Bill Summary: Medical Parole and Early Release Program  
(HB 642, Rep. Kinsey)

The bill: If passed, HB 642 would authorize the Pennsylvania Department of Corrections (DOC), in consultation with the Parole Board and the Department of Aging, to establish a Medical Parole and Early Release Program. FAMM opposes this bill because it excludes many people in prison from eligibility for the program.

Bill status: This bill is not yet law. To become law, it must go through the committee process, pass through both the Pennsylvania Senate and House of Representatives, and be signed by the governor.

Who it would help: Individuals with a current or prior conviction for the following “violent offenses” would not be eligible for medical parole or early release under HB 642:

- An offense that requires an enhanced sentence for using a deadly weapon;
- An offense that requires registration as a sexual offender (42 Pa.C.S. Ch. 97 Subch. H);
- A conviction for the following, including criminal attempt, criminal conspiracy or a criminal solicitation to commit:
  - 18 Pa.C.S. § 2502 (murder)
  - 18 Pa.C.S. § 2503 (voluntary manslaughter)
  - 18 Pa.C.S. § 2506 (drug delivery resulting in death)
  - 18 Pa.C.S. § 2507 (criminal homicide of law enforcement officer)
  - 18 Pa.C.S. § 2604(c) (murder of unborn child)
  - 18 Pa.C.S. § 2606 (aggravated assault of unborn child)
  - 18 Pa.C.S. § 2702(a)(1) or (2) (aggravated assault)
  - 18 Pa.C.S. § 2702.1 (assault of law enforcement officer)
  - 18 Pa.C.S. § 2716(b) (weapons of mass destruction)
  - 18 Pa.C.S. § 2717(b)(2) (relating to terrorism)
  - 18 Pa.C.S. § 2901(a) (kidnapping)
  - 18 Pa.C.S. § 3011 (trafficking in individuals), if the offense is a felony
  - 18 Pa.C.S. § 3301(a)(1)(i) (arson and related offenses)
  - 18 Pa.C.S. § 3502 (burglary), if the offense was committed in a structure adapted for overnight accommodation and an individual was present
  - 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (robbery)
  - 18 Pa.C.S. § 3702 (robbery of motor vehicle)
  - 18 Pa.C.S. § 7508 (a)(1)(iii), (2)(iii), (3) (iii) or (4)(iii) (drug trafficking).

Medical parole

Eligibility: To qualify for medical parole, a person must be identified by a DOC healthcare practitioner as being “aging and infirm,” which is defined as a person who is 55 years old or older, has no current or prior conviction for a “violent offense,” and has been determined to be permanently medically incapacitated or terminally ill.
A “permanently medically incapacitated” person is someone:
  o Who has a condition caused by injury, disease, syndrome or illness which, to a reasonable degree of medical certainty as determined by a health care practitioner, renders them permanently and irreversibly physically incapacitated to the extent that the person is permanently unable to perform activities of daily living and results in them requiring 24-hour care;
  o Whose incapacitation did not exist at the time of sentencing; and
  o Who is not a danger to themselves or others.

A “terminally ill” person is someone:
  o Who has a condition caused by injury, disease, syndrome, or illness which, to a reasonable degree of medical certainty as determined by a health practitioner, renders them terminally ill to the extent that there can be no recovery and death is imminent; and
  o Who is not a danger to themselves or others.

The process for medical parole under HB 642:
  • DOC identifies and notifies all eligible prisoners and notifies the parole board. The parole board notifies both the prosecuting attorney and the sentencing court that DOC has identified a prisoner eligible for medical parole.
  • The court and the prosecution have 30 days to file an objection to the DOC’s initial identification of a prisoner as eligible for medical parole. If there are no objections from the prosecutor or the court, the parole board can grant the medical parole, if all of the following apply:
    o The prisoner is eligible and has a record of good conduct;
    o There’s an “adequate” reentry plan for the prisoner;
    o The prisoner’s conditions and requirements for medical parole are established; and
    o The prisoner does not pose a safety risk.
  • If the prosecution or the court file an objection, the parole board determines if the prisoner is still eligible within 60 days of receiving the objection.
  • If the board determines that prisoners are not eligible for medical parole, it has exclusive jurisdiction to grant parole and determine whether the prisoner is eligible for medical parole at a later date or whether medical parole should be denied.

Early Release for Elderly Prisoners

Eligibility: People in prison who are 65 years old or older and have no current or prior convictions for a “violent offense” would qualify for early release.

The process for early release under HB 642:
  • Elderly prisoners can petition for early release after serving at least 20 years or reaching 65 years old, whichever is later. Prisoners cannot have committed a disqualifying serious prison rule infraction 12 months before applying for release.
  • At least 5 years before an elderly prisoner would be eligible to petition for early release, DOC must complete an assessment of the prisoner and identify programming and services that would prepare and assist the prisoner with reentry.
• Within 90 days of the petition, DOC must examine the prisoner with a risk assessment tool to predict the probability that the prisoner will engage in future criminal behavior. The results are submitted to the parole board.
• The board must give written notice of the petition for early release to the following:
  o Law enforcement
  o Any department personnel involved in the case
  o The sentencing court
  o The district attorney’s office
  o The victims of the crime, if any, if they’ve indicated a desire to be notified
  o The Office of Victim Advocate
  o The Attorney General (if necessary).
• The board must hold a hearing before granting an early release.
• Elderly prisoners who are denied early release can file a new petition after three years or at an earlier date set by the parole board.
• Elderly prisoners who are granted early release, reoffend, and are recommitted to prison can petition for early release five years from their date of return or at an earlier date set by the parole board.

Additional conditions for Medical Parole and Early Release
HB 642 grants the parole board authority to require the following as a condition for receiving medical parole or elderly early release:
• Identification of a family member or community sponsor who will assist the aging and infirm or elderly prisoner with the activities of daily living;
• Verification of the availability of appropriate medical services sufficient to meet any ongoing treatment requirements, if any;
• Verification of appropriate housing, which can include a hospital, hospice, nursing home, or other housing accommodation suitable for the person’s medical needs.

Why FAMM Opposes HB 642
• **Makes current law worse:** Pennsylvania’s current law allowing for deferment of sentence for medical reasons does not exclude any people from eligibility based on their current or prior convictions – HB 642 makes current law worse, ensuring that thousands of elderly and seriously ill people will stay in prison solely because of the type of crime they committed.
• **Harms public safety:** Research shows that people age out of crime starting at age 25 and become significantly less likely to reoffend as they age – and this holds true for all types of offenders. HB 642 will exclude large numbers of aging and ill people in prison from seeking release when they are no longer a public safety threat, wasting limited prison beds on people who are not a danger to the community.
• **Will increase medical and prison costs for taxpayers:** Elderly and ill prisoners are twice or three times as expensive to incarcerate as younger, healthier people in prison. HB 642 excludes large categories of elderly and ill prisoners from eligibility for release, ensuring that taxpayers keep paying high prices for their incarceration – long after they cease to be dangerous.