has a Problem*, on RENAISSANCE (Parkwood Ent. & Columbia Recs. 2022).

68. Smith et al., *supra* note 6, at 540–41.

69. PRISON POPULATION AND CAPACITY, *supra* note 18, at 4.

70. See *supra* Sections I.A–B.

71. JOE MCENIRY, IOWA LEGIS. SERVS. AGENCY, SEVENTY PERCENT SENTENCES 1 (2007), <https://www.legis.iowa.gov/DOCS/Central/Guides/LBB/70percent.pdf> [<https://perma.cc/J3W4-2EJU>].

creates issues both with housing individuals and with directly supervising individuals in the institutions. . . . [O]perating over capacity “. . . exacerbates existing operational challenges in security, offender management, and service delivery, while placing significant additional pressure on custody staff. The additional workload and heightened tension created by crowding is a major factor in . . . staff recruitment and retention.”⁷²

Put simply, overcrowding means poor prison conditions. These poor prison conditions make it harder for prisons to meet the needs of offenders and compromises what little programming or resources are available.⁷³ An increasing prison population also means increasing rates of depression and hostility among inmates,⁷⁴ as well as more violent and unsanitary conditions.⁷⁵ Overcrowding has even been linked as a major contributor to the inhumane treatment of incarcerated individuals.⁷⁶ Additionally, the possible issues for prison staff can include greater risk of violence from those incarcerated, as well as a higher risk of infection or sickness, and higher likelihood of mental health issues.⁷⁷ These poor conditions are a reality for the thousands of incarcerated individuals and DOC staff in Iowa.

The Iowa legislature first tried finding a solution in 1981 by designing and implementing a prison cap.⁷⁸ This legislation mandated that once prison capacity grew beyond the “cap” (usually the number of beds actually available in the combined number of carceral facilities), the Board of Parole had ninety days to expedite and review all inmates eligible for parole within nine months to attempt to remedy the “state of emergency” caused by the exceedance of the prison cap.⁷⁹ The goal of the expedited review was to get the prison population to at least one hundred offenders below the cap; if this was not achieved within ninety days, all property offenders had their sentences reduced

72. PRISON POPULATION AND CAPACITY, *supra* note 18, at 3 (citing CGL COMPANIES, REPORT SUMMARY: IOWA DEPARTMENT OF CORRECTIONS 2 (2021), https://web.archive.org/web/20240718181412/https://doc.iowa.gov/sites/default/files/documents/2021/12/iowa_doc_safety_and_security_review_summary.pdf [<https://perma.cc/TD7D-S53J>]).

73. See *Overcrowding*, PENAL REFORM INT’L, <https://www.penalreform.org/issues/prison-conditions/key-facts/overcrowding> [<https://perma.cc/484X-KMHL>].

74. See Timothy Edgemon, *Auburn Criminology Expert Explains How Prison Conditions Affect Mental Health*, AUBURN U. (Sept. 21, 2022), <https://ocm.auburn.edu/experts/2022/09/20092-o-edgemon-prison-mental-health-ea.php> [<https://perma.cc/8NZG-XU3W>].

75. Morag MacDonald, *Overcrowding and Its Impact on Prison Conditions and Health*, 14 INT’L J. PRISONER HEALTH 65, 65 (2018).

76. *Topic Two – Current Trends, Key Challenges and Human Rights*, UNITED NATIONS OFF. ON DRUGS & CRIME (July 2019), <https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-6/key-issues/2-current-trends-key-challenges-and-human-rights.html> [<https://perma.cc/FCD4-62AX>].

77. MacDonald, *supra* note 75, at 65.

78. Wright, *supra* note 25, at 92–94.

79. *Id.* at 93.

by ninety days.⁸⁰ This shows that at one time, the State was concerned about its prison overcapacity problem and attempted to remedy it. Little information is available regarding the impacts or longevity of this program; even at the time, it was suggested that “there [was] little evidence to suggest that it will be a long-lasting solution.”⁸¹

At the time of the 1981 prison cap, both citizens and politicians were concerned that “the prison population would literally continue to grow forever” unless the State implemented some sort of solution.⁸² Those apprehensions about a growing prison population still exist today. Without a cap or other adequate release system available for incarcerated individuals in Iowa, there are no concrete methods to curb the growing prison population. Compassionate release may serve as a solution to this issue.

II. COMPASSIONATE RELEASE PROGRAMS

This Part examines compassionate release programs. Section II.A provides background information on compassionate release programs generally. Next, Section II.B looks at the history and development of federal compassionate release programs. Section II.C concludes by exploring the early-release options Iowans currently have available and a model compassionate release program in the State of Colorado. An overview of compassionate release generally, as well as more specific programs, including the historical development of federal compassionate release laws and necessary contextual information regarding state compassionate release programs, is needed to understand why compassionate release in Iowa is an apropos solution.

A. COMPASSIONATE RELEASE GENERALLY

Compassionate release programs allow for the release of incarcerated individuals who meet certain criteria—usually based on age and medical needs.⁸³ The idea behind compassionate release is that when someone is old enough or sick enough, the justifications for punishment are no longer served.⁸⁴ These justifications—retribution, incapacitation, deterrence, rehabilitation, and reparation—may lose meaning at a certain point in an older offender’s time served, such as if an incarcerated individual has dementia or Alzheimer’s and can no longer remember what they’ve done to deserve time in prison.⁸⁵

80. *Id.*

81. *Id.* at 95.

82. *Id.* at 90. It appears as though Iowa has been aware of its population issue for years and continues to take little or no steps towards rectifying the situation, regardless of literature alerting the State to the problem. *See id.*

83. Megan Horner, Comment, *Broken and Underutilized: Understanding Compassionate Release Programs for Older Adult Prisoners*, 44 BIFOCAL 48, 48 (2023).

84. *See* Jalila Jefferson-Bullock, *Quelling the Silver Tsunami: Compassionate Release of Elderly Offenders*, 79 OHIO ST. L.J. 937, 969–71 (2018).

85. *See infra* Section III.A.1.

