

AN INFORMATIONAL GUIDE TO
COMPASSIONATE RELEASE
IN PENNSYLVANIA
(2014)

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Compassionate Release (2014)

What Is Compassionate Release?

Compassionate release (technically called “deferment of sentence”) allows sick inmates to be released from prison early if certain requirements are met. The requirements are laid out in a Pennsylvania statute, codified as 42 Pa. C.S. § 9777, which allows an inmate’s sentencing judge to grant relief upon review of a properly filed motion.

Compassionate release can be allowed under two circumstances. First, a judge can grant an inmate compassionate release to a *hospital or long-term care nursing facility* if the inmate (1) is seriously ill; (2) is expected to live for less than one year; and (3) needs medical treatment that can be better provided at an outside facility. Second, a judge can grant an inmate compassionate release to a *hospice provider* if the inmate is: (1) terminally ill; (2) no longer able to walk; (3) expected to die in the near future; and (4) in need of medical treatment better provided by an outside facility. Under this law, if the motion is granted, the original sentence is not changed in any way. Rather, a person’s obligation to serve the balance of the sentence is delayed, or “deferred.” If the prisoner dies while under outside medical care, this distinction does not matter. But if the prisoner unexpectedly recovers, the balance of the sentence will have to be served.

The compassionate release law was significantly changed in 2008, and since then, only two appellate decisions have been published interpreting it (see p. 6). But most compassionate release applications do not result in an appeal or in any written decision, and judges have a lot of discretion under this law. Thus, while we do not know exactly how courts will interpret the compassionate release law, this guide seeks to help you and your supporters prepare and present your case.

It is important to note that in 2009, the statute was recodified (given a new number and location within PA’s legislative code) as 42 Pa. C.S. § 9777. The 2009 amendments were not significant.

For more information or for additional copies of this packet, contact the Pennsylvania Institutional Law Project (PILP). Because a petition for compassionate release is a criminal proceeding, PILP cannot represent petitioners in these cases. For *possible* representation, contact your local public defender’s office. Request additional copies at:

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Special thanks to Peter Goldberger and Tracy Rhodes for their contributions to this guide.

EXPLANATION OF THE LAW

I. What is the Difference between Hospital Care, Long-Term Nursing Care, and Hospice Care?

There are different requirements for release to a *hospital* or *long-term care nursing care facility* (“treatment-based year-to-live release”) than for release to a *hospice care provider* (“death-imminent release”). The requirements for release to hospital and long-term care nursing are laid out in 42 Pa.C.S. § 9777(a)(1), while the requirements for release to hospice care are explained in 42 Pa.C.S. § 9777(a)(2).

a. Definitions

Under this law, “hospital” means “an entity licensed as an acute-care general hospital, a specialty hospital, or a rehabilitation hospital.” 42 Pa.C.S. § 9777(g).

A long-term care nursing facility is defined as a place that provides skilled or intermediate nursing care for more than twenty-four (24) hours to at least two (2) patients who are not related to the licensed care providers. P.L. 130, No. 48 § 802.1.

A hospice care location is “a home, independent living environment, or inpatient setting that provides a coordinated program of palliative and supportive services through a licensed hospice care provider.” 42 Pa.C.S. § 9777(g). Palliative services help relieve a person’s symptoms—including pain—but do not cure the person’s illness.

b. Requirements

i. Treatment-Based Year-to-Live Release

To be released to a *hospital* or *long-term care nursing facility*, a prisoner must be: (1) *seriously* ill; (2) expected to live for less than one year; and (3) in need of medical treatment that is better provided by the outside facility.

Release to a hospital or long-term care nursing facility requires electronic monitoring by the Department of Corrections (DOC). 42 Pa.C.S. § 9777(a)(1). The statute explicitly states release will be “under electronic monitoring.” Id.

ii. Death-Imminent Release

To be released to a *hospice care provider*, a prisoner must be: (1) *terminally* ill; (2) no longer able to walk; and (3) expected to die in the near future. The hospice provider must also be able to provide the person with more appropriate care and services.

Release to hospice care does not require electronic monitoring, but the judge may order monitoring. 42 Pa.C.S. § 9777(a)(2). Using different language from that found in subsection (a)(1), the statute states that hospice release is “subject to electronic monitoring.”

II. Requesting Hospital or Long-Term Nursing Care

The requirements to request release to a hospital or a long-term care nursing facility are laid out in 42 Pa.C.S. § 9777(a)(1). If you are released under this section, you will be electronically monitored by the DOC.

a. Who is eligible?

To be eligible for compassionate release under 42 Pa.C.S. § 9777(a)(1), you must submit “clear and convincing proof” that you are:

- (1) seriously ill;
- (2) expected to live for less than one year; and
- (3) in need of medical treatment that can be more appropriately provided by the outside facility.

In addition, there must be no writs or detainers against you, and you must not be subject to a court order requiring your presence. 42 Pa. C.S. § 9777(a)(1)(iv) (2009).

In your petition: if you are seriously ill AND expected to live for less than one year, you can argue that your situation is exactly what the legislature intended the compassionate release law to address. You should give the court as much information as you can about *why* the prison is not the right place for you to receive care. For example, has a doctor told you that you need services the prison cannot provide? Has the prison needed to transport you to an outside hospital in order to receive care? Does your medical condition require you to eat on a different schedule than the one the prison provides? Does your condition require you to take medication the prison does not have or cannot safely provide under conditions you can manage?

b. Where can you be placed?

Before requesting release to a hospital or long-term care nursing facility, the medical facility must agree to place you and provide you with necessary care. 42 Pa. C.S. § 9777(a)(1)(ii). The facility must also agree to update the DOC and the court about any changes in your health or treatment. 42 Pa. C.S. § 9777(a)(1)(vi). A family member, friend, or other representative may seek out such a facility and secure their agreement on your behalf. Part of this process will probably be clarifying how your care will be paid for, that is, for example, can a family member cover you on their health insurance, can you enroll for a policy through the ACA exchange, or are you eligible for Medicaid?

Once you find a facility that meets these requirements, ask the facility to state the agreement in writing (see sample letter on p. 33). This written agreement should include:

- (1) that the facility will accept you for placement;
- (2) the type of care it will provide;
- (3) that the facility agrees (per § 9777(d)(1)) to notify other patients and staff who may come into contact with you that your placement there was court-ordered; and
- (4) that it will update the DOC and the court (per § 9777(a)(1)(vi)) about any “material changes” in your health or treatment.

In your petition to the court: state that the facility has agreed to place you, the type of care it will provide, why this care is appropriate, and that the facility agrees to give the required notice and to update the DOC and the court on your health and treatment. Also, *specify* the type of facility it is – is it a hospital or a long-term care nursing facility? (see definitions on p. 2)

III. Requesting Hospice Care

The requirements to request release to a hospice care provider are laid out in 42 Pa.C.S. § 9777(a)(2).

a. Who is eligible?

To be eligible for compassionate release under 42 Pa.C.S. § 9777(a)(2), you must be:

- (1) terminally ill;
- (2) not ambulatory (no longer able to walk);
- (3) expected to die in the near future; and
- (4) in need of medical care and palliative services that can be more appropriately provided by the hospice provider.

b. Where can you be placed?

Before petitioning the court, you must find a hospice care provider that agrees to accept you as a patient in a “home, independent living environment, or inpatient setting.” (§ 9777 (g)(3)). The hospice care provider must be licensed and must be able to provide you with “[a]ppropriate medical care and palliative and supportive services.” 42 Pa. C.S. § 9777 (a)(2)(iii).). A “home” under this law can even be the home of a friend or family member, if the hospice provider agrees to care for you there. A family member, friend, or other representative may seek out such a provider and secure their agreement on your behalf. Part of this process will probably be

clarifying how your care will be paid for. For example, can a family member cover you on their health insurance, can you enroll for a policy through the ACA exchange, or are you eligible for Medicaid?

Once you find a hospice provider that meets these requirements, ask the provider to state the agreement in writing (see sample letter on p. 33). This written agreement should include:

- (1) that the hospice care provider is licensed;
- (2) the type of care the hospice will provide;
- (3) that the facility agrees (per § 9777(d)(1)) to notify other patients and staff who may come into contact with you that your placement there was court-ordered; and
- (4) that the provider agrees to update the DOC and the court on any changes to your health and treatment.

In your petition: state that the facility has agreed to place you, the type of care it will provide, why this care is appropriate, and that the facility agrees to update the DOC and the court on your health and treatment. Also, be sure to include that the care provider is licensed.

