

Texas provides compassionate release to incarcerated individuals with qualifying medical conditions, terminal illnesses, and advanced age through **Medically Recommended Intensive Supervision**¹ and **Emergency Medical Reprieve**.²

MEDICALLY RECOMMENDED INTENSIVE SUPERVISION (MRIS)

I. ELIGIBILITY

Medical Condition/Age – To be eligible for Medically Recommended Intensive Supervision (MRIS), an incarcerated individual must have one or more of the following:

- A **terminal illness**, meaning the individual’s condition is incurable; expected to result in death within six months regardless of life-sustaining treatment; and requiring skilled nursing, hospice, or home health care.³
- A **physical disability**, defined as a severe, chronic disability that is likely to continue indefinitely and results in substantial functional limitations in three or more major life activities (such as self-care, self-direction, learning, receptive and expressive language, mobility, capacity for independent living, or economic self-sufficiency).⁴
 - Department policy further states that the functional limitations are reflected in the individual’s need for a combination of “special, interdisciplinary, or generic care, treatment, or other services of extended or lifelong duration that are individually planned and coordinated.”⁵
- An **intellectual disability** (also referred to in Department policy as a developmental disability), defined as significantly sub-average intellectual functioning that exists concurrently with deficits in adaptive behavior and originated during the developmental period before age 18.⁶
- **Mental illness**, defined as an illness, disease, or condition that either (1) substantially impairs the individual’s thoughts, perception of reality, emotional process, and/or judgment **or** (2) grossly impairs the person, as manifested by recent “disturbed behavior.”⁷
- A **need for long-term care**, meaning that the individual (1) is deficient in self-care; (2) has, with reasonable medical probability, clinical conditions that will not change over time; and (3) requires nursing care.⁸

- **Advanced age** (also referred to as “elderly”), defined as being age 65 or older.⁹

Other Eligibility Criteria – To be eligible for MRIS, an individual must not be a threat to public safety.¹⁰

Exclusions and Qualifiers

- Individuals serving a sentence of death or life without parole are not eligible for MRIS.¹¹
- Individuals with active Immigration and Customs Enforcement detainers who are not U.S. citizens and who have certain reportable convictions or adjudications are not eligible for MRIS.¹²
- Individuals serving sentences for aggravated offenses of a violent or sexual nature are considered for MRIS only if they are terminally ill or require long-term care.¹³
- Individuals with a pending felony detainer for a sex offense, or a reportable conviction or adjudication for a sex offense, are only considered for MRIS if they are in a persistent vegetative state or have an organic brain syndrome with significant to total mobility impairment.¹⁴
 - A “persistent vegetative state” means a condition of “profound non-responsiveness in the wakeful state caused by brain damage at any level and characterized by a nonfunctioning cerebral cortex, absence of response to the external environment, akinesia, mutism, and inability to signal.”¹⁵
 - “Organic brain syndrome” means any of a group of acute or chronic syndromes involving temporary or permanent impairment of brain function caused by trauma, infection, toxin, tumor, or tissue sclerosis and causing a “mild-to-severe impairment of memory, orientation, judgment, intellectual functions, and emotional adjustment.”¹⁶

II. APPLICATION/REFERRAL

There are two types of referrals for MRIS: (1) internal referrals, which medical staff on a Correctional Institutions Division (CID) Unit submit directly, and (2) external referrals, which are referrals from the incarcerated individual, family members, attorneys, elected officials, social service agencies, or staff from the Texas Correctional Office on Offenders with Medical or Mental Impairments.¹⁷

- Note that correctional staff are **required** to make MRIS referrals for all individuals who are in a persistent vegetative state, have a life expectancy of less than six months, or have any of the following conditions: organic brain syndrome with significant to total mobility impairment; a condition that meets the criteria for hospice or “permanent infirmity” status; significant mobility impairments, with no expectation of improvement and requiring 24-hour licensed nursing care; a mental illness and/or significant developmental or acquired cognitive impairment but no history or suspected propensity for violent or destructive behavior; cancer with advanced/metastatic disease; end-stage liver disease (with a Model for End-Stage Liver Disease [MELD] score of equal to or greater than 22); or HIV/AIDS with a CD4 count of less than 50.¹⁸

