

Illinois provides compassionate release to eligible incarcerated individuals with terminal illnesses and certain medical conditions through **Medical Release**.<sup>1</sup>

- The Medical Release law applies to any individual currently incarcerated in Illinois.<sup>2</sup>
- Prior to 2022, compassionate release was provided to eligible individuals with serious medical conditions only through Executive Clemency.<sup>3</sup> However, the Governor's office does not publish data on how many individuals, if any, were granted Executive Clemency in 2019 and 2020 due to a terminal or serious medical condition.

## **MEDICAL RELEASE**

### **I. ELIGIBILITY**

**Medical Condition** – An incarcerated individual may be considered for Medical Release if the person (1) has a terminal illness, (2) has been diagnosed with a condition that will result in medical incapacity within the next six months, or (3) becomes medically incapacitated after sentencing due to illness or injury.<sup>4</sup>

- “Terminal illness” is defined as a “condition that is irreversible and incurable” and, “in accordance with medical standards and a reasonable degree of medical certainty,” likely to cause the death of the individual within 18 months.<sup>5</sup>
- “Medically incapacitated” means having any diagnosable medical condition – including dementia and a severe, permanent medical or cognitive disability – that is unlikely to improve noticeably in the future and (1) prevents the individual from completing more than one activity of daily living without assistance or (2) causes incapacitation to the extent that institutional confinement does not offer additional restrictions.<sup>6</sup>

**Exclusions** – No incarcerated individuals are excluded from consideration if they meet the medical eligibility criteria.

### **II. APPLICATION/REFERRAL**

A Medical Release application may be filed with the Prisoner Review Board (Board)<sup>7</sup> by (1) the incarcerated individual; (2) the individual's spouse, parent, guardian, grandparent, aunt or uncle, sibling, or child over age 18; (3) the individual's attorney; (4) a medical professional who has treated or diagnosed the person; or (5) a prison official.<sup>8</sup>

- If someone other than the incarcerated individual submits the initial application, the individual (or, if medically unable to consent, a guardian or designated family member) must consent to the application.<sup>9</sup>
  - That person must also provide their name, address, phone number, email address, and their relationship to the applicant, and indicate if they have power of attorney on the applicant’s behalf.<sup>10</sup>
- Note that Medical Release information and application materials are available on the Department of Corrections (Department) and Board websites and must be maintained in “a clearly visible place” within each Department facility’s law library and infirmary.<sup>11</sup>

The application for Medical Release must include, among other things:

- A completed Medical Release Request;<sup>12</sup>
- The individual’s name, Department number, facility, and demographic information;<sup>13</sup>
- Whether the individual has previously applied for Medical Release or clemency;<sup>14</sup>
- The diagnosis and a statement that says the individual is suffering from a terminal illness or has been diagnosed with a condition that will result in medical incapacity within the next six months or has become medically incapacitated due to illness or injury subsequent to sentencing;<sup>15</sup>
- A description of the convictions from which Medical Release is sought;<sup>16</sup> and
- A parole plan stating where the individual will reside and providing (1) contact information if it is a place of business (such as a nursing home); or (2) contact information for the homeowner or leaseholder, their relationship to the applicant, and whether someone there can care for and ensure the individual can be transported to medical appointments, if it is a residence.<sup>17</sup>
  - Note that if the application does not identify a “host site,” the applicant must indicate whether they are willing to accept placement provided by the Department.<sup>18</sup>

The application form gives the individual the option to provide additional information including, among other things:

- Personal history, “life changing events,” and educational background;

- Marital status, and names and ages of children;
- Substance abuse and mental health information; and
- With supporting documentation, degrees, awards, military records, licenses or certifications, and counseling or rehabilitation programs attended.<sup>19</sup>

Applications, must be signed and sworn,<sup>20</sup> and are submitted to the Board by mail, email or fax.<sup>21</sup>

The applicant or the person who filed for them will receive a confirmation letter including (1) the date the application was received, (2) a Medical Release number, and (3) the hearing date if a hearing was requested.<sup>22</sup> The applicant does not appear at the hearing but may be represented as discussed further below.<sup>23</sup> Any victim receives a 30-day notice and opportunity to be heard.<sup>24</sup>

### **III. DOCUMENTATION AND ASSESSMENT**

Once the Board receives an initial application for Medical Release, it orders the Department to have a physician or nurse practitioner evaluate the incarcerated individual and, within 10 days, complete a written assessment of the person.<sup>25</sup> The evaluation must include a (1) concise statement of the individual’s medical diagnosis, including prognosis, likelihood of recovery, and primary symptoms; and (2) a statement confirming or denying that the individual meets the terminal illness or medical incapacitation criteria.<sup>26</sup>