IV. Novel Provisions in the Law as Revised in 2008

Pennsylvania's compassionate release law was significantly altered in 2008. The following are provisions that were added to the law at that time. All of these provisions must be satisfied.

a. Undue Risk of Escape

The court must determine that sending you to a hospital, long term nursing facility, or hospice does not create an “undue risk of escape or a danger to the community.” 42 Pa. C.S. § 9777(a)(1)(v) and (a)(2)(iv). To determine this, the court will look at your institutional conduct record, whether you have been convicted of a violent crime, the length of time you have been in prison, and anything else the court chooses to consider. *Id.* You should include any relevant information on these issues in the petition. The law does not provide any hard-and-fast rules; no one is automatically disqualified.

The only case to discuss “undue risk” is Commonwealth v. Folk, 40 A.3d 169 (Pa. Super. 2012). There, the sentencing court found that a petitioner’s “conviction and institutional conduct record, among other factors” posed an undue risk of danger to the community. *Id.* at 174. The petitioner had been convicted of rape, involuntary deviate sexual intercourse, sexual assault, indecent assault, endangering the welfare of a child, and corrupting a minor. *Id.* Unfortunately, information about his institutional conduct record and “other factors” is not readily available, so we do not know exactly why the court found him to pose an undue risk. On appeal, the Superior Court ruled that the sentencing court had not abused its discretion in disallowing the prisoner’s petition for this and other reasons.

In your petition to the court: include any factors that will show the court you do not pose a risk of escape. This could include information about your conviction, your disciplinary record, affidavits about how your illness limits your ability to escape, or the amount of time remaining on your sentence.

b. Third Parties' Notice and Opportunity to be Heard

The current law requires certain people to receive notice and an opportunity to be heard on your petition for release. People who must get notice are: any registered crime victims, the correctional facility housing the inmate, and anyone representing the Commonwealth at a proceeding that resulted in the inmate being committed or detained, i.e. a prosecuting attorney. 42 Pa. C.S. § 9777 (a)(1)(vii) and (2)(vi).

In your petition to the court: include a certificate of service explaining that you provided notice to your prosecuting attorney and the correctional facility where you are housed (see sample on p. 31). The district attorney's office is responsible for notifying any registered crime victim.

c. Possibility of Recarceration

If the court grants compassionate release, the new law allows the DOC or the prosecuting attorney to recarcerate an inmate. 42 Pa. C.S. § 9777 (a)(3). The DOC or prosecutor may do this if: (1) the circumstances under which the person was released have changed, *or* (2) for "previously unknown circumstances." Id.

Examples of a change in circumstances include changes in:

- the inmate's medical status,
- the inmate's risk of escape,
- the inmate's danger to the community; or
- the nature of the care provided by the outside health facility.

Id. The court can also choose to end the sentence deferment at any time. 42 Pa. C.S. § 9777 (a)(4). If the court exercises this power, the inmate will be "delivered to the nearest State correctional institution pending a hearing on the matter." Id.

V. Cases Decided Under the Current Law

Only two courts have written and published opinions concerning compassionate release petitions since 2008: Commonwealth v. DuPont 2010 Pa. Dist. & Cnty. Dec. LEXIS 139; No. 26-96, 2010 WL 2914380 (Pa. Com. Pl., Del. Co., May 19, 2010) and Commonwealth v. Folk 40 A.3d 169 (Pa. Super. 2012).

a. Commonwealth v. DuPont: Treating Physician Requirement

Commonwealth v. DuPont, 2010 Pa. Dist. & Cnty. Dec. LEXIS 139; No. 26-96, 2010 WL 2914380 (Pa. Com. Pl. May 19, 2010), discussed the “treating physician” requirement for hospital placement—that a treating physician declare the petitioner to be seriously ill with a life expectancy of one year or less.

The petitioner in DuPont claimed that because he was an inmate, he could not collect the required information from independent (non-prison) medical experts to meet his burden of proof to file a motion. He therefore requested a court order to transfer him to a medical facility to obtain medical tests to determine whether he qualified for compassionate release. Id. at *227. The judge ruled that no law authorized the court to permit such a transfer, and that the petition failed to meet the requirements of § 9777. The opinion notes that the district attorney submitted affidavits from prison medical staff that they did not believe DuPont to be seriously ill or that he had less than a year to live. The sentencing court ruled that the inmate had no right to have his lawyer cross-examine the prison doctors, and that the burden was on him to allege and prove that a treating physician had found petitioner to be seriously will with a life expectancy of less than one year. Id. at * 230-31. (Public records show that DuPont in fact died in prison less than seven months later.)

Essentially, the court held that a person cannot use this statute, or any other law, to collect evidence (i.e. reports or examination results from an outside physician) to fulfill the statute’s “treating physician” requirement.

What this means: A petitioner must fulfill the treating physician requirement *before* requesting release.

b. Commonwealth v. Folk: Conjunctive Factors & Abuse of Discretion

Commonwealth v. Folk, 40 A.3d 169 (Pa. Super. 2012) shed some light on two aspects of the new law. First, the court explained that an inmate must establish all seven factors listed under 42 Pa.C.S. § 9777(a)(1)(i) through (a)(1)(vii). Second, the court changed the appellate standard of review from error of law to abuse of discretion standard, making it tougher to challenge a petition denial.

The petitioner in Folk (apparently relying on the pre-2008 law) requested “that his sentence be modified to time served” because of “an unspecified terminal illness.” Id. at 171. The court explained that 42 Pa.C.S. § 9777 requires an inmate to establish “all seven factors [listed in the statute] by clear and convincing proof.” Id. at 172. The petitioner did not meet all seven factors because: (1) he did not identify a care facility that agreed to place him; (2) he did not provide a treating physician’s opinion that his life expectancy was less than one year; and (3) his release would pose an undue danger to the community. Id. at 174. (The court also noted that the current law provides for a sentence to be deferred, not modified.)

The appellate court also concluded that courts should “review the sentencing court’s denial of the petition for transfer . . . for an abuse of discretion.” Id. at 173. An abuse of discretion will only

be found if, in the lower court, there was “manifest unreasonableness, or partiality, prejudice, bias, or ill-will, or such lack of support so as to be clearly erroneous.” Id., quoting Commonwealth v. Travaglia, 28 A.3d 868, 873-74 (Pa. 2011).

What this means: First, a petitioner must meet *all* seven factors listed in 42 Pa.C.S. § 9777(a)(1)(i) through (a)(1)(vii) to be eligible for release. Second, if a petition is denied, it is more difficult to challenge the denial on appeal. A denial will be overturned *only if* the sentencing court acted inappropriately. In other words, the sentencing court has a lot of discretion to grant or deny the motion, and its decision will be final.

VI. Cases Decided Under the Old Law and Suggestions for Petitions

a. Introduction

The following summaries explain compassionate release cases decided under the pre-2009 version of Pennsylvania’s compassionate release law, 61 P.S. § 81. While these summaries can provide guidance, keep in mind that the current version is different in several respects; it has new requirements, and potentially, new standards.

b. Court Interpretations of “Necessary Care”

i. “Necessary Care” under 61 P.S. § 81 (1966)

Under the old version of the law, an inmate had to show it was “necessary” to leave the prison for treatment. Courts interpreted the word “necessary” very strictly. Transfer was NOT considered necessary if a prison provided inadequate care or refused to provide care. Commonwealth v. Tuddles, 782 A.2d 560, 563 (Sup. Ct. Pa. 2001). For release to be “necessary,” the inmate had to show that the prison *was unable* to provide the care due to a lack of resources or lack of ability. Id. (citation omitted). The current law, requiring only “more appropriate care,” is more favorable to petitioning inmates in this regard.

In Commonwealth v. Lanehart, 15 Pa. D. & C.4th 599 (Pa. Com. Pl. 1992), *aff’d*, 427 Pa. Super. 643 (Pa. Super. 1992), the court stated:

The statute [61 P.S. § 81 (1966)] is not intended to address alleged general shortcomings in the provision of medical care in the state prison system . . . Rather, it is intended to provide for the removal of the individual seriously ill inmate for his good and the good of the institution.

Id. at 603. In Commonwealth v. Lightcap, 806 A.2d 449, 453 (Pa. Super. 2002), the Superior Court of Pennsylvania explicitly approved of the Lanehart court’s reasoning.

Even if an inmate showed that he or she had serious health problems, he or she could not be released without proving release was “necessary.” For instance, in Commonwealth v. Dunlavey, 805 A.2d 562, 564 (Sup. Ct. Pa. 2002), the petitioner had Hepatitis C, an ankle spur, an eye

socket infection, and facial cancer. However, the court found that the prison was treating all of these conditions “successfully,” and did not allow the petitioner to leave for treatment. Id. at 565-66. The court reasoned that the prison was able to treat petitioner’s illnesses because he was receiving prescription drugs for Hepatitis C and his cancer had been in remission for five years. Id. Additionally, the petitioner did not need to be released to protect his own health or the health of other inmates. Id.

ii. “Appropriate Care” under 42 Pa. C.S. § 9777 (2009)

The current law says a prisoner can be released to a hospital or long-term care nursing facility if his or her medical needs “can be more appropriately addressed” at the facility. 42 Pa. C.S. § 9777 (a)(1)(i) (2009). To be released for hospice, the court may grant relief if the hospice provider can give “more appropriate care.” 42 Pa. C.S. § 9777 (a)(2)(ii) (2009).

