

SENATE BILL 181

E5

SB 128/24 – JPR

(PRE-FILED)

5lr1502

CF HB 190

By: ~~Senator Hettleman~~ **Senators Hettleman, Charles, Henson, Love, Muse, Smith, Sydnor, and West**

Requested: October 30, 2024

Introduced and read first time: January 8, 2025

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 23, 2025

CHAPTER _____

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 incarcerated individual when determining whether to grant parole; altering how the
5 Commission evaluates a request for medical parole, including providing for a
6 meeting between the incarcerated individual and the Commission under certain
7 circumstances; requiring the Commission to develop procedures for assessing parole
8 requests by certain incarcerated individuals; repealing a certain provision related to
9 geriatric parole; and generally relating to geriatric and medical parole.

10 BY repealing and reenacting, with amendments,
11 Article – Correctional Services
12 Section 7–305 and 7–309
13 Annotated Code of Maryland
14 (2017 Replacement Volume and 2024 Supplement)

15 BY adding to
16 Article – Correctional Services
17 Section 7–310
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2024 Supplement)

20 BY repealing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Criminal Law
Section 14–101(f)
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

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

Article – Correctional Services

7–305.

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

(1) the circumstances surrounding the crime;

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

(3) the progress of the incarcerated individual during confinement, including the academic progress of the incarcerated individual 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 incarcerated individual, including any recommendations concerning the incarcerated individual'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 INCARCERATED INDIVIDUAL**, there is reasonable probability that the incarcerated individual, if released on parole, will [remain at liberty without violating the law] **NOT RECIDIVATE**;

(6) whether release of the incarcerated individual 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) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "CHRONICALLY DEBILITATED OR INCAPACITATED" MEANS HAVING A DIAGNOSABLE MEDICAL CONDITION THAT IS UNLIKELY TO IMPROVE IN THE FUTURE AND ~~PREVENTS THE INDIVIDUAL FROM COMPLETING MORE THAN ONE ACTIVITY OF DAILY LIVING, INCLUDING EATING, BREATHING, DRESSING, GROOMING, TOILETING, WALKING, OR BATHING, WITHOUT ASSISTANCE~~ SUBSTANTIALLY DIMINISHES THE ABILITY OF THE INDIVIDUAL TO PROVIDE SELF-CARE.

(II) "CHRONICALLY DEBILITATED OR INCAPACITATED" INCLUDES CONDITIONS SUCH AS DEMENTIA OR A SEVERE, PERMANENT MEDICAL OR COGNITIVE DISABILITY IF THE CONDITION ~~PREVENTS THE INDIVIDUAL FROM COMPLETING MORE THAN ONE ACTIVITY OF DAILY LIVING~~ SUBSTANTIALLY DIMINISHES THE ABILITY OF THE INDIVIDUAL TO PROVIDE SELF-CARE.

(3) "TERMINAL ILLNESS" MEANS A DISEASE OR CONDITION WITH AN END-OF-LIFE TRAJECTORY.

(B) This section applies to any incarcerated individual 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)] (C) An incarcerated individual [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] may be released on medical parole at any time during the term of that incarcerated individual's sentence, without regard to the eligibility standards specified in § 7-301 of this subtitle **IF A LICENSED MEDICAL PROFESSIONAL HAS DETERMINED THAT THE INCARCERATED INDIVIDUAL:**

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

(II) SUFFERS FROM A TERMINAL ILLNESS; AND

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

(II) 1. HAS BEEN RENDERED PHYSICALLY INCAPABLE OF PRESENTING A DANGER TO SOCIETY BY A PHYSICAL OR MENTAL HEALTH CONDITION, DISEASE, OR SYNDROME; OR

2. IS NO LONGER A DANGER TO PUBLIC SAFETY.

(D) (1) THE INFORMATION TO BE CONSIDERED BY THE COMMISSION BEFORE GRANTING MEDICAL PAROLE SHALL, AT A MINIMUM, INCLUDE:

(I) 1. A RECOMMENDATION BY THE MEDICAL PROFESSIONAL TREATING THE INCARCERATED INDIVIDUAL UNDER CONTRACT WITH THE DEPARTMENT OR LOCAL CORRECTIONAL FACILITY; OR

2. IF REQUESTED BY AN INDIVIDUAL IDENTIFIED IN SUBSECTION (E)(1) OF THIS SECTION, ONE MEDICAL EVALUATION CONDUCTED AT NO COST TO THE INCARCERATED INDIVIDUAL BY A MEDICAL PROFESSIONAL WHO IS INDEPENDENT FROM THE DIVISION OF CORRECTION OR LOCAL CORRECTIONAL FACILITY;

(II) THE INCARCERATED INDIVIDUAL'S MEDICAL INFORMATION, INCLUDING:

