

SENATE BILL NO. 51

INTRODUCED BY S. AUGARE

BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REPORT ON HEALTH CARE COSTS FOR MEDICAL PAROLEES; AND AMENDING SECTION 46-23-210, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-23-210, MCA, is amended to read:

"46-23-210. Medical parole. (1) The board may release on medical parole by appropriate order any person confined in a state prison or adult community corrections facility or any person sentenced to a state prison and confined in a prerelease center who:

- (a) is not under sentence of death or sentence of life imprisonment without possibility of release;
- (b) is unlikely to pose a detriment to the person, victim, or community; and
- (c) (i) has a medical condition requiring extensive medical attention; or
(ii) has been determined by a physician to have a medical condition that will likely cause death within 6 months or less.

(2) A person designated ineligible for parole under 46-18-202(2) must have approval of the sentencing judge before being eligible for medical parole. If the court does not respond within 30 days to a written request from the department, the person is considered to be approved by the court for medical parole. The provisions of this subsection do not apply to a person who is ineligible for medical parole under subsection (1)(a).

(3) Medical parole may be requested by the board, the department, an incarcerated person, or an incarcerated person's spouse, parent, child, grandparent, or sibling by submitting a completed application to the administrator of the correctional institution in which the person is incarcerated. The application must include a detailed description of the person's proposed placement and medical care and an explanation of how the person's medical care will be financed if the person is released on medical parole. The application must include a report of an examination and written diagnosis by a physician licensed under Title 37 to practice medicine. The physician's report must include:

- (a) a description of the medical attention required to treat the person's medical condition;

1 (b) a description of the person's medical condition, any diagnosis, and any physical incapacity; and
2 (c) a prognosis addressing the likelihood of the person's recovery from the medical condition or diagnosis
3 and the extent of any potential recovery. The prognosis may include whether the person has a medical condition
4 causing the likelihood of death within 6 months.

5 (4) The application must be reviewed and accepted by the department before the board may consider
6 granting a medical parole.

7 (5) Upon receiving the application from the department, a hearing panel shall hold a hearing. Any
8 interested person or the interested person's representative may submit written or oral statements, including
9 written or oral statements from a victim. A victim's statement may be kept confidential.

10 (6) The hearing panel shall require as a condition of medical parole that the person agree to placement
11 in an environment approved by the department during the parole period, including but not limited to a hospital,
12 nursing home, hospice facility, or prerelease center, to intensive supervision, to some other appropriate
13 community corrections facility or program, or to a family home. The hearing panel may require as a condition of
14 parole that the person agree to periodic examinations and diagnoses at the person's expense. Reports of each
15 examination and diagnosis must be submitted to the board and department by the examining physician. If either
16 the board or department determines that the person's medical condition has improved to the extent that the
17 person no longer requires extensive medical attention or is likely to pose a detriment to the person, victim, or
18 community, a hearing panel may revoke the parole and return the person to the custody of the department.

19 (7) A grant or denial of medical parole does not affect the person's eligibility for nonmedical parole.

20 (8) Sections 46-23-203, 46-23-205 through 46-23-207, and 46-23-215 through 46-23-218 apply to
21 medical parole.

22 ~~(9) Before July 1 of each even-numbered year, the board and the department shall report to the children,~~
23 ~~families, health, and human services interim committee and the law and justice interim committee regarding the~~
24 ~~outcome related to any person released on medical parole since the last report, including health care costs and~~
25 ~~payments related to the care of the person released on medical parole."~~

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