### **IV. DECISION-MAKING PROCESS**

**Decision-Maker** – The Illinois Prisoner Review Board makes the final decision to grant Medical Release.<sup>27</sup>

**Hearings** – The Board does not require public hearings on Medical Release applications. However, an individual may request a hearing, be represented by an attorney, and present witnesses.<sup>28</sup>

- Note that if the individual requests a hearing, the Board must hold one within 90 days of receiving the initial application.<sup>29</sup>
- No more than four people, including the applicant’s witnesses and/or attorney, may speak at the hearing. While the hearing is characterized as “informal,” witnesses testify under oath.<sup>30</sup>
  - People who oppose Medical Release may also be heard. It is unclear if they count against the limit of four speakers at the hearing.<sup>31</sup>

**Decisions** – Three-member panels of the Board consider all Medical Release applications, and a simple majority makes the decisions.<sup>32</sup> A written notification of the final vote is sent to the individual or their representative and to the facility in which they are incarcerated within 90 days of the application’s receipt by the Board.<sup>33</sup>

**Release Criteria** – When considering a request for Medical Release, the Board will consider the following factors:<sup>34</sup>

- The individual’s diagnosis and likelihood of recovery;
- The approximate cost of health care if the person remains in custody;
- The impact that the person’s continued incarceration may have on the provision of medical care within the Department;
- The individual’s likelihood of and ability to pose a substantial danger to “the physical safety of a specifically identifiable person or persons”;
- Any statements by the victim regarding release; and
- Whether the individual’s condition was explicitly disclosed to the original sentencing judge and taken into account at the time of sentencing.

## **V. POST-DECISION**

**Denials and Appeal Rights** - It does not appear that denied applicants have any right of appeal as the grant or denial of Medical Release is at the sole discretion of the Board.<sup>35</sup> In addition, the Board will not accept a new application within six months of the date of denial, though the Board Chair may waive this limitation “for compelling reasons.”<sup>36</sup>

**Supervision** – Individuals granted Medical Release by the Board will be on mandatory supervised release for five years, as long as the supervised release does not exceed the time remaining on the sentence and any supervised release included in the original sentence.<sup>37</sup>

**Effect on Parole and Other Release Eligibility** – An individual who applies for Medical Release may also seek alternative forms of release, including Executive Clemency, relief from the sentencing court, post-conviction relief, and any other legal remedy.<sup>38</sup>

## **VI. REPORTING/STATISTICS**

**Reporting Requirements** – The Department must release an annual report on

their website that includes the following information:<sup>39</sup>

- The number of applications received in the preceding year including
  - Demographic data (race, ethnicity, gender, age, and institution);
  - Highest offense class for which the person is incarcerated;
  - The relationship of the person applying to the applicant;
  - Whether the individual has previously applied and been denied and if so, the grounds they relied on; and
  - A basic description of the underlying medical condition.
- The number of medical statements provided by the Department to the Board.
- The number of hearings conducted.
- The number of people approved for Medical Release and information about them including
  - Demographic data (race, ethnicity, gender, age, and zip code of release);
  - Whether the application was due to terminal illness or medical incapacitation;
  - A basic description of the underlying medical condition;
  - A basic description of the medical setting of release.
- The number of people released.
- The number of people approved for release but whose release was delayed by more than one month, including
  - Demographic data (race, ethnicity, gender, and age);
  - Reason for delay;
  - Whether the individual remains incarcerated;
  - A basic description of the underlying medical condition.

- For those released on mandatory supervised release under the program:
  - The number serving supervised release;
  - The number whose release was revoked;
  - The number who died while on release.
- Information on seriously ill people incarcerated, including
  - The number receiving full-time, one-on-one medical care or assistance with activities of daily living, who provides the care (i.e. medical practitioner or another incarcerated person), and the institution;
  - The number of people who were hospitalized for more than one month outside the facility.

**Number of Individuals Granted Medical Release** – The Medical Release law did not go into effect until 2022; thus, there is no data for 2019 and 2020 releases.

## **ILLINOIS COMPASSIONATE RELEASE** **PRIMARY LEGAL SOURCES**

### **MEDICAL RELEASE**

#### **Statute**

730 Illinois Compiled Statutes (ILCS) 5/3-3-1 and 5/3-3-14 (Public Act 102-0494) (2021), available through the Illinois General Assembly,  
<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0494>.

#### **Agency Policy/Publications**

Illinois Prisoner Review Board, Guidelines for Medical Release (PRB Guidelines) (Dec. 2021), available through the Illinois Prisoner Review Board,  
<https://www2.illinois.gov/sites/prb/Documents/Guidelines%20for%20Medical%20Release%20Act%20v1.29.2022.pdf>.

