

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE DRS55179-LL-14 (1/11)

Short Title: Medical Release for Ill and Disabled Inmates. (Public)

Sponsors: Senator Kerr.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF CORRECTION AND THE  
POST-RELEASE SUPERVISION AND PAROLE COMMISSION TO PROVIDE  
FOR MEDICAL RELEASE OF LOW-RISK INMATES WHO ARE EITHER  
PERMANENTLY AND TOTALLY DISABLED OR TERMINALLY ILL.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 15A of the General Statutes is amended by adding a  
new Article to read:

"Article 84B.

"Medical Release of Inmates.

**"§ 15A-1369. Definitions.**

For purposes of this Article, the term:

- (1) "Inmate" means any person sentenced to the custody of the Department of Correction.
- (2) "Permanently and totally disabled" describes an inmate who suffers permanent and irreversible physical incapacitation as a result of an existing physical or medical condition.
- (3) "Terminally ill" describes an inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that will likely produce death within 12 months.
- (4) "Commission" means the Post-Release Supervision and Parole Commission.
- (5) "Department" means the Department of Correction.
- (6) "Medical release" means a program enabling the Commission to release low-risk inmates who are either permanently and totally disabled or terminally ill.

**"§ 15A-1369.1. Authority to release.**

1        The Commission shall establish a medical release program to be administered by the  
2 Department. The Commission shall prescribe when and under what conditions an  
3 inmate may be released for medical release, consistent with the provisions of  
4 G.S. 15A-1369.4. The Commission may adopt rules to implement the medical release  
5 program.

6 **"§ 15A-1369.2. Eligibility.**

7        Notwithstanding any other provision of law, an inmate is eligible to be considered  
8 for medical release if the inmate is:

- 9            (1) Diagnosed as permanently and totally disabled or terminally ill under  
10 the procedure described in G.S. 15A-1369.3(b)(1); and  
11            (2) Assessed by the Department to pose a low risk to society, as described  
12 in G.S. 15A-1369.3(b)(2).

13 **"§ 15A-1369.3. Procedure for medical release.**

14        (a) The Commission shall consider an inmate for medical release upon referral  
15 by the Department. The Department may base its referral upon either a request or  
16 petition for release filed by the inmate or on the inmate's behalf or upon a  
17 recommendation from within the Department.

18        (b) The criteria for referral shall include an assessment of the inmate's medical  
19 condition and the risk the inmate poses to society, as follows:

- 20            (1) The Department medical director or an independent licensed physician  
21 approved by the Department shall examine any inmate who has  
22 applied for or has been recommended for medical release. This  
23 medical diagnosis shall be made within 10 working days of receiving  
24 an inmate's application or the recommendation from within the  
25 Department. Any physician who examines an inmate being considered  
26 for medical release shall prepare a written diagnosis that includes:  
27            a. A description of any and all terminal conditions and physical  
28 incapacities; and  
29            b. A prognosis concerning the likelihood of recovery from any and  
30 all terminal conditions and physical incapacities.

- 31            (2) The Department shall make an assessment of the risk for violence and  
32 recidivism that the inmate poses to society. In order to make this  
33 assessment, the Department may consider such factors as the inmate's  
34 medical condition, the severity of the offense for which the inmate is  
35 incarcerated, the inmate's prison record, and the release plan. The  
36 Department shall complete the risk assessment within 10 working days  
37 of the completion of the medical diagnosis required by subdivision  
38 (b)(1) of this section.

39        (c) If the inmate meets the criteria for release, the Department shall forward its  
40 referral and medical release plan for the inmate to the Commission. The referral shall be  
41 made within 10 days after completion of the risk assessment.

42        (d) The Commission shall make a determination of whether to grant medical  
43 release within 10 days of receiving a referral from the Department.

1 (e) A denial of medical release by the Commission shall not affect an inmate's  
2 eligibility for any other form of parole or release under applicable law.

3 **"§ 15A-1369.4. Conditions of medical release.**

4 (a) The Commission may set reasonable conditions upon an inmate's medical  
5 release. These conditions may include:

6 (1) That the released inmate may be placed in a hospital, hospice, or other  
7 institution as specified by the Commission; and

8 (2) That the inmate shall submit to periodic examinations conducted by  
9 the medical director or an independent licensed physician approved by  
10 the Department.

11 (b) The Commission shall revoke an inmate's medical release if the Commission  
12 determines that an inmate has failed to comply with any reasonable condition set upon  
13 the inmate's release. If the Commission revokes an inmate's medical release, the inmate  
14 shall be returned to the custody of the Department and shall resume serving the balance  
15 of the sentence with credit given only for the duration of the inmate's medical release  
16 served in compliance with all reasonable conditions set forth pursuant to subsection (a)  
17 of this section. Revocation of an inmate's medical release for violating a condition of  
18 release shall not preclude an inmate's eligibility for any other form of parole or release  
19 provided by law, but may be used as a factor in determining eligibility for that parole or  
20 release.

21 **"§ 15A-1369.5. Change in medical status.**

22 (a) If a periodic diagnosis reveals that an inmate released on medical release has  
23 improved so that the inmate would not be eligible for medical release if being  
24 considered at that time, the Commission may order the inmate returned to the custody of  
25 the Department to await a revocation hearing. In determining whether to revoke medical  
26 release, the Commission may consider the most recent periodic diagnosis of the inmate  
27 and a risk assessment of the inmate conducted pursuant to G.S. 15A-1369.3(b)(2). If the  
28 Commission revokes the inmate's medical release, the inmate shall resume serving the  
29 balance of the sentence with credit given for the duration of the medical release.

30 (b) Revocation of an inmate's medical release due to a change in the inmate's  
31 medical condition shall not preclude an inmate's eligibility for medical release in the  
32 future or for any other form of parole or release provided by law."

33 **SECTION 2.** This act is effective when it becomes law.