

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 probabil-
11 ity 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 [~~(e)~~] (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.