

SENATE BILL 98

E5
SB 562/22 – JPR

(PRE-FILED)

3lr0564
CF 3lr0565

By: **Senator Hettleman**

Requested: October 18, 2022

Introduced and read first time: January 11, 2023

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 under certain circumstances; requiring the
7 Commission to develop procedures for assessing parole requests by certain inmates;
8 and generally relating to geriatric and 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 2022 Supplement)

14 BY adding to
15 Article – Correctional Services
16 Section 7–310
17 Annotated Code of Maryland
18 (2017 Replacement Volume and 2022 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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 agreement, shall consider:

2 (1) the circumstances surrounding the crime;

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

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

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

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

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

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

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

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

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

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

26 7–309.

27 (a) **(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
28 **INDICATED.**

29 **(2) (I) “CHRONICALLY DEBILITATED OR INCAPACITATED” MEANS**
30 **HAVING A DIAGNOSABLE MEDICAL CONDITION THAT IS UNLIKELY TO IMPROVE IN**
31 **THE FUTURE AND PREVENTS THE INDIVIDUAL FROM COMPLETING MORE THAN ONE**
32 **ACTIVITY OF DAILY LIVING, INCLUDING EATING, BREATHING, DRESSING,**

1 GROOMING, TOILETING, WALKING, OR BATHING, WITHOUT ASSISTANCE.

2 (II) “CHRONICALLY DEBILITATED OR INCAPACITATED”
3 INCLUDES CONDITIONS SUCH AS DEMENTIA OR A SEVERE, PERMANENT MEDICAL OR
4 COGNITIVE DISABILITY IF THE CONDITION PREVENTS THE INDIVIDUAL FROM
5 COMPLETING MORE THAN ONE ACTIVITY OF DAILY LIVING.

6 (3) “TERMINAL ILLNESS” MEANS A DISEASE OR CONDITION WITH AN
7 END-OF-LIFE TRAJECTORY.

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

11 [(b)] (C) An inmate [who is so chronically debilitated or incapacitated by a
12 medical or mental health condition, disease, or syndrome as to be physically incapable of
13 presenting a danger to society] may be released on medical parole at any time during the
14 term of that inmate’s sentence, without regard to the eligibility standards specified in §
15 7–301 of this subtitle IF A LICENSED MEDICAL PROFESSIONAL HAS DETERMINED THAT
16 THE INMATE:

17 (1) (I) IS CHRONICALLY DEBILITATED OR INCAPACITATED; OR

18 (II) SUFFERS FROM A TERMINAL ILLNESS; AND

19 (2) (I) REQUIRES EXTENDED MEDICAL MANAGEMENT, WITH
20 HEALTH CARE NEEDS THAT WOULD BE BETTER MET BY COMMUNITY SERVICES; OR

21 (II) HAS BEEN RENDERED PHYSICALLY INCAPABLE OF
22 PRESENTING A DANGER TO SOCIETY BY A PHYSICAL OR MENTAL HEALTH
23 CONDITION, DISEASE, OR SYNDROME.

24 [(c)] (D) (1) A request for a medical parole under this section may be filed
25 with the Maryland Parole Commission by:

26 (i) the inmate seeking the medical parole;

27 (ii) an attorney;

28 (iii) a prison official or employee;

29 (iv) a medical professional;

30 (v) a family member; or

(vi) any other person.

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

(E) (1) THE INMATE OR THE INMATE'S REPRESENTATIVE MAY REQUEST A MEETING WITH THE COMMISSION.

(2) IF A REQUEST FOR A MEETING IS MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE COMMISSION SHALL GRANT THE REQUEST FOR A MEETING FOR ANY INMATE:

1. HOUSED IN AN INFIRMARY OF A CORRECTIONAL FACILITY;

2. CURRENTLY HOSPITALIZED OUTSIDE A CORRECTIONAL FACILITY; OR

3. WHO HAS BEEN FREQUENTLY HOUSED IN AN INFIRMARY OF A CORRECTIONAL FACILITY OR HOSPITALIZED OUTSIDE A CORRECTIONAL FACILITY IN THE PRECEDING 6 MONTHS; AND

(II) THE COMMISSION MAY, AT ITS DISCRETION, GRANT THE REQUEST FOR A MEETING FOR ANY INMATE WHO DOES NOT MEET THE REQUIREMENTS OF ITEM (I) OF THIS PARAGRAPH.

[(d)] (F) Following review of the request, the Commission may:

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

(2) request that **[department] DEPARTMENT** or local correctional facility personnel provide information for formal consideration of parole release.