Because the appellate courts have not interpreted this part of the law, we do not yet know how differently the courts will interpret this standard, as compared to the former rule. It may be easier to show that outside care is “more appropriate” than to show that it is “necessary.” However, given the courts’ history of interpreting “necessary” very strictly, it would be wise to be very clear and thorough in your petition about *why* the prison’s care is insufficient, *what* resources are not available in the prison, and exactly *why* outside care would be more appropriate in your situation.

c. Court Interpretations of “Seriously Ill”

i. 61 P.S. § 81 (1966)

The old law applied only to people who “become seriously ill while in prison.” Lightcap, 806 A.2d at 451; Dunlavey, 805 A.2d at 564. However, this did not require the inmate’s condition to *begin* in prison, only that it *became serious* in prison. Therefore, if a person entered prison with an ongoing medical condition, and the condition became serious or terminal later in the sentence, that person could file for relief. It does not seem that this would change under the new version of the law.

The following cases provide examples of situations that courts have found to be, or not to be, serious illnesses.

In Lightcap 806 A.2d at 453, an inmate needed a liver transplant to save his life. Because the prison could not provide the inmate with a liver transplant, the Pennsylvania Superior Court found the inmate was “seriously ill” and remanded his case to the trial court to determine whether his release was necessary. Id.

In Kositi v. Commonwealth, 880 A.2d 648, 654 (Sup. Ct. Pa 2005), an inmate had Hepatitis C, and the only treatment available at the prison made his condition worse. In addition, the prison could not provide a liver biopsy, a standard procedure for his illness. Id. The appellate court found that he was seriously ill and remanded the case to the trial court for a hearing. Id.

However, not all chronic, debilitating illnesses were considered “serious” for the purposes of 61 P.S. § 81. In Commonwealth v. Landi, 421 A.2d 442, 444 (Pa. Super. 1980), an inmate who was paralyzed from the waist down (and had been paralyzed prior to his conviction) was not considered “seriously ill” under 61 P.S. § 81. The court reasoned that being incarcerated did not harm the petitioner’s physical wellbeing, and the prison was able to provide for petitioner’s physical needs. Id. The court also noted that the petitioner could eat, get dressed, bathe, and get in and out of his wheelchair without assistance. Id. at 443.

ii. 42 Pa. C.S. § 9777 (2009)

Under the current version of the law, if the prisoner seeks treatment at a hospital or a long-term care nursing facility, the court must find that he or she is “seriously ill and is expected, by a treating physician, to not live for more than one year.” 42 Pa. C.S. § 9777 (a)(1)(iii).

If the prisoner seeks hospice care, the court must find that he or she is “terminally ill, not ambulatory and likely to die in the near future.” 42 Pa. C.S. § 9777(a)(2)(i). Note, however, that “in the near future” is not defined, and therefore should be subject to professional interpretation by a prison physician or physician with the hospice provider. It means significantly less than a year, but it should not be interpreted to mean “any day now,” since preparing a motion and getting it decided will take more than a month, at the very least. Because of these statutory requirements, you should ask your doctor to be *very specific* when he or she writes a letter to the court about your medical condition (see sample letter on p. 32). Show your doctor a copy of the relevant law and ask whether, in his or her opinion, you fit into the category specified by the law.

If you fall into one of these categories, you may have a more powerful case because you can argue that situations like yours are *exactly* what the legislature intended the law to address.

d. Where Prisoners can be Transferred

i. 61 P.S. § 81 (1966)

Under the old law, the court could transfer an inmate to a “suitable institution where proper care may be administered.” 61 P.S. § 81 (1966). In Tuddles, 784 A.2d at 563, the court explained the law did not authorize the sentencing court to release prisoners to house arrest, or to allow them to leave “unattended” for medical appointments.

ii. 42 Pa. C.S. § 9777 (2009)

The language of the new law clarifies that the court can send an inmate to a specified and licensed “hospital or long-term nursing facility” or “hospice care location.” 42 Pa. C.S. § 9777 (a)(1) and (a)(2).

If a person is granted release for hospice, the judge may construe this as house arrest at the prisoner’s family home, so long as in-home hospice care is regularly provided. However, releasing an inmate directly to his family’s care without arranging a “coordinated program of

palliative and supportive services” by a licensed hospice program “is beyond the scope of relief for which section 9777 provides.” Folk, 40 A.3d at 174.

e. The Effect on a Sentence

i. 61 P.S. § 81 (1966)

Petitions filed under 61 P.S. § 81 (1966) did not change the length of a person’s sentence. The old law authorized the court to “modify” a sentence by changing a person’s *location*, not the *length*, of the sentence. Kositi, 880 A.2d at 653-54. Once medical treatment was complete, prisoners had to return to prison, except in a terminal illness situation. Dunlavey, 805 A.2d at 564; Kositi, 880 A.2d at 652.

ii. 42 Pa. C.S. § 9777 (2009)

Under the current law, a prisoner may petition for “temporary deferment” of the sentence. 42 Pa. C.S. § 9777(a) (2009). This means further service of the prisoner’s sentence is postponed during medical care, and if the prisoner recovers, he or she will resume serving the sentence.

Because a court has not decided a case about this aspect of the law, we do not know how the word “temporary” will be interpreted. One possibility is if the prisoner’s health unexpectedly improves, he or she may be recommitted to the prison.

f. Time Limits

Petitions filed under 61 P.S. § 81 (1966) were not subject to Post Conviction Relief Act time constraints because the petition does not actually challenge the length or propriety of the sentence. Deaner, 779 A.2d 578, 580; Kositi, 880 A.2d at 652-53. There is no reason to suppose that this would change under the new version of the law.

HOW TO BRING A CASE

- 1) Write a petition—or ideally, if possible, have a lawyer draft a petition—to the *sentencing court* for your conviction and use your original docket number. See sample petitions on p. 23-31.

Your petition must include:

- A) The name of the hospital, long-term care nursing facility, or hospice location where you would like to be placed and the type of facility it is.
 - B) The reason that you believe this facility will provide care for you, and the facts supporting this belief. You should have a letter from the care provider that states explicitly that it will provide care and explains the type of care.
 - C) The type of serious or terminal illness you have and a statement from your doctor regarding the seriousness of your medical condition. Quote the doctor's statements regarding your life expectancy.
 - **REMEMBER:** *Release to a hospital or nursing facility requires the illness to be "serious," while release to a hospice provider requires the illness to be "terminal."*
 - D) The treatment or services you will receive at the outside location and a short but specific explanation of why you need the treatment or services and why outside care would be more appropriate.
- 2) If you have relevant, supporting letters or affidavits from your doctor(s) or from the hospital, nursing care facility, or hospice provider, attach these to your petition. This includes a letter from your doctor explaining how serious your illness is or a letter from the care provider stating that it agrees to place and treat you.
 - 3) Obtain all available medical records pertaining to your illness. To obtain your medical records from the DOC, submit Form DC-108. You can obtain a copy of this form from the medical department or your counselor, or a friend on the outside can obtain it online.
 - 4) File the petition under your original docket number with your sentencing judge. If your sentencing judge is deceased or retired, address it to the President Judge or, in larger counties, the Supervising Judge of the Criminal Division.
 - 5) You also need to serve copies of your petition to whomever is representing your prosecuting attorney and to the prison where you are housed. If your prosecuting attorney is deceased or retired (or you are unsure), address it to the DA's office. Send both of these parties a copy of your petition and supporting documents and then write a certificate of service to the court. The certificate of services lets the court know that you sent notice to the prosecutor and the prison.

REMEMBER: This petition is criminal, not civil, in nature. This means that you may contact the public defender, not civil legal services, for possible assistance. Not all public defenders offer assistance for compassionate release petitions.

RESOURCES FOR FINDING HOSPICE OR NURSING HOME CARE

There are several websites with lists of hospice care locations in Pennsylvania and several organizations that may be able to assist you with this search. Ask your family, friends, or case manager to help you with your search, especially if you are unable to access the internet. Attached is one list of hospice locations that are members of the Pennsylvania Hospice Network. For a comprehensive list, contact the Pennsylvania Department of Health.

