Georgia provides compassionate release to eligible prisoners with terminal illnesses through its Medical Reprieve program. In addition, the Georgia Board of Pardons and Paroles (Board) has the authority to grant Parole Due to Disability or Advanced Age, although there is very little information on those provisions.

MEDICAL REPRIEVE

I. ELIGIBILITY

Medical Condition - To be considered for a Medical Reprieve, a prisoner must be “entirely incapacitated” from a progressively debilitating terminal illness, defined as a disease that cannot be cured or adequately treated and that is “reasonably expected” to result in death within 12 months.

- “Entirely incapacitated” means the prisoner (1) requires assistance in order to perform two or more necessary daily life functions or who is completely immobile; and (2) has such limited physical or mental ability, strength, or capacity that he or she poses an extremely low risk of physical threat to others or to the community.

- “Necessary daily life functions” are eating, breathing, dressing, grooming, toileting, walking, or bathing.

Exclusions - There is nothing in the Georgia Constitution or Medical Reprieve statute that says any prisoners are excluded from consideration.

II. APPLICATION/REFERRAL

Requests - The Georgia Board of Pardon and Parole (Board) rules provide conflicting guidance for filing requests for Medical Reprieves. Although the rules state that prisoners should first “seek leave” for a Medical Reprieve with the Department of Corrections (Department), they also say that written requests for Medical Reprieves should be submitted to the Board, in “any written form,” with supporting evidence. A request must include information from the Department’s Medical Services Director documenting the medical reasons for the Medical Reprieve and plans for a residence, medical care, and payment of medical expenses.

- Note that requests for “emergency” Medical Reprieves can be made by calling a Board representative or Board member, even on weekends and official holidays.

Referrals - The Department medical staff are responsible for recommending prisoners to the Board for a Medical Reprieve.
III. DOCUMENTATION AND ASSESSMENT

There is no information in the Medical Reprieve statute or administrative rules regarding
the Department’s process for approving and/or assessing Medical Reprieve requests before
they go to the Board for a decision.

IV. DECISION-MAKING PROCESS

Decision Maker - The Georgia Board of Pardons and Paroles has the authority to
grant a Medical Reprieve to any prisoner it finds to be entirely incapacitated due to a
“progressively debilitating” terminal illness.\textsuperscript{12}

Decisions - The Board states that in making Medical Reprieve decisions it “balances the
sufficiency of the punishment imposed on the offender to date, with the cost of treating
the offender in a state prison and the humanity of allowing the offender to die outside the
confines of a prison.”\textsuperscript{13}

- All Medical Reprieve requests are “considered on the written record” and no hearings
  are held.\textsuperscript{14}

- In addition to medical documentation, the Board will consider other relevant
  information, including a conduct report from the Superintendent/Warden of the
  correctional institution where the prisoner is housed and the prisoner’s efforts to
  “improve his or her social attitude.”\textsuperscript{15}

A Medical Reprieve can only be granted by a majority vote of the Board.\textsuperscript{16} The Board must
issue its decision in writing, signed by “at least the number of board members required for
the relief granted,” and it becomes part of the prisoner’s permanent record.\textsuperscript{17}

V. POST-DECISION

Supervision - Prisoners released on Medical Reprieve are supervised by a community
supervision officer “even though they are extremely limited in their mobility.”\textsuperscript{18}

Rescission/Termination - If a former prisoner’s medical prognosis “was in error,” and
the condition improves, he or she will be returned to prison to complete the original
sentence.\textsuperscript{19} Note that time on Medical Reprieve is credited toward time served as long as
the former prisoner complies with the Medical Reprieve conditions. However, if the Medical
Reprieve is cancelled or rescinded due to noncompliance, the time served on reprieve is
not credited.\textsuperscript{20}

VI. REPORTING/STATISTICS

In Fiscal Year 2017, the Board reported that it granted 32 Medical Reprieves.\textsuperscript{21}

