Missouri provides compassionate release for eligible prisoners who have a serious or terminal illness through Medical Parole and to those who have a serious medical condition or who are elderly through Executive Clemency/Commutation due to illness or advanced age.

**MEDICAL PAROLE**

**I. ELIGIBILITY**

**Medical Condition/Age** - Prisoners may be considered for Medical Parole because of: (1) terminal illness, meaning that death is anticipated with six months; (2) advanced age, to the extent there is a need for long-term nursing home care; or (3) confinement greatly endangering or shortening the prisoner’s life.

**Exclusions** - Prisoners are not eligible for Medical Parole consideration if they (1) are serving a death sentence; (2) are serving a sentence that has no possibility of parole; or (3) have a minimum prison term that has not been served.

**II. APPLICATION/REFERRAL**

Each institution’s primary care physicians are responsible for recommending prisoners who are potentially eligible for Medical Parole.

**III. DOCUMENTATION AND ASSESSMENT**

The prisoner’s physician certifies the facts of his or her medical condition to the Chief Medical Administrator. The Chief Medical Administrator, with the approval of the Director of the Missouri Department of Corrections (Department), forwards the information to the Missouri Board of Probation and Parole (Board).

**IV. DECISION-MAKING PROCESS**

**Decision Maker** - The Missouri Board of Probation and Parole is responsible for making all Medical Parole decisions.

**Decisions** -

- The Board reviews each Medical Parole request without a personal hearing.
- The Board must determine that the prisoner will be able to obtain proper medical care and “helpful attention” outside of the correctional facility.
- The Board forwards a written decision to the prisoner.
Conditions - Prisoners must comply with any conditions listed by the Board in its “parole release document.”

V. POST-DECISION

Supervision - The medical parolees are under the same “kind and degree” of field supervision as any other paroled prisoner unless the Board modifies the supervision conditions.

Revocation - If the medical parolee recovers, he or she may be subject to a return to custody.

VI. REPORTING/STATISTICS

The Department and Board are not required to report the number of Medical Paroles granted and denied each year. However, the Board responded to FAMM’s request for data:

- As of Sept. 22, 2017, the Board had received 24 Medical Parole requests in 2017: eight prisoners were eligible, and 16 were ineligible.
  - Of the eight prisoners who were eligible, the Board granted Medical Parole to six and denied two.
- In the preceding four years, from 2013 to 2016, the Board received 187 requests for Medical Parole and granted only 10.

The Department’s publication For Family and Friends: A Guide to Understanding the Institutional Corrections System in Missouri states that Medical Parole releases “do not routinely occur.”

EXECUTIVE CLEMENCY/COMMUTATION DUE TO ILLNESS OR AGE

The Missouri Constitution gives the Governor power to grant reprieves, commutations, and pardons after conviction.

I. ELIGIBILITY

Medical Condition - Prisoners may be considered for Executive Clemency Due to Illness or Age if (1) they have a terminal illness; (2) they are elderly and need long-term nursing home care; or (3) confinement is endangering or shortening their lives.
II. APPLICATION/REFERRAL

Recommendations - The Missouri Board of Probation and Parole Board (Board) can recommend a prisoner for Executive Clemency/Commutation to the Governor.\textsuperscript{21}

Applications - Prisoners (or others on their behalf) may also submit applications for Executive Clemency/Commutation to the Board, who investigates all requests before sending them to the Governor.\textsuperscript{22}

III. DOCUMENTATION AND ASSESSMENT

The Board is responsible for investigating each request and making a recommendation to the Governor.\textsuperscript{23} The Board determines if the existing documentation is sufficient to make an informed recommendation to the Governor. If not, it can order an investigation that includes an assessment of medical and/or mental health needs, institutional conduct, and statements from the prosecuting attorney, judge, defense attorney, and victim.\textsuperscript{24}

- Note that the Board’s website says that the Commutation/Clemency process generally takes a minimum of 18-24 months to complete.\textsuperscript{25} There is no mention of an expedited process for prisoners who are terminally ill.

IV. DECISION-MAKING PROCESS

Decision Maker - Although the Board investigates each request, the Governor makes all final decisions granting Executive Clemency/Commutation.\textsuperscript{26}

Decision Process - The Board submits a letter of recommendation, investigative report, and all relevant documents to the Governor. The Governor then makes a final decision regarding the Executive Clemency/Commutation request and sends the prisoner a written notice of the final decision.\textsuperscript{27}

Conditions - The Governor sets conditions, restrictions, and limitations as he or she believes are appropriate.\textsuperscript{28}

V. POST-DECISION

There is no specific mention of post-decision issues, such as appeals and supervision, in Missouri’s Executive Clemency/Commutation law.

VI. REPORTING/STATISTICS

There are no statistics available on how many Missouri prisoners have had their sentences commuted due to illness or advanced age.
NOTES

2 Mo. Const. art. V, § 8.
3 Id. Note that “terminal illness” is not defined in the statute or regulations; however, Department guidance says “terminal” means death is anticipated within six months. See also Missouri Department of Corrections Board of Probation and Parole, Procedures Governing the Granting of Paroles and Conditional Releases (Board Procedures) (2017), § 23.A (1), https://doc.mo.gov/sites/doc/files/2018-01/Blue-Book.pdf.
8 Mo. Code Regs. Ann. tit 14, § 80-2.010 (2) (A); Board Procedures, § 23.B.
9 Mo. Code Regs. Ann. tit 14, § 80-2.010 (2) (B.1); Board Procedures, § 23.C.
11 Id. The Board Procedures state that the primary care physician’s recommendation can go straight to the Board if the prisoner meets the medical criteria. See Board Procedures, § 23.C. However, this contradicts the Medical Parole statute.
13 Board Procedures, § 23.C.
15 Mo. Code Regs. Ann. tit 14, § 80-2.010 (2) (B.1); Board Procedures, § 23.C.
16 Mo. Code Regs. Ann. tit 14, § 80-2.010 (2) (B.2); Board Procedures, § 23.C.
17 Email correspondence from Pam Rogers, Missouri Board of Probation and Parole, to Daniel Landsman, Families Against Mandatory Minimums, Sept. 22, 2017.
21 Id.
22 Mo. Rev. Stat. § 217.800. The Application for Executive Clemency is available online at https://doc.mo.gov/Documents/prob/CLEMENCY_APPLICATION.pdf. Note that it does not include any questions related to medical conditions, terminal illness, or age.
25 Id.
26 Id.
27 Id.