

# HB299 INTRODUCED



1 HB299  
2 FTJGC5C-1  
3 By Representative England  
4 RFD: Judiciary  
5 First Read: 06-Mar-24



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SYNOPSIS:

Under existing law, the Board of Pardons and Paroles is required to consider parole release guidelines in determining whether to grant or deny parole.

This bill would require the Board of Pardons and Paroles to give weighted consideration to the health of an inmate in making its parole decision.

Under existing law, when a prisoner who has been convicted of a nonviolent offense with a sentence of 20 years or less is denied parole, the board shall reconsider releasing the prisoner on parole no more than two years after the parole release denial.

This bill would provide that when a prisoner who has served at least 10 years of his or her sentence and has reached the age of 60 is denied parole, the board shall reconsider releasing the prisoner on parole no more than two years after the denial of parole and shall provide the inmate with a detailed plan to improve the chances he or she will be granted parole at the next hearing.

This bill would provide that if the board fails to provide a detailed plan to the prisoner, he or she shall be provided a new parole hearing within 90 days of the denial.



## HB299 INTRODUCED

29                   This bill would provide appellate relief for a  
30 prisoner with a serious chronic health condition who  
31 was denied parole in certain circumstances.

32                   Under existing law, inmates that meet certain  
33 criteria may be considered for medical parole.

34                   This bill would require the board to hold a  
35 medical parole hearing within 30 days of an inmate  
36 becoming eligible for medical parole.

37                   This bill would provide for appellate relief for  
38 an inmate who was denied medical parole.

39                   This bill would authorize an inmate released on  
40 medical furlough to reside in any state.

41                   This bill would also make nonsubstantive,  
42 technical revisions to update the existing code  
43 language to current style.

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45

46

A BILL

47

TO BE ENTITLED

48

AN ACT

49

50                   Relating to pardons and paroles; to amend Section  
51 15-22-26, Section 15-22-28, as last amended by Act 2023-367,  
52 2023 Regular Session, and Sections 15-22-37 and 15-22-43, Code  
53 of Alabama 1975, to require the Board of Pardons and Paroles  
54 to give weighted consideration to an inmate's age when  
55 determining whether to grant parole, to require the board to  
56 hold a rehearing once parole is denied for certain inmates, to



## HB299 INTRODUCED

57 provide for appellate relief for a prisoner with a serious  
58 chronic health condition who was denied parole in certain  
59 circumstances; to require the board to hold a medical parole  
60 hearing within a specified period of time of an inmate  
61 becoming eligible for medical parole; provide for appellate  
62 relief for an inmate who was denied medical parole; to amend  
63 Section 14-14-5, Code of Alabama 1975, to provide that an  
64 inmate released on medical furlough may reside in any state;  
65 and to make nonsubstantive, technical revisions to update the  
66 existing code language to current style.

67 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

68 Section 1. Section 15-22-26, Section 15-22-28, as last  
69 amended by Act 2023-367, 2023 Regular Session, and Sections  
70 15-22-37 and 15-22-43, Code of Alabama 1975, are amended to  
71 read as follows:

72 "§15-22-26

73 (a) (1) A ~~No~~-prisoner shall be released on parole ~~merely~~  
74 as a reward for good conduct or efficient performance of  
75 duties assigned in prison, ~~but only if~~ a majority of the Board  
76 of Pardons and Paroles ~~is~~ members are of the opinion that the  
77 prisoner meets criteria and guidelines established by the  
78 board to determine a prisoner's fitness for parole and to  
79 ensure public safety.

80 (2) The guidelines shall ~~serve~~ do all of the following:  
81 a. Serve as an aid in the parole process ~~and shall~~  
82 ~~promote~~.

83 b. Promote the use of prison space for the most violent  
84 and greatest risk offenders, while recognizing that the



## HB299 INTRODUCED

85 board's paramount duty is to protect public safety. ~~The~~  
86 ~~guidelines shall be~~

87 c. Be structured, ~~and~~ actuarially based, ~~reviewed every~~  
88 ~~three years by the board, after a specified open comment~~  
89 ~~period determined by the board, and posted on the website of~~  
90 ~~the board and include, but not be limited to, .~~

91 (3) The guidelines shall consider all of the following:

92 ~~(1)~~ a. The prisoner's risk to reoffend, based upon a  
93 validated risk and needs assessment as defined in Section  
94 12-25-32.

95 ~~(2)~~ b. Progress by the prisoner and the Department of  
96 Corrections to plan for reentry.

97 ~~(3)~~ c. Input from the victim or victims, the family of  
98 the victim or victims, prosecutors, and law enforcement  
99 entities.

100 ~~(4)~~ d. Participation in risk-reduction programs while  
101 incarcerated.

102 ~~(5)~~ e. Institutional behavior of the prisoner while  
103 incarcerated.

104 ~~(6)~~ f. Severity of the underlying offense for which the  
105 prisoner was sentenced to incarceration.

106 (4) The board shall give weighted consideration to the  
107 health of the inmate when considering parole.

108 (b) Except as provided in Section 15-22-37, if the  
109 board grants a prisoner parole, the prisoner shall be released  
110 from prison upon the terms and conditions set by the board,  
111 and while released on parole, shall remain in the legal  
112 custody of the warden of the prison from which he or she is



## HB299 INTRODUCED

113 paroled until the expiration of the maximum term specified in  
114 his or her sentence or until he or she is fully pardoned.