- For general information about hospice care in Pennsylvania:

Pennsylvania Hospice Network

475 W. Governor Road, Suite 7
Hershey, PA 17033
Phone: (717) 533-4002; Toll-Free: 1-866-55-HOSPICE
Fax: (717) 533-4007
Email: phn@pahospice.org
Website: www.pahospice.org

- For information about hospice and nursing home locations:

Pennsylvania Department of Health

Health and Welfare Building
7th & Forster Streets
Harrisburg, PA 17120
Phone: 1-877-724-3258
Website: <http://www.dsf.health.state.pa.us/health/site/default.asp>

The Pennsylvania Department of Health has a lot of information on its website. These are some of the helpful links:

Health Care Facility Locator Link:

<http://www.dsf.health.state.pa.us/health/cwp/view.asp?a=188&Q=240852>

If you are speaking with someone who has access to the internet, direct that person to enter “facility locator” in the “search” box on the upper right-hand corner of the screen. The Health Care Facility Locator is the first search result.

Link to a directory of nursing homes in Pennsylvania (PDF):

<http://www.dsf.health.state.pa.us/health/lib/health/facilities/directories/LTC2007DIRECTORY.PDF>

- Following is a list of hospices that are members of the Pennsylvania Hospice Network. There are *many other* hospice providers in Pennsylvania, but this will give you a start. It is available at www.pahospice.org/organizations.aspx

Abington Memorial Hospital Home Care Hospice

2510 Maryland Road
Willow Grove, PA 19090

Phone: 215-481-5800
Fax: 215-481-5850

AseraCare Hospice-Altoona

1015 Logan Boulevard
Altoona, PA 16602

Phone: 814-941-2900
Fax: 814-941-0600

AseraCare Hospice-Erie

1600 Peninsula Drive
Erie, PA 16505

Phone: 800-314-5145
Fax: 814-833-3152

AseraCare Hospice-Exton

690 Stockton Drive, Suite 100
Exton, PA 19341

Phone: 800-517-5734
Fax: 610-321-0172

AseraCare Hospice-Harrisburg

75 South Houcks Road, Suite 101
Harrisburg, PA 17109

Phone: 800-551-4466
Fax: 717-541-4470

AseraCare Hospice-Mountville

315 Primrose Lane, Suite 101
Mountville, PA 17554

Phone: 717-285-2039
Fax: 717-285-7761

AseraCare Hospice-Pittsburgh

1500 Ardmore Blvd., Suite 501
Pittsburgh, PA 15221

Phone: 800-570-5975
Fax: 412-271-3611

AseraCare Hospice-South Abington

749 Northern Blvd.
South Abington, PA 18411

Phone: 570-586-4573
Fax: 570-586-0540

AseraCare Hospice-York

44 Bowman Road
York, PA 17408

Phone: 717-845-8599
Fax: 717-718-4463

Bethlen Communities Home Health Services and Hospice

618A Main Street
Ligonier, PA 15658

Phone: 724-238-2613
Fax: 724-238-2614

Centre HomeCare Inc.

2437 Commercial Blvd., Suite 6
State College, PA 16801

Phone: 814-237-7400
Fax: 814-237-2800

Clarion Forest VNA Hospice
PO Box 668, 305 Main Street
Knox, PA 16232
Phone: 814-797-1492
Fax: 814-797-2698

Clearfield Hospital Hospice
438 West Front Street, POB 992
Clearfield, PA 16830
Phone: 814-768-2012
Fax: 814-768-2458

Columbia Montour Home Hospice
410 Glenn Avenue, Suite 200
Bloomsburg, PA 17815
Phone: 570-784-1723
Fax: 570-784-8512

Community Nurses Home Health and Hospice, Inc.
757 Johnsonburg Road, Suite 200
St. Marys, PA 15857
Phone: 814-781-1415
Fax: 814-781-6987

Compassionate Care Hospice, Inc.
1513 Cedar Cliff Drive, Suite 100
Camp Hill, PA 17011
Phone: 717-944-4466
Fax: 717-944-4497

Compassionate Care Hospice, Inc. - Satellite
Suite 205A, 4 Park Road
Wyomissing, PA 19610
Phone: 610-371-1025
Fax: 717-944-4497

Compassionate Care Hospice, Inc. - Satellite
2449 S. Queen Street
York, PA 17402
Phone: 717-747-0047
Fax: 717-747-0080

Corry Regional Hospice
612 West Smith Street
Corry, PA 16407
Phone: 814-664-4641
Fax: 814-663-0180

Crossroads Hospice of Philadelphia
300 Lakeside Drive, Suite 120
Horsham, PA 19044
Phone: 215-956-5110
Fax: 215-956-5175

Delaware County Memorial Hospital Hospice
5030 State Road, Suite 3001
Drexel Hill, PA 19026
Phone: 610-284-0700
Fax: 610-284-2451

Delaware Hospice Inc.
3515 Silverside Road
Wilmington, DE 19810
Phone: 302-478-5707
Fax: 302-479-2586

Diakon Hospice Saint John

1201 North Church Street, Suite 300, Bldg B
Hazleton, PA 18202

Phone: 570-453-5200
Fax: 570-453-5201

Diakon Hospice Saint John-Greater Berks Area - Satellite

1030 Reed Avenue, Suite 102
Wyomissing, PA 19610

Phone: 610-320-7980
Fax: 610-320-7974

Diakon Hospice Saint John-Greater Lehigh Valley - Satellite

5000 Tilghman Street, Suite 157
Allentown, PA 18104

Phone: 610-391-2300
Fax: 610-391-2301

Diakon Hospice Saint John-Greater Wyoming Valley - Satellite

416 Main Street, Suite D
Honesdale, PA 18431

Phone: 570-251-8712
Fax: 570-251-8716

Doylestown Hospital Hospice

875 N. Easton Road
Doylestown, PA 18901

Phone: 215-345-2671
Fax: 267-880-1393

DRMC Hospice

100 Hospital Avenue, POB 447
DuBois, PA 15801

Phone: 814-375-3300
Fax: 814-375-3396

Erwine Home Health & Hospice, Inc.

270 Pierce Street, Suite 101
Kingston, PA 18704

Phone: 570-288-1013
Fax: 570-283-3722

Family Hospice and Palliative Care

50 Moffett Street
Pittsburgh, PA 15243

Phone: 412-572-8800
Fax: 412-572-8826

Forbes Hospice

115 South Neville Street
Pittsburgh, PA 15213

Phone: 412-325-7200
Fax: 412-325-7303

Gateway Health, Inc.

9380 McKnight Road, 201 Arcadia Ct.
Pittsburgh, PA 15237

Phone: 412-536-2020
Fax: 412-536-2021

Good Samaritan Hospice of Pittsburgh

3500 Brooktree Road
Wexford, PA 15090

Phone: 724-933-8888
Fax: 724-933-8844

Grand View Hospital Hospice

700 Lawn Avenue
Sellersville, PA 18960

Phone: 215-453-4210
Fax: 215-453-4328

Harmony Hospice and Palliative Care

811 Washington Avenue
Carnegie, PA 15106

Phone: 412-276-4700
Fax: 412-276-4736

Heartland Hospice

3417-C Concord Road
York, PA 17402

Phone: 717-840-1002
Fax: 717-840-1690

Heartland Hospice - Satellite

1200 Walnut Bottom Road
Carlisle, PA 17103

Phone: 717-240-0018
Fax: 717-249-0032

Holy Redeemer Home Care and Hospice Services

12265 Townsend Road
Philadelphia, PA 19154

Phone: 215-671-9200
Fax: 215-856-1300

Home Nursing Agency

201 Chestnut Avenue, POB 352
Altoona, PA 16603-0352

Phone: 814-946-5411
Fax: 814-941-1648

Homeland Hospice

1901 North 5th Street
Harrisburg, PA 17102

Phone: 717-221-7890
Fax: 717-221-7891

Hope Hospice, Inc.

