



Alabama

Overall Grade for Alabama

Total Grade

68
/100

Letter Grade

D+

Program Grades

	Total Grade	Letter Grade
Medical Parole	53/100	F
Medical Furlough	82/100	B-



Medical Parole

Total Grade

53

 /100

Letter Grade

F

Eligibility Criteria

26/30

10/10 Clearly set out with understandable and measurable standards.

8/10 Generous or not unduly restrictive.

8/10 No categorical exclusions/everyone is eligible for consideration.

× **Extra credit:** Terminal illness time-left-to-live provisions are reasonable and sufficiently long to permit the completion of the review and decision-making processes. **0**

Procedures

5/10

5/5 Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.

0/5 Time frames for completing review and/or decision-making exist and are designed to keep the process moving along.

× **Extra credit:** Expedited time frames exist for terminal cases. **0**

Engaging the Process

10/15

5/5 Clinical and other staff can identify potentially eligible individuals and initiate the process.

0/5 Incarcerated people, their loved ones, and advocates can initiate the process.

5/5 Corrections staff have an affirmative duty to identify incarcerated people eligible for compassionate release and take the steps necessary to begin the process.

Release Planning Support

0/10

0/5 UTD* Agencies provide comprehensive release planning.

× **Extra credit:** Release planning includes helping the incarcerated person apply for benefits prior to release, including housing, Medicaid, Medicare, and/or veterans benefits. **0**

0/5 UTD Release planning begins early in the process.

Agency Policy Design

7/15

2/5 Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

3/5 Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.

2/5 Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Data Collection and Public Reporting

10/10

5/5 Agencies are obliged to gather, compile, and report release data to legislature.

5/5 Reporting is made available to the public via annual reports or other means.

5/10

Right to Counsel and Appeals

0/5 Program allows counsel to represent people before decision-maker (i.e., parole board, commissioner, or court).

✘ **Extra credit:** Denials are appealable. **0**

0/5 Individuals have the right to reapply should conditions change.

+ **Extra credit:** Revocations are not used to return people to prison because their condition improves or goes into remission or because the individual outlives the prognosis. **+5**



Overall Penalty

-10 Alabama uses Medical Parole very sparingly. FMM knows of only six Medical Parole grants in 2019 and 2020, and the Alabama Board of Pardons and Paroles denied three times as many individuals in 2019 than it granted.

* UTD stands for "Unable to Determine" and is graded zero. This is when there are no rules, guidelines, regulations, or other authority that FMM could find addressing the graded category. For example, if there are no published provisions for release planning or telling an agency how it is to evaluate an incarcerated person's eligibility, that results in a zero UTD grade.

The Numbers

Despite a strong set of criteria and an affirmative obligation to identify and process people potentially eligible for Medical Parole, the Parole Board released only four people in 2019, three because they were permanently incapacitated and one who was terminally ill. FMM knows of only two people released in 2020.

High and Low Marks

HIGH MARKS

- Alabama earned strong grades for **eligibility criteria**. Explanations of the three conditions that could lead to Medical Parole – permanent incapacitation, terminal illness, and geriatric status – are clear and easy to understand. Criteria are also relatively generous. For example, a person is considered permanently incapacitated if the individual is unable to perform at least one "necessary daily life function" without assistance. On the other hand, the standard also requires that the person have such limited capacity that the person poses an extremely low risk to the community if released. FMM expect the risk assessment is difficult to measure and likely prevents worthy candidates from consideration. Only people sentenced to death or for sex offenses are categorically excluded.
- **Engaging the process:** Many states permit clinical or other corrections staff to initiate compassionate release consideration. Alabama's Medical Parole goes one big step further. The Department of Corrections must certify and then can refer potentially eligible people to the Parole Board and is obliged to provide a list of such people if the Board requests. The Board has a "standing request" for such referrals. In addition, the Department must annually identify to the Board all individuals meeting certain other criteria that may qualify them for Medical Parole.
- It does not appear that Alabama **returns to prison** people serving Medical Parole whose conditions improve.
- Alabama does an admirable job of **collecting and reporting data**. The Parole Board must report annually to the legislature and the Alabama Sentencing Commission about the number of people granted and denied Medical Parole, the medical conditions of those granted Medical Parole, the number of individuals granted parole but who were not released, and grantees' crimes of conviction.