As part of the referral process, a physician, physician’s assistant, nurse practitioner, or – if applicable – a mental health provider such as a licensed psychiatrist must complete a *MRIS Medical Summary* and provide it to MRIS staff.¹⁹ If a current *MRIS Medical Summary* is unavailable when MRIS staff receive the referral, they will request that the appropriate health care provider complete a new one.²⁰ As part of the referral, a physician or mental health provider must confirm that the individual’s diagnosis meets the MRIS eligibility guidelines.²¹

III. DOCUMENTATION AND ASSESSMENT

Initial Evaluation: MRIS Program Supervisor – The MRIS Program Supervisor (or designee) first evaluates a referral to make sure the individual meets the statutory requirements and that the offense does not make the person ineligible.²² The Program Supervisor must send a written notice to the individual or the person making the referral if the individual does not meet these initial eligibility criteria and is not eligible for MRIS consideration for a reason other than the medical condition.²³

Medical Screening and Summary: Health Care Provider – If an individual meets the statutory requirements regarding the offense, the Correctional Office on Offenders with Medical or Mental Impairments will ask a Department health care provider to complete the *Medically Recommended Intensive Supervision Screening Form*.²⁴ The health care provider has three working days to complete the form unless a more urgent or expedited review has been requested.²⁵ Upon request, the health care provider also completes the *Medically Recommended Intensive Supervision Medical Summary* and confirms a qualifying diagnosis.²⁶

Authorization: MRIS Program Supervisor – If an incarcerated individual is not eligible based on the medical criteria, the MRIS Program Supervisor will notify the individual (and/or the person who made the MRIS referral) that, based on medical staff opinion, the individual does not meet the clinical criteria.²⁷ Referrals that **do** meet the initial eligibility criteria are sent to an MRIS Program Specialist for further documentation and preparation for the Board of Pardons and Paroles’ (Board) consideration.²⁸

Preparation of Case: MRIS Program Specialist – The MRIS Specialist prepares the case for the Board by compiling the medical documentation, obtaining the individual’s parole case file/summary (which includes a criminal history and information on institutional adjustment), and completing additional paperwork.²⁹ The MRIS Specialist also notifies the appropriate “trial officials” and the Department’s Victim Services Division that the Board will consider the individual for MRIS and possible release.³⁰

Review: MRIS Program Supervisor – The MRIS Supervisor (or the designee) ensures that all the documentation is complete and reviews the information before approving transmittal to the Board.³¹

IV. DECISION-MAKING PROCESS

Decision-Maker – The Texas Board of Pardons and Paroles is the approving authority for MRIS requests.³²

Consideration Vote – The Board’s MRIS Panel first votes on whether it will consider the incarcerated individual for MRIS. That is based on the individual’s medical condition and a determination as to whether the person constitutes a threat to public safety.³³ If the vote is to deny consideration, the process ends and MRIS staff will close the referral. If the Board’s MRIS Panel approves consideration of the case, it moves forward for a vote on release approval or denial.³⁴

Decision – Once the Board’s MRIS Panel has voted to consider an individual’s MRIS request, it then reviews all the documentation again before making a decision to approve or deny the request.³⁵

- The Board’s MRIS Panel must try to make the decisions for terminally ill individuals within 10 business days of receiving an MRIS referral and within 20 business days of all other referrals.³⁶
- If the Panel denies MRIS, the process ends with the denial vote and MRIS staff close the referral.³⁷
- If the Board’s MRIS Panel, upon a majority vote, approves the individual’s MRIS request,³⁸ MRIS staff initiate release planning.³⁹

Notice of Decision – MRIS staff provide written notification of the decision to the individual, the referral source (if other than the individual), the CID Unit medical staff, the Parole Division, and Victim Services.⁴⁰

Conditions – The MRIS Panel requires all individuals released on MRIS to remain under the care of a physician in a “medically suitable placement.”⁴¹