3292 Babcock Boulevard
Pittsburgh, PA 15237

Phone: 412-367-3685
Fax: 412-367-9048

Hospice Care of the VNA

468 Northampton Street
Edwardsville, PA 18704-4599

Phone: 570-552-4000
Fax: 570-552-4059

Hospice Care of the Washington Hospital

10 Leet Street
Washington, PA 15301

Phone: 724-250-4500
Fax: 724-250-4558

Hospice Community Care

601 Wyoming Avenue
Kingston, PA 18704

Phone: 570-288-2288
Fax: 570-714-8156

<u>Hospice Inspiris</u> 1006 West 8th Avenue, Suite B King of Prussia, PA 19406	Phone: 610-265-2066 Fax: 610-265-2766
<u>Hospice of Central PA</u> 1320 Linglestown Road Harrisburg, PA 17110	Phone: 717-732-1000 Fax: 717-234-0384
<u>Hospice of Central PA - Satellite</u> 17 E High Street, Suite 102 Carlisle, PA 17013	Phone: 717-241-0014 Fax: 717-241-0047
<u>Hospice of Crawford County, Inc.</u> 464 Pine Street Meadville, PA 16335	Phone: 814-333-5403 Fax: 814-333-5407
<u>Hospice of Crawford County, Inc. - Satellite</u> 310 North Monroe Titusville, PA 16353	Phone: 814-827-0330 Fax: 814-827-0371
<u>Hospice of Lancaster County</u> P.O. Box 4125, 685 Good Drive Lancaster, PA 17604	Phone: 717-295-3900 Fax: 717-391-9582
<u>Hospice of Metropolitan Erie, Inc.</u> 202 East Tenth Street Erie, PA 16503	Phone: 814-456-6689 Fax: 814-456-8219
<u>Hospice of Philadelphia, Division of the VNA of Greater Philadelphia</u> Falls Center, 3300 Henry Avenue Philadelphia, PA 19129	Phone: 215-581-2046 Fax: 215-473-5047
<u>Hospice of the Madlyn & Leonard Abramson Center for Jewish Life</u> 1425 Horsham Road North Wales, PA 19454-1320	Phone: 215-371-1393 Fax: 215-371-3035
<u>Hospice of the North Penn VNA</u> 51 Medical Campus Drive Lansdale, PA 19446	Phone: 215-855-8297 Fax: 215-855-1305
<u>Hospice of the Sacred Heart</u> 600 Baltimore Drive Wilkes-Barre, PA 18702	Phone: 570-706-2400 Fax: 570-970-9717

Hospice of the VNA of St. Luke's
1510 Valley Center Parkway, Suite 200
Bethlehem, PA 18017

Phone: 610-954-2773
Fax: 610-997-7107

Hospice of Warren County
PO Box 68, Two Crescent Park West
Warren, PA 16365-0068

Phone: 814-723-2455
Fax: 814-723-6259

Hospice: The Bridge, Lewistown Hospital Home Care Service
Second Floor, 400 Highland Avenue
Lewistown, PA 17044

Phone: 717-242-5000
Fax: 717-242-5009

In Touch Hospice
223 S. Pleasant Avenue, Suite 103
Somerset, PA 15501

Phone: 814-443-5047
Fax: 814-443-5269

In Touch Hospice House - Satellite
1474 North Center Avenue
Somerset, PA 15501

Phone: 814-443-5279
Fax: 814-443-5269

Jameson Hospice of Lawrence County
1211 Wilmington Avenue
New Castle, PA 16101

Phone: 724-652-8847
Fax: 724-656-6193

Karen Ann Quinland Hospice
315 West Harford Street
Milford, PA 18337

Phone: 800-882-1117
Fax: 570-296-3594

Keystone Hospice
8765 Stenton Avenue
Wyndmoor, PA 19038

Phone: 215-836-2440
Fax: 215-836-3470

Laurel Home Health/Hospice
24 Walnut Street
Wellsboro, PA 16901

Phone: 570-723-0760
Fax: 570-723-0789

Lehigh Valley Hospice
2166 South 12th Street
Allentown, PA 18103

Phone: 610-969-0300
Fax: 610-969-0382

Lippincott Family Hospice Program of Fox Chase Cancer Center
333 Cottman Avenue
Philadelphia, PA 19111

Phone: 215-728-3011
Fax: 215-728-5270

Lutheran Home Care & Hospice, Inc - Satellite

1075 Old Harrisburg Road
Gettysburg, PA 17325

Phone: 717-334-6208
Fax: 717-334-7872

Lutheran Home Care & Hospice, Inc.

2700 Luther Drive
Chambersburg, PA 17201

Phone: 717-264-8178
Fax: 717-334-6347

Medi Home Hospice

9173 Route 30
Irwin, PA 15642

Phone: 724-863-7190
Fax: 724-334-9784

Mercy Hospice

746 Jefferson Avenue
Scranton, PA 18501

Phone: 570-961-0725
Fax: 570-340-5484

Montgomery Hospital Hospice

25 West Fornance Street
Norristown, PA 19401

Phone: 610-272-1080
Fax: 610-270-0556

Nason Hospital Hospice

108 Nason Drive
Roaring Spring, PA 16673

Phone: 814-224-2141
Fax: 814-224-6248

Odyssey HealthCare of Harrisburg

4660 Trindle Road, Suite 204
Camp Hill, PA 17011

Phone: 717-612-1200
Fax: 717-612-1201

Paramount Hospice & Palliative Care

3025 Washington Road, Suite 201
McMurray, PA 15317

Phone: 724-969-1021
Fax: 724-969-1050

Penn Hospice at Rittenhouse - A Division of Wissahickon Hospice - Satellite

1800 Lombard Street
Philadelphia, PA 19146

Phone: 215-893-6250
Fax: 215-893-6051

PinnacleHealth Hospice

2645 North Third Street, Suite 300
Harrisburg, PA 17110

Phone: 717-782-2300
Fax: 717-724-6691

PinnacleHealth Hospice - Satellite

301 One Norwegian Plaza
Pottsville, PA 17901

Phone: 570-628-2290
Fax: 570-628-3994

Sharon Regional Hospice and Palliative Care

2320 Highland Road
Hermitage, PA 16148

Phone: 724-983-5936
Fax: 724-983-5949

Sivitz Jewish Hospice

200 JHF Drive
Pittsburgh, PA 15217

Phone: 412-422-5700
Fax: 412-422-5747

SouthernCare, Inc.-Roaring Spring

820 East Main Street
Roaring Spring, PA 16673

Phone: 814-224-5022
Fax: 814-224-5522

SUN Home Health Services, Inc.

61 Duke Street
Northumberland, PA 17857

Phone: 570-473-8320
Fax: 570-473-3070

Susquehanna Hospice

1100 Grampian Boulevard
Williamsport, PA 17701

Phone: 800-848-2213
Fax: 570-320-7898

Visiting Nurses Association of Venango County, Inc. Hospice

491 Allegheny Blvd
Franklin, PA 16323

Phone: 814-432-6555
Fax: 814-432-6588

VITAS Healthcare Corporation of Pennsylvania

1740 Walton Road, Suite 100
Blue Bell, PA 19422

Phone: 610-260-6020
Fax: 610-238-4980

VITAS IPU @Frankford - Satellite

4900 Frankford Avenue, 3rd Floor
Philadelphia, PA 19124

Phone: 800-209-1080
Fax: 610-238-4980

VITAS IPU @Mercy Fitzgerald - Satellite

1500 Landsdowne Ave., Med. Science Building, 4th Floor
Darby, PA 19023

Phone: 800-209-1080
Fax: 610-238-4980

VITAS IPU @Nazareth - Satellite

2601 Home Avenue, Holy Family Bldg., 2nd Floor,
Philadelphia, PA 19152

Phone: 800-209-1080
Fax: 610-238-4980

VITAS IPU @St. Agnes - Satellite

1900 S. Broad Street, 5th Floor
Philadelphia, PA 19145

Phone: 800-209-1080
Fax: 610-238-4980

VNA Health System

21 W. Independence Street
Shamokin, PA 17872

Phone: 570-648-8989
Fax: 570-648-9590

VNA Hospice & Home Health of Lackawanna County

301 Delaware Ave.
Olyphant, PA 18447

Phone: 570-383-5180
Fax: 570-383-5189

VNA Hospice of Hanover and Spring Grove, Inc.

440 North Madison Street
Hanover, PA 17331

Phone: 717-637-1227
Fax: 717-637-9772

VNA Hospice of Monroe County

502 Independence Road
East Stroudsburg, PA 18301

Phone: 570-421-5390
Fax: 570-421-7423

VNA Hospice Services

218 East Market Street
York, PA 17403

Phone: 717-246-1685
Fax: 717-246-9441

VNA Hospice Services of Erie County

2253 West Grandview Blvd
Erie, PA 16506

Phone: 814-454-2831
Fax: 814-453-5357

VNA Hospice, Western PA

154 Hindman Road
Butler, PA 16001

Phone: 724-282-6806
Fax: 724-282-1509

VNA of Central PA

3315 Derry Street
Harrisburg, PA 17111

Phone: 717-233-1035
Fax: 717-233-2759

White Rose Hospice

1412 Sixth Avenue
York, PA 17403

Phone: 717-849-5642
Fax: 717-849-5630

Willow Tree Hospice

100 Sycamore Drive
West Grove, PA 19390

Phone: 610-869-2201
Fax: 610-869-2011

Windber Hospice

600 Somerset Avenue
Windber, PA 15963

Phone: 814-467-3434
Fax: 814-467-3466

Wissahickon Hospice
150 Monument Road, Suite 300
Bala Cynwyd, PA 19004

Phone: 610-617-2400
Fax: 610-668-1293

Sample Pleadings and Documents

SAMPLE COMPLAINTS

IN THE COURT OF COMMON PLEAS FOR THE COUNTY OF [COUNTY NAME]
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA:

