

HOUSE BILL 157

E5
HB 600/22 – JUD

3lr0565
CF SB 98

By: **Delegate Moon**

Introduced and read first time: January 16, 2023

Assigned to: Judiciary

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
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) **(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.

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

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

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

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

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

17 **(II) SUFFERS FROM A TERMINAL ILLNESS; AND**

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

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

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

25 (i) the inmate seeking the medical parole;

26 (ii) an attorney;

27 (iii) a prison official or employee;

28 (iv) a medical professional;

29 (v) a family member; or

30 (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 correctional facility;

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

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

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

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

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

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

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

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

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

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

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

18 [(ii)] 2. institutional history;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 **[(2)] (3)** In cases of imminent death, time limits relating to victim
26 notification and opportunity to be heard may be reduced or waived in the discretion of the
27 Commission.

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

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

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

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

3 **7-310.**

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

5 **(1) IS AT LEAST 60 YEARS OF AGE;**

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

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

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

12 **(C) IN ADDITION TO THE FACTORS SPECIFIED UNDER § 7-305 OF THIS**
13 **SUBTITLE, EACH COMMISSION PANEL DETERMINING WHETHER AN INMATE IS**
14 **SUITABLE FOR PAROLE SHALL CONSIDER AND GIVE WEIGHT TO THE AGE OF THE**
15 **INMATE AND THE IMPACT THAT THE AGE OF THE INMATE HAS ON REDUCING THE**
16 **RISK THAT THE INMATE WILL NOT RECIDIVATE.**

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

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

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

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

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

30 **(2) THE REASON FOR EACH DECISION TO RELEASE AN INMATE ON**

1 PAROLE;

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

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

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

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

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

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

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