

CHAPTER 260
HB 1335-FN - FINAL VERSION

15Mar2022... 0811h
04/21/2022 1551s
26May2022... 2102EBA

2022 SESSION

22-2072
04/05

HOUSE BILL ***1335-FN***

AN ACT relative to the parole board and the procedure for medical parole of prisoners.

SPONSORS: Rep. Murphy, Graf. 12; Rep. Marsh, Carr. 8; Sen. Carson, Dist 14; Sen. Sherman, Dist 24; Sen. Rosenwald, Dist 13

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill revises the criteria necessary for determining if an inmate qualifies for medical parole and revises the membership of the adult parole board. The bill also renames the position of "executive assistant to the parole board" as the "parole board director of operations."

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the parole board and the procedure for medical parole of prisoners.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 260:1 Compensation of Certain State Officers; Department of Corrections; Director of Operations.
2 Amend RSA 94:1-a, I(b), Grade CC to read as follows:

3 CC Department of corrections [~~executive assistant to~~] parole board ***director of operations***

4 260:2 Parole of Prisoners; Adult Parole Board. Amend RSA 651-A:3, I-III to read as follows:

5 I. There shall be an adult parole board with [5] members ***as set forth in paragraph II, 2 of which***
6 ***shall be attorneys with active licenses***. The members of the board shall be appointed by the governor
7 with the consent of the council for staggered terms of 5 years or until their successors are appointed. No
8 member shall serve more than 2 consecutive terms. A vacancy on the board shall be filled for the
9 unexpired term.

10 II. The composition of the board shall be as follows:

11 (a) [~~One member as chairman~~] ***Two attorneys who are members of the New Hampshire bar***
12 ***in good standing and who are in active status.***

13 (b) [~~Four~~] ***Three*** additional members, to include:

14 (1) One member with law enforcement or corrections experience, either current or
15 former.

16 (2) One member with criminal justice experience, which may be direct employment
17 experience, current or former, in some capacity within the criminal justice system, or [~~post-secondary~~]
18 ***postsecondary*** school teaching, scholarship, and research pertaining to the criminal justice system.

19 (3) [~~One at-large member who is either an attorney with an active New Hampshire~~
20 ~~license or a mental health professional with an active New Hampshire license;~~

21 (4)] One at-large member without any categorical designation.

22 III. The governor shall designate one member as [chairman] ***chairperson***. The salary of the
23 [chairman] ***chairperson*** shall be that established in RSA 94:1-a as grade GG, with appropriate step to be
24 determined in accordance the provisions of RSA 94:1-d. The [chairman] ***chairperson*** shall designate one
25 other member to serve as [~~temporary designee chairman~~] ***vice chairperson who shall serve as***
26 ***chairperson*** in [his or her] ***the chairperson's*** absence, however, the [~~designated chairman~~] ***vice***
27 ***chairperson*** shall not receive the [chairman's] ***chairperson's*** salary or employee status while serving in the
28 [chairman's] ***chairperson's*** absence. In the case of a revocation hearing an attorney of the board shall be
29 present at the hearing. Board members shall be paid an annual stipend of \$20,000 for each member, to
30 be paid in equal installments on each state employee pay period date. Board members shall be paid
31 mileage at the state employee rate while engaged in parole hearings or administrative meetings.

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260:3 Parole of Prisoners; Medical Parole. RSA 651-A:10-a, I-IV are repealed and reenacted to read as follows:

I. Only upon the recommendation of the commissioner of the department of corrections and the director of medical and forensic services, and after their review of the information provided by a physician licensed pursuant to RSA 329 or an advanced practice registered nurse pursuant to RSA 326, and his or her review of medical needs, resource capabilities, and treatment goals, may the parole board consider medical parole to an inmate, referred to by the department of corrections as a "prisoner," incarcerated in a state correctional facility, regardless of the time remaining on his or her minimum sentence. The medical parole request shall cite one of the following medical categories:

(a)(1) Permanently incapacitated or permanently debilitated. A prisoner who satisfies all of the following as certified by a physician licensed pursuant to RSA 329 or an advanced practice registered nurse licensed pursuant to RSA 326:

(A) Has a health care condition that prevents the prisoner from independently performing activities of daily living in a manner that ensures their daily needs are met in a prison environment; and

(B) Has such limited physical strength or capacity that the prisoner poses an extremely low threat to others or to the community; and

(C) The condition is unlikely to improve or cannot be managed in the prison health care setting due to the prisoner's serious functional impairment and/or the level of care that is needed to ensure the prisoner's access to constitutionally appropriate health care in a prison health care setting.

