

HB1123/423821/1

BY: Judiciary Committee

AMENDMENTS TO HOUSE BILL 1123  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “**and Charkoudian**” and substitute “**Charkoudian, Crutchfield, Embry, Simmons, Phillips, Stinnett, Taylor, Simpson, Conaway, Kaufman, and Williams**”; and in line 5, after “imprisonment;” insert “altering how the Commission evaluates a request for medical parole, including providing for a meeting between the incarcerated individual and the Commission under certain circumstances;”.

AMENDMENT NO. 2

On pages 2 through 5, strike in their entirety the lines beginning with line 15 on page 2 through line 4 on page 5, inclusive, and substitute:

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

(2) (i) “CHRONICALLY DEBILITATED OR INCAPACITATED” MEANS HAVING A DIAGNOSABLE MEDICAL CONDITION THAT IS UNLIKELY TO IMPROVE IN THE FUTURE AND SUBSTANTIALLY DIMINISHES THE ABILITY OF THE INDIVIDUAL TO PROVIDE SELF-CARE.

(ii) “CHRONICALLY DEBILITATED OR INCAPACITATED” INCLUDES CONDITIONS SUCH AS DEMENTIA OR A SEVERE, PERMANENT MEDICAL OR COGNITIVE DISABILITY IF THE CONDITION SUBSTANTIALLY DIMINISHES THE ABILITY OF THE INDIVIDUAL TO PROVIDE SELF-CARE.

**(3) “TERMINAL ILLNESS” MEANS A DISEASE OR CONDITION WITH AN END-OF-LIFE TRAJECTORY.**

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

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

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

**(II) SUFFERS FROM A TERMINAL ILLNESS; AND**

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

**(II) 1. HAS BEEN RENDERED PHYSICALLY INCAPABLE OF PRESENTING A DANGER TO SOCIETY BY A PHYSICAL OR MENTAL HEALTH CONDITION, DISEASE, OR SYNDROME; OR**

**2. IS NO LONGER A DANGER TO PUBLIC SAFETY.**

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

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

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

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

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

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

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

4. A MENTAL HEALTH EVALUATION, WHERE RELEVANT;

(III) DISCHARGE INFORMATION, INCLUDING:

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

2. FAMILY SUPPORT WITHIN THE COMMUNITY; AND

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

(IV) CASE MANAGEMENT INFORMATION, INCLUDING:

1. THE CIRCUMSTANCES OF THE CURRENT OFFENSE;

2. INSTITUTIONAL HISTORY;

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

4. CRIMINAL HISTORY INFORMATION.

(2) IF A MEDICAL EVALUATION IS REQUESTED UNDER PARAGRAPH (1)(I)2 OF THIS SUBSECTION:

(I) THE EVALUATION SHALL CONSIST OF AN IN-PERSON EXAMINATION OF THE INCARCERATED INDIVIDUAL; AND

(II) THE COMMISSION SHALL GIVE EQUAL CONSIDERATION TO THE FINDINGS OF THE EVALUATION AND ANY MEDICAL CONDITION DETAILED IN THE EVALUATION IN CONSIDERING WHETHER TO GRANT MEDICAL PAROLE.

**[(c)] (E)**      **(1)**      A request for a medical parole under this section may be filed with the Maryland Parole Commission by:

- (i)**      the incarcerated individual seeking the medical parole;
- (ii)**      an attorney;
- (iii)**      a prison official or employee;
- (iv)**      a medical professional;
- (v)**      a family member; or
- (vi)**      any other person.

**(2)**      The request shall be in writing and shall articulate the grounds that support the appropriateness of granting the medical parole.

**(F) (1) THE INCARCERATED INDIVIDUAL OR THE INCARCERATED INDIVIDUAL'S REPRESENTATIVE MAY REQUEST A MEETING WITH THE COMMISSION.**

**(2) IF A REQUEST FOR A MEETING IS MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION:**

**(1) THE COMMISSION SHALL GRANT THE REQUEST FOR A MEETING FOR ANY INCARCERATED INDIVIDUAL:**

**1. HOUSED IN AN INFIRMARY OF A CORRECTIONAL FACILITY;**

2. CURRENTLY HOSPITALIZED OUTSIDE A CORRECTIONAL FACILITY; OR

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

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

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

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

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

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

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

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

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

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

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

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

(iv) a mental health evaluation, where relevant;

(3) discharge information, including:

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

(ii) family support within the community; and

(iii) housing availability, including hospital or hospice care; and

(4) case management information, including:

(i) the circumstances of the current offense;

(ii) institutional history;

(iii) pending charges, sentences in other jurisdictions, and any other detainers; and

(Over)

(iv) criminal history information.]

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

(1) the parolee agree to placement for a definite or indefinite period of time [in a hospital or hospice or other] UNDER THE CARE OF A MEDICAL PROVIDER AND IN A housing accommodation suitable to the parolee's medical condition, including the family home of the parolee, as specified by the Commission or the supervising agent; and

(2) the parolee forward authentic copies of applicable medical records to indicate that the particular medical condition giving rise to the release continues to exist.

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

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

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

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



[(h)] (J)    (1)    **IN THIS SUBSECTION, “IMMINENT DEATH” MEANS DEATH THAT IS LIKELY TO OCCUR WITHIN 6 MONTHS.**

(2)    Subject to paragraph [(2)] (3) of this subsection, provisions of law relating to victim notification and opportunity to be heard shall apply to proceedings relating to medical parole.

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

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

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

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

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