

STATE OF NEW YORK

5948

2025-2026 Regular Sessions

IN ASSEMBLY

February 25, 2025

Introduced by M. of A. DILAN -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to medical parole

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (a) of subdivision 1 of section 259-r of the
2 executive law, as amended by section 14 of chapter 322 of the laws of
3 2021, is amended to read as follows:
4 (a) The board shall have the power to release on medical parole any
5 incarcerated individual serving an indeterminate or determinate sentence
6 of imprisonment who, pursuant to subdivision two of this section, has
7 been certified to be suffering from a terminal condition, disease or
8 syndrome and to be so debilitated or incapacitated as to create a
9 reasonable probability that [~~he or she~~] such incarcerated individual is
10 physically or cognitively incapable of presenting [~~any~~] a danger to
11 society, provided, however, that no incarcerated individual serving a
12 sentence imposed upon a conviction for murder in the first degree or an
13 attempt or conspiracy to commit murder in the first degree shall be
14 eligible for such release, and provided further that no incarcerated
15 individual serving a sentence imposed upon a conviction for any of the
16 following offenses shall be eligible for such release unless in the case
17 of an indeterminate sentence [~~he or she~~] such incarcerated individual
18 has served at least one-half of the minimum period of the sentence and
19 in the case of a determinate sentence [~~he or she~~] such incarcerated
20 individual has served at least one-half of the term of [~~his or her~~]
21 their determinate sentence: murder in the second degree, manslaughter
22 in the first degree, any offense defined in article one hundred thirty
23 of the penal law or an attempt to commit any of these offenses. Solely
24 for the purpose of determining medical parole eligibility pursuant to
25 this section, such one-half of the minimum period of the indeterminate
26 sentence and one-half of the term of the determinate sentence shall not

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 be credited with any time served under the jurisdiction of the depart-
2 ment prior to the commencement of such sentence pursuant to the opening
3 paragraph of subdivision one of section 70.30 of the penal law or subdivi-
4 sion two-a of section 70.30 of the penal law, except to the extent
5 authorized by subdivision three of section 70.30 of the penal law.

6 § 2. Paragraph (a) of subdivision 1 of section 259-r of the executive
7 law, as amended by section 14-a of chapter 322 of the laws of 2021, is
8 amended to read as follows:

9 (a) The board shall have the power to release on medical parole any
10 incarcerated individual serving an indeterminate or determinate sentence
11 of imprisonment who, pursuant to subdivision two of this section, has
12 been certified to be suffering from a terminal condition, disease or
13 syndrome and to be so debilitated or incapacitated as to create a
14 reasonable probability that ~~[he or she]~~ such incarcerated individual is
15 physically or cognitively incapable of presenting ~~[any]~~ a danger to
16 society, provided, however, that no incarcerated individual serving a
17 sentence imposed upon a conviction for murder in the first degree or an
18 attempt or conspiracy to commit murder in the first degree shall be
19 eligible for such release, and provided further that no incarcerated
20 individual serving a sentence imposed upon a conviction for any of the
21 following offenses shall be eligible for such release unless in the case
22 of an indeterminate sentence ~~[he or she]~~ such incarcerated individual
23 has served at least one-half of the minimum period of the sentence and
24 in the case of a determinate sentence ~~[he or she]~~ such incarcerated
25 individual has served at least one-half of the term of ~~[his or her]~~
26 their determinate sentence: murder in the second degree, manslaughter
27 in the first degree, any offense defined in article one hundred thirty
28 of the penal law or an attempt to commit any of these offenses. Solely
29 for the purpose of determining medical parole eligibility pursuant to
30 this section, such one-half of the minimum period of the indeterminate
31 sentence and one-half of the term of the determinate sentence shall not
32 be credited with any time served under the jurisdiction of the depart-
33 ment prior to the commencement of such sentence pursuant to the opening
34 paragraph of subdivision one of section 70.30 of the penal law or subdivi-
35 sion two-a of section 70.30 of the penal law, except to the extent
36 authorized by subdivision three of section 70.30 of the penal law.

