

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 588

Short Title: Medical Release/Older Prisoners.

(Public)

Sponsors: Representatives Ives and Gardner.

Referred to: Judiciary II.

March 28, 1995

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF CORRECTION TO PROVIDE MEDICAL RELEASE FOR LOW-RISK OLDER INMATES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes is amended by adding a new Article to read:

**"ARTICLE 84B.**

**"MEDICAL RELEASE.**

**"§ 15A-1369. Definitions.**

For purposes of this Article, the term:

- (1) 'Inmate' means any person sentenced to the custody of the Department of Correction.
- (2) 'Permanently incapacitated' describes an inmate who suffers permanent and irreversible physical incapacitation as a result of an existing physical or medical condition.
- (3) 'Terminally ill' describes an inmate who has an incurable condition caused by illness or disease which, according to reasonable medical judgment, will produce death within 12 months.
- (4) 'Commission' means the Post-Release Supervision and Parole Commission.

1           (5) 'Department' means the Department of Correction.

2           (6) 'Medical release' means a program enabling the Commission to release  
3 low-risk older inmates who are either permanently incapacitated or  
4 terminally ill.

5           (7) 'Released inmate' means an inmate who has been released on medical  
6 release.

7 **"§ 15A-1369.1. Authority to release.**

8           (a) The Commission may establish a medical release program to be administered  
9 by the Department. The Commission shall prescribe when and under what conditions an  
10 inmate may be released for medical release.

11           (b) The Commission may adopt rules to implement the medical release program.

12 **"§ 15A-1369.2. Eligibility.**

13           Every inmate who is 55 years of age or older is eligible for consideration for medical  
14 release, provided the inmate is also diagnosed as permanently incapacitated or terminally  
15 ill under G.S. 15A-1369.3(b)(1) and the inmate is assessed by the Department to pose a  
16 low risk to society, as described in G.S. 15A-1369.3(b)(2).

17 **"§ 15A-1369.3. Procedure for medical release.**

18           (a) The Commission shall consider an inmate for medical release upon referral by  
19 the Department. The Department may base its referral upon:

20           (1) A request or petition for release filed by the inmate or the inmate's  
21 representative with the Department;

22           (2) A recommendation from within the Department.

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

25           (1) The Department medical director or an independent licensed physician  
26 approved by the Department shall examine any inmate who has applied  
27 for or has been recommended for medical release. This medical  
28 diagnosis shall be made within 10 working days of receiving an inmate's  
29 application or the recommendation from within the Department. Any  
30 physician who examines an inmate being considered for medical release  
31 shall prepare a written diagnosis which includes:

32           a. A description of any and all terminal conditions and physical  
33 incapacities; and

34           b. A prognosis concerning the likelihood of recovery from any and  
35 all terminal conditions and physical incapacities.

36           (2) The Department shall make an assessment of the risk for violence and  
37 recidivism that the inmate poses to society. In order to make this  
38 assessment, the Department may consider such factors as the inmate's  
39 medical condition, the severity of the offense for which the inmate is  
40 incarcerated, the inmate's prison record, and the release plan. The  
41 Department shall complete the risk assessment within 10 working days  
42 of the completion of the medical diagnosis required by subdivision  
43 (b)(1) of this section.

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

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

6 (e) Notwithstanding any other provision of law, the release term of an inmate on  
7 medical release under this Article shall be for the remainder of the inmate's sentence  
8 without any diminution of the sentence for good behavior.

9 (f) A denial of medical release by the Commission shall not affect an inmate's  
10 eligibility for any other form of parole under applicable law.

11 **"§ 15A-1369.4. Conditions of medical release.**

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

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

16 (2) That the inmate shall submit to periodic examinations conducted by the  
17 medical director or an independent licensed physician approved by the  
18 Department.

19 (b) The Commission shall revoke an inmate's medical release if the Commission  
20 determines that an inmate has failed to comply with any reasonable condition set upon  
21 the inmate's release. If the Commission revokes an inmate's medical release, the inmate  
22 shall be returned to the custody of the Department and shall resume serving the balance  
23 of the sentence with credit given only for the duration of the inmate's medical release  
24 served in compliance with all reasonable conditions set forth pursuant to subsection (a) of  
25 this section. Revocation of an inmate's medical release for violating a condition of  
26 release shall not preclude an inmate's eligibility for any other form of parole provided by  
27 law, but may be used as a factor in determining eligibility for that parole.

28 **"§ 15A-1369.5. Change in medical status.**

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

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

40 Sec. 2. This act becomes effective July 1, 1995.