:

vs. [CP# 1234 OF 1999]

:

[Petitioner's Name] :

:

PETITION FOR DEFERMENT OF SENTENCE DUE TO SERIOUS ILLNESS

TO THE HONORABLE [JUDGE'S NAME, Judge] of [Name of Court]:

Petitioner, [petitioner's name], hereby moves for the deferment of his sentence to be placed in [name of Hospital / Long-term nursing care facility AND specify the type of facility] and represents:

1. On [date], petitioner was found guilty of burglary by a jury before the Honorable [judge's name]. Sentencing was deferred.
2. On [date], the Honorable [judge's name] sentenced defendant to a term of imprisonment of [length of sentence] years.
3. Petitioner, who is incarcerated at [Name of Correctional Institution], is suffering from [illness]. He is seriously ill, and his treating physician believes that his life expectancy is less than one year. Specifically, on [date], Dr. [name], stated or wrote that [quote exactly, if possible]. He is in immediate need of extensive medical treatment which [Hospital / Long-term nursing care facility] will more appropriately provide.
4. Petitioner has now served in excess of [length of time served] of the term of imprisonment imposed.
5. Because petitioner is seriously ill, he/she requests the Court to defer petitioner's sentence and place him/her in [Hospital / Long-term nursing care facility] to obtain treatment.
6. Petitioner reasonably believes that [Hospital / Long-term nursing care facility] will place him and bases this belief on its express written agreement to place him and to provide appropriate medical treatment.
 - *Explain the type of care to be provided.*

7. Petitioner will not pose an undue risk of escape if placed at [care facility] in light of Petitioner's institutional conduct record, his prior convictions, the time remaining on his sentence, and his decreased mobility due to his illness.

- *Provide relevant information for these factors. Omit factors that do not apply.*

8. [Hospital / Long-term nursing care facility] agrees to notify the DOC of material changes in petitioner's health and changes in care provided and to supply other information requested by the department.

WHEREFORE, for each of the foregoing reasons, it is requested that petitioner's sentence be deferred and that he be transferred to [Hospital / Long-term nursing care facility] for treatment.

Respectfully submitted,

_____, Petitioner

[date]

IN THE COURT OF COMMON PLEAS OF [COUNTY NAME] PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :

vs. : [CP# 2394 of 1987]

[Petitioner's name] :

PETITION FOR DEFERMENT OF SENTENCE
DUE TO TERMINAL ILLNESS
PURSUANT TO 42 Pa. C.S. § 9777

TO THE HONORABLE [NAME OF JUDGE]:

COMES NOW, [your name], pro se, hereby moving for the deferment of his sentence to be placed in [name of hospice provider], a licensed hospice care provider, pursuant to 42 Pa. C.S. § 9777 and represents the following:

JURISDICTION OF THE COURT:

This court has original jurisdiction under 42 Pa. C.S.A. § 931. Therefore, Petitioner respectfully submits his motion for extraordinary relief to the Court of Common Pleas of [Name of County], Pennsylvania.

1. On [date of sentencing], the Honorable [judge's name] sentenced defendant to a term of imprisonment of from [length of sentence, i.e. six (6) to twenty (20) years.]
2. Petitioner, who is incarcerated at the [name of institution], being [age] years old is suffering from [illness]. His condition is terminal and he is not ambulatory.
3. [name of hospice provider], a licensed hospice care provider, will provide the type of care that is most appropriate for an individual in petitioner's situation.
 - *Explain the type of care to be provided.*
4. Petitioner has now served in excess of [amount of time served] of the term of imprisonment imposed.
5. Because petitioner is terminally ill, he requests this Court to defer his sentence so that he may be placed at [name of hospice provider] to receive the appropriate care.
6. Petitioner reasonably believes that [name of hospice provider] will place him and he bases this belief on its express written agreement to place him and provide appropriate medical treatment.

7. [name of hospice provider] and petitioner agree to notify the DOC of material changes in petitioner's health and of changes in care provided.

10. Petitioner will not pose an undue risk of escape if placed at [name of hospice provider] in light of Petitioner's institutional conduct record, his prior convictions, the length of time remaining on his sentence, and his decreased mobility due to his illness.

- *Provide relevant information for these factors. Omit factors that do not apply.*

11. Petitioner requests that this Honorable Court appoint counsel to represent his interest in this litigation.

WHEREFORE, for each of the foregoing reasons, it is requested that petitioner's sentence be deferred.

Respectfully submitted,

Petitioner

Date:

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT
CRIMINAL DIVISION, TRIAL SECTION

Commonwealth of Pennsylvania :
 :
 : [Intermediate Sentence]
vs. : [CP #]
 : [Indictment #]
 :
[Petitioner's name] :
[DOC #] :
[CORRECTIONAL FACILITY] :
[ADDRESS] :

PETITION FOR DEFERMENT OF SENTENCE DUE TO SERIOUS ILLNESS

TO THE HONORABLE [JUDGE'S NAME]:

COMES NOW, the defendant, [your name], pro se, and hereby moves for compassionate release to be placed in [Hospital / Long-term care nursing facility] pursuant to 42 Pa. C.S. § 9777 and represents the following:

JURISDICTION OF THE COURT

This court has original jurisdiction under 42 Pa. C.S.A. § 931. Therefore, Petitioner respectfully submits his motion for deferment of sentence to the Court of Common Pleas of [Philadelphia], Pennsylvania.

1. On [DATE], the Honorable [JUDGE'S NAME] sentenced defendant to a term of imprisonment for [CRIMINAL OFFENSE] for [# OF YEARS].
2. Petitioner is incarcerated at [CORRECTIONAL FACILITY] and is seriously ill with [NATURE OF ILLNESS]. His treating physician believes this illness will be terminal within one year. Petitioner is in immediate need of medical care which [TREATMENT FACILITY] will more appropriately provide.
3. Petitioner believes that [TREATMENT FACILITY] will place him because it has expressly agreed to do so and to provide appropriate medical treatment.
4. [TREATMENT FACILITY] and Petitioner agree to notify the DOC of material changes in petitioner's health and changes in care provided and to supply other information requested by the department.
5. Petitioner will not pose an undue risk of escape if placed at [TREATMENT FACILITY] in light of Petitioner's institutional conduct record, his prior convictions, the length of time remaining on his sentence, and his decreased mobility due to illness.

- *Provide relevant information for these factors. Omit factors that do not apply*
6. Because petitioner is suffering from an illness that is likely to be terminal within one year and because he would receive substantially more appropriate care at [TREATMENT FACILITY], he requests this court to defer his sentence, to place him at [TREATMENT FACILITY].

WHEREFORE, for each of the foregoing reasons, it is requested that Petitioner's sentence be deferred pursuant to 42 Pa. C.S. § 9777 to allow Petitioner to be transferred to [TREATMENT FACILITY].

Respectfully Submitted by:

On:

Petitioner

Date

SAMPLE COVER LETTER TO INCLUDE WITH PETITION

[Petitioner Name]

[Correctional Institution Mailing Address]

[date]

[judge's name]

[address]

EXAMPLE:

*The Honorable Forrest G. Schaeffer, Jr., P.J.
Judge's Chambers
Twenty-third Judicial District
Court House
33 N. 6th Street
Reading, PA 19601*

Dear Judge [name]:

I have prepared the attached petition for Deferment of Sentence pursuant to 42 Pa. C.S. § 9777 to be filed with this Honorable Court based upon the fact that I have terminal [illness] with a life expectancy of approximately [length of life expectancy].

If your Honor has any questions concerning my petition or my condition, please contact Mr./Ms. _____, Deputy Superintendent of Treatment at the [name of your institution]. (____)_____, Ext. _____. Thank you for your time and consideration in this matter.

Very truly yours,

SAMPLE CERTIFICATE OF SERVICE

IN THE COURT OF COMMON PLEAS,
FIRST JUDICIAL DISTRICT
TRIAL DIVISION, CRIMINAL SECTION

COMMONWEALTH OF PENNSYLVANIA	:	
	:	<u>[Term of Court]</u>
	:	<u>[Indictment #]</u>
	:	
vs.	:	
	:	
	:	
<u>[Name]</u> , Petitioner	:	
<u>[DOC #]</u>	:	
<u>[CORRECTIONAL FACILITY]</u>	:	
<u>[ADDRESS]</u>	:	

CERTIFICATE OF SERVICE

[Petitioner's name], Petitioner, appearing pro se, does hereby certify that true and correct copies of the foregoing Petition to Defer Sentence have been served upon [DATE] by first class mail, postage prepaid, upon those listed below:

District Attorney's Office
[District Attorney Name]
[Street Address]
[City], PA

Correctional Facility
[Warden Name]
[Street Address]
[City], PA

The Honorable [Judge's Name]
Court of Common Pleas, [District #] Judicial District
Trial Division
[Street Address]
[City], PA

Date

Petitioner's Name

SAMPLE LETTER TO DOCTOR

Dr. [doctor's name]
[doctor's address]

Dear Dr. [name]:

I am currently incarcerated at [name of facility] and I am writing you in regards to my petition to [name of judge and judge's location, i.e. Judge Bay of Philadelphia] for compassionate release. I am petitioning the court for compassionate release due to my serious medical condition and the inability of the prison to provide sufficiently appropriate care to someone in my situation.

