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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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