

HOUSE BILL REPORT

HB 1299

As Passed House:

March 4, 1999

Title: An act relating to extraordinary medical releases for offenders.

Brief Description: Authorizing the secretary of corrections to grant extraordinary medical releases to offenders when specified conditions are met.

Sponsors: Representatives Ballasiotes, O'Brien, Lambert, Kastama, Esser and Schual-Berke; by request of Sentencing Guidelines Commission.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/3/99, 2/10/99 [DP].

Floor Activity:

Passed House: 3/4/99, 95-0.

Brief Summary of Bill

- Authorizes the Secretary of the Department of Corrections or a jail administrator to grant "extraordinary medical releases" to elderly, medically frail offenders.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Yvonne Walker (786-7841).

Background:

Under the Sentencing Reform Act, felony offenders receive determinate sentences. A determinate sentence is one where the length of confinement is determined at the time of sentencing; the sentence length generally is not subject to alteration based on events occurring after the sentence is imposed.

Some of the primary exceptions to this system of determinate sentencing involves:

- *Earned early release programs.* These programs allow inmates to shorten their sentence length if they display good behavior by participating in work, education, or treatment programs and by not violating prison or jail rules during confinement.
- *Community Custody.* The period of time when an offender's incarceration sentence is reduced based upon earned early release credits and he is released back out into the community but remains under the custody of the Department of Corrections for a specified period. Any violations during the offender's community custody status are handled administratively by the Department of Corrections and can result in the offender returning to prison to complete his original prison sentence.
- *Furlough or Leave of Absence.* The period of time when eligible inmates may be temporarily released to do such activities as meet an emergency situation, such as a death or critical illness of a family member, to obtain medical treatment not available in the facility, or to seek employment or make residential plans for parole.
- *Governor's Recommendation.* Upon the recommendation from the Clemency and Pardons Board, the Governor may grant an extraordinary release for reasons of serious health problems, senility, or advanced age. The Governor may also pardon an offender.

Offenders sentenced to mandatory minimum sentences are prohibited from being released from total confinement before the completion of their mandatory minimum sentence for that felony crime (i.e. first degree rape or first degree murder).

The Department of Corrections is prohibited from releasing any inmate, prior to completion of his determinate sentence, for such exceptions as age or medical conditions. As of December 31, 1998, there were 1,184 inmates age 50 or more. Their average age was 56.9 and the oldest was an 85-year-old male sex offender.

Summary of Bill:

The Secretary of the Department of Corrections or a jail administrator may grant an "extraordinary medical release" to an offender who has been sentenced under determinate sentencing or indeterminate sentencing, when all of the following conditions exist:

- (1) The offender has a medical condition that is serious enough to require costly care or treatment;

- (2) The offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and
- (3) Granting the extraordinary medical release will result in a cost savings to the state.

An exception is made for an offender who receives a mandatory minimum sentence to participate in the extraordinary medical release as long as they have met the criteria listed above.

The secretary may revoke an extraordinary medical release at any time.

An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical release.

The secretary of the Department of Corrections must report annually to the Legislature on:

- The number of offenders considered for an extraordinary medical release,
- The number of offenders who were granted such a release,
- The number of offenders who were denied such a release,
- The length of time between initial consideration and the decision to release for each offender who was released,
- The number of offenders granted an extraordinary medical release who were later returned to total confinement, and
- The cost savings realized by the state.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Offenders who are on community custody are disqualified from medicaid because they are still technically under the custody of the Department of Corrections. The advantage of releasing these medically frail individuals from the department's custody is that they will now be able to receive medical services under the medicaid program which, in turn, would result in some substantial savings to the Department of Corrections.

There are three threshold factors that the offender must meet before being released early from the Department of Correction's custody, which are: (1) he or she must be an elderly offender that has a serious enough condition to require costly care or treatment; (2) he or she must pose a low risk to the community; and (3) his or her medical cost

must be paid by someone else (i.e. medicaid), which will result in a cost savings to the state.

Based upon the Department of Correction's calculations, only three offenders out of a population of 14,000 would be eligible for an extraordinary medical release.

Testimony Against: None.

Testified: (In support) James Thatcher, Department of Corrections; and Roger Goodman, Sentencing Guidelines Commission.