

HOUSE BILL 883

E2

8lr0173

By: **Chair, Judiciary Committee (By Request – Departmental – Public Safety and Correctional Services)**

Introduced and read first time: February 6, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Eligibility for Parole – Medical Parole**

3 FOR the purpose of establishing medical parole as a form of release from incarceration
4 for incapacitated inmates who, as a result of a medical or mental health
5 condition, disease, or syndrome, pose no danger to public safety; establishing a
6 means of initiating consideration by the Maryland Parole Commission of the
7 appropriateness of granting medical parole; providing a means for the
8 Commission to obtain information relevant to its consideration; requiring the
9 Commission to consider certain information before granting a medical parole
10 release; authorizing the Commission to impose certain conditions on a parolee
11 in conjunction with any medical parole; providing for reincarceration of the
12 parolee if the parolee's incapacitation ends; providing for the applicability to
13 medical parole proceedings of provisions of law concerning victim notification
14 and participation in parole proceedings; eliminating a requirement that the
15 Governor approve certain medical parole releases; requiring the Commission to
16 adopt certain regulations; and generally relating to medical parole.

17 BY adding to

18 Article – Correctional Services

19 Section 7–309

20 Annotated Code of Maryland

21 (1999 Volume and 2007 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Correctional Services**

25 **7–309.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) **THIS SECTION APPLIES TO ANY INMATE WHO IS SENTENCED TO A**
2 **TERM OF INCARCERATION FOR WHICH ALL SENTENCES BEING SERVED,**
3 **INCLUDING ANY LIFE SENTENCE, ARE WITH THE POSSIBILITY OF PAROLE.**

4 (B) **AN INMATE WHO IS SO DEBILITATED OR INCAPACITATED BY A**
5 **MEDICAL OR MENTAL HEALTH CONDITION, DISEASE, OR SYNDROME AS TO BE**
6 **PHYSICALLY INCAPABLE OF PRESENTING A DANGER TO SOCIETY MAY BE**
7 **RELEASED ON MEDICAL PAROLE AT ANY TIME DURING THE TERM OF THAT**
8 **INMATE'S SENTENCE, WITHOUT REGARD TO THE ELIGIBILITY STANDARDS**
9 **SPECIFIED IN § 7-301 OF THIS SUBTITLE.**

10 (C) **(1) A REQUEST FOR A MEDICAL PAROLE UNDER THIS SECTION**
11 **MAY BE FILED WITH THE MARYLAND PAROLE COMMISSION BY:**

12 **(I) THE INMATE SEEKING THE MEDICAL PAROLE;**

13 **(II) AN ATTORNEY;**

14 **(III) A PRISON OFFICIAL OR EMPLOYEE;**

15 **(IV) A MEDICAL PROFESSIONAL;**

16 **(V) A FAMILY MEMBER; OR**

17 **(VI) ANY OTHER PERSON.**

18 **(2) THE REQUEST SHALL BE IN WRITING AND SHALL ARTICULATE**
19 **THE GROUNDS THAT SUPPORT THE APPROPRIATENESS OF GRANTING THE**
20 **MEDICAL PAROLE.**

21 (D) **FOLLOWING REVIEW OF THE REQUEST, THE COMMISSION MAY:**

22 **(1) FIND THE REQUEST TO BE INCONSISTENT WITH THE BEST**
23 **INTERESTS OF PUBLIC SAFETY AND TAKE NO FURTHER ACTION; OR**

24 **(2) REQUEST THAT DEPARTMENT PERSONNEL PROVIDE**
25 **INFORMATION FOR FORMAL CONSIDERATION OF PAROLE RELEASE.**

26 (E) **THE INFORMATION TO BE CONSIDERED BY THE COMMISSION**
27 **BEFORE GRANTING MEDICAL PAROLE SHALL, AT A MINIMUM, INCLUDE:**

28 **(1) THE INMATE'S MEDICAL INFORMATION, INCLUDING:**

1 (I) A DESCRIPTION OF THE INMATE'S CONDITION, DISEASE,
2 OR SYNDROME;

3 (II) A PROGNOSIS CONCERNING THE LIKELIHOOD OF
4 RECOVERY FROM THE CONDITION, DISEASE, OR SYNDROME;

5 (III) A DESCRIPTION OF THE INMATE'S PHYSICAL
6 INCAPACITY AND SCORE ON THE KARNOFSKY PERFORMANCE SCALE INDEX OR
7 SIMILAR CLASSIFICATION OF PHYSICAL IMPAIRMENT; AND