Illinois Prisoner Review Board, *Medical Release Request* (Jan. 29, 2022), available through the Illinois Prisoner Review Board,  
<https://www2.illinois.gov/sites/prb/Documents/Medical%20Release%20application%20v1.29.2022.pdf>.

## **NOTES**

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\* *Id.* means see prior note.

<sup>1</sup> HB 3665 (Public Act 102-0494), signed into law on August 20, 2021, effective January 1, 2022; codified at 730 ILCS 5/3-3-14.

<sup>2</sup> 730 ILCS 5/3-3-14 (j).

<sup>3</sup> See Illinois Prisoner Review Board, Executive Clemency Guidelines,  
<https://www2.illinois.gov/sites/prb/Pages/prbex Clemex.aspx>.

<sup>4</sup> 730 ILCS 5/3-3-14 (b); Illinois Prisoner Review Board, Guidelines for Medical Release (PRB Guidelines) § (A) (3).

<sup>5</sup> 730 ILCS 5/3-3-14 (a) (2); PRB Guidelines § (A) (3) (a).

<sup>6</sup> 730 ILCS 5/3-3-14 (a) (1); PRB Guidelines §§ (A) (3) (b) and (c).

<sup>7</sup> 730 ILCS 5/3-3-1.

<sup>8</sup> 730 ILCS 5/3-3-14 (c) (1).

<sup>9</sup> *Id.*; Illinois Prisoner Review Board, *Medical Release Request* (PRB *Medical Release Request*) at 4.

<sup>10</sup> PRB Guidelines § (A) (6); PRB *Medical Release Request* at 4.

<sup>11</sup> 730 ILCS 5/3-3-14 (c) (2).

<sup>12</sup> PRB Guidelines § (A) (1).

<sup>13</sup> 730 ILCS 5/3-3-14 (c) (3); PRB *Medical Release Request* at 1.

<sup>14</sup> PRB *Medical Release Request* at 1.

<sup>15</sup> 730 ILCS 5/3-3-14 (c) (3); PRB *Medical Release Request* at 2 - 3.

<sup>16</sup> PRB Guidelines § (A) (2); PRB *Medical Release Request* at 2. Note that the applicant must provide, to the best of their ability, their own version of the facts of the offense(s). *Id.*

<sup>17</sup> PRB Guidelines § § (A) (4) (a) and (b); PRB *Medical Release Request* at 3.

<sup>18</sup> PRB Guidelines § (A) (4) (c); PRB *Medical Release Request* at 4.

<sup>19</sup> PRB Guidelines § (B); PRB *Medical Release Request* at 5.

<sup>20</sup> PRB Guidelines § (A) (5); PRB *Medical Release Request* at 4.

<sup>21</sup> 730 ILCS 5/3-3-14 (d) (h); PRB Guidelines § (C).

<sup>22</sup> Medical Release Act (Joe Coleman Act) webpage, [https://www2.illinois.gov/sites/prb/Pages/Medical-Release-\(Joe-Coleman-Act\).aspx](https://www2.illinois.gov/sites/prb/Pages/Medical-Release-(Joe-Coleman-Act).aspx) (last visited March 29, 2022).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> 730 ILCS 5/3-3-14 (c) (4).

<sup>26</sup> *Id.*

<sup>27</sup> 730 ILCS 5/3-3-1 (a) (7) and 730 ILCS 5/3-3-14 (b).

<sup>28</sup> 730 ILCS 5/3-3-14 (d); PRB Guidelines § (D); PRB *Medical Release Request* at 1. Note that hearings are governed by the Illinois Open Parole Hearings Act, 730 ILCS 5/3-3-1 (d), referencing 730 ILCS 105/1 through 730 ILCS 105/30.

<sup>29</sup> 730 ILCS 5/3-3-14 (d), (h).

<sup>30</sup> PRB Guidelines § (D) (1).

<sup>31</sup> *Id.*



<sup>32</sup> 730 ILCS 5/3-3-14 (e); PRB Guidelines § (E) (1).

<sup>33</sup> PRB Guidelines § (E) (2).

<sup>34</sup> 730 ILCS 5/3-3-14 (f).

<sup>35</sup> PRB Guidelines § (E) (3).

<sup>36</sup> PRB Guidelines Note # 1.

<sup>37</sup> 730 ILCS 5/3-3-14 (g), referencing Section 3-3-8. Note that after the five years, any remaining term of years is discharged. *Id.*

<sup>38</sup> 730 ILCS 5/3-3-14 (i).

<sup>39</sup> *Id.* at (k).