V. POST-DECISION

Denials and Appeal Rights – If the Board denies an MRIS request, the individual may present the case to the Board again if (1) there is a new *MRIS Medical Summary* indicating a significant worsening of the person’s medical condition or (2) it has been six months since the Board’s decision.⁴²

Release Planning

- **Release and Continuity of Care Plan** – Immediately upon receiving the approval of an MRIS release, the MRIS Human Service Specialist must initiate prerelease planning so that the Unit medical staff can coordinate release and continuity of care plans.⁴³ Once a medically appropriate placement has been secured, the Specialist will submit the proposed release plan to the appropriate Parole or Community Justice Assistance Division for investigation.⁴⁴
- **Social Security** – Within one working day of receiving an individual’s MRIS approval, the MRIS Program Specialist will ask the assigned Special Needs Case Manager to complete a Social Security prerelease benefits application and submit it to the Social Security Administration within two working days of the request.⁴⁵

Supervision – Individuals on MRIS remain under post-release case management by a Department Human Services Specialist for the duration of their sentences.⁴⁶

- The Specialist will contact the individual and the medical placement every month to obtain status updates and determine the person’s need for ongoing services and treatment.⁴⁷
- The Specialist reports those updates to the Correctional Office on Offenders with Medical or Mental Impairments.⁴⁸
- At least once each calendar quarter, the Correctional Office reports the information on the individual’s medical and placement status to the Board’s MRIS Panel. On the basis of those reports, the MRIS Panel can modify the conditions of release.⁴⁹

VI. REPORTING/STATISTICS

The Board reported the following information regarding the number of individuals approved for MRIS:

- In 2019, the Board approved 76 individuals for MRIS. Of those, 59 individuals were terminally ill and 17 were in need of long-term care.⁵⁰

- A report from the Texas House of Representatives Research Organization notes that in 2019 the Correctional Office on Offenders with Medical or Mental Impairments screened about 2,900 individuals for MRIS and sent 200 cases to the Board for consideration. As referenced above, the Board approved only 76 of those requests.⁵¹
- In 2020, the Board approved 61 individuals for MRIS. Of those, 40 individuals were terminally ill and 21 were in need of long-term care.⁵²

EMERGENCY MEDICAL REPRIEVE

I. ELIGIBILITY

Medical Condition - To be eligible for Emergency Medical Reprieve, an incarcerated individual must:

- be **terminally ill**, having a condition that is incurable and will inevitably result in death within six months regardless of life sustaining treatment,
- be **totally disabled**, having a severe, chronic disability that is likely to continue indefinitely,
- **require medical treatment not available** within the Texas Department of Criminal Justice and results in substantial functional limitations, or
- have been **denied Medically Recommended Intensive Supervision (MRIS)**.⁵³

Exclusions - The Parole Board will not consider a reprieve without custody for individuals who have detainers filed against their release. No other exclusions appear to apply.

II. APPLICATION/REFERRAL

Incarcerated individuals who meet eligibility criteria can seek an Emergency Medical Reprieve by filing an *Application for Emergency Medical Reprieve* to the Texas Board of Pardons and Paroles.⁵⁴ The application must include:

- a medical statement from a “free world” medical facility, signed by a physician on business letterhead stating they will provide services to the incarcerated individual upon release. The statement must include the facility address and the name and contact information of the medical staff or physician approving the individual’s admission and treatment.⁵⁵

People other than the incarcerated person may apply using the same form. They shall be responsible for any and all financial support and/or medical expenses incurred by the person on Medical Reprieve until that person is returned to custody.⁵⁶

III. DOCUMENTATION AND ASSESSMENT

Beyond the application form and a brief definition of Emergency Medical Reprieve on the Board's website, there is no other publicly available information on the documentation and assessment process, or about how the Texas Board of Pardons and Paroles decides whether to recommend Emergency Medical Reprieve.

