

# HOUSE BILL 118

E5  
HB 157/23 – JUD

(PRE-FILED)

4lr1396  
CF SB 128

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By: **Delegate Bartlett**

Requested: November 1, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Geriatric and Medical Parole**

3 FOR the purpose of requiring the Maryland Parole Commission to consider the age of an  
4 incarcerated individual when determining whether to grant parole; altering how the  
5 Commission evaluates a request for medical parole, including providing for a  
6 meeting between the incarcerated individual and the Commission under certain  
7 circumstances; requiring the Commission to develop procedures for assessing parole  
8 requests by certain incarcerated individuals; and generally relating to geriatric and  
9 medical parole.

10 BY repealing and reenacting, with amendments,  
11 Article – Correctional Services  
12 Section 7–305  
13 Annotated Code of Maryland  
14 (2017 Replacement Volume and 2023 Supplement)  
15 (As enacted by Chapter 721 of the Acts of the General Assembly of 2023)

16 BY repealing and reenacting, with amendments,  
17 Article – Correctional Services  
18 Section 7–309  
19 Annotated Code of Maryland  
20 (2017 Replacement Volume and 2023 Supplement)

21 BY adding to  
22 Article – Correctional Services  
23 Section 7–310  
24 Annotated Code of Maryland  
25 (2017 Replacement Volume and 2023 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 That the Laws of Maryland read as follows:

2 **Article – Correctional Services**

3 7–305.

4 Each hearing examiner and commissioner determining whether an incarcerated  
5 individual is suitable for parole, and the Commission before entering into a predetermined  
6 parole release agreement, shall consider:

7 (1) the circumstances surrounding the crime;

8 (2) the physical, mental, and moral qualifications of the incarcerated  
9 individual;

10 (3) the progress of the incarcerated individual during confinement,  
11 including the academic progress of the incarcerated individual in the mandatory education  
12 program required under § 22–102 of the Education Article;

13 (4) a report on a drug or alcohol evaluation that has been conducted on the  
14 incarcerated individual, including any recommendations concerning the incarcerated  
15 individual's amenability for treatment and the availability of an appropriate treatment  
16 program;

17 (5) whether, **TAKING INTO ACCOUNT THE TOTALITY OF THE**  
18 **CIRCUMSTANCES INCLUDING THE AGE OF THE INCARCERATED INDIVIDUAL**, there is  
19 reasonable probability that the incarcerated individual, if released on parole, will [remain  
20 at liberty without violating the law] **NOT RECIDIVATE**;

21 (6) whether release of the incarcerated individual on parole is compatible  
22 with [the welfare of society] **PUBLIC SAFETY**;

23 (7) an updated victim impact statement or recommendation prepared  
24 under § 7–801 of this title;

25 (8) any recommendation made by the sentencing judge at the time of  
26 sentencing;

27 (9) any information that is presented to a commissioner at a meeting with  
28 the victim;

29 (10) any testimony presented to the Commission by the victim or the victim's  
30 designated representative under § 7–801 of this title; and

31 (11) compliance with the case plan developed under § 7–301.1 of this subtitle  
32 or § 3–601 of this article.

1 7-309.

2 (a) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (2) (I) "CHRONICALLY DEBILITATED OR INCAPACITATED" MEANS  
5 HAVING A DIAGNOSABLE MEDICAL CONDITION THAT IS UNLIKELY TO IMPROVE IN  
6 THE FUTURE AND PREVENTS THE INDIVIDUAL FROM COMPLETING MORE THAN ONE  
7 ACTIVITY OF DAILY LIVING, INCLUDING EATING, BREATHING, DRESSING,  
8 GROOMING, TOILETING, WALKING, OR BATHING, WITHOUT ASSISTANCE.

9 (II) "CHRONICALLY DEBILITATED OR INCAPACITATED"  
10 INCLUDES CONDITIONS SUCH AS DEMENTIA OR A SEVERE, PERMANENT MEDICAL OR  
11 COGNITIVE DISABILITY IF THE CONDITION PREVENTS THE INDIVIDUAL FROM  
12 COMPLETING MORE THAN ONE ACTIVITY OF DAILY LIVING.

13 (3) "TERMINAL ILLNESS" MEANS A DISEASE OR CONDITION WITH AN  
14 END-OF-LIFE TRAJECTORY.

15 (B) This section applies to any incarcerated individual who is sentenced to a term  
16 of incarceration for which all sentences being served, including any life sentence, are with  
17 the possibility of parole.

