

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 1. This Act may be referred to as the Joe Coleman
5 Medical Release Act.

6 Section 5. The Rights of Crime Victims and Witnesses Act
7 is amended by changing Section 5 as follows:

8 (725 ILCS 120/5) (from Ch. 38, par. 1405)

9 Sec. 5. Rights of witnesses.

10 (a) Witnesses as defined in subsection (b) of Section 3 of
11 this Act shall have the following rights:

12 (1) to be notified by the Office of the State's
13 Attorney of all court proceedings at which the witness'
14 presence is required in a reasonable amount of time prior
15 to the proceeding, and to be notified of the cancellation
16 of any scheduled court proceeding in sufficient time to
17 prevent an unnecessary appearance in court, where
18 possible;

19 (2) to be provided with appropriate employer
20 intercession services by the Office of the State's
21 Attorney or the victim advocate personnel to ensure that
22 employers of witnesses will cooperate with the criminal

1 justice system in order to minimize an employee's loss of
2 pay and other benefits resulting from court appearances;

3 (3) to be provided, whenever possible, a secure
4 waiting area during court proceedings that does not
5 require witnesses to be in close proximity to defendants
6 and their families and friends;

7 (4) to be provided with notice by the Office of the
8 State's Attorney, where necessary, of the right to have a
9 translator present whenever the witness' presence is
10 required and, in compliance with the federal Americans
11 with Disabilities Act of 1990, to be provided with notice
12 of the right to communications access through a sign
13 language interpreter or by other means.

14 (b) At the written request of the witness, the witness
15 shall:

16 (1) receive notice from the office of the State's
17 Attorney of any request for post-conviction review filed
18 by the defendant under Article 122 of the Code of Criminal
19 Procedure of 1963, and of the date, time, and place of any
20 hearing concerning the petition for post-conviction
21 review; whenever possible, notice of the hearing on the
22 petition shall be given in advance;

23 (2) receive notice by the releasing authority of the
24 defendant's discharge from State custody if the defendant
25 was committed to the Department of Human Services under
26 Section 5-2-4 or any other provision of the Unified Code

1 of Corrections;

2 (3) receive notice from the Prisoner Review Board of
3 the prisoner's escape from State custody, after the Board
4 has been notified of the escape by the Department of
5 Corrections or the Department of Juvenile Justice; when
6 the escapee is apprehended, the Department of Corrections
7 or the Department of Juvenile Justice shall immediately
8 notify the Prisoner Review Board and the Board shall
9 notify the witness;

10 (4) receive notice from the Prisoner Review Board or
11 the Department of Juvenile Justice of the prisoner's
12 release on parole, aftercare release, electronic
13 detention, work release or mandatory supervised release
14 and of the prisoner's final discharge from parole,
15 aftercare release, electronic detention, work release, or
16 mandatory supervised release.

17 (c) The crime victim has the right to submit a victim
18 statement to the Prisoner Review Board for consideration at a
19 medical release hearing as provided in Section 3-3-14 of the
20 Unified Code of Corrections. A victim statement may be
21 submitted in writing, on film, videotape, or other electronic
22 means, or in the form of a recording prior to a hearing, or
23 orally at a hearing, or by calling the toll-free number
24 established in subsection (f) of Section 4.5. Victim
25 statements provided to the Board shall be confidential and
26 privileged, including any statements received prior to the

1 effective date of this amendatory Act of the 102nd General
2 Assembly, except if the statement was an oral statement made
3 by the victim at a hearing open to the public.

4 (Source: P.A. 98-558, eff. 1-1-14; 99-628, eff. 1-1-17.)

5 Section 10. The Unified Code of Corrections is amended by
6 changing Section 3-3-1 and by adding Sections 3-3-14 and
7 3-3-15 as follows:

8 (730 ILCS 5/3-3-1) (from Ch. 38, par. 1003-3-1)

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

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

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

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

18 (1.5) (blank);

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

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

24 (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
3 1977, in accordance with Section 3-3-2.1 of this Code;

4 (5) the authority for setting conditions for parole
5 and 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
17 shall 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
22 January 2005, 5 members whose terms shall expire on the third
23 Monday in January 2007, and 5 members whose terms shall expire
24 on the third Monday in January 2009. Their respective
25 successors shall be appointed for terms of 6 years from the
26 third Monday in January of the year of appointment. Each

1 member shall serve until his or her successor is appointed and
2 qualified.

