



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5396

Introduced 2/9/2024, by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-14

Amends the Unified Code of Corrections. Provides that the Prisoner Review Board shall place no additional restrictions, limitations, or requirements than that provided by the statute creating the procedure for medical release. Provides that upon a determination that the petitioner is eligible for a hearing on medical release, the Prisoner Review Board shall: (1) provide public notice of the petitioner's name, docket number, counsel, and hearing date; and (2) provide a copy of the evaluation and any medical records provided by the Department of Corrections to the petitioner or the petitioner's attorney upon scheduling the institutional hearing. Provides that a hearing on a petitioner's application for medical release is public unless the petitioner requests a non-public hearing. Provides that members of the public shall be permitted to freely attend public hearings on medical release without restriction. Provides that upon denying an eligible petitioner's application for medical release, the Prisoner Review Board shall publish a decision letter outlining the reason for denial. Provides that the decision letter must include an explanation of each statutory factor and the estimated annual cost of the petitioner's continued incarceration, including the petitioner's medical care. Makes technical changes.

LRB103 36926 RLC 67040 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 3-3-14 as follows:

6 (730 ILCS 5/3-3-14)

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

8 (a) Definitions.

9 (1) As used in this Section, "medically incapacitated"
10 means that a petitioner ~~an inmate~~ has any diagnosable
11 medical condition, including dementia and severe,
12 permanent medical or cognitive disability, that prevents
13 the petitioner ~~inmate~~ from completing more than one
14 activity of daily living without assistance or that
15 incapacitates the petitioner ~~inmate~~ to the extent that
16 institutional confinement does not offer additional
17 restrictions, and that the condition is unlikely to
18 improve noticeably in the future.

19 (2) As used in this Section, "terminal illness" means
20 a condition that satisfies all of the following criteria:

21 (i) the condition is irreversible and incurable;

22 and

23 (ii) in accordance with medical standards and a

1 reasonable degree of medical certainty, based on an
2 individual assessment of the petitioner inmate, the
3 condition is likely to cause death to the petitioner
4 ~~inmate~~ within 18 months.

5 (b) The Prisoner Review Board shall consider an
6 application for compassionate release on behalf of any
7 petitioner inmate who meets any of the following:

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

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) Initial application.

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

1 (2) 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
4 place within the law library and the infirmary of every
5 penal institution and facility operated by the Department
6 of Corrections.

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

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

12 (ii) the petitioner's ~~inmate's~~ diagnosis;

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

15 (A) the petitioner ~~inmate~~ is suffering from a
16 terminal illness;

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

20 (C) the petitioner ~~inmate~~ has become medically
21 incapacitated subsequent to sentencing due to
22 illness or injury.

23 (3.5) The Prisoner Review Board shall place no
24 additional restrictions, limitations, or requirements on
25 applications from petitioners.

26 (4) Upon receiving the petitioner's ~~inmate's~~ initial

1 application, the Board shall order the Department of
2 Corrections to have a physician or nurse practitioner
3 evaluate the petitioner inmate and create a written
4 evaluation within ten days of the Board's order. The
5 evaluation shall include but need not be limited to:

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

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

13 (5) Upon a determination that the petitioner is
14 eligible for a hearing, the Prisoner Review Board shall:

15 (i) provide public notice of the petitioner's
16 name, docket number, counsel, and hearing date; and

17 (ii) provide a copy of the evaluation and any
18 medical records provided by the Department of
19 Corrections to the petitioner or the petitioner's
20 attorney upon scheduling the institutional hearing.

21 (d) Institutional hearing. ~~No public institutional hearing~~
22 ~~is required for consideration of a petition, but shall be~~
23 ~~granted at the request of the petitioner.~~ Hearings are public
24 unless the petitioner requests a non-public hearing. The
25 petitioner has a right to attend the hearing and to speak on
26 the petitioner's own behalf. The petitioner inmate may be

1 represented by counsel and may present witnesses to the Board
2 members. Hearings shall be governed by the Open Parole
3 Hearings Act. Members of the public shall be permitted to
4 freely attend public hearings without restriction.

