



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4273

Introduced 1/27/2020, by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-1 from Ch. 38, par. 1003-3-1
730 ILCS 5/3-3-14 new
730 ILCS 5/3-3-15 new

Amends the Unified Code of Corrections. Provides that the Prisoner Review Board may grant a person committed to the Department of Corrections early release for medical incapacity or terminal illness. Establishes the procedures for applying for that release and the considerations the Prisoner Review Board must make in determining whether to grant the release. Provides that a committed person granted medical release shall be released on mandatory supervised release for a period of 5 years subject to the Code provisions concerning mandatory supervised release, which shall operate to discharge any remaining term of years imposed upon him or her; however, the person shall not serve a period of mandatory supervised release greater than the aggregate of the discharged underlying sentence and the mandatory supervised release period. Provides that a grant of medical release shall be an act of executive and legislative grace and shall be at the sole discretion of the Prisoner Review Board.

LRB101 15971 RLC 67243 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 3-3-1 and by adding Sections 3-3-14 and 3-3-15
6 as follows:

7 (730 ILCS 5/3-3-1) (from Ch. 38, par. 1003-3-1)

8 Sec. 3-3-1. Establishment and appointment of Prisoner
9 Review Board.

10 (a) There shall be a Prisoner Review Board independent of
11 the Department which shall be:

12 (1) the paroling authority for persons sentenced under
13 the law in effect prior to the effective date of this
14 amendatory Act of 1977;

15 (1.2) the paroling authority for persons eligible for
16 parole review under Section 5-4.5-115;

17 (1.5) (blank);

18 (2) the board of review for cases involving the
19 revocation of sentence credits or a suspension or reduction
20 in the rate of accumulating the credit;

21 (3) the board of review and recommendation for the
22 exercise of executive clemency by the Governor;

23 (4) the authority for establishing release dates for

1 certain prisoners sentenced under the law in existence
2 prior to the effective date of this amendatory Act of 1977,
3 in accordance with Section 3-3-2.1 of this Code;

4 (5) the authority for setting conditions for parole and
5 mandatory supervised release under Section 5-8-1(a) of
6 this Code, and determining whether a violation of those
7 conditions warrant revocation of parole or mandatory
8 supervised release or the imposition of other sanctions;
9 ~~and~~

10 (6) the authority for determining whether a violation
11 of aftercare release conditions warrant revocation of
12 aftercare release; ~~and~~

13 (7) the authority to release medically infirm or
14 disabled prisoners under Section 3-3-14.

15 (b) The Board shall consist of 15 persons appointed by the
16 Governor by and with the advice and consent of the Senate. One
17 member of the Board shall be designated by the Governor to be
18 Chairman and shall serve as Chairman at the pleasure of the
19 Governor. The members of the Board shall have had at least 5
20 years of actual experience in the fields of penology,
21 corrections work, law enforcement, sociology, law, education,
22 social work, medicine, psychology, other behavioral sciences,
23 or a combination thereof. At least 6 members so appointed must
24 have at least 3 years experience in the field of juvenile
25 matters. No more than 8 Board members may be members of the
26 same political party.

1 Each member of the Board shall serve on a full-time basis
2 and shall not hold any other salaried public office, whether
3 elective or appointive, nor any other office or position of
4 profit, nor engage in any other business, employment, or
5 vocation. The Chairman of the Board shall receive \$35,000 a
6 year, or an amount set by the Compensation Review Board,
7 whichever is greater, and each other member \$30,000, or an
8 amount set by the Compensation Review Board, whichever is
9 greater.

10 (c) Notwithstanding any other provision of this Section,
11 the term of each member of the Board who was appointed by the
12 Governor and is in office on June 30, 2003 shall terminate at
13 the close of business on that date or when all of the successor
14 members to be appointed pursuant to this amendatory Act of the
15 93rd General Assembly have been appointed by the Governor,
16 whichever occurs later. As soon as possible, the Governor shall
17 appoint persons to fill the vacancies created by this
18 amendatory Act.

19 Of the initial members appointed under this amendatory Act
20 of the 93rd General Assembly, the Governor shall appoint 5
21 members whose terms shall expire on the third Monday in January
22 2005, 5 members whose terms shall expire on the third Monday in
23 January 2007, and 5 members whose terms shall expire on the
24 third Monday in January 2009. Their respective successors shall
25 be appointed for terms of 6 years from the third Monday in
26 January of the year of appointment. Each member shall serve

1 until his or her successor is appointed and qualified.

2 Any member may be removed by the Governor for incompetence,
3 neglect of duty, malfeasance or inability to serve.

4 (d) The Chairman of the Board shall be its chief executive
5 and administrative officer. The Board may have an Executive
6 Director; if so, the Executive Director shall be appointed by
7 the Governor with the advice and consent of the Senate. The
8 salary and duties of the Executive Director shall be fixed by
9 the Board.

10 (Source: P.A. 100-1182, eff. 6-1-19; 101-288, eff. 1-1-20.)