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

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

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

13 (730 ILCS 5/3-3-14 new)

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

15 (a) Definitions:

16 (1) As used in this Section "medically incapacitated"
17 means that an inmate has any diagnosable medical
18 condition, including dementia and severe, permanent
19 medical or cognitive disability, that prevents the inmate
20 from completing more than one activity of daily living
21 without assistance or that incapacitates the inmate to the
22 extent that institutional confinement does not offer
23 additional restrictions, and that the condition is
24 unlikely to improve noticeably in the future.

25 (2) As used in this Section, "terminal illness" means

1 a condition that satisfies all of the following criteria:

2 (i) the condition is irreversible and incurable;

3 and

4 (ii) in accordance with medical standards and a
5 reasonable degree of medical certainty, based on an
6 individual assessment of the inmate, the condition is
7 likely to cause death to the inmate within 18 months.

8 (b) The Prisoner Review Board shall consider an
9 application for compassionate release on behalf of any inmate
10 who meets any of the following:

11 (1) is suffering from a terminal illness; or

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

14 (3) has become medically incapacitated subsequent to
15 sentencing due to illness or injury.

16 (c) Initial Application:

17 (1) An initial application for medical release may be
18 filed with the Prisoner Review Board by an inmate, a
19 prison official, a medical professional who has treated or
20 diagnosed the inmate, or an inmate's spouse, parent,
21 guardian, grandparent, aunt or uncle, sibling, child over
22 the age of eighteen years, or attorney. If the initial
23 application is made by someone other than the inmate, the
24 inmate, or if they are medically unable to consent, the
25 guardian or family member designated to represent their
26 interests must consent to the application at the time of

1 the institutional hearing.

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

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

11 (i) the inmate's name and Illinois Department of
12 Corrections number;

13 (ii) the inmate's diagnosis;

14 (iii) a statement that the inmate meets one of the
15 following diagnostic criteria:

16 (a) the inmate is suffering from a terminal
17 illness;

18 (b) the inmate has been diagnosed with a
19 condition that will result in medical incapacity
20 within the next 6 months; or

21 (c) the inmate has become medically
22 incapacitated subsequent to sentencing due to
23 illness or injury.

24 (4) Upon receiving the inmate's initial application,
25 the Board shall order the Department of Corrections to
26 have a physician or nurse practitioner evaluate the inmate

1 and create a written evaluation within ten days of the
2 Board's order. The evaluation shall include but need not
3 be limited to:

4 (i) a concise statement of the inmate's medical
5 diagnosis, including prognosis, likelihood of
6 recovery, and primary symptoms, to include
7 incapacitation; and

8 (ii) a statement confirming or denying that the
9 inmate meets one of the criteria stated in subsection
10 (b) of this Section.

11 (d) Institutional hearing. No public institutional hearing
12 is required for consideration of a petition, but shall be
13 granted at the request of petitioner. The inmate may be
14 represented by counsel and may present witnesses to the Board
15 members. Hearings shall be governed by the Open Parole
16 Hearings Act.

17 (e) Voting procedure. Petitions shall be considered by
18 three-member panels, and decisions shall be made by simple
19 majority.

20 (f) Consideration. In considering a petition for release
21 under the statute, the Prisoner Review Board may consider the
22 following factors:

23 (i) the inmate's diagnosis and likelihood of
24 recovery;

25 (ii) the approximate cost of health care to the
26 State should the inmate remain in custody;

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

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

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

9 (vi) whether the inmate's condition was explicitly
10 disclosed to the original sentencing judge and taken
11 into account at the time of sentencing.

12 (g) Inmates granted medical release shall be released on
13 mandatory supervised release for a period of 5 years subject
14 to Section 3-3-8, which shall operate to discharge any
15 remaining term of years imposed upon him or her. However, in no
16 event shall the eligible person serve a period of mandatory
17 supervised release greater than the aggregate of the
18 discharged underlying sentence and the mandatory supervised
19 release period as set forth in Section 5-4.5-20.

20 (h) Within 90 days of the receipt of the initial
21 application, the Prisoner Review Board shall conduct a hearing
22 if a hearing is requested and render a decision granting or
23 denying the petitioner's request for release.

24 (i) Nothing in this statute shall preclude a petitioner
25 from seeking alternative forms of release, including clemency,
26 relief from the sentencing court, post-conviction relief, or

1 any other legal remedy.

2 (j) This act applies retroactively, and shall be
3 applicable to all currently incarcerated people in Illinois.

4 (k) Data report.