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

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

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

1 correctional facility;

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

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

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

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

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

11 [(3)] (III) discharge information, including:

12 [(i)] 1. availability of treatment or professional services within
13 the community;

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

15 [(iii)] 3. housing availability, including hospital or hospice care;
16 and

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

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

19 [(ii)] 2. institutional history;

20 [(iii)] 3. pending charges, sentences in other jurisdictions, and any
21 other detainees; and

22 [(iv)] 4. criminal history information.

23 (2) IF A MEDICAL EVALUATION IS REQUESTED UNDER PARAGRAPH
24 (1)(I)2 OF THIS SUBSECTION:

25 (I) THE EVALUATION SHALL CONSIST OF AN IN-PERSON
26 EXAMINATION OF THE INMATE; AND

27 (II) THE COMMISSION SHALL GIVE EQUAL CONSIDERATION TO
28 THE FINDINGS OF THE EVALUATION AND ANY MEDICAL CONDITION DETAILED IN

1 **THE EVALUATION IN CONSIDERING WHETHER TO GRANT MEDICAL PAROLE.**

2 **[(f)] (H)** The Commission may require as a condition of release on medical parole
3 that:

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

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

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

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

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

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

21 **[(h)] (J)** (1) **IN THIS SUBSECTION, “IMMINENT DEATH” MEANS DEATH**
22 **THAT IS LIKELY TO OCCUR WITHIN 6 MONTHS.**

23 **(2)** Subject to paragraph **[(2)] (3)** of this subsection, provisions of law
24 relating to victim notification and opportunity to be heard shall apply to proceedings
25 relating to medical parole.

26 **[(2)] (3)** In cases of imminent death, time limits relating to victim
27 notification and opportunity to be heard may be reduced or waived in the discretion of the
28 Commission.

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

31 (2) The Governor may disapprove the decision by written transmittal to
32 the Commission.

33 (3) If the Governor does not disapprove the decision within 180 days after

receipt of the written transmittal, the decision becomes effective.]

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

7-310.

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

(1) IS AT LEAST 60 YEARS OF AGE;

(2) HAS SERVED AT LEAST 15 YEARS OF THE SENTENCE IMPOSED; AND

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

(B) AN INMATE CONSIDERED FOR PAROLE UNDER THIS SECTION SHALL HAVE A PAROLE HEARING EVERY 2 YEARS.

(C) 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 WEIGHT TO THE AGE OF THE INMATE AND THE IMPACT THAT THE AGE OF THE INMATE HAS ON REDUCING THE RISK THAT THE INMATE WILL NOT RECIDIVATE.

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

(1) CONDUCTING HEARINGS FOR INMATES AS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION; AND

(2) PROVIDING PRERELEASE AND REENTRY CASE MANAGEMENT AND RESOURCES FOR INMATES WHO ARE SUBJECT TO THIS SECTION AND RELEASED ON PAROLE.

(E) EVERY YEAR, THE COMMISSION SHALL REPORT TO THE JUSTICE REINVESTMENT OVERSIGHT BOARD ON THE OUTCOMES OF PAROLE CONSIDERATIONS MADE UNDER THIS SECTION, INCLUDING:

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

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

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

5 **(4) OF THE NUMBER OF INMATES WHO ARE RELEASED ON PAROLE,**
6 **THE NUMBER OF INMATES WHO ARE CONVICTED OF AN OFFENSE COMMITTED AFTER**
7 **RELEASE;**

8 **(5) THE AVERAGE TIME BETWEEN WHEN AN INMATE BECOMES**
9 **ELIGIBLE FOR PAROLE CONSIDERATION UNDER THIS SECTION AND WHEN THE**
10 **INMATE RECEIVES THE FIRST PAROLE HEARING REQUIRED BY THIS SECTION; AND**

11 **(6) THE AVERAGE TIME BETWEEN PAROLE HEARINGS FOR INMATES**
12 **WHO ARE SUBJECT TO THIS SECTION.**

13 **(F) (1) THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT**
14 **THE PROVISIONS OF THIS SECTION.**

15 **(2) THE REGULATIONS REQUIRED BY THIS SUBSECTION SHALL**
16 **INCLUDE A REQUIREMENT THAT THE DEPARTMENT PROVIDE ANY INMATE SUBJECT**
17 **TO THIS SECTION WITH INFORMATION ON THE REGULATIONS AT LEAST ONCE EVERY**
18 **YEAR.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2023.