



Maryland

Overall Grade for Maryland

Total Grade

16
/100

Letter Grade

F

Program Grades

	Total Grade	Letter Grade
Medical Parole	9/100	F
Geriatric Parole	23/100	F

Medical Parole

Total Grade

9 /100

Letter Grade

F

Eligibility Criteria

0/30

0/10 UTD* Clearly set out with understandable and measurable standards.

0/10 UTD Generous or not unduly restrictive.

0/10 UTD 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

0/10

0/5 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

2/15

1/5 Clinical and other staff can identify potentially eligible individuals and initiate the process.

1/5 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

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

2/15

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

0/5 Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.

0/5 Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Data Collection and Public Reporting

0/10

0/5 Agencies are obliged to gather, compile, and report release data to legislature.

0/5 Reporting is made available to the public via annual reports or other means.

5/10

Right to Counsel and Appeals

5/5 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**

* 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

While the Parole Commission reports from time to time on how many Medical Parole cases it considers, it does not report on outcomes. The Parole Commission also did not respond to FMM's request for data for 2019 and 2020.

High and Low Marks

HIGH MARK

- **Right to counsel:** Individuals seeking Medical Parole in Maryland may have counsel represent them before the Parole Commission.

LOW MARKS

- **Overall,** Maryland's Medical Parole program **flunked** because it suffers from internal incoherence, lack of guidance, and conflicting information about everything from eligibility criteria to who initiates the application to standards and procedures. Maryland received one of the worst report cards in the nation because FMM could not figure out how to reconcile its varied and often contradictory guidance or fill in the many gaps left by incomplete or inconsistent regulations.
- The confusion begins with the **eligibility criteria**. The statute and Division of Correction provide one standard: chronic incapacitation or debilitation so severe a person is physically incapable of posing a danger to society. In contrast, the Parole Commission rules require an individual to be "imminently terminal" or have a condition that indicates continued incarceration will serve no useful purpose (such as when a person is in a permanent coma). FMM gave a failing grade to generosity of the criteria because we could not determine what the criteria are. Finally, we could not score for categorical exclusions because while the statute states that only parole-eligible individuals may qualify, the Corrections manual apparently allows anyone to be eligible.
- **Engaging the process** is similarly confusing. The statute explains that the incarcerated individual, attorney, family member, medical professional, Corrections employee, or any other person may file a Medical Parole request with the Parole Commission. According to the Medical Parole regulation, the Warden initiates the request.

LOW MARKS (CONTINUED)

- Maryland's Medical Parole flunked **policy design** because while some agency rules exist, they at best do not align and, more often, contradict the statute. For example, the statute calls for the Parole Commission to complete an initial review of Medical Parole applications. Medical Parole regulations mention no initial review. The statute and rules also differ on documentation and assessment standards. The regulations do not discuss any steps or standards for the Parole Commission review and decision-making processes.
- Medical Parole also failed **procedures** due to confusion about documentation and rules and an absence of standards and because no deadlines exist for steps in the process.
- **Release planning support** also suffers from conflicting authorities. The statute seems to suggest that the Division of Correction is responsible for discharge information including availability of treatment in the community, family support, and housing. The Medical Parole regulation only directs the Warden to submit information about any special housing requirements and makes no mention of the much more comprehensive discharge plan addressed in the statute.

Geriatric Parole

Total Grade

23 /100

Letter Grade

F

Eligibility Criteria

21/30

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

2/10 Generous or not unduly restrictive.

9/10 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

0/10

0/5 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

2/15

0/5 Clinical and other staff can identify potentially eligible individuals and initiate the process.

2/5 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

0/10

0/5 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. **0**

0/5 Release planning begins early in the process.

Agency Policy Design

0/15

0/5 Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

0/5 Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.

0/5 Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Data Collection and Public Reporting

0/10

0/5 Agencies are obliged to gather, compile, and report release data to legislature.

0/5 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**

The Numbers

The Parole Commission did not respond to FAMM's request for information on how many individuals, if any, received Geriatric Parole in 2019 and 2020.

High and Low Marks

HIGH MARK

- By law, Maryland authorizes Geriatric Parole eligibility to individuals serving mandatory minimum sentences for crimes of violence who are at least 60 years old and who have served a minimum of 15 years. Besides being a straightforward description, the **eligibility criteria** explicitly include people convicted of crimes of violence. FAMM commends Maryland for recognizing parole for that population.

LOW MARKS

- Maryland's Geriatric Parole **eligibility criteria** limit parole consideration to people who meet the age and time-served requirements and who are serving mandatory minimum sentences for crimes of violence, except for those registered or eligible to be registered as sex offenders. While FAMM thinks it is commendable that people convicted of crimes of violence and serving mandatory minimum sentences are eligible for consideration, we cannot understand why Maryland provides Geriatric Parole only to such people and not to other incarcerated individuals who meet the age and time-served requirements.
- Despite a statutory directive to do so, Maryland's Parole Commission has not updated regulations to implement Geriatric Parole. Thus, the program fails across the board for **policy design** and **procedures**, because no rules whatsoever exist to carry out this program.
- It also flunks in every other measure because no rules govern **release planning, right to counsel or appeals**, and **data collection and reporting**.