Are society's interests still being protected in that case? Compassionate release programs allow for both empathy and humanity in the criminal justice system and are "based on the idea that there is a more benevolent alternative to incarceration for certain groups of people. . . . [It] is a direct indictment of the lack of compassion built into the system of mass incarceration."⁸⁶

Compassionate release programs are usually supported by proponents partially because older adults have lower recidivism rates than younger people,⁸⁷ and because often the services available to the older adult population in prison are low quality, with needs going unmet.⁸⁸ Dignity is a "strong rationale" for the implementation of compassionate release policies.⁸⁹ These programs provide an opportunity for individuals to age with dignity and to receive required additional medical care or other attention.⁹⁰ Continually incarcerating our older community with serious mental and physical illnesses in carceral settings that cannot or do not provide the right level and quality of care undermines human dignity.⁹¹ Receiving subpar care in prisons only to ultimately be transferred to a better-resourced outside hospital when the time comes "threaten[s] the dignity of the seriously ill."⁹² Because many carceral facilities "cannot achieve a patient-centered environment, in which dignity-conserving practices are integrated into care, [they] might not meet an appropriate ethical standard of care for the seriously ill," which could be considered a constitutional violation of inmates' rights.⁹³ These faults of the criminal justice system and carceral health care are where compassionate release comes into play.⁹⁴

B. HISTORY OF THE FEDERAL COMPASSIONATE RELEASE PROGRAM

Although this Note does not focus on the federal compassionate release program or federal prisons, it is useful to briefly examine the federal program, as it does affect Iowans in the federal system, and many states' compassionate release programs can be similar in language and structure to the federal

86. Jennifer E. James, Meghan Foe, Riya Desai, Apoorva Rangan & Mary Price, *COVID-19 and the Reimagining of Compassionate Release*, 19 INT'L J. PRISONER HEALTH 20, 31 (2023).

87. See generally Sarah Rakes, Stephanie Grace Prost & Stephen J. Tripodi, *Recidivism Among Older Adults: Correlates of Prison Re-Entry*, JUST. POL'Y J., Spring 2018 (stating that "the odds of recidivism decreased with age, and the differences between age groups were statistically significant").

88. See Victoria J. Tann, *Prison Hospice Care: Life and Death Behind Bars*, 13 AM. J. PSYCHIATRY RESIDENTS' J., Mar. 2018, at 3, 3 (discussing that pain management is a barrier faced by prisons).

89. Andreas Mitchell & Brie Williams, *Compassionate Release Policy Reform: Physicians as Advocates for Human Dignity*, 19 AMA J. ETHICS 854, 855 (2017).

90. Shivani Kaushik & Jen Currin-McCulloch, *Dying for a Change: A Systematic Review of Compassionate Release Policies*, 19 INT. J. PRISON HEALTH 47, 58-59 (2023).

91. Mitchell & Williams, *supra* note 89, at 855-56.

92. *Id.* at 855.

93. *Id.* at 856.

94. *Id.*

program.⁹⁵ The first legislation on compassionate release came in 1984 with the passing of the Sentencing Reform Act.⁹⁶ The Sentencing Reform Act, while also creating the U.S. Sentencing Commission in an attempt to reduce sentencing disparities, allowed a caveat for the Director of the BOP to request a sentence reduction for an offender based on *extraordinary and compelling* circumstances.⁹⁷ Although the Sentencing Reform Act and subsequent compassionate release regulations did not provide much guidance about what exactly qualified as extraordinary or compelling circumstances, it was widely accepted that inmates with less than a year to six months to live would qualify for the reduction request.⁹⁸ Common criticisms of the Sentencing Reform Act's compassionate release program were that it was poorly administered, rarely used, and the eligibility requirements were strenuous and difficult to meet.⁹⁹

The next attempt to remedy the Sentencing Reform Act and improve the federal compassionate release program came as recently as 2018 with the First Step Act.¹⁰⁰ The First Step Act allows inmates to personally petition the court for consideration for compassionate release under three circumstances: (1) after they have received a BP-11 response, which is considered a final decision by the BOP's general counsel in regards to an incarcerated individual's grievance; (2) after a denial of their original petition for compassionate

95. Arguably, although many states' compassionate release programs came after the Sentencing Reform Act, the addition of the First Step Act and its components were influenced by state programs. By tracing various characteristics of compassionate release programs, California is identified as the first state in 1994 to have a program that resembles our current First Step Act—allowing for incarcerated individuals to petition for release themselves instead of relying on administrative processes as many states did at the time. New Jersey's program is also touted as the first influence on other states to establish early release systems, which then contributed to the introduction and passage of the First Step Act. See Chun Hin Jeffrey Tsoi, *Compassionate Release as Compassionate Decarceration: State Influence on Federal Compassionate Release and the Unfinished Federal Reform*, 59 AM. CRIM. L. REV. ONLINE 1, 8 (2021), <https://www.law.georgetown.edu/american-criminal-law-review/wp-content/uploads/sites/15/2023/02/59-0-Tsoi-Compassionate-Release.pdf> [<https://perma.cc/Q7Q5-5662>].

96. OFF. OF THE INSPECTOR GEN., U.S. DEP'T OF JUST., THE FEDERAL BUREAU OF PRISONS' COMPASSIONATE RELEASE PROGRAM 1 (2013) [hereinafter FBOP COMPASSIONATE RELEASE], <https://web.archive.org/web/20250824164442/https://oig.justice.gov/reports/2013/e1306.pdf> [<https://perma.cc/6JNM-JLD5>].

97. *Id.* The creation of the Sentencing Commission arguably contributes to the mass incarceration we see today—creating guidelines requiring mandatory minimum sentences or automatically attaching additional years often means judges do not consider the whole of the defendant's situation, causing prison populations to steadily rise. Of course, the sentencing guidelines are only suggestions and not legal requirements but more often than not are treated as very influential. See *United States v. Booker*, 543 U.S. 220, 246–47 (2005).

98. See FBOP COMPASSIONATE RELEASE, *supra* note 96, at ii. An amendment was added to the Sentencing Reform Act to provide additional guidance about what constitutes “extraordinary and compelling reasons,” including medical condition, age, family circumstances, and victims of abuse. See U.S. SENT'G GUIDELINES MANUAL § 1B1.13 (U.S. SENT'G COMM'N 2024).