18 [(b)] (C) An incarcerated individual [who is so chronically debilitated or  
19 incapacitated by a medical or mental health condition, disease, or syndrome as to be  
20 physically incapable of presenting a danger to society] may be released on medical parole  
21 at any time during the term of that incarcerated individual's sentence, without regard to  
22 the eligibility standards specified in § 7-301 of this subtitle IF A LICENSED MEDICAL  
23 PROFESSIONAL HAS DETERMINED THAT THE INCARCERATED INDIVIDUAL:

24 (1) (I) IS CHRONICALLY DEBILITATED OR INCAPACITATED; OR

25 (II) SUFFERS FROM A TERMINAL ILLNESS; AND

26 (2) (I) REQUIRES EXTENDED MEDICAL MANAGEMENT WITH  
27 HEALTH CARE NEEDS THAT WOULD BE BETTER MET BY COMMUNITY SERVICES; OR

28 (II) HAS BEEN RENDERED PHYSICALLY INCAPABLE OF  
29 PRESENTING A DANGER TO SOCIETY BY A PHYSICAL OR MENTAL HEALTH  
30 CONDITION, DISEASE, OR SYNDROME.

31 (D) (1) THE INFORMATION TO BE CONSIDERED BY THE COMMISSION  
32 BEFORE GRANTING MEDICAL PAROLE SHALL, AT A MINIMUM, INCLUDE:

1                   **(I) 1. A RECOMMENDATION BY THE MEDICAL**  
2 **PROFESSIONAL TREATING THE INCARCERATED INDIVIDUAL UNDER CONTRACT**  
3 **WITH THE DEPARTMENT OR LOCAL CORRECTIONAL FACILITY; OR**

4                   **2. IF REQUESTED BY AN INDIVIDUAL IDENTIFIED IN**  
5 **SUBSECTION (E)(1) OF THIS SECTION, ONE MEDICAL EVALUATION CONDUCTED AT**  
6 **NO COST TO THE INCARCERATED INDIVIDUAL BY A MEDICAL PROFESSIONAL WHO IS**  
7 **INDEPENDENT FROM THE DIVISION OF CORRECTION OR LOCAL CORRECTIONAL**  
8 **FACILITY;**

9                   **(II) THE INCARCERATED INDIVIDUAL'S MEDICAL**  
10 **INFORMATION, INCLUDING:**

11                   **1. A DESCRIPTION OF THE INCARCERATED**  
12 **INDIVIDUAL'S CONDITION, DISEASE, OR SYNDROME;**

13                   **2. A PROGNOSIS CONCERNING THE LIKELIHOOD OF**  
14 **RECOVERY FROM THE CONDITION, DISEASE, OR SYNDROME;**

15                   **3. A DESCRIPTION OF THE INCARCERATED**  
16 **INDIVIDUAL'S PHYSICAL INCAPACITY; AND**

17                   **4. A MENTAL HEALTH EVALUATION, WHERE RELEVANT;**

18                   **(III) DISCHARGE INFORMATION, INCLUDING:**

19                   **1. AVAILABILITY OF TREATMENT OR PROFESSIONAL**  
20 **SERVICES WITHIN THE COMMUNITY;**

21                   **2. FAMILY SUPPORT WITHIN THE COMMUNITY; AND**

22                   **3. HOUSING AVAILABILITY, INCLUDING HOSPITAL OR**  
23 **HOSPICE CARE; AND**

24                   **(IV) CASE MANAGEMENT INFORMATION, INCLUDING:**

25                   **1. THE CIRCUMSTANCES OF THE CURRENT OFFENSE;**

26                   **2. INSTITUTIONAL HISTORY;**

27                   **3. PENDING CHARGES, SENTENCES IN OTHER**  
28 **JURISDICTIONS, AND ANY OTHER DETAINERS; AND**



1                                   **3. WHO HAS BEEN FREQUENTLY HOUSED IN AN**  
2 **INFIRMARY OF A CORRECTIONAL FACILITY OR HOSPITALIZED OUTSIDE A**  
3 **CORRECTIONAL FACILITY IN THE PRECEDING 6 MONTHS; AND**

4                                   **(II) THE COMMISSION MAY, AT ITS DISCRETION, GRANT THE**  
5 **REQUEST FOR A MEETING FOR ANY INCARCERATED INDIVIDUAL WHO DOES NOT**  
6 **MEET THE REQUIREMENTS OF ITEM (I) OF THIS PARAGRAPH.**

7           **[(d)] (G)**       Following review of the request, the Commission may:

8                           (1) find the request to be inconsistent with the best interests of public  
9 safety and take no further action; or

10                          (2) request that **[department] DEPARTMENT** or local correctional facility  
11 personnel provide information for formal consideration of parole release.