1. A DESCRIPTION OF THE INCARCERATED INDIVIDUAL'S CONDITION, DISEASE, OR SYNDROME;

2. A PROGNOSIS CONCERNING THE LIKELIHOOD OF RECOVERY FROM THE CONDITION, DISEASE, OR SYNDROME;

3. A DESCRIPTION OF THE INCARCERATED INDIVIDUAL'S PHYSICAL INCAPACITY; AND

4. A MENTAL HEALTH EVALUATION, WHERE RELEVANT;

(III) DISCHARGE INFORMATION, INCLUDING:

1. AVAILABILITY OF TREATMENT OR PROFESSIONAL SERVICES WITHIN THE COMMUNITY;

2. FAMILY SUPPORT WITHIN THE COMMUNITY; AND

1 **3. HOUSING AVAILABILITY, INCLUDING HOSPITAL OR**
2 **HOSPICE CARE; AND**

3 **(IV) CASE MANAGEMENT INFORMATION, INCLUDING:**

4 **1. THE CIRCUMSTANCES OF THE CURRENT OFFENSE;**

5 **2. INSTITUTIONAL HISTORY;**

6 **3. PENDING CHARGES, SENTENCES IN OTHER**
7 **JURISDICTIONS, AND ANY OTHER DETAINERS; AND**

8 **4. CRIMINAL HISTORY INFORMATION.**

9 **(2) IF A MEDICAL EVALUATION IS REQUESTED UNDER PARAGRAPH**
10 **(1)(I)2 OF THIS SUBSECTION:**

11 **(I) THE EVALUATION SHALL CONSIST OF AN IN-PERSON**
12 **EXAMINATION OF THE INCARCERATED INDIVIDUAL; AND**

13 **(II) THE COMMISSION SHALL GIVE EQUAL CONSIDERATION TO**
14 **THE FINDINGS OF THE EVALUATION AND ANY MEDICAL CONDITION DETAILED IN**
15 **THE EVALUATION IN CONSIDERING WHETHER TO GRANT MEDICAL PAROLE.**

16 **[(c)] (E) (1) A request for a medical parole under this section may be filed**
17 **with the Maryland Parole Commission by:**

18 **(i) the incarcerated individual seeking the medical parole;**

19 **(ii) an attorney;**

20 **(iii) a prison official or employee;**

21 **(iv) a medical professional;**

22 **(v) a family member; or**

23 **(vi) any other person.**

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

26 **(F) (1) THE INCARCERATED INDIVIDUAL OR THE INCARCERATED**
27 **INDIVIDUAL'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 INCARCERATED INDIVIDUAL:

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 INCARCERATED INDIVIDUAL WHO DOES NOT MEET THE REQUIREMENTS OF ITEM (I) OF THIS PARAGRAPH.

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

(1) (i) a recommendation by the medical professional treating the incarcerated individual under contract with the Department or local correctional facility; or

(ii) if requested by an individual identified in subsection (c)(1) of this section, one medical evaluation conducted at no cost to the incarcerated individual by a medical professional who is independent from the Division of Correction or local correctional facility;

(2) the incarcerated individual's medical information, including:

(i) a description of the incarcerated individual's condition, disease, or syndrome;

(ii) a prognosis concerning the likelihood of recovery from the condition, disease, or syndrome;

(iii) a description of the incarcerated individual's physical incapacity and score on the Karnofsky Performance Scale Index or similar classification of physical impairment; and

(iv) a mental health evaluation, where relevant;

(3) discharge information, including:

(i) availability of treatment or professional services within the community;

(ii) family support within the community; and

(iii) housing availability, including hospital or hospice care; and

(4) case management information, including:

(i) the circumstances of the current offense;

(ii) institutional history;

(iii) pending charges, sentences in other jurisdictions, and any other detainers; and

(iv) criminal history information.]

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

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

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

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

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

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

~~(3) An incarcerated individual whose medical parole is revoked for lack of continued incapacitation may be considered for parole in accordance with the eligibility requirements specified in § 7-301 of this subtitle~~ **A PAROLEE SHALL BE RETURNED TO THE CUSTODY OF THE DIVISION OF CORRECTION OR THE LOCAL CORRECTIONAL FACILITY FROM WHICH THE PAROLEE WAS RELEASED IF A LICENSED MEDICAL PROFESSIONAL HAS DETERMINED THAT THE PAROLEE:**

(1) (I) IS NO LONGER CHRONICALLY DISABLED OR INCAPACITATED; OR

(II) NO LONGER SUFFERS FROM A TERMINAL ILLNESS; AND

(2) (I) NO LONGER REQUIRES EXTENDED MEDICAL MANAGEMENT WITH HEALTH CARE NEEDS THAT WOULD BE BETTER MET BY COMMUNITY SERVICES; AND

(II) 1. IS NO LONGER PHYSICALLY INCAPABLE OF PRESENTING A DANGER TO SOCIETY BY A PHYSICAL OR MENTAL HEALTH CONDITION, DISEASE, OR SYNDROME; OR

2. IS A DANGER TO PUBLIC SAFETY.

[(h)] (J) (1) IN THIS SUBSECTION, "IMMINENT DEATH" MEANS DEATH THAT IS LIKELY TO OCCUR WITHIN 6 MONTHS.