99. See IMPACT ON BOP, *supra* note 34, at i–iii.

100. See generally First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194.

release consideration; or (3) the lapse of thirty days since the receipt by the prison warden of the release request without any sort of movement on their case.¹⁰¹ An individual must “fully exhaust[] all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on [their] behalf” before bringing a motion to the court.¹⁰² Allowing inmates to petition for their own release, as opposed to waiting for the Director of the BOP to request it and dealing with administrative delays and red tape, has increased the effectiveness of the program: Between 2019 and July 2023, the First Step Act’s compassionate release reforms led to the release of 4,560 inmates.¹⁰³

C. STATE-RUN COMPASSIONATE RELEASE PROGRAMS

Every state has the ability to implement its own compassionate release program to be applied to individuals incarcerated by that state. Forty-nine states have one or more variations of a compassionate release program, with the basis of such programs usually in medical need.¹⁰⁴ The only state to not have any compassionate release program is Iowa, with no obvious justification as to its absence.¹⁰⁵ Iowa is not the only state that deserves blame, though; many existing state programs need serious reform. Generally speaking, they’re severely underused with vague guidelines and overly strict eligibility requirements.¹⁰⁶

Most states’ compassionate release programs are modeled similarly, save a few outliers. For instance, most programs have age as a set eligibility requirement—usually around sixty-five years old with a required number of sentence years served—and require the individual to be within a certain number of months of dying.¹⁰⁷ However, some states are more restrictive in their requirements than others. New York only requires the individual to have

101. See CORR. INFO. COUNCIL, CIC INFO SHEET: FBOP—ADMINISTRATIVE REMEDY PROGRAM, https://cic.dc.gov/sites/default/files/dc/sites/cic/page_content/attachments/BOP%20Administrative%20Remedies%2011.15.17%20REVISED.pdf [<https://perma.cc/3TRQ-K8VT>]; Memorandum from Kenneth Hyle, Assistant Dir. of the Off. of the Gen. Couns. & Andre Matevousian, Assistant Dir. of the Corr. Programs Div., to Chief Exec. Officers (Oct. 26, 2020), https://www.bop.gov/foia/docs/Motion_Compassionate_Release_10262020.pdf [<https://perma.cc/57F3-SL36>].

102. 18 U.S.C. § 3582(c)(1)(A) (2018).

103. See ASHLEY NELLIS & LIZ KOMAR, SENT’G PROJECT, THE FIRST STEP ACT: ENDING MASS INCARCERATION IN FEDERAL PRISONS 3 (2023), <https://www.sentencingproject.org/app/uploads/2023/08/First-Step-Act-2023.pdf> [<https://perma.cc/2KKE-EQ25>].

104. See MARY PRICE, EVERYWHERE AND NOWHERE: COMPASSIONATE RELEASE IN THE STATES 8 (2018), <https://famm.org/wp-content/uploads/2023/12/Exec-Summary-Report.pdf> [<https://perma.cc/9CSF-7L56>]. Not all compassionate release programs are set in statute, but all states except Iowa have at least some variation or provision for such a program. See Horner, *supra* note 83, at 48–49.

105. Catherine Wheeler, *Iowa Remains the Only State Without a Compassionate Release Program*, IOWA PUB. RADIO (Oct. 31, 2022, 5:30 AM), <https://www.iowapublicradio.org/ipr-news/2022-10-31/iowa-remains-the-only-state-without-a-compassionate-release-program> [<https://perma.cc/C44M-CYJ5>].

106. See PRICE, *supra* note 104, at 8. These vague guidelines and eligibility requirements can make these programs difficult to use or enforce but are outside the scope of this Note.

107. See *id.* at 12–18.

a “significant debilitating illness” without further qualifiers.¹⁰⁸ In contrast, incarcerated individuals in California “cannot secure medical parole unless they are permanently medically incapacitated, unable to perform ‘activities of daily living’ such as breathing [and] eating,”¹⁰⁹ and incarcerated individuals in Georgia must be “‘reasonably expected’ to die within” a year.¹¹⁰ In addition to the specified minimum requirements for early release, states may consider other factors. For example, New York also examines the inmate’s good behavior, their contributions to their “prison community,” and a showing of remorse, among other factors to determine eligibility for their medical parole program.¹¹¹

For various state programs, it’s often difficult to access data regarding the specifics of early release, which makes it challenging to ascertain exactly why individuals are granted or denied release or which programs are more effective.¹¹² Numbers-wise, it’s clearer: In Pennsylvania and Kansas, which both have relatively restrictive programs, a cumulative sixteen persons have been granted release between 2009 and 2015.¹¹³ In New York—a more liberal program—eighty-four individuals were granted early release from 2013 to 2017 alone.¹¹⁴

1. Early-Release and End-of-Life Care Alternative for Iowans

Iowa is the only state in the nation that lacks a compassionate release-style program.¹¹⁵ Instead, for Iowans growing old or sick in state prison, they have parole and commutations as early-release options, and a middling prison hospice program for end-of-life care.¹¹⁶ The 2004 fiscal services report recommended that lawmakers explore the early-release of older, chronically

108. See *id.* at 13.

109. *Id.*

110. *Id.*

111. See *Friedgood v. N.Y. State Bd. of Parole*, 802 N.Y.S.2d 268, 270 (App. Div. 2005).

112. See *id.* (“While all relevant statutory factors must be considered, [the New York State Board of Parole] is not required to give them equal weight or to articulate each and every factor that was considered in making its decision.”).

113. PRICE, *supra* note 104, at 12–13.

114. REBECCA SILBER, LÉON DIGARD, TINA MASCHI, BRIE WILLIAMS & JESSI LACHANCE, A QUESTION OF COMPASSION: MEDICAL PAROLE IN NEW YORK STATE 16 (2018), https://vera-institut.e.files.svdcn.com/production/downloads/publications/a-question-of-compassion-full-report_180501_154111.pdf [<https://perma.cc/KWM4-7CSF>].

115. See Wheeler, *supra* note 105.

116. See *About Us*, IOWA BD. PAROLE, <https://bop.iowa.gov/about-us> [<https://perma.cc/X3RT-2E3G>] (“The goal is successful re-entry of offenders into the community.”); *Commutations*, IOWA BD. PAROLE, <https://bop.iowa.gov/executive-clemency-commutation/commutations> [<https://perma.cc/7MY2-A3TC>] (showing commutation of sentence as an early-release option for state inmates). See generally *The Last Days of Private Jack Hall*, PRISON TERMINAL, <https://www.prisonterminal.com> [<https://perma.cc/TD6T-EF79>]. *The Last Days of Private Jack Hall* is a documentary created about one inmate’s experience in the penitentiary hospice. *Id.* Although the documentary brought more attention to the issue and created buzz around such a volunteer hospice program, at the time of the writing of this Note it does not appear there are any plans in place to expand such a program.

ill, or terminally ill incarcerated individuals.¹¹⁷ The report also mentioned Iowa's parole system, noting that while "Iowa has no specific statute for early release of these offenders," parole may be granted "to offenders who pose a limited risk to re-offend due to age or illness" but that usually older inmates are excluded from this possibility due to mandatory minimum sentencing.¹¹⁸ This may seem like parole is a substitute for compassionate release, but the Iowa Board of Parole has explicitly said that it does not grant parole for medical or family reasons.¹¹⁹ In 2013, Kristina Fetters was released from serving a life sentence in an Iowa prison because she had been diagnosed with stage four breast cancer, which eventually took her life just months after release.¹²⁰ Although news sources called her release "compassionate release," she was simply granted parole to hospice by the Iowa Board of Parole, not as a result of compassionate release.¹²¹ To be sure, Iowa has never had a compassionate release program in place.