12           **[(e)]**       The information to be considered by the Commission before granting medical  
13 parole shall, at a minimum, include:

14                          (1) (i) a recommendation by the medical professional treating the  
15 incarcerated individual under contract with the Department or local correctional facility;  
16 or

17                               (ii) if requested by an individual identified in subsection (c)(1) of this  
18 section, one medical evaluation conducted at no cost to the incarcerated individual by a  
19 medical professional who is independent from the Division of Correction or local  
20 correctional facility;

21                          (2) the incarcerated individual's medical information, including:

22                               (i) a description of the incarcerated individual's condition, disease,  
23 or syndrome;

24                               (ii) a prognosis concerning the likelihood of recovery from the  
25 condition, disease, or syndrome;

26                               (iii) a description of the incarcerated individual's physical incapacity  
27 and score on the Karnofsky Performance Scale Index or similar classification of physical  
28 impairment; and

29                               (iv) a mental health evaluation, where relevant;

30                          (3) discharge information, including:

31                               (i) availability of treatment or professional services within the  
32 community;

- 1 (ii) family support within the community; and
- 2 (iii) housing availability, including hospital or hospice care; and
- 3 (4) case management information, including:
- 4 (i) the circumstances of the current offense;
- 5 (ii) institutional history;
- 6 (iii) pending charges, sentences in other jurisdictions, and any other  
7 detainers; and
- 8 (iv) criminal history information.]

9 [(f) (H) The Commission may require as a condition of release on medical parole  
10 that:

- 11 (1) the parolee agree to placement for a definite or indefinite period of time  
12 [in a hospital or hospice or other] **UNDER THE CARE OF A MEDICAL PROVIDER AND IN**  
13 **A housing accommodation suitable to the parolee's medical condition, including the family**  
14 **home of the parolee, as specified by the Commission or the supervising agent; and**
- 15 (2) the parolee forward authentic copies of applicable medical records to  
16 indicate that the particular medical condition giving rise to the release continues to exist.

17 [(g) (I) (1) If the Commission has reason to believe that a parolee is no  
18 longer so debilitated or incapacitated as to be physically incapable of presenting a danger  
19 to society, the parolee shall be returned to the custody of the Division of Correction or the  
20 local correctional facility from which the incarcerated individual was released.

21 (2) (i) A parole hearing for a parolee returned to custody shall be held  
22 to consider whether the parolee remains incapacitated and shall be heard promptly.

23 (ii) A parolee returned to custody under this subsection shall be  
24 maintained in custody, if the incapacitation is found to no longer exist.

25 (3) An incarcerated individual whose medical parole is revoked for lack of  
26 continued incapacitation may be considered for parole in accordance with the eligibility  
27 requirements specified in § 7-301 of this subtitle.

28 [(h) (J) (1) **IN THIS SUBSECTION, "IMMINENT DEATH" MEANS DEATH**  
29 **THAT IS LIKELY TO OCCUR WITHIN 6 MONTHS.**

30 (2) Subject to paragraph [(2)] (3) of this subsection, provisions of law

1 relating to victim notification and opportunity to be heard shall apply to proceedings  
2 relating to medical parole.

3            ~~[(2)]~~ **(3)**     In cases of imminent death, time limits relating to victim  
4 notification and opportunity to be heard may be reduced or waived in the discretion of the  
5 Commission.

6            **[(i)]** (1)     If the Commission decides to grant medical parole to an incarcerated  
7 individual sentenced to life imprisonment, the decision shall be transmitted to the  
8 Governor.

9            (2)     The Governor may disapprove the decision by written transmittal to  
10 the Commission.

11            (3)     If the Governor does not disapprove the decision within 180 days after  
12 receipt of the written transmittal, the decision becomes effective.]

13            **[(j)]** **(K)**     The Commission shall [issue] **ADOPT** regulations to implement the  
14 provisions of this section.

