

# STATE OF NEW YORK

5804

2025-2026 Regular Sessions

## IN SENATE

March 3, 2025

Introduced by Sens. SEPULVEDA, MAY, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and 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

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

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1 sentence and one-half of the term of the determinate sentence shall not  
2 be credited with any time served under the jurisdiction of the depart-  
3 ment prior to the commencement of such sentence pursuant to the opening  
4 paragraph of subdivision one of section 70.30 of the penal law or subdivi-  
5 sion two-a of section 70.30 of the penal law, except to the extent  
6 authorized by subdivision three of section 70.30 of the penal law.

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

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

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

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

1 described herein at some time subsequent to such incarcerated individ-  
2 ual's admission to a facility operated by the department of [~~correction-~~  
3 ~~al-services~~] corrections and community supervision.

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

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

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

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

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

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

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

1    [~~(f)~~] (g) If the updated medical report presented to the board states  
2 that a parolee released pursuant to this section is no longer so debili-  
3 tated or incapacitated as to create a reasonable probability that [~~he or~~  
4 ~~she~~] such parolee is physically or cognitively incapable of presenting  
5 [~~any~~] a danger to society or if the releasee fails to submit the updated  
6 medical report then the board may not make a new grant of medical parole  
7 pursuant to paragraph [~~(e)~~] (f) of this subdivision. Where the board has  
8 not granted medical parole pursuant to such paragraph [~~(e)~~] (f) the  
9 board shall promptly conduct through one of its members, or cause to be  
10 conducted by a hearing officer designated by the board, a hearing to  
11 determine whether the releasee is suffering from a terminal condition,  
12 disease or syndrome and is so debilitated or incapacitated as to create  
13 a reasonable probability that [~~he or she~~] such releasee is physically or  
14 cognitively incapable of presenting [~~any danger to society and does not~~  
15 ~~present~~] a danger to society. If the board makes such a determination  
16 then it may make a new grant of medical parole pursuant to the standards  
17 of paragraph (b) of subdivision one of this section. At the hearing, the  
18 releasee shall have the right to representation by counsel, including  
19 the right, if the releasee is financially unable to retain counsel, to  
20 have the appropriate court assign counsel in accordance with the county  
21 or city plan for representation placed in operation pursuant to article  
22 eighteen-B of the county law.

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

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

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

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

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

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

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

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

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

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

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

46 [~~(b)~~] (c) The board shall require as a condition of release on medical  
47 parole that the releasee agree to remain under the care of a physician  
48 while on medical parole and in a hospital established pursuant to arti-  
49 cle twenty-eight of the public health law, a hospice established pursu-  
50 ant to article forty of the public health law or any other placement,  
51 including a residence with family or others, that can provide appropri-  
52 ate medical care as specified in the medical discharge plan required by  
53 subdivision two of this section. The medical discharge plan shall state  
54 that the availability of the placement has been confirmed, and by whom.  
55 Notwithstanding any other provision of law, when an incarcerated indi-  
56 vidual who qualifies for release under this section is cognitively inca-

1 pable of signing the requisite documentation to effectuate the medical  
2 discharge plan and, after a diligent search no person has been identi-  
3 fied who could otherwise be appointed as the incarcerated individual's  
4 guardian by a court of competent jurisdiction, then, solely for the  
5 purpose of implementing the medical discharge plan, the facility health  
6 services director at the facility where the incarcerated individual is  
7 currently incarcerated shall be lawfully empowered to act as the incar-  
8 cerated individual's guardian for the purpose of effectuating the  
9 medical discharge.

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

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

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

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

54 [~~(g)~~] (h) The hearing and determination provided for by paragraph  
55 [~~(f)~~] (g) of this subdivision shall be concluded within the six month  
56 period of medical parole. If the board does not renew the grant of

1 medical parole, it shall order that the releasee be returned immediately  
2 to the custody of the department of [~~correctional services~~] corrections  
3 and community supervision.

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

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

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