(2) Additional consideration shall be given to whether or not there are appropriate services available in the prison health care setting as determined by the director of medical and forensic services.

(b) Terminally ill. As certified by a physician licensed pursuant to RSA 329 or an advanced practice registered nurse licensed pursuant to RSA 326, a prisoner who has an illness that is considered terminal or permanently debilitating, and treatments are not going to cure or stop the progression of the illness. Generally, comfort measures and hospice are offered in place of active treatment interventions.

(c) Serious and complex medical condition. As certified by a physician licensed pursuant to RSA 329 or an advanced practice registered nurse licensed pursuant to RSA 326, a prisoner who has a serious and complex medical condition, which will require extended services or care that cannot be accommodated, managed, or provided by the department of corrections as determined by the director of medical and forensic services.

II. The director of medical and forensic services, on behalf of a prisoner, may petition the parole board for a hearing to determine if the person is eligible for medical parole.

(a) A representative from the department of corrections' division of medical and forensic services shall attend each medical parole hearing.

(b) If the condition, disease, illness, or injury of the prisoner does not allow for participation of the prisoner at a scheduled hearing, the prisoner may have a representative approved by the board or an attorney participate in the hearing on the prisoner's behalf.

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1 II-a. The board shall require as a condition of release on medical parole that the parolee agree to
2 placement and that the parolee is able to be placed for a definite or indefinite period of time in a hospital,
3 hospice, or other housing accommodation suitable to his or her condition, disease, illness, or injury,
4 including a family home, as specified by the board.

5 II-b. Any medical parolee shall remain in the assigned residence except to engage in medical
6 treatment. Any change in residence shall require pre-approval of the parole board unless it is a medically-
7 emergent residence change, as determined by a health care provider. If a medically emergent residential
8 change occurs, the adult parole board shall be notified within 48 hours of the probation parole officer
9 being notified of the change in residence.

10 III. Medical parole shall be granted by a majority vote of the members of the hearing panel if the
11 prisoner satisfies the criteria under paragraph I and the adult parole board has determined there is a
12 reasonable probability the prisoner will not violate the law while on medical parole and will conduct himself
13 or herself as a good citizen.

14 IV. The parole board may request, as a condition of medical parole, that such prisoner or his or
15 her representative submit to the director of medical and forensic services the results of periodic medical
16 examinations while on medical parole and comply with any other parole conditions imposed by the parole
17 board. The director of medical and forensic services, after review of any such medical examination shall
18 report the findings to the parole board. After review of such findings, the parole board may require the
19 issuance of a warrant to return the parolee to the prison for a revocation hearing. If the parole board finds
20 that the condition, disease, illness, or injury of the parolee has improved to the extent that the parolee no
21 longer meets the criteria specified in paragraph I, or has violated the conditions of parole, the medical
22 parole shall be revoked and the parolee shall be returned to the custody of the state.

23 260:4 Parole of Prisoners; Executive Assistant. Amend RSA 651-A:5 to read as follows:

24 651-A:5 ~~[Executive Assistant]~~ **Director of Operations**. The board may appoint ~~[an executive assistant]~~
25 **a director of operations** who shall be an unclassified employee and shall serve at its pleasure. The salary
26 of the ~~[executive assistant]~~ **director of operations** shall be that established in RSA 94:1-a.

27 260:5 Effective Date. This act shall take effect upon its passage.

Approved: June 24, 2022
Effective Date: June 24, 2022

