



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 2/5/2004, by John J. Cullerton

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-3

from Ch. 38, par. 1003-3-3

Amends the Unified Code of Corrections. Authorizes the Prisoner Review Board to grant release of a prisoner at any time who is determined to be terminally ill or permanently physically incapacitated. Establishes procedures for such release. Requires the Prisoner Review Board to submit an annual report to the General Assembly concerning medical parole.

LRB093 17159 RLC 42825 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 3-3-3 as follows:

6 (730 ILCS 5/3-3-3) (from Ch. 38, par. 1003-3-3)

7 Sec. 3-3-3. Eligibility for Parole or Release.

8 (a) Except for those offenders who accept the fixed release
9 date established by the Prisoner Review Board under Section
10 3-3-2.1, every person serving a term of imprisonment under the
11 law in effect prior to the effective date of this amendatory
12 Act of 1977 shall be eligible for parole when he has served:

13 (1) the minimum term of an indeterminate sentence less
14 time credit for good behavior, or 20 years less time credit
15 for good behavior, whichever is less; or

16 (2) 20 years of a life sentence less time credit for
17 good behavior; or

18 (3) 20 years or one-third of a determinate sentence,
19 whichever is less, less time credit for good behavior.

20 (b) No person sentenced under this amendatory Act of 1977
21 or who accepts a release date under Section 3-3-2.1 shall be
22 eligible for parole.

23 (c) Except for those sentenced to a term of natural life
24 imprisonment, every person sentenced to imprisonment under
25 this amendatory Act of 1977 or given a release date under
26 Section 3-3-2.1 of this Act shall serve the full term of a
27 determinate sentence less time credit for good behavior and
28 shall then be released under the mandatory supervised release
29 provisions of paragraph (d) of Section 5-8-1 of this Code.

30 (d) No person serving a term of natural life imprisonment
31 may be paroled or released except through executive clemency.

32 (e) Every person committed to the Juvenile Division under

1 Section 5-10 of the Juvenile Court Act or Section 5-750 of the
2 Juvenile Court Act of 1987 or Section 5-8-6 of this Code and
3 confined in the State correctional institutions or facilities
4 if such juvenile has not been tried as an adult shall be
5 eligible for parole without regard to the length of time the
6 person has been confined or whether the person has served any
7 minimum term imposed. However, if a juvenile has been tried as
8 an adult he shall only be eligible for parole or mandatory
9 supervised release as an adult under this Section.

10 (f) Medical parole.

11 (1) Legislative purpose. Medical parole is made
12 available for humanitarian reasons, and in light of the
13 fiscal costs of treating seriously ill prisoners within
14 facilities maintained by the Illinois Department of
15 Corrections ("Department of Corrections"). Notwithstanding
16 other statutory or administrative provisions to the
17 contrary, all prisoners shall at any time after they begin
18 serving their sentences be eligible for medical parole
19 consideration, regardless of the crime committed or the
20 sentence imposed.

21 (2) Definitions. In this Section:

22 (i) "Permanently physically incapacitated" means
23 suffering from a condition caused by injury, disease,
24 illness, old age, or other similar causes which, to a
25 reasonable degree of medical certainty, permanently
26 and irreversibly physically incapacitates the
27 individual to the extent that the individual is
28 confined to bed or a wheelchair or otherwise unable to
29 perform more than a minimal degree of personal care or
30 other similar activities of daily living without
31 assistance.

32 (ii) "Terminally ill" means suffering from a
33 condition caused by injury (except self-inflicted
34 injury), disease, or illness which to a reasonable
35 degree of medical certainty will result in death within
36 6 months.

1 (3) Procedure.

2 (i) The Prisoner Review Board is authorized to
3 grant release of a prisoner at any time who is
4 determined to be terminally ill or permanently
5 physically incapacitated within the meaning of clause
6 (f) (2) of this Section.

7 (ii) In order to apply for this relief, the
8 prisoner, or a family member or attorney acting on
9 behalf of the prisoner, shall file an application with
10 the Prisoner Review Board. Such application shall be
11 accompanied by (A) the statement of a licensed
12 physician certifying that the prisoner is terminally
13 ill or permanently physically incapacitated within the
14 meaning of clause (f) (2) of this Section and (B) a
15 release plan, specifying the proposed placement of the
16 prisoner and a description of how his or her medical
17 needs will be met.

