

AN ACT concerning criminal law.

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

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

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

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

Sec. 5. Rights of witnesses.

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

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

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

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

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

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

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

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

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

of Corrections;

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

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

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

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

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

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

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

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

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

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

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

(1.5) (blank);

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

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

(4) the authority for establishing release dates for

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Definitions:

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

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

a condition that satisfies all of the following criteria:

(i) the condition is irreversible and incurable;

and

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

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

(1) is suffering from a terminal illness; or

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

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

(c) Initial Application:

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

the institutional hearing.

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

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

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

(ii) the inmate's diagnosis;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

any other legal remedy.

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

(k) Data report.

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

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

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

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

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

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

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

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

(2) The number of medical statements from the

Department of Corrections received by the Board;

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

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

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

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

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

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

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

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

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

(ii) the reason for the delay;

(iii) whether the person remains incarcerated; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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