To its credit, Iowa is home to one of the few prison hospices in the nation, housed at the Iowa State Penitentiary.¹²² The hospice program has been active since 2005¹²³ and is staffed by sixteen trained volunteer inmates who cared for five hospice patients and two patients needing palliative care in 2022.¹²⁴ Nationwide, there are about seventy-five prison hospice programs across state and federal prisons,¹²⁵ with a notable example being the Louisiana State Penitentiary Prison Hospice Program at Angola—at least 227 individuals have received hospice care at the facility since its opening in 1998.¹²⁶ Despite their success, these programs usually require incarcerated individuals needing

117. See MEDICAL COSTS, *supra* note 47, at 4.

118. *Id.* at 3.

119. General FAQs, IOWA BD. PAROLE, <https://bop.iowa.gov/general-faqs> [<https://perma.cc/HP7F-FPYM>]; see also Wheeler, *supra* note 105 (discussing the Iowa Board of Parole's lacking provisions on compassionate release).

120. See Daniel P. Finney & Linh Ta, *Freed Inmate Kristina Fetters, Convicted as Juvenile, Dies*, DES MOINES REG. (July 28, 2014, 9:59 AM), <https://www.desmoinesregister.com/story/news/crime-and-courts/2014/07/27/kristina-fetters-dies/13238853> (on file with the *Iowa Law Review*).

121. Board Rules on Parole for Kristina Fetters, KCCI 8 DES MOINES (Dec. 3, 2013, 5:15 PM), <http://www.kcci.com/article/board-rules-on-parole-for-kristina-fetters/6886433> [<https://perma.cc/2DDG-Y8FP>].

122. See generally *The Last Days of Private Jack Hall*, *supra* note 116 (displaying the availability of prison hospice at the Iowa State Penitentiary).

123. *ISP Hospice Program Graduates 11*, DAILY GATE CITY (Feb. 14, 2014), https://www.mississippivalleypublishing.com/daily_gate/news/isp-hospice-program-graduates-11/article_f819b2d2-2c07-57bd-b6fb-8b2465f5a8f4.html (on file with the *Iowa Law Review*).

124. CHRIS TRIPP, IOWA STATE PENITENTIARY FY 22 ANNUAL REPORT 23 (2023).

125. Marking Hawryluk, *Death and Redemption in an American Prison*, NPR (Feb. 19, 2024, 7:17 AM), <https://www.npr.org/sections/health-shots/2024/02/19/123119824/prison-hospice-angola-louisiana-quilting> [<https://perma.cc/DDZ6-W5EU>].

126. See Kristin G. Cloyes et al., *Caring to Learn and Learning to Care: Inmate Hospice Volunteers and the Delivery of Prison End-of-Life Care*, 23 J. CORR. HEALTH CARE 43, 44-45 (2017). Between 1998 and 2014, 227 individuals were cared for in this prison hospice. *Id.* at 45. Now, 12 years later, this number is likely higher.

hospice care to transfer prison locations, often moving farther away from their homes and support systems, so it is ultimately not an ideal solution for those seeking hospice or palliative care.¹²⁷ So although Iowa does have one relatively promising option for older incarcerated individuals requiring hospice care, it is only available at a men's prison (and thus is not even an option for female inmates) and ultimately may not be ideal for those seeking to be closer to family.¹²⁸ Additionally, Iowa's prison hospice is funded through fundraising efforts and isn't part of the usual DOC budget.¹²⁹ The longevity of such a funding system is questionable and more than likely not sustainable. The single incident of Ms. Fetters being granted parole to obtain hospice care is an exception, not a rule, for incarcerated individuals seeking hospice care at the end of their life.

Individuals who are ineligible for in-prison hospice care or parole and are sentenced to life in prison may apply every ten years for a commutation of their sentence, which could have the effect of shortening their sentence or making an individual eligible for parole.¹³⁰ But commutation is rarely used in Iowa, with only forty people having their sentences reduced in the last fifty-two years.¹³¹ As a recent example, in 2021, the Iowa Board of Parole recommended five applications for commutation, but Governor Kim Reynolds ultimately denied all of the recommended applications.¹³² Iowa has not commuted a sentence since 2013, and commutations "have all but ceased to exist" since 1983.¹³³

2. Colorado Compassionate Release: A Model

As previously discussed, some state compassionate release programs are harsher than others, and it can be difficult to compare them.¹³⁴ However, an exemplary program run by the State of Colorado merits examination. Colorado's version of compassionate release, Special Needs Parole,¹³⁵ provides relief for

127. Mitchell & Williams, *supra* note 89, at 855–58.

128. See *Search Offenders*, IOWA OFFENDER SEARCH, <https://doc-search.iowa.gov/offender/search> [<https://perma.cc/B3WM-gRLR>] (choose "Iowa State Penitentiary" from Location dropdown; then click "Search") (displaying that only men are currently incarcerated in Iowa State Penitentiary as of October 6, 2025).

129. See Mitchell & Williams, *supra* note 89, at 855; see also *The Last Days of Private Jack Hall*, *supra* note 116.

130. *Executive Clemency & Commutation*, IOWA BD. PAROLE, <https://bop.iowa.gov/executive-clemency-commutation> [<https://perma.cc/7KGE-CA8B>].

131. *Governor Reynolds Rejects All Appeals from 'Lifers' for Commutations*, GAZETTE (Dec. 14, 2021, 6:08 PM), <https://www.thegazette.com/government-politics/governor-reynolds-rejects-all-appeals-from-lifers-for-commutations> [<https://perma.cc/U8GN-586Z>].

132. *Id.*

133. Andrew A. Wendel, Note, *A False Beacon of Hope: How Iowa's Executive Clemency System Is Broken and What the Iowa Legislature Must Do to Fix It*, 27 J. GENDER, RACE & JUST. 543, 546 (2024).