37 § 3. Paragraph (b) of subdivision 2 of section 259-r of the executive
38 law, as amended by chapter 322 of the laws of 2021, is amended to read
39 as follows:

40 (b) The commissioner, or the commissioner's designee, shall review the
41 diagnosis and may certify that the incarcerated individual is suffering
42 from such terminal condition, disease or syndrome and that the incarcer-
43 ated individual is so debilitated or incapacitated as to ~~[create a~~
44 ~~reasonable probability that he or she is physically or cognitively inca-~~
45 ~~pable of presenting any danger to society]~~ be severely restricted in
46 their ability to self-ambulate or to perform significant normal activ-
47 ities of daily living. If the commissioner does not so certify then the
48 incarcerated individual shall not be referred to the board for consider-
49 ation for release on medical parole. If the commissioner does so certi-
50 fy, then the commissioner shall, within seven working days of receipt of
51 such diagnosis, refer the incarcerated individual to the board for
52 consideration for release on medical parole. However, no such referral
53 of an incarcerated individual to the board shall be made unless the
54 incarcerated individual has been examined by a physician and diagnosed
55 as having a terminal condition, disease or syndrome as previously
56 described herein at some time subsequent to such incarcerated individ-

1 ual's admission to a facility operated by the department of [~~correction-~~
2 ~~al-services~~] corrections and community supervision.

3 § 4. Subdivision 4 of section 259-r of the executive law, as amended
4 by section 38-1 of subpart A of part C of chapter 62 of the laws of
5 2011, paragraph (b) as amended by chapter 322 of the laws of 2021, is
6 amended to read as follows:

7 4. (a) The board shall, upon receipt of certification from the commis-
8 sioner, independently determine whether the conditions under which the
9 incarcerated individual would be released creates a reasonable probabil-
10 ity that such incarcerated individual is physically or cognitively inca-
11 pable of presenting a danger to society. The board shall provide a
12 determination of release within thirty days upon receipt of certif-
13 ication from the commissioner.

14 (b) Medical parole granted pursuant to this section shall be for a
15 period of six months.

16 [~~(b)~~] (c) The board shall require as a condition of release on medical
17 parole that the releasee agree to remain under the care of a physician
18 while on medical parole and in a hospital established pursuant to arti-
19 cle twenty-eight of the public health law, a hospice established pursu-
20 ant to article forty of the public health law or any other placement
21 that can provide appropriate medical care as specified in the medical
22 discharge plan required by subdivision two of this section. The medical
23 discharge plan shall state that the availability of the placement has
24 been confirmed, and by whom. Notwithstanding any other provision of law,
25 when an incarcerated individual who qualifies for release under this
26 section is cognitively incapable of signing the requisite documentation
27 to effectuate the medical discharge plan and, after a diligent search no
28 person has been identified who could otherwise be appointed as the
29 incarcerated individual's guardian by a court of competent jurisdiction,
30 then, solely for the purpose of implementing the medical discharge plan,
31 the facility health services director at the facility where the incar-
32 cerated individual is currently incarcerated shall be lawfully empowered
33 to act as the incarcerated individual's guardian for the purpose of
34 effectuating the medical discharge.

35 [~~(c)~~] (d) Where appropriate, the board shall require as a condition of
36 release that medical parolees be supervised on intensive caseloads at
37 reduced supervision ratios.

38 [~~(d)~~] (e) The board shall require as a condition of release on medical
39 parole that the releasee undergo periodic medical examinations and a
40 medical examination at least one month prior to the expiration of the
41 period of medical parole and, for the purposes of making a decision
42 pursuant to paragraph [~~(e)~~] (f) of this subdivision, that the releasee
43 provide the board with a report, prepared by the treating physician, of
44 the results of such examination. Such report shall specifically state
45 whether or not the parolee continues to suffer from a terminal condi-
46 tion, disease, or syndrome, and to be so debilitated or incapacitated as
47 to be severely restricted in [~~his or her~~] their ability to self-ambulate
48 or to perform significant normal activities of daily living.