IV. DECISION-MAKING PROCESS

Decision-Maker - The Governor has the authority to grant Emergency Medical Reprieves, a form of Executive Clemency, upon the written recommendation of the Texas Board of Pardons and Paroles (Board).⁵⁷ No public information exists about how the Governor determines whether to grant Emergency Medical Reprieve.

Notice of Decision - The applicant receives the final decision in writing.⁵⁸

V. POST-DECISION

Denials and Appeal Rights - If the Board or the Governor deny Emergency Medical Reprieve application, the individual must wait six months to file another unless the medical condition deteriorates.⁵⁹

Release Planning - Other than the requirement that a physician and medical facility sign a statement to the effect that they will take responsibility for providing medical services, and that any person applying on behalf of the incarcerated individual agree to take on financial responsibility, there is no mention of release planning support.

VI. REPORTING AND STATISTICS

A report by the Texas House of Representatives Research Organization provides the following information:⁶⁰

- In FY 2019, the Board received 132 requests for an Emergency Medical Reprieve. After screening, the Board's Clemency Section sent three cases to the full Board; the Board did not recommend any of those three individuals to the Governor.
- The following year, as of June 2020, 68 requests for Emergency Medical Reprieve had been sent to the Board. After screening, the full Board voted on two cases; the Board recommended one individual to the Governor, and the

TEXAS COMPASSIONATE RELEASE

PRIMARY LEGAL SOURCES

MEDICALLY RECOMMENDED INTENSIVE SUPERVISION (MRIS)

Statute

Texas Government Code § 508.146 (2019), available through the Texas Legislature's Constitution and Statutes webpage, <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.508.htm#508.146>.

Agency Policy

Texas Department of Criminal Justice, Parole Division, Policy and Operating Procedure 2.2.5 (Sept. 3, 2018), https://www.tdcj.texas.gov/documents/pd/02.02.05_parole_policy.pdf.

Texas Board of Pardons and Paroles, Board Policy 145.204 (Oct. 18, 2018), https://www.tdcj.texas.gov/bpp/policies_directives/POL%20145.204%20MRIS.pdf.

Texas Department of Criminal Justice, Texas Correctional Office on Offenders With Medical or Mental Impairments, Program Guidelines and Processes, PGP-01.04 (June 1, 2020), https://www.tdcj.texas.gov/documents/rid/TCOOMMI_PGP_0104_MRIS.pdf.

- Attachment A, Eligibility Criteria for Medically Recommended Intensive Supervision (MRIS)
- Attachment B, Medically Recommended Intensive Supervision Program Acceptance/Refusal
- Attachment C-2, Board Transmittal Checklist

Note that as of September 1, 2021, the Guideline's attachments (A, B, and C-2) are not available on the Department's website. They can be obtained by submitting a public information request at https://www.tdcj.texas.gov/divisions/ogc/information_act.php.

Texas Department of Criminal Justice, Correctional Managed Health Care Policy A-08.6, Medically Recommended Intensive Supervision (MRIS) Screening (July 2020), https://www.tdcj.texas.gov/divisions/cmhc/docs/cmhc_policy_manual/A-08.06.pdf.

- Attachment A, Medically Recommended Intensive Supervision Screening Form, https://www.tdcj.texas.gov/divisions/cmhc/docs/cmhc_policy_manual/A-08.06_Attachment_A.pdf.
- Attachment B, Medically Recommended Intensive Supervision Medical Summary, https://www.tdcj.texas.gov/divisions/cmhc/docs/cmhc_policy_manual/A-08.06_Attachment_B.pdf.

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Governor denied the request.

TEXAS COMPASSIONATE RELEASE

PRIMARY LEGAL SOURCES

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EMERGENCY MEDICAL REPRIEVE

Regulations

37 Tex. Admin. Code § 143.34 (2020), available through the Texas Secretary of State, [https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=37&pt=5&ch=143&rl=34](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=37&pt=5&ch=143&rl=34).

Agency Publications

Texas Board of Pardons and Paroles, Emergency Medical Reprieve Information Page (Jan. 2, 2019), https://www.tdcj.texas.gov/bpp/exec_clem/Reprieve.html.