LOW MARKS

- The Alabama Board of Pardons and Paroles rules state that the Department must “certify” individuals as meeting Medical Parole eligibility criteria. The Medical Parole program received half marks for **agency policy design** because FAMM could not find any guidance for the Department of Corrections about how to conduct the certification process. No information exists about documenting or processing certified individuals and getting the information to the Board. Other guidance to the Department and the Board is scant, especially with respect to decision-making standards.
- Alabama Medical Parole flunked **release planning**. The Board must consider an individual’s reentry plan, which must explain how the individual is to secure housing and medical care. We could, however, find no mention of agency responsibility for investigating housing and medical care options. The Department provides reentry services, but the program is unclear about whether the Department provides case management support to people considered for Medical Parole.
- People denied Medical Parole can have their cases rescheduled “at least within two years.” No additional information exists about whether the Parole Board can or does **expedite rescheduling** such cases in the event a person’s condition changes for the worse.

Medical Furlough

Total Grade

82

 /100

Letter Grade

B-

Eligibility Criteria

21/30

7/10 Clearly set out with understandable and measurable standards.

7/10 Generous or not unduly restrictive.

7/10 No categorical exclusions/everyone is eligible for consideration.

× Extra credit: Terminal illness time-left-to-live provisions are reasonable and sufficiently long to permit the completion of the review and decision-making processes. **0**

Procedures

11/10

5/5 Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.

1/5 Time frames for completing review and/or decision-making exist and are designed to keep the process moving along.

+ Extra credit: Expedited time frames exist for terminal cases. **+5**

Engaging the Process

10/15

5/5 Clinical and other staff can identify potentially eligible individuals and initiate the process.

5/5 Incarcerated people, their loved ones, and advocates can initiate the process.

0/5 Corrections staff have an affirmative duty to identify incarcerated people eligible for compassionate release and take the steps necessary to begin the process.

Release Planning Support

10/10

5/5 Agencies provide comprehensive release planning.

+ Extra credit: Release planning includes helping the incarcerated person apply for benefits prior to release, including housing, Medicaid, Medicare, and/or veterans benefits. **+5**

0/5 Release planning begins early in the process.

Agency Policy Design

15/15

5/5 Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

5/5 Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.

5/5 Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Data Collection and Public Reporting

10/10

5/5 Agencies are obliged to gather, compile, and report release data to legislature.

5/5 Reporting is made available to the public via annual reports or other means.

0/10

Right to Counsel and Appeals

0/5 Program allows counsel to represent people before decision-maker (i.e., parole board, commissioner, or court).

✘ **Extra credit:** Denials are appealable. **0**

0/5 Individuals have the right to reapply should conditions change.

✘ **Extra credit:** Revocations are not used to return people to prison because their condition improves or goes into remission or because the individual outlives the prognosis. **0**



Overall Extra Credit

+5 The Commissioner of the Department of Corrections must provide Medical Furlough applications and release forms to all Department medical care providers and to every institution so that they can be distributed to all incarcerated persons.

The Numbers

The Department of Corrections provides annual statistical reports on the number of people granted Medical Furlough:

2019 13 individuals were on Medical Furlough.

2020 13 people were on Medical Furlough .

High and Low Marks

HIGH MARKS

- FAIMM gave Alabama's Medical Furlough program relatively high marks for **eligibility criteria**, though not as high as for its Medical Parole program. That is because the program sets rather high eligibility bars. For example, it considers someone permanently incapacitated only if the individual has a permanent, irreversible condition that prevents the person from being able to "perpetrate a violent physical action" or "initiate or participate in a criminal act." In addition, the state must find that an individual's long-term medical needs exceed the system's ability to meet them. We were unable to locate guidance to the people charged with making those judgments, especially the latter one having to do with the system's capacity to provide long-term medical care.
- Almost anyone – including incarcerated people; "concerned persons," such as their family or attorneys; and Department staff – can **initiate the Medical Furlough process** by submitting an application. However, in addition to a medical report from a Department physician, the application must include a notarized medical report from a licensed physician not employed by the Department who is "certified in the field of medicine" for which the incarcerated individual is seeking furlough. FAIMM did not penalize the program for that requirement, because FAIMM could not determine with certainty whether the Department assists with locating and paying for such a specialist. If it does not, that would constitute an unwarranted barrier to applicants.
- FAIMM gave a perfect score to Alabama's Medical Furlough program for **policy design** for thoroughness, consistency, and clarity of guidance.
- **Procedures** scored well, in part because, while deadlines are not a feature of the assessment and decision-making processes, expedited time frames exist for urgent cases, earning the program **extra credit**.
- **Release planning support** drew high grades in two areas. The Department of Corrections must put together a release plan, and we awarded **extra credit** because the agency must contact all federal, state, and support agencies such as Medicaid and hospice providers that could help with release planning.

LOW MARKS

- **Release planning** does not take place until the Commissioner of the Department grants Medical Furlough, which must delay the individual's release.
- Alabama provides no **right to counsel** or **appeal rights** to individuals, and the Commissioner can revoke Medical Furlough in the event the individual's condition improves.