49 [~~(e)~~] (f) Prior to the expiration of the period of medical parole the
50 board shall review the medical examination report required by paragraph
51 [~~(d)~~] (e) of this subdivision and may again grant medical parole pursu-
52 ant to this section; provided, however, that the provisions of paragraph
53 (c) of subdivision one and subdivision two of this section shall not
54 apply.

55 [~~(f)~~] (g) If the updated medical report presented to the board states
56 that a parolee released pursuant to this section is no longer so debili-

1 tated or incapacitated as to create a reasonable probability that [~~he or~~
2 ~~she~~] such parolee is physically or cognitively incapable of presenting
3 [~~any~~] a danger to society or if the releasee fails to submit the updated
4 medical report then the board may not make a new grant of medical parole
5 pursuant to paragraph [~~(e)~~] (f) of this subdivision. Where the board has
6 not granted medical parole pursuant to such paragraph [~~(e)~~] (f) the
7 board shall promptly conduct through one of its members, or cause to be
8 conducted by a hearing officer designated by the board, a hearing to
9 determine whether the releasee is suffering from a terminal condition,
10 disease or syndrome and is so debilitated or incapacitated as to create
11 a reasonable probability that [~~he or she~~] such releasee is physically or
12 cognitively incapable of presenting [~~any danger to society and does not~~
13 ~~present~~] a danger to society. If the board makes such a determination
14 then it may make a new grant of medical parole pursuant to the standards
15 of paragraph (b) of subdivision one of this section. At the hearing, the
16 releasee shall have the right to representation by counsel, including
17 the right, if the releasee is financially unable to retain counsel, to
18 have the appropriate court assign counsel in accordance with the county
19 or city plan for representation placed in operation pursuant to article
20 eighteen-B of the county law.

21 [~~(g)~~] (h) The hearing and determination provided for by paragraph
22 [~~(f)~~] (g) of this subdivision shall be concluded within the six month
23 period of medical parole. If the board does not renew the grant of
24 medical parole, it shall order that the releasee be returned immediately
25 to the custody of the department.

26 [~~(h)~~] (i) In addition to the procedures set forth in paragraph [~~(f)~~]
27 (g) of this subdivision, medical parole may be revoked at any time upon
28 any of the grounds specified in paragraph (a) of subdivision three of
29 section two hundred fifty-nine-i of this article, and in accordance with
30 the procedures specified in subdivision three of section two hundred
31 fifty-nine-i of this article.

32 [~~(i)~~] (j) A releasee who is on medical parole and who becomes eligible
33 for parole pursuant to the provisions of subdivision two of section two
34 hundred fifty-nine-i of this article shall be eligible for parole
35 consideration pursuant to such subdivision.

36 § 5. Paragraph (a) of subdivision 1 of section 259-s of the executive
37 law, as amended by chapter 322 of the laws of 2021, is amended to read
38 as follows:

39 (a) The board shall have the power to release on medical parole any
40 incarcerated individual serving an indeterminate or determinate sentence
41 of imprisonment who, pursuant to subdivision two of this section, has
42 been certified to be suffering from a significant and permanent non-ter-
43 minal condition, disease or syndrome that has rendered the incarcerated
44 individual so physically or cognitively debilitated or incapacitated as
45 to create a reasonable probability that [~~he or she~~] such incarcerated
46 individual does not present [~~any~~] a danger to society, provided, howev-
47 er, that no incarcerated individual serving a sentence imposed upon a
48 conviction for murder in the first degree or an attempt or conspiracy to
49 commit murder in the first degree shall be eligible for such release,
50 and provided further that no incarcerated individual serving a sentence
51 imposed upon a conviction for any of the following offenses shall be
52 eligible for such release unless in the case of an indeterminate
53 sentence [~~he or she~~] such incarcerated individual has served at least
54 one-half of the minimum period of the sentence and in the case of a
55 determinate sentence [~~he or she~~] such incarcerated individual has served
56 at least one-half of the term of [~~his or her~~] their determinate

