

SENATE BILL 562

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2lr1217
CF HB 600

By: **Senators Hettleman, Smith, Lee, and Sydnor**

Introduced and read first time: January 31, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Geriatric and Medical Parole**

3 FOR the purpose of requiring the Maryland Parole Commission to consider the age of an
4 inmate when determining whether to grant parole; altering how the Commission
5 evaluates a request for medical parole, including providing for a meeting between
6 the inmate and the Commission; requiring the Commission to develop procedures for
7 assessing parole requests by certain inmates; and generally relating to geriatric and
8 medical parole.

9 BY repealing and reenacting, with amendments,
10 Article – Correctional Services
11 Section 7–305 and 7–309
12 Annotated Code of Maryland
13 (2017 Replacement Volume and 2021 Supplement)

14 BY adding to
15 Article – Correctional Services
16 Section 7–310
17 Annotated Code of Maryland
18 (2017 Replacement Volume and 2021 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That the Laws of Maryland read as follows:

21 **Article – Correctional Services**

22 7–305.

23 Each hearing examiner and commissioner determining whether an inmate is
24 suitable for parole, and the Commission before entering into a predetermined parole release
25 agreement, shall consider:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(1) the circumstances surrounding the crime;

(2) the physical, mental, and moral qualifications of the inmate;

(3) the progress of the inmate during confinement, including the academic progress of the inmate in the mandatory education program required under § 22–102 of the Education Article;

(4) a report on a drug or alcohol evaluation that has been conducted on the inmate, including any recommendations concerning the inmate's amenability for treatment and the availability of an appropriate treatment program;

(5) whether, **TAKING INTO ACCOUNT THE TOTALITY OF THE CIRCUMSTANCES INCLUDING THE AGE OF THE INMATE**, there is reasonable probability that the inmate, if released on parole, will [remain at liberty without violating the law] **NOT RECIDIVATE**;

(6) whether release of the inmate on parole is compatible with [the welfare of society] **PUBLIC SAFETY**;

(7) an updated victim impact statement or recommendation prepared under § 7–801 of this title;

(8) any recommendation made by the sentencing judge at the time of sentencing;

(9) any information that is presented to a commissioner at a meeting with the victim;

(10) any testimony presented to the Commission by the victim or the victim's designated representative under § 7–801 of this title; and

(11) compliance with the case plan developed under § 7–301.1 of this subtitle or § 3–601 of this article.

7–309.

(a) This section applies to any inmate who is sentenced to a term of incarceration for which all sentences being served, including any life sentence, are with the possibility of parole.

(b) An inmate who is so chronically debilitated or incapacitated by a medical or mental health condition, disease, or syndrome as to [be physically incapable of presenting a danger to society] **REQUIRE EXTENDED MEDICAL MANAGEMENT THAT WOULD BE BETTER PROVIDED BY SPECIALIZED COMMUNITY SERVICES** may be released on

1 medical parole at any time during the term of that inmate's sentence, without regard to the
2 eligibility standards specified in § 7-301 of this subtitle.

3 (c) (1) A request for a medical parole under this section may be filed with the
4 Maryland Parole Commission by:

5 (i) the inmate seeking the medical parole;

6 (ii) an attorney;

7 (iii) a prison official or employee;

8 (iv) a medical professional;

9 (v) a family member; or

10 (vi) any other person.

11 (2) The request shall be in writing and shall articulate the grounds that
12 support the appropriateness of granting the medical parole.

13 **(D) (1) WITHIN 30 DAYS AFTER A REQUEST ON BEHALF OF AN INMATE**
14 **UNDER SUBSECTION (C) OF THIS SECTION, THE INMATE OR THE INMATE'S**
15 **REPRESENTATIVE MAY REQUEST A MEETING WITH THE COMMISSION.**

16 **(2) IF AN INMATE OR THE INMATE'S REPRESENTATIVE REQUESTS A**
17 **MEETING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL,**
18 **WITHIN 30 DAYS AFTER RECEIVING THE REQUEST AND BEFORE MAKING A FINAL**
19 **DECISION WHETHER TO GRANT MEDICAL PAROLE, MEET WITH:**

20 **(I) THE INMATE;**

21 **(II) A REPRESENTATIVE OF THE INMATE; OR**

22 **(III) A MEMBER OF THE INMATE'S FAMILY.**

23 **[(d)] (E)** Following review of the request, the Commission may:

24 (1) find the request to be inconsistent with the best interests of public
25 safety and take no further action; or

26 (2) request that department or local correctional facility personnel provide
27 information for formal consideration of parole release.