- Note that Georgia’s Medical Reprieve process has been criticized for being so slow
  that many prisoners die waiting for their Medical Reprieve requests to be approved
  or implemented:
“... even though the reprieve application process has been streamlined, prisoners waiting to be heard by the board are still dying in prison... Since July 2011, at least 14 prisoners have died waiting for a review of their applications, and at least another 16 have died awaiting release after the board approved their reprieves.”22

## PAROLE DUE TO DISABILITY OR ADVANCED AGE

### I. ELIGIBILITY

**Medical Condition/Age** - The Georgia Constitution states that the Board of Pardons and Paroles (Board) has the authority to “parole any person who is age 62 or older.”23 In addition, the Georgia Code says that “in its discretion,” the Board may grant parole “to any aged or disabled persons.”24 [emphasis added] However, there is no published definition of “disabled” and virtually no information on whether or how the Board implements this authority.

**Exclusions** - The parole law and rules do not reference any prisoners that are excluded from consideration for Parole Due to Disability or Advanced Age.

### II. APPLICATION/REFERRAL

There is no information available regarding the Board’s requirements for starting the Parole process based on being over age 62 or having a disability.

### III. DOCUMENTATION/ASSESSMENT

There is no information available regarding documentation and/or assessments related to parole for prisoners who have a disability or are over age 62.

### IV. DECISION-MAKING PROCESS

**Decision Maker** - The Board of Pardons and Paroles is responsible for making all parole decisions.

**Decisions** - Although there are no published rules that apply specifically to prisoners who are disabled or over age 62 and applying for Parole Due to Disability or Advanced Age, the Board’s general rules appear to apply:

- Before releasing any prisoner on parole, the Board may have him or her appear and “personally examine” him or her and consider any relevant information.25

- If objections to the prisoner’s being paroled are made, the Board may hold a hearing and consider oral testimony.26

- The Board can consider all “pertinent information” on the prisoner, including the results of physical and mental examinations and a report by the warden or
superintendent of the institution where he or she is incarcerated. 27 After considering all “records, papers, documents, and oral testimony submitted,” the Board will make its decision. 28

• Parole can only be granted by a majority vote of the Board. 29 The Board must issue a written parole decision, signed by “at least the number of board members required for the relief granted,” which becomes part of the prisoner’s permanent record. 30

**Conditions** - The Board can set appropriate terms and conditions for release. 31 If parole is granted, the appropriate correctional officer is notified, and he or she informs the prisoner of the terms and conditions and then releases the prisoner. 32

**V. POST-DECISION**

**Termination/Revocation** - Parolees remain in the Board’s legal custody until expiration of his or her maximum term, as specified during sentencing. 33 If a parolee violates any of the terms of parole, he or she is subject to re-arrest or a return to Board custody. 34

**VI. REPORTING/STATISTICS**

The Board has not published any statistics on prisoners paroled under the Parole Due to Disability or Advanced Age provisions.

**NOTES**

4 Ga. Code Ann. §§ 42-9-43 (b) (1) (A) and (b) (2); see also Georgia Board of Pardons and Paroles, Reprieves and Commutations webpage at https://pap.georgia.gov/documents/repries-and-commutations.
6 Id. at (C).
7 Ga. Comp. R. & Regs. 475-3-.10 (1) (a).
8 Id. at (a) and (c).
10 Ga. Comp. R. & Regs. 475-3-.10 (1) (b).
11 Reprieves and Commutations, supra note 4.
12 Georgia Const. art. IV, § II, par. II; Ga. Code Ann. §§ 42-9-43 (b) (1) and (b) (2).
13 Reprieves and Commutations, supra note 4.
17 Id. at (b) (2).
18 Ga. Code Ann. §§ 42-9-43 (b) (1) (A) and (b) (2); Reprieves and Commutations, supra note 4.
19 Ga. Code Ann. §§ 42-9-43 (b) (1) (A) and (b) (2); Reprieves and Commutations, supra note 4.
21 Georgia Board of Pardons and Paroles, Annual Report, Fiscal Year 2017, at 32,


23 Ga. Const. art. IV, § II, par. II (e).


26 Id.

27 Id. at (a).

28 Id. at (d) (1)


30 Id. at (b) (2).


33 Id.

34 Id.