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

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

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

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

7-310.

(A) THIS SECTION APPLIES ONLY TO AN INCARCERATED INDIVIDUAL WHO:

(1) IS AT LEAST ~~60~~ 65 YEARS OLD;

(2) HAS SERVED AT LEAST ~~15~~ 20 YEARS OF THE SENTENCE IMPOSED;

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

(4) 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 INCARCERATED INDIVIDUAL CONSIDERED FOR PAROLE UNDER THIS SECTION SHALL HAVE A PAROLE HEARING EVERY 2 YEARS~~

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN INCARCERATED INDIVIDUAL WHO HAS BEEN DENIED PAROLE UNDER THIS SECTION MAY NOT HAVE A SUBSEQUENT PAROLE HEARING FOR 5 YEARS.

(2) AN INCARCERATED INDIVIDUAL WHO HAS BEEN DENIED PAROLE UNDER THIS SECTION MAY HAVE A SUBSEQUENT PAROLE HEARING AT ANY TIME IF THE COMMISSION DETERMINES THAT EXTRAORDINARY AND COMPELLING CIRCUMSTANCES JUSTIFY THE SUBSEQUENT PAROLE HEARING.

(C) IN ADDITION TO THE FACTORS SPECIFIED UNDER § 7-305 OF THIS SUBTITLE, EACH COMMISSION PANEL DETERMINING WHETHER AN INCARCERATED INDIVIDUAL IS SUITABLE FOR PAROLE SHALL CONSIDER AND GIVE WEIGHT TO THE AGE OF THE INCARCERATED INDIVIDUAL AND THE IMPACT THAT THE AGE OF THE INCARCERATED INDIVIDUAL HAS ON REDUCING THE RISK THAT THE INCARCERATED INDIVIDUAL 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 **(1) CONDUCTING HEARINGS FOR INCARCERATED INDIVIDUALS AS**
2 **REQUIRED UNDER SUBSECTION (B) OF THIS SECTION; AND**

3 **(2) PROVIDING PRERELEASE AND REENTRY CASE MANAGEMENT AND**
4 **RESOURCES FOR INCARCERATED INDIVIDUALS WHO ARE SUBJECT TO THIS SECTION**
5 **AND RELEASED ON PAROLE.**

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

9 **(1) THE NUMBER OF INCARCERATED INDIVIDUALS WHO ARE SUBJECT**
10 **TO THIS SECTION WHO ARE DENIED PAROLE AND RELEASED ON PAROLE;**

11 **(2) THE REASON FOR EACH DECISION TO RELEASE AN INCARCERATED**
12 **INDIVIDUAL ON PAROLE;**

13 **(3) THE REASON FOR EACH DECISION TO DENY PAROLE TO AN**
14 **INCARCERATED INDIVIDUAL;**

15 **(4) OF THE NUMBER OF INCARCERATED INDIVIDUALS WHO ARE**
16 **RELEASED ON PAROLE, THE NUMBER OF INDIVIDUALS WHO ARE CONVICTED OF AN**
17 **OFFENSE COMMITTED AFTER RELEASE;**

18 **(5) THE AVERAGE TIME BETWEEN WHEN AN INCARCERATED**
19 **INDIVIDUAL BECOMES ELIGIBLE FOR PAROLE CONSIDERATION UNDER THIS**
20 **SECTION AND WHEN THE INCARCERATED INDIVIDUAL RECEIVES THE FIRST PAROLE**
21 **HEARING REQUIRED BY THIS SECTION; AND**

22 **(6) THE AVERAGE TIME BETWEEN PAROLE HEARINGS FOR**
23 **INCARCERATED INDIVIDUALS WHO ARE SUBJECT TO THIS SECTION.**

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

26 **(2) THE REGULATIONS REQUIRED BY THIS SUBSECTION SHALL**
27 **INCLUDE A REQUIREMENT THAT THE DEPARTMENT PROVIDE ANY INCARCERATED**
28 **INDIVIDUAL SUBJECT TO THIS SECTION WITH INFORMATION ON THE REGULATIONS**
29 **AT LEAST ONCE EVERY YEAR.**

30 **Article – Criminal Law**

1 [(f) (1) This subsection does not apply to a person registered or eligible for
2 registration under Title 11, Subtitle 7 of the Criminal Procedure Article.

3 (2) A person sentenced under this section may petition for and be granted
4 parole if the person:

5 (i) is at least 60 years old; and

6 (ii) has served at least 15 years of the sentence imposed under this
7 section.

8 (3) The Maryland Parole Commission shall adopt regulations to implement
9 this subsection.]

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Parole
11 Commission shall make efforts to prioritize conducting parole hearings and issuing
12 recommendations for individuals who are eligible for parole under:

13 (1) § 7–309 of the Correctional Services Article, as enacted by Section 1 of
14 this Act; and

15 (2) § 7–310 of the Correctional Services Article, as enacted by Section 1 of
16 this Act.

17 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2025.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.