15 **7-310.**

16            **(A)     THIS SECTION APPLIES ONLY TO AN INCARCERATED INDIVIDUAL WHO:**

17                    **(1)     IS AT LEAST 60 YEARS OLD;**

18                    **(2)     HAS SERVED AT LEAST 15 YEARS OF THE SENTENCE IMPOSED;**

19                    **(3)     IS NOT REGISTERED OR ELIGIBLE FOR SEX OFFENDER**  
20 **REGISTRATION UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE**  
21 **ARTICLE; AND**

22                    **(4)     IS SENTENCED TO A TERM OF INCARCERATION FOR WHICH ALL**  
23 **SENTENCES BEING SERVED, INCLUDING ANY LIFE SENTENCE, ARE WITH THE**  
24 **POSSIBILITY OF PAROLE.**

25            **(B)     AN INCARCERATED INDIVIDUAL CONSIDERED FOR PAROLE UNDER THIS**  
26 **SECTION SHALL HAVE A PAROLE HEARING EVERY 2 YEARS.**

27            **(C)     IN ADDITION TO THE FACTORS SPECIFIED UNDER § 7-305 OF THIS**  
28 **SUBTITLE, EACH COMMISSION PANEL DETERMINING WHETHER AN INCARCERATED**  
29 **INDIVIDUAL IS SUITABLE FOR PAROLE SHALL CONSIDER AND GIVE WEIGHT TO THE**  
30 **AGE OF THE INCARCERATED INDIVIDUAL AND THE IMPACT THAT THE AGE OF THE**  
31 **INCARCERATED INDIVIDUAL HAS ON REDUCING THE RISK THAT THE INCARCERATED**



1 INDIVIDUAL WILL NOT RECIDIVATE.

2 (D) ANY SAVINGS REALIZED BY THE DEPARTMENT AS A RESULT OF THIS  
3 SECTION SHALL REVERT TO THE DEPARTMENT AND SHALL BE USED FOR THE  
4 PURPOSE OF:

5 (1) CONDUCTING HEARINGS FOR INCARCERATED INDIVIDUALS AS  
6 REQUIRED UNDER SUBSECTION (B) OF THIS SECTION; AND

7 (2) PROVIDING PRERELEASE AND REENTRY CASE MANAGEMENT AND  
8 RESOURCES FOR INCARCERATED INDIVIDUALS WHO ARE SUBJECT TO THIS SECTION  
9 AND RELEASED ON PAROLE.

10 (E) EVERY YEAR, THE COMMISSION SHALL REPORT TO THE JUSTICE  
11 REINVESTMENT OVERSIGHT BOARD ON THE OUTCOMES OF PAROLE  
12 CONSIDERATIONS MADE UNDER THIS SECTION, INCLUDING:

13 (1) THE NUMBER OF INCARCERATED INDIVIDUALS WHO ARE SUBJECT  
14 TO THIS SECTION WHO ARE DENIED PAROLE AND RELEASED ON PAROLE;

15 (2) THE REASON FOR EACH DECISION TO RELEASE AN INCARCERATED  
16 INDIVIDUAL ON PAROLE;

17 (3) THE REASON FOR EACH DECISION TO DENY PAROLE TO AN  
18 INCARCERATED INDIVIDUAL;

19 (4) OF THE NUMBER OF INCARCERATED INDIVIDUALS WHO ARE  
20 RELEASED ON PAROLE, THE NUMBER OF INDIVIDUALS WHO ARE CONVICTED OF AN  
21 OFFENSE COMMITTED AFTER RELEASE;

22 (5) THE AVERAGE TIME BETWEEN WHEN AN INCARCERATED  
23 INDIVIDUAL BECOMES ELIGIBLE FOR PAROLE CONSIDERATION UNDER THIS  
24 SECTION AND WHEN THE INCARCERATED INDIVIDUAL RECEIVES THE FIRST PAROLE  
25 HEARING REQUIRED BY THIS SECTION; AND

26 (6) THE AVERAGE TIME BETWEEN PAROLE HEARINGS FOR  
27 INCARCERATED INDIVIDUALS WHO ARE SUBJECT TO THIS SECTION.

28 (F) (1) THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT  
29 THE PROVISIONS OF THIS SECTION.

30 (2) THE REGULATIONS REQUIRED BY THIS SUBSECTION SHALL  
31 INCLUDE A REQUIREMENT THAT THE DEPARTMENT PROVIDE ANY INCARCERATED

1 **INDIVIDUAL SUBJECT TO THIS SECTION WITH INFORMATION ON THE REGULATIONS**  
2 **AT LEAST ONCE EVERY YEAR.**

3           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2024.