

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

2

HOUSE BILL 588
Committee Substitute Favorable 5/10/95

Short Title: Medical Release/Older Prisoners.

(Public)

Sponsors:

Referred to:

March 28, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF CORRECTION TO PROVIDE
3 MEDICAL RELEASE FOR LOW-RISK OLDER INMATES.

4 The General Assembly of North Carolina enacts:

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

7 **"ARTICLE 84B.**
8 **"MEDICAL RELEASE.**

9 **"§ 15A-1369. Definitions.**

10 For purposes of this Article, the term:

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

1 (4) 'Commission' means the Post-Release Supervision and Parole
2 Commission.

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

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

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

9 **"§ 15A-1369.1. Authority to release.**

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

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

14 **"§ 15A-1369.2. Eligibility.**

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

19 **"§ 15A-1369.3. Procedure for medical release.**

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

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

24 (2) A recommendation from within the Department.

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

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

34 a. A description of any and all terminal conditions and physical
35 incapacities; and

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

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

1 of the completion of the medical diagnosis required by subdivision
2 (b)(1) of this section.

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

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

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

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

13 **"§ 15A-1369.4. Conditions of medical release.**

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

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

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

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

30 **"§ 15A-1369.5. Change in medical status.**

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

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

1 Sec. 2. There is appropriated from the General Fund to the Department of
2 Correction, Post-Release Supervision and Parole Commission the sum of five thousand
3 dollars (\$5,000) for the 1995-96 fiscal year to implement the provisions of this act.

4 Sec. 3. This act becomes effective July 1, 1995.