



**SUPPORTING TESTIMONY on SB 7 – Extending terminal medical release to inmates in the custody of the department of corrections with a condition likely to cause death within 120 days.**

**Testimony of:** Kendall Seal, Director of Advocacy,  
American Civil Liberties Union of Kansas

**Senate Judiciary– Tuesday, January 26, 2021 at 10:30 p.m.**

Chairwoman Warren and Members of this Committee,

Thank you for the opportunity to present testimony today. My name is Kendall Seal, and I am the Director of Advocacy with the ACLU of Kansas. We are a nonpartisan, non-profit organization that works to preserve and strengthen the constitutional liberties of all Kansans. We support SB 7 as a positive step in ongoing criminal justice reform efforts in Kansas.

First, this bill is sound policy because it affirms that terminally ill people no longer pose a public safety risk. Currently, residents may be released within 30 days of their anticipated death. Releasing people within 120 days of death is humane as those individuals are clearly very sick. The state’s interest in incapacitation from a public safety standpoint is no longer applicable. By supporting this act, you will expand the timeframe to 120 days, which is commendable and humane.

Second, this bill could impact the aging population of our prisons. While age is not necessarily a proxy for health status, it is important to be mindful of the demographic trends. As of June 2020, an estimated 19% percent of the Kansas prison population is age 50 or older. The overall cost reduction will be limited in the near term, but SB 7 represents a step in the right direction.

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As a broader issue, we urge the state to adopt clear, commonsense, and objective criteria for elderly or serious medical condition release. Some states’ criteria consider age and years served. For example, in Virginia, residents are eligible if they are at least 60 years old with 10 years served or 65 years old with five years served.<sup>1</sup> Incarcerating elderly or medically vulnerable residents does not serve a rehabilitative purpose, as the necessary services to assist them in a prison setting are not available. The goal of deterrence is not served by continued incarceration because these prisoners already pose low public safety risks. Reentry programs, reintegration, and treatment offer an alternative to incarceration that is consistent with the state’s public safety interest while offering better outcomes.

Some states link criteria to commonsense considerations. For example, Wyoming considers whether the resident’s condition requires treatment or a level of care that cannot be provided in a prison setting.<sup>2</sup> The high healthcare, housing, and security costs to the state could be reduced if residents are released. According to the Kansas Department of Corrections Annual Report for Fiscal Year 2020, Kansas can save between \$3,717.29 (marginal cost) to \$30,100 (average cost) per year, per aging prisoner released. Releasing aging or seriously ill

<sup>1</sup> Va. Code Ann. § 53.1-40.01; Virginia Department of Corrections Operating Procedure 820.2, §§ VI.A.1.a - b.  
<sup>2</sup> Wyo. Stat. Ann. § 7-13-424 (a) (i).

prisoners who pose little safety threat will save taxpayers millions, and merits additional engagement by this Committee.

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I want to thank this Committee once again for this opportunity to address the positive impact of SB 7, and I hope this Committee continues to work to address the aging and medically vulnerable prison population in Kansas, including with broader release criteria. The ACLU of Kansas urges this Committee to take the necessary steps to see that SB 7 is passed into law.

**Additional Resources for this Committee:**

1. **Video: Elderly in Prison (5:01)**

Our extreme sentencing policies and a growing number of life sentences have effectively turned many of our correctional facilities into veritable nursing homes — and taxpayers are paying for it:

<https://www.aclu.org/video/elderly-prison?redirect=criminal-law-reform/e...>

2. **Photo Gallery: The Aging Prisoner Boom: Picturing Our Elderly Behind Bars**

Striking photos by Tim Gruber give an inside look at our nation's growing elderly prisoner population:

<https://www.aclu.org/photo-gallery-americas-expense-mass-incarceration-e...>