

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1088

Short Title: Medical Release for Ill and Disabled Inmates.

(Public)

Sponsors: Senator Kerr.

Referred to: Judiciary II.

March 24, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT THE DEPARTMENT OF CORRECTION AND THE
3 POST-RELEASE SUPERVISION AND PAROLE COMMISSION TO PROVIDE
4 FOR MEDICAL RELEASE OF LOW-RISK INMATES WHO ARE EITHER
5 PERMANENTLY AND TOTALLY DISABLED OR TERMINALLY ILL.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Chapter 15A of the General Statutes is amended by adding a
8 new Article to read:

9 "Article 84B.

10 "Medical Release of Inmates.

11 "**§ 15A-1369. Definitions.**

12 For purposes of this Article, the term:

- 13 (1) "Inmate" means any person sentenced to the custody of the
14 Department of Correction.
15 (2) "Permanently and totally disabled" describes an inmate who suffers
16 permanent and irreversible physical incapacitation as a result of an
17 existing physical or medical condition.
18 (3) "Terminally ill" describes an inmate who, as determined by a licensed
19 physician, has an incurable condition caused by illness or disease that
20 will likely produce death within 12 months.
21 (4) "Commission" means the Post-Release Supervision and Parole
22 Commission.
23 (5) "Department" means the Department of Correction.
24 (6) "Medical release" means a program enabling the Commission to
25 release low-risk inmates who are either permanently and totally
26 disabled or terminally ill.

27 "**§ 15A-1369.1. Authority to release.**

28 The Commission shall establish a medical release program to be administered by the
29 Department. The Commission shall prescribe when and under what conditions an

1 inmate may be released for medical release, consistent with the provisions of
2 G.S. 15A-1369.4. The Commission may adopt rules to implement the medical release
3 program.

4 **"§ 15A-1369.2. Eligibility.**

5 Notwithstanding any other provision of law, an inmate is eligible to be considered
6 for medical release if the inmate is:

- 7 (1) Diagnosed as permanently and totally disabled or terminally ill under
8 the procedure described in G.S. 15A-1369.3(b)(1); and
9 (2) Assessed by the Department to pose a low risk to society, as described
10 in G.S. 15A-1369.3(b)(2).

11 **"§ 15A-1369.3. Procedure for medical release.**

12 (a) The Commission shall consider an inmate for medical release upon referral
13 by the Department. The Department may base its referral upon either a request or
14 petition for release filed by the inmate or on the inmate's behalf or upon a
15 recommendation from within the Department.

16 (b) The criteria for referral shall include an assessment of the inmate's medical
17 condition and the risk the inmate poses to society, as follows:

- 18 (1) The Department medical director or an independent licensed physician
19 approved by the Department shall examine any inmate who has
20 applied for or has been recommended for medical release. This
21 medical diagnosis shall be made within 10 working days of receiving
22 an inmate's application or the recommendation from within the
23 Department. Any physician who examines an inmate being considered
24 for medical release shall prepare a written diagnosis that includes:
25 a. A description of any and all terminal conditions and physical
26 incapacities; and
27 b. A prognosis concerning the likelihood of recovery from any and
28 all terminal conditions and physical incapacities.

- 29 (2) The Department shall make an assessment of the risk for violence and
30 recidivism that the inmate poses to society. In order to make this
31 assessment, the Department may consider such factors as the inmate's
32 medical condition, the severity of the offense for which the inmate is
33 incarcerated, the inmate's prison record, and the release plan. The
34 Department shall complete the risk assessment within 10 working days
35 of the completion of the medical diagnosis required by subdivision
36 (b)(1) of this section.

37 (c) If the inmate meets the criteria for release, the Department shall forward its
38 referral and medical release plan for the inmate to the Commission. The referral shall be
39 made within 10 days after completion of the risk assessment.

40 (d) The Commission shall make a determination of whether to grant medical
41 release within 10 days of receiving a referral from the Department.

42 (e) A denial of medical release by the Commission shall not affect an inmate's
43 eligibility for any other form of parole or release under applicable law.

44 **"§ 15A-1369.4. Conditions of medical release.**

1 (a) The Commission may set reasonable conditions upon an inmate's medical
2 release. These conditions may include:

3 (1) That the released inmate may be placed in a hospital, hospice, or other
4 institution as specified by the Commission; and

5 (2) That the inmate shall submit to periodic examinations conducted by
6 the medical director or an independent licensed physician approved by
7 the Department.

8 (b) The Commission shall revoke an inmate's medical release if the Commission
9 determines that an inmate has failed to comply with any reasonable condition set upon
10 the inmate's release. If the Commission revokes an inmate's medical release, the inmate
11 shall be returned to the custody of the Department and shall resume serving the balance
12 of the sentence with credit given only for the duration of the inmate's medical release
13 served in compliance with all reasonable conditions set forth pursuant to subsection (a)
14 of this section. Revocation of an inmate's medical release for violating a condition of
15 release shall not preclude an inmate's eligibility for any other form of parole or release
16 provided by law, but may be used as a factor in determining eligibility for that parole or
17 release.

18 **"§ 15A-1369.5. Change in medical status.**

19 (a) If a periodic diagnosis reveals that an inmate released on medical release has
20 improved so that the inmate would not be eligible for medical release if being
21 considered at that time, the Commission may order the inmate returned to the custody of
22 the Department to await a revocation hearing. In determining whether to revoke medical
23 release, the Commission may consider the most recent periodic diagnosis of the inmate
24 and a risk assessment of the inmate conducted pursuant to G.S. 15A-1369.3(b)(2). If the
25 Commission revokes the inmate's medical release, the inmate shall resume serving the
26 balance of the sentence with credit given for the duration of the medical release.

27 (b) Revocation of an inmate's medical release due to a change in the inmate's
28 medical condition shall not preclude an inmate's eligibility for medical release in the
29 future or for any other form of parole or release provided by law."

30 **SECTION 2.** This act is effective when it becomes law.