

HOUSE BILL NO. 83
INTRODUCED BY C. HINER
BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO MEDICAL PAROLE OF PRISON INMATES; PROVIDING THAT THE BOARD OF PARDONS AND PAROLE SHALL HOLD A HEARING ON APPLICATIONS FOR MEDICAL PAROLE; REVISING PROCEDURES AND STANDARDS FOR APPLICATION FOR AND ELIGIBILITY FOR MEDICAL PAROLE; AMENDING SECTION 46-23-210, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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 a ~~any~~ person placed in a correctional institution or program, except a person under sentence of death. To be eligible for a medical parole, a person must have an examination and written diagnosis by a physician licensed under Title 37 to practice medicine. The diagnosis must include:

~~— (a) a determination that the person suffers from an incapacitating physical condition, disease, or syndrome;~~

~~— (b) a description of the physical condition, disease, or syndrome and a detailed description of the person's physical incapacity; and confined in a state prison or any person sentenced to a state prison and confined in a prerelease center who:~~

(a) is not under sentence of death;

(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.

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

~~(2)(4) The ~~diagnosis~~ application must be reviewed and accepted by the department before the board may consider granting a medical parole. ~~The board may not grant a medical parole unless the incapacitating physical condition, disease, or syndrome renders the person highly unlikely to present a clear and present danger to public safety.~~~~

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

~~(3)(6) The board shall require as a condition of medical parole that the person agree to placement in an environment ~~chosen~~ approved by the department during the parole period, including but not limited to a hospital, nursing home, hospice facility, or prerelease center, to intensive supervision, to some other appropriate community corrections facility or program, or to a family home. The board may require as a condition of parole that the person agree to periodic examinations and diagnoses at the person's expense. Reports of each examination and diagnosis must be submitted to the board and department by the examining physician. If either the board or department determines that the person's ~~physical capacity~~ medical condition has improved to the extent that the person no longer requires extensive medical attention or is likely to pose a possible ~~possible~~ detriment to ~~society~~ the person, victim, or community, the board may revoke the parole and return the person to the custody of the department.~~

~~(4) Medical parole may be requested by the board, the department, an incarcerated person, or an incarcerated person's parent, grandparent, child, or sibling by submitting the request in writing to the administrator of the correctional institution in which the person is incarcerated.~~

~~(5)(7) A grant or denial of medical parole does not affect the person's eligibility for nonmedical parole.~~

~~(6) Sections 46-23-203, 46-23-205 through 46-23-207, and 46-23-215 through 46-23-218 apply to nonmedical parole.~~

~~(8) SECTIONS 46-23-203, 46-23-205 THROUGH 46-23-207, AND 46-23-215 THROUGH 46-23-218 APPLY TO NONMEDICAL MEDICAL PAROLE."~~

NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2007.

NEW SECTION. **Section 3. Applicability.** [This act] applies to applications for medical parole received on or after [the effective date of this act].

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