8 (IV) A MENTAL HEALTH EVALUATION, WHERE RELEVANT;

9 (2) DISCHARGE INFORMATION, INCLUDING:

10 (I) AVAILABILITY OF TREATMENT OR PROFESSIONAL
11 SERVICES WITHIN THE COMMUNITY;

12 (II) FAMILY SUPPORT WITHIN THE COMMUNITY; AND

13 (III) HOUSING AVAILABILITY, INCLUDING HOSPITAL OR
14 HOSPICE CARE; AND

15 (3) CASE MANAGEMENT INFORMATION, INCLUDING:

16 (I) THE CIRCUMSTANCES OF THE CURRENT OFFENSE;

17 (II) INSTITUTIONAL HISTORY;

18 (III) PENDING CHARGES, SENTENCES AND OTHER
19 JURISDICTIONS, AND ANY OTHER DETAINERS; AND

20 (IV) CRIMINAL HISTORY INFORMATION.

21 (F) THE COMMISSION MAY REQUIRE AS A CONDITION OF RELEASE ON
22 MEDICAL PAROLE THAT:

23 (1) THE PAROLEE AGREE TO PLACEMENT FOR A DEFINITE OR
24 INDEFINITE PERIOD OF TIME IN A HOSPITAL OR HOSPICE OR OTHER HOUSING
25 ACCOMMODATION SUITABLE TO THE PAROLEE'S MEDICAL CONDITION,
26 INCLUDING THE FAMILY HOME OF THE PAROLEE, AS SPECIFIED BY THE
27 COMMISSION OR THE SUPERVISING AGENT; AND

1 **(2) THE PAROLEE FORWARD AUTHENTIC COPIES OF APPLICABLE**
2 **MEDICAL RECORDS TO INDICATE THAT THE PARTICULAR MEDICAL CONDITION**
3 **GIVING RISE TO THE RELEASE CONTINUES TO EXIST.**

4 **(G) (1) IF THE COMMISSION HAS REASON TO BELIEVE THAT A**
5 **PAROLEE IS NO LONGER SO DEBILITATED OR INCAPACITATED AS TO BE**
6 **PHYSICALLY INCAPABLE OF PRESENTING A DANGER TO SOCIETY, THE PAROLEE**
7 **SHALL BE RETURNED TO THE CUSTODY OF THE DIVISION OF CORRECTION.**

8 **(2) (I) A PAROLE HEARING FOR A PAROLEE RETURNED TO**
9 **CUSTODY SHALL BE HELD TO CONSIDER WHETHER THE PAROLEE REMAINS**
10 **INCAPACITATED AND SHALL BE HEARD PROMPTLY.**

11 **(II) A PAROLEE RETURNED TO CUSTODY UNDER THIS**
12 **SUBSECTION SHALL BE MAINTAINED IN CUSTODY, IF THE INCAPACITATION IS**
13 **FOUND TO NO LONGER EXIST.**

14 **(3) AN INMATE WHOSE MEDICAL PAROLE IS REVOKED FOR LACK**
15 **OF CONTINUED INCAPACITATION MAY BE CONSIDERED FOR PAROLE IN**
16 **ACCORDANCE WITH THE ELIGIBILITY REQUIREMENTS SPECIFIED IN § 7-301 OF**
17 **THIS SUBTITLE.**

18 **(H) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**
19 **PROVISIONS OF LAW RELATING TO VICTIM NOTIFICATION AND OPPORTUNITY TO**
20 **BE HEARD SHALL APPLY TO PROCEEDINGS RELATING TO MEDICAL PAROLE.**

21 **(2) IN CASES OF IMMINENT DEATH, TIME LIMITS RELATING TO**
22 **VICTIM NOTIFICATION AND OPPORTUNITY TO BE HEARD MAY BE WAIVED IN THE**
23 **DISCRETION OF THE COMMISSION.**

24 **(I) NOTWITHSTANDING § 7-301(D)(4) OF THIS SUBTITLE, A MEDICAL**
25 **PAROLE UNDER THIS SECTION FOR A PERSON SERVING A LIFE SENTENCE SHALL**
26 **REQUIRE THE APPROVAL OF THE GOVERNOR.**

27 **(J) THE COMMISSION SHALL ISSUE REGULATIONS TO IMPLEMENT THE**
28 **PROVISIONS OF THIS SECTION.**

29 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
30 **October 1, 2008.**