134. See text accompanying notes 104–14.

135. COLO. REV. STAT. § 17-22.5-403.5 (West 2025).

those with serious medical needs, including legal incompetence, incapacitation, and serious impairment.¹³⁶ It also includes those who are sixty-four or older who have served at least twenty years of their sentence, save some categorical exclusions.¹³⁷ Colorado's program has received an "A+" Report Card from Families Against Mandatory Minimums, an organization that researches and organizes information relating to compassionate release programs and processes to ease the burden on incarcerated individuals' families.¹³⁸

Colorado's high rating is based on well-executed rules, policies, and procedures. The State's program allows both prison officials and the inmates themselves to make release requests, and the decision is based on a hearing that evaluates both the inmate's risk to society and competency.¹³⁹ Additionally, Colorado's program has a support plan for the individual when they are released, including helping secure Medicaid or Medicare, housing, and other benefits.¹⁴⁰ The rules guiding the process are clear, well-thought-out, and "exist for all stages of identification, initiation, assessment, and decision-making."¹⁴¹

In 2018, Colorado amended its Special Needs Parole program to bring the minimum age down from sixty to fifty-five and established that when the parole board denies parole to an offender, it must also find "that granting parole would create a threat to public safety and that the offender is likely to commit an offense."¹⁴² These amendments both lower the bar for eligible offenders by allowing for a lower age requirement, while simultaneously raising the bar for grounds for a release denial. In 2021, sixteen out of thirty-four individuals were released under Special Needs Parole,¹⁴³ and in 2023, twenty-seven out of fifty-seven individuals were granted Special Needs Parole.¹⁴⁴ Colorado has a model program that assesses the needs of inmates both in and out of prison and illustrates an exemplary compassionate release program—something that Iowa could utilize to form its own program.

136. FAMS. AGAINST MANDATORY MINIMUMS, SPECIAL NEEDS PAROLE 1 (2022), https://famm.org/wp-content/uploads/2018/06/Colorado_Final.pdf [<https://perma.cc/64KD-FUL5>].

137. *Id.*

138. Families Against Mandatory Minimums looks at several criteria in the evaluation of state programs and how well the programs address the following: engaging the process, agency policy design, procedures, release planning support, right to counsel and appeals, and data collection and public reporting. *See* FAMS. AGAINST MANDATORY MINIMUMS, COMPASSIONATE RELEASE REPORT CARD: COLORADO 1 (2022) [hereinafter COLORADO REPORT CARD], <https://famm.org/wp-content/uploads/2022/10/co-report-card-final.pdf> [<https://perma.cc/VNM6-M2TE>].

139. FAMS. AGAINST MANDATORY MINIMUMS, *supra* note 136, at 4–5.

140. COLORADO REPORT CARD, *supra* note 138, at 2.

141. *Id.*

142. H.B. 18-1109, 71st Gen. Assemb., 2d Reg. Sess. (Colo. 2018).

143. COLO. STATE BD. OF PAROLE, ANNUAL REPORT: FY 2021, at 10–11 (2021), https://cdpsd.ocs.state.co.us/ccjj/Committees/SRTF/Materials/2022-09-06_Parole-Board-Annual-Report-FY2021_FINAL.pdf [<https://perma.cc/T4M3-JCUY>].

144. COLO. STATE BD. OF PAROLE, ANNUAL REPORT: FY 2023, at 10 (2023), https://drive.google.com/file/d/1IECW4bOBPmp-PfmahHZwzk16jYc13sQ4/view?usp=drive_link [<https://perma.cc/AA5U-8BPQ>].

III. IMPLEMENTING COMPASSIONATE RELEASE IN IOWA

Due to overcrowding in prisons and the rising costs of geriatric health care, Iowa should implement a compassionate release program. Section III.A first addresses the common criticisms of compassionate release programs, including the idea that prisons are meant to punish wrongdoers and that early release programs create a potential danger to the community. Section III.B then describes the ideal components of a compassionate release program in Iowa.

A. CRITICISMS OF THE PROGRAM

This Section will discuss the two biggest criticisms of compassionate release programs: prisons as punishment, and the potential danger to the community. Although there are additional critiques of existing compassionate release programs regarding the effectiveness in practice, the ease of use, as well as the effects of the COVID-19 pandemic on the usage of these programs, those criticisms are outside the scope of this Note.¹⁴⁵ The many improvements that could be made to existing programs at the state and federal level are not to be ignored, but Iowa's first step is to get a program on the books that inmates can use.¹⁴⁶

1. Prisons as Punishment

Challengers to compassionate release programs may bristle at the idea of letting individuals who have been convicted of a crime out of prison before they have served their full sentence.¹⁴⁷ Many believe that once an individual is

145. See, e.g., Emily Widra & Wanda Bertram, *Compassionate Release Was Never Designed to Release Large Numbers of People*, PRISON POL'Y INITIATIVE (May 29, 2020), <https://www.prisonpolicy.org/blog/2020/05/29/compassionate-release> [<https://perma.cc/2EL9-6AVA>]. "Compassionate release programs are plagued by many shortcomings," like requiring someone "be extremely close to death," that they are so incapacitated as to not understand the need for punishment, or requiring doctors to give an estimate on how long the individual has to live. *Id.* Often, "[h]ealth professionals are reluctant to give such exact prognoses, which means prison officials will default to saying 'it's safer just to not let this person go.'" *Id.* But "[a]llowing the ultimate decision-makers to overrule recommendations from medical professionals and prison staff (e.g., by refuting or ignoring a medical prognosis)" can be problematic in terms of compassionate release. *Id.*

146. See Horner, *supra* note 83, at 48–49. Horner's commentary makes the argument for compassionate release reform, including the implementation of easier application processes and more support for released prisoners. *Id.* at 49–50. Although delving into the specifics of the shortfalls of compassionate release programs isn't within the scope of this Note, it's important to note that these conflicts do exist, and Iowa should be careful to incorporate a streamlined application process into its program. Suggestions within the text of this Note regarding following in Colorado's example about straightforward rules and guidelines could help Iowa avoid these common pitfalls.