Texas Board of Pardons and Paroles, *Application for Emergency Medical Reprieve* (Form EMR-10) (Jan. 11, 2010), <https://www.tdcj.texas.gov/bpp/forms/forms.html>.

NOTES

* *Id.* means see prior note.

¹ Tex. Gov't Code Ann. § 508.146; Texas Board of Pardons and Paroles, Board Policy 145.204, Medically Recommended Intensive Supervision; Texas Department of Criminal Justice, Parole Division, Policy and Operating Procedure (Parole Policy) 2.2.5, Medically Recommended Intensive Supervision; Texas Department of Criminal Justice, Texas Correctional Office on Offenders with Medical or Mental Impairments, Program Guidelines and Processes (Department Guideline) PGP-01.04, Medically Recommended Intensive Supervision; Texas Department of Criminal Justice, Correctional Managed Health Care Policy (Department Health Policy) A-08.6, Medically Recommended Intensive Supervision (MRIS) Screening.

² 37 Tex. Admin. Code § 143.34; Texas Board of Pardons and Paroles, *Application for Emergency Medical Reprieve* (Form EMR-10).

³ Tex. Gov't Code Ann. § 508.146 (a) (1) (A); Department Guideline PGP-01.04, Attachment A, Eligibility Criteria for Medically Recommended Intensive Supervision (MRIS); Department Health Policy A-08.6, Definitions.

⁴ *Id.*

⁵ Department Health Policy A-08.6, Definitions.

⁶ Tex. Gov't Code Ann. § 508.146 (a) (1) (A); Department Guideline PGP-01.04, Attachment A; Department Health Policy A-08.6, Definitions, referencing the Texas Health and Safety Code, § 591.003. Note that some of the Department's MRIS rules still use the outdated term "mentally retarded" rather than intellectually or developmentally disabled.

⁷ Tex. Gov't Code Ann. § 508.146 (a) (1) (A); Department Guideline PGP-01.04, Attachment A; Department Health Policy A-08.6, Definitions, referencing the Texas Health and Safety Code, § 571.003.

⁸ Id.

⁹ Id.

¹⁰ Tex. Gov't Code Ann. § 508.146 (a) (2); Texas Board of Pardons and Paroles, Board Policy 145.204, Procedure, § I (A).

¹¹ Tex. Gov't Code Ann. § 508.146 (a); Department Guideline PGP-01.04, Attachment A.

¹² Department Guideline PGP-01.04, Attachment A. See also Tex. Gov't Code Ann. § 508.146 (f).

¹³ Tex. Gov't Code Ann. § 508.146 (a). See Tex. Code of Crim. Proc., Art. 42A.054, for the list of relevant aggravated offenses, <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.42A.htm#42A.054>.

¹⁴ Tex. Gov't Code Ann. § 508.146 (a) (1) (B); Department Guideline PGP-01.04, Attachment A. See Tex. Code of Crim. Proc., Ch. 62, for additional information on sex offenses, <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.62.htm#62>.

¹⁵ Department Health Policy A-08.6, Definitions.

¹⁶ Id.

¹⁷ Department Guideline PGP-01.04, § I (A).

¹⁸ Department Health Policy A-08.6, Definitions.

¹⁹ Department Guideline PGP-01.04, § I (B) and Attachment B, Medically Recommended Intensive Supervision Medical Summary form.

²⁰ Id. at § I (B).

²¹ Id. at § I (C).

²² Id. at § II (A). See also Parole Policy 2.2.5, § I (A).

²³ Id. at § II (B).

²⁴ Department Health Policy A-08.6, Procedures, § I and Attachment A. "Health care provider" is defined as a physician, physician assistant, or nurse practitioner. Id. at § I (B).

²⁵ Id. at § I (A).

²⁶ Id. at § II (A) and Attachment B.

²⁷ Id. at § II (C).

²⁸ Id. at §§ II (D) and IV (A).

²⁹ Id. at §§ IV (A) through IV (C), and IV (E).

³⁰ Id. at § IV (D).