5 (e) Voting procedure. Petitions shall be considered by
6 three-member panels, and decisions shall be made by simple
7 majority. Voting shall take place during the public hearing.

8 (f) Consideration. In considering a petition for release
9 under the statute, the Prisoner Review Board may consider the
10 following factors:

11 (i) the petitioner's ~~inmate's~~ diagnosis and
12 likelihood of recovery;

13 (ii) the approximate cost of health care to the
14 State should the petitioner ~~inmate~~ remain in custody;

15 (iii) the impact that the petitioner's ~~inmate's~~
16 continued incarceration may have on the provision of
17 medical care within the Department;

18 (iv) the present likelihood of and ability to pose
19 a substantial danger to the physical safety of a
20 specifically identifiable person or persons;

21 (v) any statements by the victim regarding
22 release; and

23 (vi) whether the petitioner's ~~inmate's~~ condition
24 was explicitly disclosed to the original sentencing
25 judge and taken into account at the time of
26 sentencing.

1 (f-1) Upon denying an eligible petitioner's application
2 for medical release, the Prisoner Review Board shall publish a
3 decision letter outlining the reason for denial. The decision
4 letter must include an explanation of each statutory factor
5 and the estimated annual cost of the petitioner's continued
6 incarceration, including the petitioner's medical care.

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

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

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

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

25 (k) Data report. The Department of Corrections and the
26 Prisoner Review Board shall release a report annually

1 published on their websites that reports the following
2 information about the Medical Release Program:

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

6 (i) demographic data about the petitioner
7 ~~individual~~, including race or ethnicity, gender, age,
8 and institution;

9 (ii) the highest class of offense for which the
10 petitioner ~~individual~~ is incarcerated;

11 (iii) the relationship of the petitioner ~~applicant~~
12 to the person completing the application;

13 (iv) whether the petitioner ~~applicant~~ had applied
14 for medical release before and been denied, and, if
15 so, when;

16 (v) whether the petitioner ~~person~~ applied as a
17 person who is medically incapacitated or a person who
18 is terminally ill; ~~and~~

19 (vi) a basic description of the underlying medical
20 condition that led to the application ; ~~and~~;

21 (vii) the institution in which the petitioner was
22 confined at the time of the application.

23 (2) The number of medical statements from the
24 Department of Corrections received by the Board.

25 (3) The number of institutional hearings on medical
26 release applications conducted by the Board including:-

1 (i) whether the petitioner was represented by an
2 attorney; and

3 (ii) whether the application was considered in a
4 public or non-public hearing.

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

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

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

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

15 (iv) a basic description of the medical setting
16 the person was released to; ~~and~~

17 (v) whether the petitioner was represented by an
18 attorney; and

19 (vi) whether the application was considered in a
20 public or non-public hearing.

21 (5) The number of people released on the medical
22 release program.

23 (6) The number of people approved for medical release
24 who experienced more than a one-month delay between
25 release decision and ultimate release, including:

26 (i) demographic data about the individuals

1 including race or ethnicity, gender and age;
2 (ii) the reason for the delay;
3 (iii) whether the person remains incarcerated; and
4 (iv) a basic description of the underlying medical
5 condition of the applying person.

6 (7) For those individuals released on mandatory
7 supervised release due to a granted application for
8 medical release:

9 (i) the number of individuals who were serving
10 terms of mandatory supervised release because of
11 medical release applications during the previous year;

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

14 (iii) the number of individuals who died during
15 the previous year.

16 (8) Information on seriously ill individuals
17 incarcerated at the Department of Corrections, including:

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

25 (ii) the number of people who spent more than one
26 month in outside hospital care during the previous

1 year and their home institutions.

2 All the information provided in this report shall be
3 provided in aggregate, and nothing shall be construed to
4 require the public dissemination of any personal medical
5 information.

6 (Source: P.A. 102-494, eff. 1-1-22; 102-813, eff. 5-13-22.)