

# HOUSE BILL 883

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8lr0173

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

Introduced and read first time: February 6, 2008

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2008

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## CHAPTER \_\_\_\_\_

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~~ reaffirming a requirement  
15 that the Governor approve certain medical parole releases; requiring the  
16 Commission to adopt certain regulations; and generally relating to medical  
17 parole.

18 BY adding to  
19 Article – Correctional Services  
20 Section 7–309  
21 Annotated Code of Maryland  
22 (1999 Volume and 2007 Supplement)

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Correctional Services**

4 **7-309.**

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

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

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

16 (I) THE INMATE SEEKING THE MEDICAL PAROLE;

17 (II) AN ATTORNEY;

18 (III) A PRISON OFFICIAL OR EMPLOYEE;

19 (IV) A MEDICAL PROFESSIONAL;

20 (V) A FAMILY MEMBER; OR

21 (VI) ANY OTHER PERSON.

22 (2) THE REQUEST SHALL BE IN WRITING AND SHALL ARTICULATE  
23 THE GROUNDS THAT SUPPORT THE APPROPRIATENESS OF GRANTING THE  
24 MEDICAL PAROLE.

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

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

28 (2) REQUEST THAT DEPARTMENT OR LOCAL CORRECTIONAL  
29 FACILITY PERSONNEL PROVIDE INFORMATION FOR FORMAL CONSIDERATION  
30 OF PAROLE RELEASE.

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

3                   **(1) THE INMATE’S MEDICAL INFORMATION, INCLUDING:**

4                           **(I) A DESCRIPTION OF THE INMATE’S CONDITION, DISEASE,**  
5 **OR SYNDROME;**

6                           **(II) A PROGNOSIS CONCERNING THE LIKELIHOOD OF**  
7 **RECOVERY FROM THE CONDITION, DISEASE, OR SYNDROME;**

8                           **(III) A DESCRIPTION OF THE INMATE’S PHYSICAL**  
9 **INCAPACITY AND SCORE ON THE KARNOFSKY PERFORMANCE SCALE INDEX OR**  
10 **SIMILAR CLASSIFICATION OF PHYSICAL IMPAIRMENT; AND**

11                           **(IV) A MENTAL HEALTH EVALUATION, WHERE RELEVANT;**

12                   **(2) DISCHARGE INFORMATION, INCLUDING:**

13                           **(I) AVAILABILITY OF TREATMENT OR PROFESSIONAL**  
14 **SERVICES WITHIN THE COMMUNITY;**

15                           **(II) FAMILY SUPPORT WITHIN THE COMMUNITY; AND**

16                           **(III) HOUSING AVAILABILITY, INCLUDING HOSPITAL OR**  
17 **HOSPICE CARE; AND**

18                   **(3) CASE MANAGEMENT INFORMATION, INCLUDING:**

19                           **(I) THE CIRCUMSTANCES OF THE CURRENT OFFENSE;**

20                           **(II) INSTITUTIONAL HISTORY;**

21                           **(III) PENDING CHARGES, SENTENCES AND OTHER**  
22 **JURISDICTIONS, AND ANY OTHER DETAINERS; AND**

23                           **(IV) CRIMINAL HISTORY INFORMATION.**

24           **(F) THE COMMISSION MAY REQUIRE AS A CONDITION OF RELEASE ON**  
25 **MEDICAL PAROLE THAT:**

26                   **(1) THE PAROLEE AGREE TO PLACEMENT FOR A DEFINITE OR**  
27 **INDEFINITE PERIOD OF TIME IN A HOSPITAL OR HOSPICE OR OTHER HOUSING**  
28 **ACCOMMODATION SUITABLE TO THE PAROLEE’S MEDICAL CONDITION,**

1 INCLUDING THE FAMILY HOME OF THE PAROLEE, AS SPECIFIED BY THE  
2 COMMISSION OR THE SUPERVISING AGENT; AND

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

6 (G) (1) IF THE COMMISSION HAS REASON TO BELIEVE THAT A  
7 PAROLEE IS NO LONGER SO DEBILITATED OR INCAPACITATED AS TO BE  
8 PHYSICALLY INCAPABLE OF PRESENTING A DANGER TO SOCIETY, THE PAROLEE  
9 SHALL BE RETURNED TO THE CUSTODY OF THE DIVISION OF CORRECTION OR  
10 THE LOCAL CORRECTIONAL FACILITY FROM WHICH THE INMATE WAS  
11 RELEASED.

12 (2) (I) A PAROLE HEARING FOR A PAROLEE RETURNED TO  
13 CUSTODY SHALL BE HELD TO CONSIDER WHETHER THE PAROLEE REMAINS  
14 INCAPACITATED AND SHALL BE HEARD PROMPTLY.

15 (II) A PAROLEE RETURNED TO CUSTODY UNDER THIS  
16 SUBSECTION SHALL BE MAINTAINED IN CUSTODY, IF THE INCAPACITATION IS  
17 FOUND TO NO LONGER EXIST.

18 (3) AN INMATE WHOSE MEDICAL PAROLE IS REVOKED FOR LACK  
19 OF CONTINUED INCAPACITATION MAY BE CONSIDERED FOR PAROLE IN  
20 ACCORDANCE WITH THE ELIGIBILITY REQUIREMENTS SPECIFIED IN § 7-301 OF  
21 THIS SUBTITLE.

22 (H) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,  
23 PROVISIONS OF LAW RELATING TO VICTIM NOTIFICATION AND OPPORTUNITY TO  
24 BE HEARD SHALL APPLY TO PROCEEDINGS RELATING TO MEDICAL PAROLE.

25 (2) IN CASES OF IMMINENT DEATH, TIME LIMITS RELATING TO  
26 VICTIM NOTIFICATION AND OPPORTUNITY TO BE HEARD MAY BE WAIVED IN THE  
27 DISCRETION OF THE COMMISSION.

28 (I) ~~NOTWITHSTANDING~~ CONSISTENT WITH § 7-301(D)(4) OF THIS  
29 SUBTITLE, A MEDICAL PAROLE UNDER THIS SECTION FOR A PERSON SERVING A  
30 LIFE SENTENCE SHALL REQUIRE THE APPROVAL OF THE GOVERNOR.

31 (J) THE COMMISSION SHALL ISSUE REGULATIONS TO IMPLEMENT THE  
32 PROVISIONS OF THIS SECTION.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 October 1, 2008.