28 **[(e)] (F) (1)** The information to be considered by the Commission before
29 granting medical parole shall, at a minimum, include:

1 [(1)] (i) **1.** a recommendation by the medical professional treating
2 the inmate under contract with the Department or local correctional facility; or

3 [(ii)] **2.** if requested by an individual identified in subsection (c)(1)
4 of this section, one medical evaluation conducted at no cost to the inmate by a medical
5 professional who is independent from the Division of Correction or local correctional
6 facility;

7 [(2)] **(II)** the inmate's medical information, including:

8 [(i)] **1.** a description of the inmate's condition, disease, or
9 syndrome;

10 [(ii)] **2.** a prognosis concerning the likelihood of recovery from the
11 condition, disease, or syndrome;

12 [(iii)] **3.** a description of the inmate's physical incapacity [and score
13 on the Karnofsky Performance Scale Index or similar classification of physical
14 impairment]; and

15 [(iv)] **4.** a mental health evaluation, where relevant;

16 [(3)] **(III)** discharge information, including:

17 [(i)] **1.** availability of treatment or professional services within
18 the community;

19 [(ii)] **2.** family support within the community; and

20 [(iii)] **3.** housing availability, including hospital or hospice care;
21 and

22 [(4)] **(IV)** case management information, including:

23 [(i)] **1.** the circumstances of the current offense;

24 [(ii)] **2.** institutional history;

25 [(iii)] **3.** pending charges, sentences in other jurisdictions, and any
26 other detainees; and

27 [(iv)] **4.** criminal history information.

28 **(2) IF A MEDICAL EVALUATION IS REQUESTED UNDER PARAGRAPH**

1 **(1)(i)2 OF THIS SUBSECTION, THE COMMISSION SHALL PLACE PRIORITY**
2 **CONSIDERATION ON THE FINDINGS OF THE EVALUATION AND ANY MEDICAL**
3 **CONDITION DETAILED IN THE EVALUATION IN CONSIDERING WHETHER TO GRANT**
4 **MEDICAL PAROLE.**

5 **[(f)] (G)** The Commission may require as a condition of release on medical parole
6 that:

7 (1) the parolee agree to placement for a definite or indefinite period of time
8 **[in a hospital or hospice or other] UNDER THE CARE OF A MEDICAL PROVIDER AND IN**
9 **A housing accommodation suitable to the parolee's medical condition, including the family**
10 **home of the parolee, as specified by the Commission or the supervising agent; and**

11 (2) the parolee forward authentic copies of applicable medical records to
12 indicate that the particular medical condition giving rise to the release continues to exist.

13 **[(g)] (1)** If the Commission has reason to believe that a parolee is no longer so
14 debilitated or incapacitated as to be physically incapable of presenting a danger to society,
15 the parolee shall be returned to the custody of the Division of Correction or the local
16 correctional facility from which the inmate was released.

17 (2) (i) A parole hearing for a parolee returned to custody shall be held
18 to consider whether the parolee remains incapacitated and shall be heard promptly.

19 (ii) A parolee returned to custody under this subsection shall be
20 maintained in custody, if the incapacitation is found to no longer exist.

21 (3) An inmate whose medical parole is revoked for lack of continued
22 incapacitation may be considered for parole in accordance with the eligibility requirements
23 specified in § 7–301 of this subtitle.]

24 (h) (1) **IN THIS SUBSECTION, “IMMINENT DEATH” MEANS DEATH THAT IS**
25 **LIKELY TO OCCUR WITHIN 6 MONTHS.**

26 **(2)** Subject to paragraph (2) of this subsection, provisions of law relating to
27 victim notification and opportunity to be heard shall apply to proceedings relating to
28 medical parole.

29 **[(2)] (3)** In cases of imminent death, time limits relating to victim
30 notification and opportunity to be heard may be reduced or waived in the discretion of the
31 Commission.

32 **[(i)] (1)** If the Commission decides to grant medical parole to an inmate
33 sentenced to life imprisonment, the decision shall be transmitted to the Governor.

34 (2) The Governor may disapprove the decision by written transmittal to

the Commission.

(3) If the Governor does not disapprove the decision within 180 days after receipt of the written transmittal, the decision becomes effective.]

[~~(j)~~] (I) The Commission shall [issue] **ADOPT** regulations to implement the provisions of this section.

7-310.

(A) THIS SECTION APPLIES ONLY TO AN INMATE WHO IS:

(1) AT LEAST 60 YEARS OF AGE;

(2) ELIGIBLE FOR PAROLE UNDER § 7-301 OF THIS SUBTITLE; AND

(3) NOT REGISTERED OR ELIGIBLE FOR SEX OFFENDER REGISTRATION UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.

(B) (1) (I) THE COMMISSION SHALL DEVELOP A DYNAMIC RISK ASSESSMENT INSTRUMENT TO ASSIST IN PREDICTING THE RISK THAT AN INMATE WHO IS SUBJECT TO THIS SECTION WILL BE CONVICTED OF A FUTURE OFFENSE IF RELEASED ON PAROLE.