1 sentence: murder in the second degree, manslaughter in the first degree,
2 any offense defined in article one hundred thirty of the penal law or an
3 attempt to commit any of these offenses. Solely for the purpose of
4 determining medical parole eligibility pursuant to this section, such
5 one-half of the minimum period of the indeterminate sentence and one-
6 half of the term of the determinate sentence shall not be credited with
7 any time served under the jurisdiction of the department prior to the
8 commencement of such sentence pursuant to the opening paragraph of
9 subdivision one of section 70.30 of the penal law or subdivision two-a
10 of section 70.30 of the penal law, except to the extent authorized by
11 subdivision three of section 70.30 of the penal law.

12 § 6. Paragraph (b) of subdivision 2 of section 259-s of the executive
13 law, as amended by chapter 322 of the laws of 2021, is amended to read
14 as follows:

15 (b) The commissioner, or the commissioner's designee, shall review the
16 diagnosis and may certify that the incarcerated individual is suffering
17 from such condition, disease or syndrome and that the incarcerated indi-
18 vidual is so debilitated or incapacitated as to [~~create a reasonable~~
19 ~~probability that he or she is physically or cognitively incapable of~~
20 ~~presenting any danger to society~~] be severely restricted in their abili-
21 ty to self-ambulate or to perform significant normal activities of daily
22 living. If the commissioner does not so certify then the incarcerated
23 individual shall not be referred to the board for consideration for
24 release on medical parole. If the commissioner does so certify, then the
25 commissioner shall, within seven working days of receipt of such diagno-
26 sis, refer the incarcerated individual to the board for consideration
27 for release on medical parole. However, no such referral of an incar-
28 cerated individual to the board of parole shall be made unless the
29 incarcerated individual has been examined by a physician and diagnosed
30 as having a condition, disease or syndrome as previously described here-
31 in at some time subsequent to such incarcerated individual's admission
32 to a facility operated by the department.

33 § 7. Subdivision 4 of section 259-s of the executive law, as amended
34 by chapter 322 of the laws of 2021, is amended to read as follows:

35 4. (a) The board shall, upon receipt of certification from the commis-
36 sioner, independently determine whether the conditions under which the
37 incarcerated individual would be released creates a reasonable probabili-
38 ty that such incarcerated individual is physically or cognitively inca-
39 pable of presenting a danger to society. The board shall provide a
40 determination of release within thirty days upon receipt of certifi-
41 cation from the commissioner.

42 (b) Medical parole granted pursuant to this section shall be for a
43 period of six months.

44 [~~(b)~~] (c) The board shall require as a condition of release on medical
45 parole that the releasee agree to remain under the care of a physician
46 while on medical parole and in a hospital established pursuant to arti-
47 cle twenty-eight of the public health law, a hospice established pursu-
48 ant to article forty of the public health law or any other placement,
49 including a residence with family or others, that can provide appropri-
50 ate medical care as specified in the medical discharge plan required by
51 subdivision two of this section. The medical discharge plan shall state
52 that the availability of the placement has been confirmed, and by whom.
53 Notwithstanding any other provision of law, when an incarcerated indi-
54 vidual who qualifies for release under this section is cognitively inca-
55 pable of signing the requisite documentation to effectuate the medical
56 discharge plan and, after a diligent search no person has been identi-

1 fied who could otherwise be appointed as the incarcerated individual's
2 guardian by a court of competent jurisdiction, then, solely for the
3 purpose of implementing the medical discharge plan, the facility health
4 services director at the facility where the incarcerated individual is
5 currently incarcerated shall be lawfully empowered to act as the incar-
6 cerated individual's guardian for the purpose of effectuating the
7 medical discharge.

8 [~~(e)~~] (d) Where appropriate, the board shall require as a condition of
9 release that medical parolees be supervised on intensive caseloads at
10 reduced supervision ratios.