As I believe you are aware, I am very ill with [illness]. Because you have treated my [illness] in the past and have recently reviewed my medical records, I believe that you are familiar with my condition and qualify as my "treating physician."

It would be helpful if you could draft a letter in support of my placement in a hospital, long-term nursing facility, or hospice to receive treatment.

In particular, please include your opinion my medical prognosis. If you believe that my illness is terminal, please state this and include a time frame. If possible, please comment on why a hospital, long-term nursing facility, or hospice may provide more appropriate care than a prison is able to for someone in my situation. If a hospice is indicated, please specify that my death is expected "in the near future." Otherwise, please specify that it is your professional opinion that I have less than a year to live.

I do not anticipate that you will be required to make a court appearance, though I may contact you for an affidavit to submit to the court. Please send a copy of the letter to me, but address it to the court, as follows:

The Honorable [judge's name]
[judge's address]

Thank you in advance for your assistance. If you have any questions, please feel free to contact me.

Sincerely,

Petitioner

SAMPLE LETTER TO HOSPICE OR NURSING HOME

[petitioner's name]
[address of correctional institution]

[date]

[Ms. Sue Smith]
[name of hospice]
[address of hospice]

Dear Ms. Smith,

I am writing you in regards to your agreement to house me at [name of hospice provider]. As you know, I am currently incarcerated at [name of institution] and have been diagnosed with [illness]. I plan to petition Judge [name] of [county name] County Court to defer my sentence at [name of institution] to place me at [name of hospice provider].

As part of my petition to the court, I must show that [name of hospice provider] agrees to house me and to provide care. Could you please send a letter that confirms your agreement to accept me as a patient? Please include a description of the type of care [name of hospice provider] will provide.

Please also state your agreement to update the [name of correctional institution] and [name of court] on any material changes in my health and changes in the nature of care that you provide me.

In your letter, please explain why hospice care would be particularly appropriate in my situation. This will help me present a strong case. For example, if there are specific support services that, in your experience, are very beneficial for people with [nature of illness or situation], please list or explain these services.

Thank you again for agreeing to house me at [name of hospice provider]. I look forward to hearing from you.

Sincerely,

Petitioner

SAMPLE LETTER TO PRISON OFFICIAL

[Petitioner name]

[Petitioner mailing address]

[date]

[Ms. Jane Maxwell]

[Superintendent / Counselor / Unit Manager]

[State Correctional Facility]

[City], PA

Dear [Ms. Maxwell],

I am writing to ask you to support my petition to [Judge Walker of the District Court of Green County] for deferment of sentence pursuant to 42 Pa. C.S. § 9777.

For the court to grant my petition, I must demonstrate that my placement in a hospital, long term nursing care facility, or hospice will not create an undue risk of my escape. As you can see from my disciplinary record, conviction history, and medical records, my placement at a care facility will not create a risk of escape.

Factors Petitioner Might Discuss In Letter To Prison Official.

- Clean disciplinary record in prison – no history of violence or escape attempts.
- Length of time remaining on sentence.
- Classes or programming completed in prison.
- Decreased ability to escape due to illness.

Please draft a letter to the court to in support of my petition for deferment of sentence. In particular, please explain why I will not pose an undue risk of escape. Though I would like a copy of the letter, please send and address it to the following court:

[The Honorable Jane Bay]

[Judge's Chambers]

[Tenth Judicial District]

[Court House]

[22 N. Main St.]

[Anytown, PA 19000]

Thank you in advance for your assistance. If you have any questions, please contact me.

Sincerely,

_____, Petitioner

SAMPLE PROPOSED ORDERS FROM THE COURT

IN THE COURT OF COMMON PLEAS OF [*COUNTY*], PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA	:	
	:	[<i>CP# 1234 of 2000</i>]
vs.	:	
	:	
[<i>Petitioner's name</i>]	:	
	:	

ORDER

AND NOW, this [*day, i.e. 5th (fifth)*] day of [*month and year, i.e. October 2014*], it is hereby ORDERED AND DECREED that a Rule be granted upon the Commonwealth to show cause why the prayer of the within petition should not be granted.

RULE RETURNABLE THE _____ DAY OF _____ 2014, AT _____ O'CLOCK IN COURT ROOM _____, [*address*], PENNSYLVANIA.

BY THE COURT:

J:

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :
: CP# of
vs. :
: Petitioner :
:

RULE

AND NOW, this ____ day of ____ 2009, upon consideration of the foregoing motion and upon motion of the petitioner, the court grants a rule upon the District Attorney's Office for the County of _____ in the above case to show cause why the court should not defer the sentence of confinement.

Rule returnable seven (7) days after service hereof.

BY THE COURT:

J:

(v) The licensed hospice care provider, [name], has agreed to notify the Department of Corrections and this Court of any material changes in the health status of the inmate, or the nature of the hospice care provided.

Accordingly, IT IS ORDERED, pursuant to 42 U.S.C. § 9777(a)(2) and (3), that the motion is GRANTED. The unserved portion of the [length of sentence] imprisonment imposed upon [defendant's name] by this Court on [sentencing date], IS HEREBY, AND FORTHWITH, TEMPORARILY DEFERRED. The Department of Corrections shall immediately release inmate [defendant's name & DOC number], to the custody of a representative of [hospice care provider] for transportation to the approved hospice care location. The approved hospice care location is located at [address]. This release is NOT conditioned upon electronic monitoring.

IT IS FURTHER ORDERED, pursuant to 42 Pa.C.S. § 9777(d)(1), that if care is provided at the approved hospice care location to any person who was not placed there under a court-ordered sentence deferment, and if it is foreseeable that such other person, or any employee or contractor working in that location, will come in contact with [defendant's name] during his placement, then [hospice care provider] must notify each such person receiving care at, and each employee or contractor working in, that hospice care location.

IT IS FURTHER ORDERED, pursuant to 42 Pa.C.S. § 9777(b)(3), that the Department of Corrections or the prosecuting attorney may at any time petition this Court for an order directing that the inmate be recommitted to the custody of the department if the circumstances under which the inmate was released change or for any previously unknown circumstances, including a change in the inmate's medical status, the inmate's risk of escape, the inmate's danger to the community or the nature of the medical or other care provided by the hospital, long-term care nursing facility or hospice care provider.

BY THE COURT:

[judge's name], J.

SAMPLE POST-MORTEM FILING

**IN THE COURT OF COMMON PLEAS
PHILADELPHIA COUNTY, PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA,	:	<u>Criminal Division</u>
	:	
Respondent,	:	
	:	
v.	:	CP #
	:	
<u>[defendant's name]</u> ,	:	
	:	
Defendant-Petitioner.	:	

**NOTICE OF DEATH
OF INMATE UNDER DEFERMENT OF SENTENCE**

*To the Honorable [Judge's Name], and [name of prison superintendent],
Superintendent, State Correctional Institution at [institution]:*

TAKE NOTICE, pursuant to 42 Pa.C.S. § 9777(a)(2)(v), that [defendant's name], defendant in the above-captioned case and DOC [inmate number], who was released from confinement by Order of this Court on [date], to the custody of [name of outside care provider] under a deferment of sentence, died on [date of death], at the designated home care location, [address]. This notice is given on behalf of [hospice care location], as well as on behalf of the estate and the family of the defendant-inmate.

VERSIONS OF THE LAW

OLD VERSION

61 P.S. § 81 (1966): Removal

Whenever any convict or person is confined in any jail, workhouse, reformatory, or reform or industrial school, penitentiary, prison, house of correction or any other penal institution, under conviction or sentence of a court, or is so confined while awaiting trial or confined for any other reason or purpose and it is shown to a court of record by due proof that such convict or person is seriously ill, and that it is necessary that he or she be removed from such penal institution, the court shall have power to modify its sentence, impose a suitable sentence, or modify the order of confinement for trial, as the case may be, and provide for the confinement or care of such convict or person in some other suitable institution where proper treatment may be administered. Upon the recovery of such person, the court shall recommit him or her to the institution from which he or she was removed.