147. See, e.g., Margaret Holland, Stephanie Grace Prost, Heath Hoffmann & George Dickinson, *Access and Utilization of Compassionate Release in State Departments of Corrections*, 26 MORTALITY 49, 53 (2021) (discussing the scant evidence there is to back up the idea that retribution via imprisonment actually provides closure for victims of crimes); Kaushik & Currin-McCulloch, *supra* note 90, at 56 ("[P]olicymakers, often consisting of correctional facility administrators

convicted, they need to “do the time” since they have “done the crime.”¹⁴⁸ Although it is understandable to desire that the justice system works to its fullest idealistic extent, the modern-day realities of the purposes being served by incarceration and the effectiveness of prison on rehabilitating individuals does not support this notion. The prison system in America no longer serves our original justifications for punishment: rehabilitation, retribution, incapacitation, deterrence, and reparation.¹⁴⁹ Although a full briefing is outside the scope of this Note, a cursory discussion is still required to quell possible hesitations or criticisms about implementing a compassionate release program.

Focusing on rehabilitation and incapacitation, the prison system, as it works now, does neither of these jobs. Individuals do not exit prison rehabilitated; they exit prison traumatized.¹⁵⁰ In Iowa, the recidivism rate was 34.3 percent in 2023, which is down from previous years.¹⁵¹ Community-based treatment programs were credited as helping reduce this rate, not just incarceration.¹⁵² So, Iowa lowering recidivism isn’t simply because of an individual’s supposedly transformative prison experience, but could be attributed to an uptick in less carceral-focused rehabilitation. If we truly wanted individuals to be rehabilitated after being convicted, we would not put such focus on carceral punishment as it no longer serves our justifications for punishment. Allowing those who meet certain criteria to rejoin society even if their entire sentence has not been served does not necessarily disturb the minimal rehabilitative effects of incarceration. Implementing a compassionate release program in Iowa would not throw a wrench in the prison system’s effectiveness; what is already broken cannot be broken twice.

2. Potential Danger to Society

A second argument used by those against compassionate release is that these policies allow dangerous criminals back onto the streets of society,

and/or members of the Department of Corrections in varying states, experience pressure to maintain a punitive stance to appease constituents.”).

148. See MICHAEL CAVADINO, JAMES DIGNAN, GEORGE MAIR & JAMIE BENNETT, *Justifying Punishment*, in THE PENAL SYSTEM: AN INTRODUCTION 38, 46–49 (6th ed. 2020).

149. See generally *id.* (outlining the traditional justifications for punishments).

150. Erica Bryant, *Why Punishing People in Jail and Prison Isn’t Working*, VERA (Oct. 24, 2023), <https://www.vera.org/news/why-punishing-people-in-jail-and-prison-isnt-working> [<https://perma.cc/S4CY-AVGF>].

151. Press Release, Iowa Dep’t of Corr., Iowa Department of Corrections Reduces Recidivism Rate for Third Consecutive Year (Nov. 9, 2023), <https://web.archive.org/web/20241102140333/https://doc.iowa.gov/press-release/2023-11-09/iowa-reduces-recidivism-rate> [<https://perma.cc/3TGW-ET77>]. Community-based treatments include community-based treatment for high-risk individuals, and those that are evidence-based. *Id.* Other mentions include education-based opportunities, like job training. *Id.*

152. *Id.*

jeopardizing others and making our communities less safe.¹⁵³ This is why it is important to clearly outline the scope of such compassionate release policies. To be sure, states are not allowing the release of any “dangerous individuals,” and this Note does not propose that Iowa does so. Most compassionate release programs require that the individual pose no danger to society at the time or upon release.¹⁵⁴ Even so, not every person who is convicted of a crime and incarcerated in prison is violent, and not every person convicted of a violent crime is actually dangerous.¹⁵⁵ In Iowa’s prisons in 2021, only thirty-two percent of the incarcerated population was convicted of a “violent” crime.¹⁵⁶ And many different types of crime that are classified as “violent crime” do not actually involve physical harm to another in its commission, like manufacturing methamphetamines,¹⁵⁷ and the label itself “is surprisingly arbitrary.”¹⁵⁸ So, even if someone is labeled as having committed a violent crime, there is a bigger gap in equating “violent” and “dangerous” that society cannot see. In fact, violent offenders are one of the groups of formerly incarcerated individuals that are least likely to be rearrested.¹⁵⁹ Regardless, those labeled as “violent” or “dangerous” face an uphill battle to early release of any kind,¹⁶⁰ something Renagh O’Leary calls an “anti-release default.”¹⁶¹ O’Leary argues that due to risk aversion and retributionist tendencies, those convicted of violent crimes are more likely to face a denial of compassionate release because of

153. See, e.g., Brie A. Williams, Rebecca L. Sudore, Robert Greifinger & R. Sean Morrison, *Balancing Punishment and Compassion for Seriously Ill Prisoners*, 155 ANNALS INTERNAL MED. 122, 123 (2011) (discussing how releasing a prisoner too early based on a disease that doesn’t render them fully incompetent creates some fear in society regarding the safety and resulting threat of such a release); Holland et al., *supra* note 146, at 53.

154. See Williams et al., *supra* note 153, at 122 (“Recognizing society’s need for retribution for particularly heinous criminal acts, virtually all states exclude some prisoners from eligibility on the basis of crime severity.” (footnote omitted)); N.C. GEN. STAT. §§ 15A-1369(8), 15A-1369.2 (2023 & Supp. 2024).

155. See Wendy Sawyer & Pete Wagner, *Mass Incarceration: The Whole Pie 2025*, PRISON POL’Y INITIATIVE (Mar. 11, 2025), <https://www.prisonpolicy.org/reports/pie2025.html> [<https://perma.cc/K7VW-2NWT>]; O’Leary, *supra* note 7, at 626 (acknowledging the tension presented by the idea of “violent convictions” in early release cases).

156. See E. ANN CARSON & RICH KLUCKOW, BUREAU OF JUST. STAT., U.S. DEP’T OF JUST., PRISONERS IN 2022—STATISTICAL TABLES 31 (2025), <https://bjs.ojp.gov/document/p22st.pdf> [<https://perma.cc/MV9H-KXNY>].

157. Sharon Driscoll, *Stanford’s David Sklansky on the Classification of Violent Crimes, Racism, and Mass Incarceration*, STAN. L. SCH. (Apr. 8, 2021), <https://law.stanford.edu/stanford-lawyer/articles/stanfords-david-sklansky-on-the-classification-of-violent-crimes-racism-and-mass-incarceration> [<https://perma.cc/TV62-6F7S>]; see Sawyer & Wagner, *supra* note 155.