³¹ Id. at § IV (F).

³² Id. at § III (A). Note that the case of an individual with a “concurrent state jail felony” to serve upon completion or release of the prison sentence, if approved at this stage, is submitted to the sentencing judge for secondary review and a decision. Id. at §§ III (A) through III (C).

³³ Texas Board of Pardons and Paroles, Board Policy 145.204, Procedure, § I (A).

³⁴ Department Guideline PGP-01.04, § VI (A). Note that individuals denied MRIS consideration who have a mandatory release date or sentence completion date in the upcoming six months are referred to the Continuity of Care Program Supervisor for review and processing. Id. at § VI (E).

³⁵ Texas Board of Pardons and Paroles, Board Policy 145.204, Procedure, § I (C).

³⁶ Id. at Procedure, § V.

³⁷ Department Guideline PGP-01.04, § VI (B).

³⁸ Texas Board of Pardons and Paroles, Board Policy 145.204, Procedure, § III (A).

³⁹ Department Guideline PGP-01.04, § VI (C).

⁴⁰ Id. at § VI (D). Note that the Department’s Parole Division operating procedures state that Victim Services staff must be notified within one day of an individual’s approval for MRIS. See Parole Policy 2.2.5, § I (B).

⁴¹ Tex. Gov’t Code Ann. § 508.146 (c); Texas Board of Pardons and Paroles, Board Policy 145.204, Procedure, § I (C) (1).

⁴² Department Guideline PGP-01.04, § VI (F).

⁴³ Id. at § VI (E). Note that the Department Guideline has two sections labeled “VI.” This reference is to the second one, entitled “Pre-Release Processing.”

⁴⁴ Id. at § VI (F).

⁴⁵ Id. at § VI (D).

⁴⁶ Id. at § VII (C).

⁴⁷ Id. at § VII (D) (3).

⁴⁸ Id. at § VII (D) (4).

⁴⁹ Tex. Gov't Code Ann. § 508.146 (c); Texas Board of Pardons and Paroles, Board Policy 145.204, Procedure, § III (C).

⁵⁰ Texas Board of Pardons and Paroles, *Annual Statistical Report FY 2020*, 11, https://www.tdcj.texas.gov/bpp/publications/FY_2020_Annual_Statistical_Report.pdf.

⁵¹ Texas House of Representatives, House Research Organization, “Existing Medical Parole Program in Texas Provides for Limited Release of Certain Seriously Ill, Elderly Inmates,” *Interim News Briefs* (July 9, 2020), <https://txhronews.wordpress.com/2020/07/09/existing-medical-parole-program-provides-for-limited-release-of-certain-seriously-ill-elderly-inmates/>.

⁵² Texas Board of Pardons and Paroles, *Annual Statistical Report FY 2020*, 11, https://www.tdcj.texas.gov/bpp/publications/FY_2020_Annual_Statistical_Report.pdf.

⁵³ Texas Board of Pardons and Paroles, *Application for Emergency Medical Reprieve* (Form EMR-10) (Jan. 11, 2010), <https://www.tdcj.texas.gov/bpp/forms/forms.html>.

⁵⁴ 37 Tex. Admin. Code § 143.34. See also Texas Board of Pardons and Paroles, Reprieve Information Page, http://www.tdcj.state.tx.us/bpp/exec_clem/Reprieve.html.

⁵⁵ Form EMR-10, Instructions and Checklist.

⁵⁶ Id.

⁵⁷ 37 Tex. Admin. Code § 143.31 (a).

⁵⁸ Form EMR-10, Instructions and Checklist.

⁵⁹ Form EMR-10, Instructions and Checklist.

⁶⁰ Texas House of Representatives, House Research Organization, “Existing Medical Parole Program in Texas Provides for Limited Release of Certain Seriously Ill, Elderly Inmates,” *Interim News Briefs* (July 9, 2020), <https://txhronews.wordpress.com/2020/07/09/existing-medical-parole-program-provides-for-limited-release-of-certain-seriously-ill-elderly-inmates/>.