CURRENT VERSION

42 Pa. C.S. § 9777 (2009): Transfer of Inmates in Need of Medical Treatment

(a) Inmates committed to custody of department.--If an inmate is committed to the custody of the department, the department, the inmate or a person to whom the court grants standing to act on behalf of the inmate may petition the sentencing court to temporarily defer service of the sentence of confinement and temporarily remove the inmate committed to the custody of the department, or other facility, for placement in a hospital, long-term care nursing facility or hospice care location. The following shall apply:

(1) The sentencing court may approve the petitioner's request to temporarily defer service of the sentence of confinement and place the inmate in a hospital or long-term care nursing facility under electronic monitoring by the department upon clear and convincing proof that all of the following apply:

- (i) The medical needs of the inmate can be more appropriately addressed in the hospital or long-term care nursing facility.
- (ii) The hospital or long-term care nursing facility requested by the petitioner has agreed to accept the placement of the inmate and to provide necessary medical care.
- (iii) The inmate is seriously ill and is expected by a treating physician to not live for more than one year.
- (iv) There are no writs filed or detainers lodged against the inmate and the inmate is not subject to any court order requiring the inmate's presence.
- (v) The placement in the hospital or long-term care nursing facility does not pose an undue risk of escape or danger to the community. In making this

determination, the sentencing court shall consider the inmate's institutional conduct record, whether the inmate was ever convicted of a crime of violence, the length of time that the inmate has been imprisoned and any other factors the sentencing court deems relevant.

(vi) The hospital or long-term care nursing facility has agreed to notify the department and the court of any material changes in the health status of the inmate, the nature of the care provided or other information required by the department.

(vii) Each agency representing the Commonwealth at a proceeding which resulted in an order committing or detaining the inmate, the State or local correctional facility housing the inmate and any registered crime victim have been given notice and an opportunity to be heard on the petition.

(2) The sentencing court may approve the petitioner's request to temporarily defer service of the sentence of confinement in order for the inmate to receive care from a licensed hospice care provider, proposed by the petitioner and subject to electronic monitoring by the department, if all of the following are established by clear and convincing proof:

(i) The inmate is terminally ill, not ambulatory and likely to die in the near future.

(ii) The licensed hospice care provider can provide the inmate with more appropriate care.

(iii) Appropriate medical care and palliative and supportive services will be provided by the licensed hospice care provider at the proposed hospice care location.

(iv) The placement of the inmate in the proposed, licensed hospice care location does not pose an undue risk of escape or danger to the community. In making this determination, the sentencing court shall consider the inmate's institutional conduct record, whether the inmate was ever convicted of a crime of violence, the length of time that the inmate has been imprisoned and any other factors the sentencing court deems relevant.

(v) The licensed hospice care provider has agreed to notify the department and the sentencing court of any material changes in the health status of the inmate, the nature of the hospice care provided or other information required by the department or the sentencing court.

(vi) Each agency representing the Commonwealth at a proceeding which resulted in an order committing or detaining the inmate, the State or local correctional facility housing the inmate and any registered crime victim have been given notice and an opportunity to be heard on the petition.

(3) Any order entered pursuant to this subsection temporarily deferring service of an inmate's sentence of confinement shall include a provision that the department or prosecuting attorney may at any time petition the sentencing court for an order directing that the inmate be recommitted to the custody of the department if the circumstances under which the inmate was released change or for any previously unknown circumstances, including a change in the inmate's medical status, the inmate's risk of escape, the inmate's danger to the community or the nature of the medical or other care provided by the hospital, long-term care nursing facility or hospice care provider.

(4) The sentencing court may terminate at any time its order authorizing the temporary deferral of the service of an inmate's sentence of confinement entered pursuant to this subsection. An inmate taken into custody pursuant to an order directing the inmate's detention or recommitment under this subsection shall be delivered to the nearest State correctional institution pending a hearing on the matter.

(b) Inmates committed to custody of other facilities.--An inmate not committed to the custody of the department but confined in an institution authorized to incarcerate or detain persons for criminal sentences, violations of criminal law or orders of parole, probation, bail or other order related to a civil or criminal matter may have service of the sentence of confinement deferred and may be placed in a hospital, long-term care nursing facility or licensed hospice care location, subject to electronic monitoring, by order of the judge that committed the inmate to the facility or institution or by another available judge designated to preside if all of the following are established by clear and convincing proof:

(1) The chief administrator, the chief administrator's designee, the inmate or a person to whom the court grants standing to act on behalf of the inmate petitions the court or has given written consent to the grant of a petition under this section filed on behalf of the inmate.

(2) There is sufficient proof to establish the requirements for a placement to a hospital or long-term care nursing facility under subsection (a)(1) or a placement to a hospice care location under subsection (a)(2).

(3) An entry of an order pursuant to this subsection temporarily deferring service of an inmate's sentence of confinement shall include a provision that the chief administrator or the prosecuting attorney may at any time petition the sentencing court seeking the issuance of a bench warrant directing that the inmate be recommitted to the custody of the appropriate correctional institution if the circumstances under which the inmate was released change or for previously unknown circumstances, including a change in the inmate's medical status, the inmate's risk of escape, the inmate's danger to the community or the nature of the medical or other care provided by the hospital, long-term care nursing facility or hospice care provider.

(4) The sentencing court may terminate at any time its order authorizing the temporary deferral of the service of an inmate's sentence of confinement entered pursuant to this subsection. An inmate taken into custody pursuant to an order directing detention or

recommitment under this subsection shall be delivered to the county correctional institution or other institution at which the inmate was confined prior to the entry of the order deferring the service of the sentence of confinement pending a hearing on the matter.

(c) Service.--Any petition filed under this section shall be served on each agency representing the Commonwealth at each proceeding which resulted in an order by which the inmate is committed or detained and to the correctional institution or institution responsible for housing the inmate. Each party shall have an opportunity to object and be heard as to the petition for alternative placement, the circumstances of placement, the conditions of return or any other relevant issue. The court shall ensure that any crime victim entitled to notification under section 201(7) or (8) of the act of November 24, 1998 (P.L. 882, No. 111), known as the Crime Victims Act, has been given notice and the opportunity to be heard on the petition. All parties served or notified under this subsection shall receive a copy of the final order adjudicating the petition.

(d) Notice.—

(1) Any order entered under this section placing an inmate in a hospital, long-term care nursing facility or hospice care location which provides care to persons who were not placed therein pursuant to an order entered under this section shall direct the individual in charge of the hospital, long-term care nursing facility or hospice care location to ensure that each person receiving care at, and each employee or contractor working in, the hospital, long-term care nursing facility or hospice care location is notified that the placement was ordered if it is foreseeable that the person, employee or contractor will come into contact with the inmate during the placement.

(2) The sentencing court shall forward notice of any order entered under this section placing an inmate in a hospital, long-term care nursing facility or hospice care location to the hospital, long-term care nursing facility or hospice care location and to the Department of Public Welfare.

(e) Petition requirements.--Any petition filed pursuant to this section must aver:

(1) The name of the hospital, long-term care nursing facility or hospice care location proposed for placement.

(2) That the petitioner reasonably believes the named hospital, long-term care nursing facility or hospice care location has agreed to accept the placement of the inmate and the facts upon which that belief is based.

(f) Removal from placement.--If an inmate placed in a hospital, long-term care nursing facility or hospice care location pursuant to this chapter removes himself from the hospital, long-term care nursing facility or hospice care location, the inmate shall be subject to arrest upon probable cause and shall, upon conviction thereof, be guilty of criminal contempt.

(g) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Chief administrator.” As defined under 61 Pa.C.S. § 102 (relating to definitions).

“Department.” The Department of Corrections of the Commonwealth.

“Hospice care location.” A home, independent living environment or inpatient setting that provides a coordinated program of palliative and supportive services through a licensed hospice care provider.

“Hospital.” An entity licensed as an acute-care general hospital, a specialty hospital or a rehabilitation hospital under the act of July 19, 1979 (P.L. 130, No. 48), known as the Health Care Facilities Act.

“Licensed hospice care provider.” A hospice as defined under section 802.1 of the act of July 19, 1979 (P.L. 130, No. 48), known as the Health Care Facilities Act.

“Long-term care nursing facility.” A long-term care nursing facility as defined under section 802.1 of the act of July 19, 1979 (P.L. 130, No. 48), known as the Health Care Facilities Act.

“Prosecuting attorney.” The Office of Attorney General of the Commonwealth or the office of a district attorney of a county who represented the Commonwealth at the most recent sentencing of an inmate.

“Sentencing court.” The trial judge who most recently sentenced an inmate or, if the trial judge is no longer serving as a judge of that court, the president judge of the county court of common pleas.