5 The Department of Corrections and the Prisoner Review
6 Board shall release a report annually published on their
7 websites that reports the following information about the
8 Medical Release Program:

9 (1) The number of applications for medical release
10 received by the Board in the preceding year, and
11 information about those applications including:

12 (i) demographic data about the individual
13 including race or ethnicity, gender, age, and
14 institution;

15 (ii) the highest class of offense for which the
16 individual is incarcerated;

17 (iii) the relationship of the applicant to the
18 person completing the application;

19 (iv) whether the applicant had applied for medical
20 release before and been denied, and, if so, when;

21 (v) whether the person applied as a person who is
22 medically incapacitated or a person who is terminally
23 ill; and

24 (vi) a basic description of the underlying medical
25 condition that led to the application.

26 (2) The number of medical statements from the

1 Department of Corrections received by the Board;

2 (3) The number of institutional hearings on medical
3 release applications conducted by the Board;

4 (4) The number of people approved for medical release,
5 and information about them including:

6 (i) demographic data about the individual
7 including race or ethnicity, gender, age, and zip code
8 to which they were released;

9 (ii) whether the person applied as a person who is
10 medically incapacitated or a person who is terminally
11 ill;

12 (iii) a basic description of the underlying
13 medical condition that led to the application; and

14 (iv) a basic description of the medical setting
15 the person was released to.

16 (5) The number of people released on the medical
17 release program;

18 (6) The number of people approved for medical release
19 who experienced more than a one month delay between
20 release decision and ultimate release including;

21 (i) demographic data about the individuals
22 including race or ethnicity, gender and age;

23 (ii) the reason for the delay;

24 (iii) whether the person remains incarcerated; and

25 (iv) a basic description of the underlying medical
26 condition of the applying person.

1 (7) For those individuals released on mandatory
2 supervised release due to a granted application for
3 medical release;

4 (i) the number of individuals who were serving
5 terms of mandatory supervised release because of
6 medical release applications during the previous year;

7 (ii) the number of individuals who had their
8 mandatory supervised release revoked; and

9 (iii) the number of individuals who died during
10 the previous year.

11 (8) Information on seriously ill individuals
12 incarcerated at the Department of Corrections including:

13 (i) the number of people currently receiving
14 full-time one-on-one medical care or assistance with
15 activities of daily living within Department of
16 Corrections facilities and whether that care is
17 provided by a medical practitioner or an inmate, along
18 with the institutions at which they are incarcerated;
19 and

20 (ii) the number of people who spent more than one
21 month in outside hospital care during the previous
22 year and their home institutions.

23 All the information provided in this report shall be
24 provided in aggregate, and nothing shall be construed to
25 require the public dissemination of any personal medical
26 information.

1 (730 ILCS 5/3-3-15 new)

2 Sec. 3-3-15. Prisoner Review Board; sole discretion to
3 grant medical release. A grant of medical release under this
4 Article shall be an act of executive and legislative grace and
5 shall be at the sole discretion of the Prisoner Review Board.

6 Section 15. The Open Parole Hearings Act is amended by
7 changing Section 5 as follows:

8 (730 ILCS 105/5) (from Ch. 38, par. 1655)

9 Sec. 5. Definitions. As used in this Act:

10 (a) "Applicant" means an inmate who is being considered
11 for parole by the Prisoner Review Board.

12 (a-1) "Aftercare releasee" means a person released from
13 the Department of Juvenile Justice on aftercare release
14 subject to aftercare revocation proceedings.

15 (b) "Board" means the Prisoner Review Board as established
16 in Section 3-3-1 of the Unified Code of Corrections.

17 (c) "Parolee" means a person subject to parole revocation
18 proceedings.

19 (d) "Parole hearing" means the formal hearing and
20 determination of an inmate being considered for release from
21 incarceration on parole, including medical release hearings
22 pursuant to Section 3-3-14.

23 (e) "Parole, aftercare release, or mandatory supervised

1 release revocation hearing" means the formal hearing and
2 determination of allegations that a parolee, aftercare
3 releasee, or mandatory supervised releasee has violated the
4 conditions of his or her release.

5 (f) "Victim" means a victim or witness of a violent crime
6 as defined in subsection (a) of Section 3 of the ~~Bill of Rights~~
7 of Crime for Victims and Witnesses ~~of Violent Crime~~ Act, or any
8 person legally related to the victim by blood, marriage,
9 adoption, or guardianship, or any friend of the victim, or any
10 concerned citizen.

11 (g) "Violent crime" means a crime defined in subsection
12 (c) of Section 3 of the ~~Bill of Rights~~ of Crime for Victims and
13 Witnesses ~~of Violent Crime~~ Act.

14 (Source: P.A. 98-558, eff. 1-1-14; 99-628, eff. 1-1-17;
15 revised 9-21-20.)