158. Driscoll, *supra* note 157.

159. MATTHEW R. DUROSE & LEONARDO ANTENANGELI, BUREAU OF JUST. STAT., U.S. DEP’T OF JUST., RECIDIVISM OF PRISONERS RELEASED IN 34 STATES IN 2012: A 5-YEAR FOLLOW-UP PERIOD (2012–2017) 6 (2021), <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/rpr34s125yfup1217.pdf> [<https://perma.cc/PJS8-B8Ng>].

160. See O’Leary, *supra* note 7, at 628.

161. *Id.*

“speculative, far-fetched fears that the applicant will go on to commit a crime if released” and a belief that the individual “deserves harsh punishment, even if they do not present a public safety risk.”¹⁶²

Regardless of labels like “violent” and “dangerous,” older incarcerated individuals are unlikely to pose a safety threat to the community if released.¹⁶³ In a 2007 study, Iowa recidivism rates declined even as the number of prison releases had increased since 2000.¹⁶⁴ Around 16.6 percent of the prison releases in 2007 were older individuals, and although “demographic shifts are not the sole factors contributing to the reduction in recidivism,” “older offenders often have lower recidivism rates,” which contributed to 2007 having a lower recidivism rate than the three previous years.¹⁶⁵ Older, formerly incarcerated individuals are twenty percent less likely to be rearrested than their younger counterparts.¹⁶⁶ Further, there is a commonly held belief that people “age out” of crime—that is, the older an individual is, the less likely they are to commit a crime. This belief pans out when it comes to the age at which individuals peak in their criminal involvement: twenty-five years old.¹⁶⁷ After age twenty-five, crime rates begin to decline.¹⁶⁸

If Iowa were to implement a compassionate release program, it would not simply be a get-out-of-jail-free card for dangerous individuals. Instead, it is a chance for an older individual to return to their support systems at a vulnerable time in their life. Additionally, Iowa can minimize the risk of public safety threats by only considering an individual for release if they would not pose such a threat. North Carolina, for example, stipulates that in all three of their eligibility brackets, the offenders must be “so debilitat[ed]” there is no public safety risk or that “[t]he inmate is incapacitated to the extent that the inmate poses no risk or low risk to public safety.”¹⁶⁹ These simple provisions allow for blanket coverage to put the public’s mind at ease, and would be

162. *Id.*

163. *See* Horner, *supra* note 83, at 48 (“Releasing older adult prisoners poses a very low danger to communities overall.”).

164. *See* LETTIE PRELL, IOWA DEP’T OF CORR., IOWA RECIDIVISM REPORT: PRISON RETURN RATES 1 (2011), <https://www.legis.iowa.gov/docs/publications/SD/24677.pdf> [<https://perma.cc/YQ4S-PQ2F>].

165. *Id.* at 2.

166. *See* DUROSE & ANTENANGELI, *supra* note 159, at 5 (finding that eighty-one percent of people aged twenty-four years or younger have been rearrested within five years, whereas only sixty-one percent of people ages forty and older have been rearrested within five years).

167. Jeffery T. Ulmer & Darrell Steffensmeier, *The Age and Crime Relationship: Social Variation, Social Explanations*, in *THE NURTURE VERSUS BIOSOCIAL DEBATE IN CRIMINOLOGY: ON THE ORIGINS OF CRIMINAL BEHAVIOR AND CRIMINALITY* 377, 379 (Kevin M. Beaver, J.C. Barnes & Brian B. Boutwell eds., Sage Publ’ns 2014).

168. *Id.* It is impossible to say that every single older person is incapable of committing crimes. It is also impossible to say that every person released via compassionate release or other specialty parole will not reoffend. However, by stressing the unlikelihood, this Part attempts to assuage some common fears regarding releasing people from prison with realistic numbers and facts.

169. N.C. GEN. STAT. §§ 15A-1369(8), 15A-1369.2 (2023 & Supp. 2024).

easily implementable in Iowa's program. By allowing older Iowans the chance to be surrounded by loved ones and receive adequate medical care through compassionate release, Iowa would take a step in the right direction toward dignity. Of course, such a program may benefit the prison system too.

B. *PROPOSED COMPONENTS OF IOWA'S COMPASSIONATE RELEASE PROGRAM*

This Section describes a solution for Iowa's older inmate woes: implementing a compassionate-release style program. Part I discussed the two biggest issues that are unfortunate consequences of the rising geriatric population in Iowa's prisons: rising carceral health care costs and overcrowding. Both the rising costs of carceral health care and the many problems that go hand-in-hand with prison overcrowding could be remedied by an early release program. Specifically, Iowa would benefit from implementing a compassionate release program focusing on medical and age-related leave. Fortunately, there are many models and examples to aid Iowa in this brave new initiative: Forty-nine out of fifty U.S. states have such programs!¹⁷⁰

Iowa must implement a compassionate release program that allows eligibility for age and medical conditions, includes pre-release planning, and excludes a "time-left-to-live" provision. A program that includes age- and medical-based eligibility and excludes a time-left-to-live provision would ensure that the program includes some of the most vulnerable inmates, and pre-release planning would connect them to the resources and services they need to be successful on the outside.

The most commonly included criteria of state compassionate release programs are medical condition, age, family circumstances, or "other reasons."¹⁷¹ These are modeled after the federal criteria.¹⁷² Iowa should adopt some of these components in its own policy, focusing on medical condition and age to specifically target the geriatric population, whose growing presence is contributing to overcrowding and rising costs. For Iowa's purposes, the medical condition facet would ideally apply to "[a] terminal illness which will lead to the end of life, even if there is not a specific prognosis of life expectancy; [or a] physical or mental condition [t]hat substantially diminishes the prisoner's ability to provide self-care in prison[] [f]rom which the prisoner is not expected to recover."¹⁷³ A number of qualifying medical conditions are laid

170. See PRICE, *supra* note 104, at 8.

171. See FAMS. AGAINST MANDATORY MINIMUMS, FEDERAL COMPASSIONATE RELEASE CRITERIA: WHICH PRISONERS QUALIFY? 1 (2018), <https://famm.org/wp-content/uploads/2018/04/FS-Fed-Comp-Rel-Criteria.pdf> [<https://perma.cc/R4CM-MLE7>]. The provision allowing for "other reasons" to qualify for compassionate release would on its face be promising but again is a vague attempt at a catch-all provision. "Other reasons" allow an inmate to "qualify for compassionate release if the Director of the BOP finds that the prisoner is facing extraordinary and compelling reasons other than, or in combination with, the above criteria." *Id.* This is a hallmark of many compassionate release programs: discretion at the hands of the literal jailer.