11 [~~(d)~~] (e) The board shall require as a condition of release on medical
12 parole that the releasee undergo periodic medical examinations and a
13 medical examination at least one month prior to the expiration of the
14 period of medical parole and, for the purposes of making a decision
15 pursuant to paragraph [~~(e)~~] (f) of this subdivision, that the releasee
16 provide the board with a report, prepared by the treating physician, of
17 the results of such examination. Such report shall specifically state
18 whether or not the parolee continues to suffer from a significant and
19 permanent non-terminal and debilitating condition, disease, or syndrome,
20 and to be so debilitated or incapacitated as to be severely restricted
21 in [~~his or her~~] their ability to self-ambulate or to perform significant
22 normal activities of daily living.

23 [~~(e)~~] (f) Prior to the expiration of the period of medical parole the
24 board shall review the medical examination report required by paragraph
25 [~~(d)~~] (e) of this subdivision and may again grant medical parole pursu-
26 ant to this section; provided, however, that the provisions of paragraph
27 (c) of subdivision one and subdivision two of this section shall not
28 apply.

29 [~~(f)~~] (g) If the updated medical report presented to the board states
30 that a parolee released pursuant to this section is no longer so debili-
31 tated or incapacitated as to create a reasonable probability that [~~he or~~
32 ~~she~~] such parolee is physically or cognitively incapable of presenting
33 [~~any~~] a danger to society or if the releasee fails to submit the updated
34 medical report then the board may not make a new grant of medical parole
35 pursuant to paragraph [~~(e)~~] (f) of this subdivision. Where the board has
36 not granted medical parole pursuant to [~~such~~] paragraph [~~(e)~~] (f) of
37 this subdivision the board shall promptly conduct through one of its
38 members, or cause to be conducted by a hearing officer designated by the
39 board, a hearing to determine whether the releasee is suffering from a
40 significant and permanent non-terminal and incapacitating condition,
41 disease or syndrome and is so debilitated or incapacitated as to create
42 a reasonable probability that [~~he or she~~] such releasee is physically or
43 cognitively incapable of presenting [~~any danger to society and does not~~
44 ~~present~~] a danger to society. If the board makes such a determination
45 then it may make a new grant of medical parole pursuant to the standards
46 of paragraph (b) of subdivision one of this section. At the hearing, the
47 releasee shall have the right to representation by counsel, including
48 the right, if the releasee is financially unable to retain counsel, to
49 have the appropriate court assign counsel in accordance with the county
50 or city plan for representation placed in operation pursuant to article
51 eighteen-B of the county law.

52 [~~(g)~~] (h) The hearing and determination provided for by paragraph
53 [~~(f)~~] (g) of this subdivision shall be concluded within the six month
54 period of medical parole. If the board does not renew the grant of
55 medical parole, it shall order that the releasee be returned immediately

1 to the custody of the department of [~~correctional services~~] corrections
2 and community supervision.

3 [~~(h)~~] (i) In addition to the procedures set forth in paragraph [~~(f)~~]
4 (g) of this subdivision, medical parole may be revoked at any time upon
5 any of the grounds specified in paragraph (a) of subdivision three of
6 section two hundred fifty-nine-i of this article, and in accordance with
7 the procedures specified in subdivision three of section two hundred
8 fifty-nine-i of this article.

9 [~~(i)~~] (j) A releasee who is on medical parole and who becomes eligible
10 for parole pursuant to the provisions of subdivision two of section two
11 hundred fifty-nine-i of this article shall be eligible for parole
12 consideration pursuant to such subdivision.

13 § 8. This act shall take effect immediately; provided, however, that
14 the amendments to paragraph (a) of subdivision 1 of section 259-r of the
15 executive law made by section one of this act shall be subject to the
16 expiration and reversion of such paragraph pursuant to subdivision d of
17 section 74 of chapter 3 of the laws of 1995, as amended, when upon such
18 date the provisions of section two of this act shall take effect.