

Part I	ADMINISTRATION OF THE GOVERNMENT
Title XVIII	PRISONS, IMPRISONMENT, PAROLES AND PARDONS
Chapter 127	OFFICERS AND INMATES OF PENAL AND REFORMATORY INSTITUTIONS. PAROLES AND PARDONS
Section 119A	RELEASE OF PRISONER ON MEDICAL PAROLE DUE TO TERMINAL ILLNESS OR PERMANENT INCAPACITATION; PETITION; WRITTEN DECISION; CONDITIONS OF PAROLE; APPEAL; RULES AND REGULATIONS; REPORT

Section 119A. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:—

"Medical parole plan", a comprehensive written medical and psychosocial care plan specific to a prisoner and including, but not limited to: (i) the proposed course of treatment; (ii) the proposed site for treatment and post-treatment care; (iii) documentation that medical providers qualified to provide the medical services identified in the medical parole plan are prepared to provide such services; and (iv) the financial program in place to cover the cost of the plan for the duration of the medical parole, which shall include eligibility for enrollment in commercial insurance, Medicare or Medicaid or access to other adequate financial resources for the duration of the medical parole.

"Department", the department of correction.

"Permanent incapacitation", a physical or cognitive incapacitation that appears irreversible, as determined by a licensed physician, and that is so debilitating that the prisoner does not pose a public safety risk.

"Secretary", the secretary of the executive office of public safety and security.

"Terminal illness", a condition that appears incurable, as determined by a licensed physician, that will likely cause the death of the prisoner in not more than 18 months and that is so debilitating that the prisoner does not pose a public safety risk.

(b) Notwithstanding any general or special law to the contrary, a prisoner may be eligible for medical parole due to a terminal illness or permanent incapacitation pursuant to subsections (c) and (d).

(c)(1) The superintendent of a correctional facility shall consider a prisoner for medical parole upon a written petition by the prisoner, the prisoner's attorney, the prisoner's next of kin, a medical provider of the correctional facility or a member of the department's staff. The superintendent shall review the petition and develop a recommendation as to the release of the prisoner. Whether or not the superintendent recommends in favor of medical parole, the superintendent shall, not more than 21 days after receipt of the petition, transmit the petition and the recommendation to the commissioner. The superintendent shall transmit with the recommendation: (i) a medical parole plan; (ii) a written diagnosis by a physician licensed to practice medicine under section 2 of chapter 112; and (iii) an assessment of the risk for violence that the prisoner poses to society.

(2) Upon receipt of the petition and recommendation pursuant to paragraph (1), the commissioner shall notify, in writing, the district attorney for the jurisdiction where the offense resulting in the prisoner being committed to the correctional facility occurred, the prisoner, the person who petitioned for medical parole, if not the prisoner and, if applicable under chapter 258B, the victim or the victim's family that the prisoner is being considered for medical parole. The parties who receive the notice shall have an opportunity to provide written statements; provided, however, that if the prisoner was convicted and is serving a sentence under section 1 of chapter 265, the district attorney or victim's family may request a hearing.

(d)(1) A sheriff shall consider a prisoner for medical parole upon a written petition filed by the prisoner, the prisoner's attorney, the prisoner's next of kin, a medical provider of the house of correction or jail or a member of the sheriff's staff. The sheriff shall review the request and develop a recommendation as to the release of the prisoner. Whether or not the sheriff recommends in favor of medical parole, the sheriff shall, not more than 21 days after receipt of the petition, transmit the petition and the recommendation to the commissioner. The sheriff shall transmit with the petition: (i) a medical parole plan; (ii) a written diagnosis by a physician licensed to practice medicine under section 2 of chapter 112; and (iii) an assessment of the risk for violence that the prisoner poses to society.

(2) Upon receipt of the petition and recommendation pursuant to paragraph (1), the commissioner shall notify, in writing, the district attorney for the jurisdiction where the offense resulting in the prisoner being committed to the correctional facility occurred, the prisoner, the person who petitioned for medical parole, if not the prisoner and, if

applicable under chapter 258B, the victim or the victim's family that the prisoner is being considered for medical parole. The parties who receive the notice shall have an opportunity to submit written statements.

(e) The commissioner shall issue a written decision not later than 45 days after receipt of a petition, which shall be accompanied by a statement of reasons for the commissioner's decision. If the commissioner determines that a prisoner is terminally ill or permanently incapacitated such that if the prisoner is released the prisoner will live and remain at liberty without violating the law and that the release will not be incompatible with the welfare of society, the prisoner shall be released on medical parole. The parole board shall impose terms and conditions for medical parole that shall apply through the date upon which the prisoner's sentence would have expired.

Not less than 24 hours before the date of a prisoner's release on medical parole, the commissioner shall notify, in writing, the district attorney for the jurisdiction where the offense resulting in the prisoner being committed to the correctional facility occurred, the department of state police, the police department in the city or town in which the prisoner shall reside and, if applicable under chapter 258B, the victim or the victim's family of the prisoner's release and the terms and conditions of the release.

(f) A prisoner granted release under this section shall be under the jurisdiction, supervision and control of the parole board, as if the prisoner had been paroled pursuant to section 130 of chapter 127. The parole board may revise, alter or amend the terms and conditions of a medical parole at any time. If a parole officer receives credible information that a prisoner has failed to comply with a condition of the prisoner's medical

parole or upon discovery that the terminal illness or permanent incapacitation has improved to the extent that the prisoner would no longer be eligible for medical parole under this section, the parole officer shall immediately arrest the prisoner and bring the prisoner before the board for a hearing. If the board determines that the prisoner violated a condition of the prisoner's medical parole or that the terminal illness or permanent incapacitation has improved to the extent that the prisoner would no longer be eligible for medical parole pursuant to this section, the prisoner shall resume serving the balance of the sentence with credit given only for the duration of the prisoner's medical parole that was served in compliance with all conditions of their medical parole pursuant to subsection (e). Revocation of a prisoner's medical parole due to a change in the prisoner's medical condition shall not preclude a prisoner's eligibility for medical parole in the future or for another form of release permitted by law.

(g) A prisoner, sheriff or superintendent aggrieved by a decision denying or granting medical parole made under this section may petition for relief pursuant to section 4 of chapter 249. A decision by the court affirming or reversing the commissioner's grant or denial of medical parole shall not affect a prisoner's eligibility for any other form of release permitted by law. A decision by the court pursuant to this subsection shall not preclude a prisoner's eligibility for medical parole in the future.

(h) The secretary shall promulgate rules and regulations necessary for the enforcement and administration of this section.

(i) The commissioner and the secretary shall file an annual report not later than March 1 with the clerks of the senate and the house of representatives, the senate and house committees on ways and means and

the joint committee on the judiciary detailing, for the prior fiscal year: (i) the number of prisoners in the custody of the department or of the sheriffs who applied for medical parole under this section and the race and ethnicity of each applicant; (ii) the number of prisoners who have been granted medical parole and the race and ethnicity of each prisoner; (iii) the nature of the illness of the applicants for medical parole; (iv) the counties to which the prisoners have been released; (v) the number of prisoners who have been denied medical parole, the reason for the denial and the race and ethnicity of each prisoner; (vi) the number of prisoners who have petitioned for medical parole more than once; (vii) the number of prisoners released who have been returned to the custody of the department or the sheriff and the reason for each prisoner's return; and (viii) the number of petitions for relief sought pursuant to subsection (g). Nothing in this report shall include personally identifiable information of the prisoners.