172. *Id.*

173. *Id.*

out in the federal guidelines, such as serious mental or functional impairment,¹⁷⁴ which could be easily adopted for Iowa's use. As discussed further below, an important element of Iowa's medical-based compassionate release would be that there is no "specific prognosis of life expectancy."¹⁷⁵

The age facet of Iowa's compassionate release program should take after the federal program, with one important change: the age threshold. The federal guidelines set out that compassionate release applies to those who are "[a]t least 65 years old; [e]xperiencing a serious deterioration in physical or mental health due to age; and [h]ave served at least 10 years or 75 percent of the sentence, whichever is less."¹⁷⁶ Iowa should structure its program to apply to those who are at least fifty-five years old, not sixty-five. As discussed above, individuals in prisons age faster than their outside counterparts, and fifty-five is generally accepted as "geriatric" in prison.¹⁷⁷ There would be little reason to wait for inmates to reach sixty-five before they can apply for compassionate release, and Iowa's program should still require the second and third federal requirements: experiencing deterioration due to age and a minimum of their sentence served. With no other change on the horizon, Iowa cannot expect to escape the impending rise of health care costs and population unscathed; it must take affirmative steps now to lower its geriatric demographic by implementing a compassionate release style program with both age and medical-condition provisions.

Generally speaking, Iowa's program would also need to include clear eligibility criteria, with either a long-enough time frame for application or the exclusion of a time-left-to-live provision to ensure that everyone who applies for release has enough time to see the process through. The time-left-to-live provision—which is usually included in the policy language as "death is imminent"¹⁷⁸ or "likely to produce death within six months"¹⁷⁹—is unnecessary and creates an additional barrier to incarcerated individuals accessing compassionate release. Often, these timeline restrictions do not allow enough time for an individual to apply for compassionate release and receive a decision, all within the time provision.¹⁸⁰ If a compassionate release program requires an applicant to be within six months of death, six months may not be enough time to complete the steps required to apply, have a decision

174. *Id.*

175. *See id.*

176. *Id.*

177. *See supra* Section I.B.

178. FAMS. AGAINST MANDATORY MINIMUMS, FLORIDA: CONDITIONAL MEDICAL RELEASE 1 (2021), https://famm.org/wp-content/uploads/2018/06/Florida_Final.pdf [<https://perma.cc/W3V9-C4FK>].

179. FAMS. AGAINST MANDATORY MINIMUMS, NORTH CAROLINA: MEDICAL RELEASE 1 (2021), https://famm.org/wp-content/uploads/2018/06/North-Carolina_Final.pdf [<https://perma.cc/UU64-7XMQ>].

180. *See* FBOP COMPASSIONATE RELEASE, *supra* note 96, at 11.

rendered, and live long enough to reap the benefits of the compassionate release. The federal guidelines stipulate that inmates may still be eligible for compassionate release because of a medical condition “even if there is not a specific prognosis of life expectancy,” which allows those applying to do so earlier than they could have if there was a specific timing provision.¹⁸¹ To benefit the maximum number of sick inmates, Iowa should not include a time-left-to-live provision in the structuring of its compassionate release policy, and it should instead look to the federal guidelines language.

Additionally, transitional planning is a key aspect of any incarcerated person’s experience when they are first released or are nearing their release date. Transitional planning, or general release support, helps an incarcerated individual become connected to the resources that they need.¹⁸² If an incarcerated individual is an older adult, they especially will have to rely on these services. These resources and services can include figuring out access to medication, locating housing or shelters, and identifying support systems. Some of the things that may often be overlooked—such as obtaining a driver’s license or bus fare or restarting Social Security Disability Insurance or Medicare benefits—should all be covered by transitional planning. If Iowa were to follow Colorado’s lead, the compassionate release policy would include early planning for release, including delegation to agencies responsible for the release support.¹⁸³ This could look like appointing case workers to each eligible releasee, or as in Connecticut, instituting a state-funded nursing home to receive individuals as they’re released.¹⁸⁴

For Iowa to competently combat the issues associated with its rising population of incarcerated older adults, we must implement an age- and medical-based compassionate release program, with provided pre-release transitional planning and without time-left-to-live provisions.

CONCLUSION

The rising number of incarcerated older adults in Iowa is causing two major issues in the State: prison overcrowding and rising DOC health care costs. Allowing compassionate release not only lowers prison populations but also takes away the strain on the prison budget for geriatric-related health care

181. FAMS. AGAINST MANDATORY MINIMUMS, *supra* note 171, at 1. These types of timeless provisions allow for inmates to apply at the onset of a diagnosis, instead of having to wait until the disease progresses into a more serious situation to allow for application.

182. For more information regarding transitional planning and resources, see NAT’L JUD. TASK FORCE TO EXAMINE STATE CTS.’ RESPONSE TO MENTAL ILLNESS, NAT’L CTR. FOR STATE CTS., EXPEDITE RESOLUTIONS AND IMPROVE OUTCOMES—ESSENTIAL ELEMENT 2: TRANSITION AND AFTERCARE PLANS 1–2 (2022), https://ncsc.contentdm.oclc.org/digital/api/collection/ctcomm/id/255/page/0/inline/ctcomm_255_0 [<https://perma.cc/QT84-TGF8>].

183. COLORADO REPORT CARD, *supra* note 138, at 2.

184. Adam Wisnieski, ‘Model’ Nursing Home for Paroled Inmates to Get Federal Funds, CONN. HEALTH I-TEAM (Apr. 25, 2017), <https://c-hit.org/2017/04/25/model-nursing-home-for-paroled-inmates-to-get-federal-funds> [<https://perma.cc/M43C-GD6V>].

costs. An ideal compassionate release program in Iowa would specifically consider age and medical condition as requirements for release. By implementing such a program, Iowa can take the State's carceral stance in a more humanitarian direction, lower the older adult population in prisons, and lower health care costs.

Implementing a compassionate release program would help bring Iowa up to speed with the rest of the country. Although compassionate release would not solve every problem inherent in Iowa's prison system, it would be a step in the right direction. Compassionate release does not simply allow for incarcerated individuals to "get out of jail free" or allow for the release of dangerous individuals. Iowa's prisons are overcrowded, health care costs are up, and the State must take measures to ensure that older prisoners are taken care of at the end of their lives. The older adults incarcerated in Iowa's state prisons are our parents, grandparents, aunts, and uncles—it is time to take care of them the way family would.