(II) THE DYNAMIC RISK ASSESSMENT INSTRUMENT SHALL INCLUDE A STRENGTH-BASED NEEDS ASSESSMENT COMPONENT TO ASSIST IN DETERMINING WHAT, IF ANY, CONDITIONS FOR RELEASE SHOULD APPLY IF THE INMATE IS RELEASED ON PAROLE.

(2) THE COMMISSION SHALL, AT LEAST ANNUALLY, COMPLETE AN ASSESSMENT OF AN INMATE WHO IS SUBJECT TO THIS SECTION USING THE DYNAMIC RISK ASSESSMENT INSTRUMENT DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(C) (1) WITHIN 6 MONTHS AFTER COMPLETION OF THE ANNUAL ASSESSMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL CONDUCT A HEARING TO DETERMINE WHETHER THE INMATE IS SUITABLE FOR PAROLE IN THE MANNER PROVIDED IN § 7-307 OF THIS SUBTITLE.

(2) IN ADDITION TO THE FACTORS SPECIFIED UNDER § 7-305 OF THIS SUBTITLE, EACH COMMISSION PANEL DETERMINING WHETHER AN INMATE IS SUITABLE FOR PAROLE SHALL CONSIDER AND GIVE SIGNIFICANT WEIGHT TO:

1 **(I) THE AGE OF THE INMATE AND THE IMPACT THAT THE AGE**
2 **OF THE INMATE HAS ON REDUCING THE RISK THAT THE INMATE WILL NOT**
3 **RECIDIVATE;**

4 **(II) THE RESULTS OF THE MOST RECENT ASSESSMENT**
5 **COMPLETED UNDER SUBSECTION (B)(2) OF THIS SECTION; AND**

6 **(III) THE RESULTS OF ANY PRIOR MENTAL HEALTH EVALUATION**
7 **OF THE INMATE DEMONSTRATING THAT SERVICES AND TREATMENT MAY BE BETTER**
8 **PROVIDED IN THE COMMUNITY.**

9 **(D) ANY SAVINGS REALIZED BY THE DEPARTMENT AS A RESULT OF THIS**
10 **SECTION SHALL REVERT TO THE DEPARTMENT AND SHALL BE USED FOR THE**
11 **PURPOSE OF:**

12 **(1) DEVELOPING A DYNAMIC RISK ASSESSMENT INSTRUMENT UNDER**
13 **SUBSECTION (B)(1) OF THIS SECTION;**

14 **(2) CONDUCTING ANNUAL ASSESSMENTS OF INMATES AS REQUIRED**
15 **UNDER SUBSECTION (B)(2) OF THIS SECTION; AND**

16 **(3) PROVIDING PRERELEASE AND REENTRY CASE MANAGEMENT AND**
17 **RESOURCES FOR INMATES WHO ARE SUBJECT TO THIS SECTION AND RELEASED ON**
18 **PAROLE.**

19 **(E) EVERY 6 MONTHS, THE COMMISSION SHALL REPORT TO THE JUSTICE**
20 **REINVESTMENT OVERSIGHT BOARD ON THE OUTCOMES OF PAROLE**
21 **CONSIDERATIONS MADE UNDER THIS SECTION, INCLUDING:**

22 **(1) THE NUMBER OF INMATES WHO ARE SUBJECT TO THIS SECTION**
23 **WHO ARE DENIED PAROLE AND RELEASED ON PAROLE;**

24 **(2) THE REASON FOR EACH DECISION TO RELEASE AN INMATE ON**
25 **PAROLE;**

26 **(3) THE REASON FOR EACH DECISION TO DENY PAROLE TO AN**
27 **INMATE;**

28 **(4) OF THE NUMBER OF INMATES WHO ARE RELEASED ON PAROLE,**
29 **THE NUMBER OF INMATES WHO ARE CONVICTED OF AN OFFENSE COMMITTED AFTER**
30 **RELEASE;**

31 **(5) THE AVERAGE TIME BETWEEN WHEN AN INMATE BECOMES**

1 ELIGIBLE FOR PAROLE CONSIDERATION UNDER THIS SECTION AND WHEN THE
2 INMATE RECEIVES THE FIRST PAROLE HEARING REQUIRED BY THIS SECTION; AND

3 (6) THE AVERAGE TIME BETWEEN PAROLE HEARINGS FOR INMATES
4 WHO ARE SUBJECT TO THIS SECTION.

5 (F) (1) THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT
6 THE PROVISIONS OF THIS SECTION.

7 (2) THE REGULATIONS REQUIRED BY THIS SUBSECTION SHALL
8 INCLUDE A REQUIREMENT THAT THE DEPARTMENT PROVIDE ANY INMATE SUBJECT
9 TO THIS SECTION WITH INFORMATION ON THE REGULATIONS AT LEAST ONCE EVERY
10 YEAR.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2022.