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BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

FOR THE CRIMINAL JUSTICE REFORM SUBCOMMITTEE

AN ACT

RELATING TO PAROLE; REQUIRING THE CORRECTIONS DEPARTMENT TO
SUBMIT A LIST OF INMATES ELIGIBLE OR WHO MAY BECOME ELIGIBLE
FOR MEDICAL OR GERIATRIC PAROLE TO THE PAROLE BOARD EACH
QUARTER; REQUIRING THE PAROLE BOARD TO DETERMINE WHETHER
INMATES LISTED ON QUARTERLY REPORTS ARE ELIGIBLE FOR PAROLE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 31-21-17.1 NMSA 1978 (being Laws 1994,
Chapter 21, Section 2) is amended to read:

"31-21-17.1. MEDICAL AND GERIATRIC PAROLE--ADMINISTRATION
BY DEPARTMENT.--

A. The corrections department shall:

(1) identify geriatric, permanently
incapacitated and terminally ill inmates who are eligible or
who may become eligible for [~~geriatric or~~] medical or geriatric

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1 parole based on rules established by the board; and
2 (2) on a quarterly basis, submit a list of
3 inmates who are eligible or who may become eligible for medical
4 or geriatric parole to the board.

5 B. An inmate or an inmate's representative may
6 submit an application for medical or geriatric parole. The
7 corrections department shall forward an application and
8 documentation in support of parole eligibility to the board
9 within thirty days of receipt of an application from an inmate.
10 The documentation shall include information concerning the
11 inmate's age, medical history and prognosis, institutional
12 behavior and adjustment and criminal history. [~~The inmate or~~
13 ~~inmate's representative may submit an application to the~~
14 ~~board.]"~~

15 SECTION 2. Section 31-21-25.1 NMSA 1978 (being Laws 1994,
16 Chapter 21, Section 3) is amended to read:

17 "31-21-25.1. PAROLE BOARD--ADDITIONAL POWERS AND DUTIES--
18 MEDICAL AND GERIATRIC PAROLE PROGRAM.--

19 A. The parole board shall:
20 (1) establish rules and implement a "medical
21 and geriatric parole program", in cooperation with the
22 corrections department, by December 31, 1994;

23 (2) determine the appropriate level of
24 supervision following parole and develop a comprehensive
25 discharge plan for geriatric, permanently incapacitated and

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1 terminally ill inmates released under the medical and geriatric
2 parole program;

3 (3) report annually to the corrections
4 department and the legislature:

5 (a) the number of applications for
6 medical parole and geriatric parole [~~it~~] that the parole board
7 receives;

8 (b) the nature of the applicants'
9 illnesses, [~~disease~~] diseases or [~~condition of applicants~~]
10 conditions;

11 (c) the reasons for denial of any
12 applications for medical or geriatric parole; and

13 (d) the number of persons on medical
14 parole and geriatric parole who have been returned to the
15 custody of the corrections department and the reasons for their
16 return;

17 (4) make a determination whether to grant
18 [~~geriatric or~~] medical or geriatric parole within thirty days
19 of receipt of an application and supporting documentation from
20 the corrections department;

21 (5) review lists of inmates eligible for
22 medical or geriatric parole submitted quarterly by the
23 corrections department and determine whether parole should be
24 granted for those inmates;

25 [~~5~~] (6) at the time of an inmate's release,

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1 prescribe terms and conditions of [~~geriatric or~~] medical or
2 geriatric parole, including medical supervision and intervals
3 of periodic medical evaluations; and

4 [~~(6)~~] (7) authorize the release of geriatric,
5 permanently incapacitated and terminally ill inmates upon terms
6 and conditions as the parole board may prescribe, if the board
7 determines that an inmate is geriatric, permanently
8 incapacitated or terminally ill, parole is not incompatible
9 with the welfare of society and the inmate is not a first
10 degree murder felon.

11 B. Inmates who have not served their minimum
12 sentences may be considered eligible for parole under the
13 medical and geriatric parole program. Medical and geriatric
14 parole consideration shall be in addition to any other parole
15 for which a geriatric, permanently incapacitated or terminally
16 ill inmate may be eligible.

17 C. When considering an inmate for medical or
18 geriatric parole, the parole board may request that certain
19 medical evidence be produced or that reasonable medical
20 examinations be conducted.

21 D. The parole term of a geriatric, permanently
22 incapacitated or terminally ill inmate on medical or geriatric
23 parole shall be for the remainder of the inmate's sentence,
24 without diminution of sentence for good behavior.

25 E. When determining an inmate's eligibility for

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1 ~~[geriatric or]~~ medical or geriatric parole, the parole board
2 shall consider the following criteria concerning the ~~[inmate's]~~
3 inmate:

- 4 (1) age;
- 5 (2) severity of illness, disease or
6 infirmities;
- 7 (3) comprehensive health evaluation;
- 8 (4) institutional behavior;
- 9 (5) level of risk for violence;
- 10 (6) criminal history; and
- 11 (7) alternatives to maintaining the geriatric,
12 ~~[or medical inmates]~~ permanently incapacitated or terminally
13 ill inmate in traditional settings.

14 F. As used in this section:

- 15 (1) "geriatric inmate" means a male or female
16 offender who:
 - 17 (a) is under sentence to or confined in
18 a prison or other correctional institution under the control of
19 the corrections department;
 - 20 (b) is sixty-five years of age or older;
 - 21 (c) suffers from a chronic infirmity,
22 illness or disease related to aging; and
 - 23 (d) does not constitute a danger to
24 ~~[himself]~~ the offender's own self or society;

- 25 (2) "permanently incapacitated inmate" means a

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1 male or female offender who:

2 (a) is under sentence to or confined in
3 a prison or other correctional institution under the control of
4 the corrections department;

5 (b) by reason of an existing medical
6 condition, is permanently and irreversibly physically
7 incapacitated; and

8 (c) does not constitute a danger to
9 ~~[himself]~~ the offender's own self or to society; and

10 (3) "terminally ill inmate" means a male or
11 female offender who:

12 (a) is under sentence or confined in a
13 prison or other correctional institution under the control of
14 the corrections department;

15 (b) has an incurable condition caused by
16 illness or disease that would, within reasonable medical
17 judgment, produce death within six months; and

18 (c) does not constitute a danger to
19 ~~[himself]~~ the offender's own self or society."

20 SECTION 3. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2015.

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