11 (730 ILCS 5/3-3-14 new)

12 Sec. 3-3-14. Procedure for medical release.

13 (a) In this Section:

14 "Medically incapacitated" means that a committed person
15 has any diagnosable medical condition, including dementia and
16 severe, permanent medical or cognitive disability, that
17 prevents the committed person from completing one or more
18 activities of daily living without assistance or that
19 incapacitates the committed person to the extent that
20 institutional confinement does not offer additional
21 restrictions, and that the condition is unlikely to improve
22 noticeably in the future.

23 "Terminal illness" means a condition that satisfies all of
24 the following criteria:

25 (1) the condition is irreversible and incurable; and

1 (2) in accordance with medical standards and a
2 reasonable degree of medical certainty, based on an
3 individual assessment of the committed person, the
4 condition is likely to cause death to the committed person
5 within 12 months.

6 (b) The Prisoner Review Board shall consider an application
7 for medical release on behalf of any committed person who:

8 (1) is suffering from a terminal illness;

9 (2) has been diagnosed with a condition that will
10 result in medical incapacity within the next 6 months; or

11 (3) has become medically incapacitated subsequent to
12 sentencing due to illness or injury.

13 (c) An initial application for medical release may be filed
14 with the Prisoner Review Board by a committed person, a prison
15 official, a medical professional who has treated or diagnosed
16 the committed person, or a committed person's spouse, parent,
17 guardian, grandparent, aunt or uncle, sibling, child who is 18
18 years of age or older, or attorney. If the initial application
19 is made by someone other than the committed person, the
20 committed person must consent to the application at the time of
21 the institutional hearing. If the committed person is medically
22 unable to consent, the Prisoner Review Board must contact the
23 guardian or family member designated to represent their
24 interests within 3 days of receiving an application. That
25 family member or guardian must consent to the application prior
26 to any decision by the Prisoner Review Board.

1 (d) Application materials shall be maintained on the
2 Prisoner Review Board's website and the Department of
3 Corrections' website, and maintained in a clearly visible place
4 within the law library and the infirmary of every penal
5 institution and facility operated by the Department of
6 Corrections.

7 (e) The initial application need not be notarized, may be
8 sent via email or facsimile, and must contain the following
9 information:

10 (1) the committed person's name and Illinois
11 Department of Corrections number;

12 (2) the committed person's diagnosis; and

13 (3) a statement that the committed person meets one of
14 the following diagnostic criteria:

15 (A) is suffering from a terminal illness;

16 (B) has been diagnosed with a condition that will
17 result in medical incapacity within the next 6 months;

18 or

19 (C) has become medically incapacitated subsequent
20 to sentencing due to illness or injury.

21 (f) Within 3 days of receiving the committed person's
22 initial application, the Prisoner Review Board shall order the
23 Department of Corrections to have a physician or nurse
24 practitioner evaluate the committed person and create a written
25 evaluation within 10 days of the Prisoner Review Board's order.
26 The evaluation shall include but need not be limited to:

1 (1) A concise statement of the committed person's
2 medical diagnosis, including prognosis, likelihood of
3 recovery, and primary symptoms, to include incapacitation.

4 (2) A statement confirming or denying that the
5 committed person meets one of the criteria stated in
6 subsection (b).

7 (g) No institutional hearing is required for consideration
8 of a petition, but shall be granted at the request of the
9 petitioner. Upon receipt of the Department of Corrections
10 evaluation in a case in which the petitioner requests an
11 institutional hearing, the hearing shall take place within 14
12 days of the Board's receipt of the evaluation described in
13 subsection (f). The committed person may be represented by
14 counsel and may present witnesses to the Board members.

15 (h) Petitions shall be considered by 3-member panels, and
16 decisions shall be made by simple majority. The Board shall
17 render a decision within 14 days of receiving a petition if no
18 hearing is requested or within 7 days of an institutional
19 hearing.

20 (i) In considering a petition for release under this
21 Section, the Prisoner Review Board may consider the following
22 factors:

23 (1) the committed person's diagnosis and likelihood of
24 recovery;

25 (2) the approximate cost of health care to the State
26 should the committed person remain in custody;

1 (3) the impact that the committed person's continued
2 incarceration may have on the provision of medical care
3 within the Department;

4 (4) the present likelihood of and ability to pose a
5 substantial danger to the physical safety of a specifically
6 identifiable person or persons;

7 (5) any statements by the victim regarding release; and

8 (6) whether the committed person's condition was
9 explicitly disclosed to the original sentencing judge and
10 taken into account at the time of sentencing.

11 (j) A committed person granted medical release shall be
12 released on mandatory supervised release for a period of 5
13 years subject to Section 3-3-8, which shall operate to
14 discharge any remaining term of years imposed upon him or her.
15 However, in no event shall the eligible person serve a period
16 of mandatory supervised release greater than the aggregate of
17 the discharged underlying sentence and the mandatory
18 supervised release period as set forth in Section 5-8-1.

19 (k) Nothing in this Section precludes a petitioner from
20 seeking alternative forms of release, including clemency,
21 relief from the sentencing court, post-conviction relief, or
22 any other legal remedy.

23 (730 ILCS 5/3-3-15 new)

24 Sec. 3-3-15. Prisoner Review Board; sole discretion to
25 grant medical release. A grant of medical release under this

1 Article shall be an act of executive and legislative grace and
2 shall be at the sole discretion of the Prisoner Review Board.