18 (iii) The Prisoner Review Board shall forward a
19 copy of all applications submitted under this
20 subsection (f) to the Director of the Department of
21 Corrections within 72 hours of receipt, who in turn
22 shall forward the application to the Medical Director
23 of Corrections within 24 hours of receipt of any such
24 application. Within 5 working days of receipt of such
25 application where possible, the Medical Director shall
26 submit a report to the Director of Corrections, who
27 shall immediately forward such report to the Prisoner
28 Review Board for its consideration and decision. A copy
29 of that report shall be provided to the applicant.

30 (iv) The report from the Director shall contain, at
31 a minimum: (A) a medical assessment of the prisoner's
32 condition, including a diagnosis and related medical
33 history, a description of the condition and treatment
34 therefore, a prognosis, including life expectancy,
35 likelihood of recovery, likelihood of improvement,
36 mobility, rate of debilitation; degree of incapacity,

1 including an assessment of whether the prisoner is
2 ambulatory, capable of engaging in any substantial
3 physical activity, and the extent of that activity; (B)
4 a statement by the Medical Director as to whether he or
5 she agrees that the prisoner is terminally ill or
6 permanently physically incapacitated within the
7 meaning of clause (f)(2) of this Section; (C) a
8 recommendation as to the medical treatment which the
9 prisoner would require were he or she to be granted
10 medical parole; and (D) any security concerns which the
11 Director believes should be considered by the Prisoner
12 Review Board. In the event that the Director does not
13 forward a report to the Prisoner Review Board within 5
14 working days of receipt of an application for medical
15 parole from the Prisoner Review Board, then there shall
16 be a rebuttable presumption that the Director concurs
17 that the prisoner meets the criteria for medical parole
18 established in this subsection (f).

19 (v) In the event that there are conflicting
20 statements from licensed physicians regarding whether
21 the prisoner is terminally ill or permanently
22 physically incapacitated within the meaning of clause
23 (f)(2) of this Section, then the Prisoner Review Board
24 must obtain an independent medical evaluation. The
25 evaluation shall be completed within 14 days of the
26 date the Prisoner Review Board receives the report of
27 the Director pursuant to clause (iv), and shall
28 contain, at a minimum, all of the information required
29 by clauses (iv)(A), (B), and (C) of this Section. A
30 copy of any such independent evaluation obtained shall
31 be provided to the applicant and the Director of
32 Corrections immediately upon receipt by the Prisoner
33 Review Board.

34 (vi) The Prisoner Review Board, acting through a
35 panel of at least 3 members, shall decide all
36 applications for medical parole within 21 days of

1 receipt of the Director's report. If the Prisoner
2 Review Board finds from the credible medical evidence
3 that the prisoner is terminally ill or permanently
4 physically incapacitated, the Board shall grant
5 release to the prisoner, but only after the Prisoner
6 Review Board also considers whether, in light of the
7 prisoner's medical condition and any security concerns
8 identified by the Director, there is a reasonable
9 probability that the prisoner, if released, will live
10 and remain at liberty without violating the law, and
11 that the release is compatible with the welfare of
12 society. If the Prisoner Review Board denies medical
13 parole, it must provide a statement of reasons
14 sufficient to support such denial. A denial shall not
15 preclude the prisoner from reapplying for medical
16 parole after the expiration of 60 days from the denial.

17 (4) Report to the General Assembly. An annual report
18 shall be prepared by the Prisoner Review Board for the
19 General Assembly. The report shall include: (i) the number
20 of prisoners who have applied for medical parole; (ii) the
21 number of prisoners who have been granted medical parole;
22 (iii) the nature of the illness of the applicants, and the
23 nature of the placement pursuant to the medical discharge
24 plan; (iv) the categories of the reasons for the denial of
25 all of those who have been denied; (v) the number of
26 prisoners granted medical parole who have been returned to
27 the custody of the Department of Corrections, and the
28 reasons for return; and (vi) the number of prisoners who
29 have died while in the custody of the Department of
30 Corrections (including any Illinois prisoners housed out
31 of state, or in county or federal facilities), the cause of
32 death, and whether an application for medical release was
33 submitted prior to death.

34 (Source: P.A. 90-590, eff. 1-1-99.)