115 (c) The board shall clearly articulate its reasons for  
116 approval or denial of parole for each prisoner, based on its  
117 established guidelines, and shall provide the reasons for  
118 approval or denial to the prisoner, the victim, the Department  
119 of Corrections, or any other interested party upon written  
120 request submitted to the board. The use of established  
121 guidelines for parole consideration shall not create a right  
122 or expectation by a prisoner to parole release. Additionally,  
123 the articulated reasons for denial of parole release shall not  
124 create a right or expectation for parole release. The  
125 guidelines shall serve as an aid in the parole decisionmaking  
126 process, and the decision concerning parole release shall be  
127 at the complete discretion of the board."

128 "§15-22-28

129 (a) ~~It shall be the duty of the Board of Pardons and~~  
130 ~~Paroles, upon its own initiative, to make an investigation of~~  
131 ~~any and~~ The Board of Pardons and Paroles shall investigate all  
132 prisoners confined in the jails and prisons of the state,  
133 through use of a validated risk and needs assessment, as  
134 defined in Section 12-25-32, ~~with a view of determining the~~  
135 ~~feasibility of releasing the prisoners on parole and effecting~~  
136 ~~their reclamation~~ to determine which prisoners may be released  
137 on parole. Reinvestigations shall be ~~made from time to time~~  
138 performed as determined by the board ~~may determine~~ or as  
139 requested by the Department of Corrections ~~may request. The~~  
140 ~~investigations shall include such reports and other~~



## HB299 INTRODUCED

141 ~~information as the board may require from the Department of~~  
142 ~~Corrections or any of its officers, agents, or employees.~~

143 (b) ~~It shall be the duty of the~~ The Department of  
144 Corrections ~~to shall~~ cooperate with the ~~Board of Pardons and~~  
145 ~~Paroles~~ board for the purpose of carrying out this article.

146 (c) Temporary leave from prison, ~~including Christmas~~  
147 ~~furloughs,~~ may only be granted ~~only~~ by the Commissioner of the  
148 Department of Corrections to a prisoner for good and  
149 sufficient reason and may be granted within ~~or without~~ the  
150 state; ~~provided, that Christmas furloughs shall~~ or outside the  
151 state. Furlough may not be granted to any prisoner convicted  
152 of ~~drug peddling, child molesting, or rape,~~ any Class A felony  
153 sex offense, as provided in Section 15-20A-5, or to any  
154 ~~maximum security~~ prisoner in close custody. A permanent,  
155 written record of all temporary leaves, ~~together with~~  
156 including the reasons ~~therefor~~ leave was granted, shall be kept  
157 by the commissioner. He or she shall furnish the Board of  
158 Pardons and Paroles with a record of each leave granted and  
159 the reasons ~~therefor~~ leave was granted, and the same shall be  
160 placed by the board in the prisoner's file.

161 (d) ~~No prisoner shall be released on parole except by a~~  
162 ~~majority vote of the board.~~ The board shall not parole any  
163 prisoner for employment by any official of this state, nor  
164 shall any parolee be employed by an official of this state and  
165 be allowed to remain on parole; ~~provided, however, that this~~  
166 ~~provision shall.~~ This subsection does not apply ~~in the case of~~  
167 to a parolee whose employer, at the time of the parolee's  
168 original employment, was not a state official.



## HB299 INTRODUCED

169 (e) The board shall set a prisoner's initial parole  
170 consideration date according to the following schedules:

171 (1) For prisoners receiving sentence deductions  
172 pursuant to the Alabama Correctional Incentive Time Act,  
173 Article 3 of Chapter 9 of Title 14, the following schedule  
174 shall apply:

175 a. For terms of five years or less, the prisoner shall  
176 be scheduled for initial parole consideration on the current  
177 docket.

178 b. For terms over five years and up to 10 years, the  
179 prisoner shall be scheduled for initial parole consideration  
180 approximately 18 months prior to the minimum release date.

181 c. For terms of more than 10 years and up to 15 years,  
182 the prisoner shall be scheduled for initial parole  
183 consideration approximately two years and six months prior to  
184 the minimum release date.

185 (2) For prisoners convicted on or after March 21, 2001,  
186 of one or more of the following Class A felonies, the initial  
187 parole consideration date shall be set for a date once a  
188 prisoner has completed 85 percent of his or her total sentence  
189 or 15 years, whichever is less.

190 a. Rape in the first degree.

191 b. Kidnapping in the first degree.

192 c. Murder.

193 d. Attempted murder.

194 e. Sodomy in the first degree.

195 f. Sexual torture.

196 g. Robbery in the first degree with serious physical





## HB299 INTRODUCED

197 injury as defined in Section 13A-1-2.

198 h. Burglary in the first degree with serious physical  
199 injury as defined in Section 13A-1-2.

200 i. Arson in the first degree with serious physical  
201 injury as defined in Section 13A-1-2.

202 (3) For all other prisoners, the initial parole  
203 consideration date shall be set for a date following  
204 completion of one-third of the prisoner's sentence or 10  
205 years, whichever is less.

206 (4) If the prisoner is serving consecutive sentences,  
207 the initial parole consideration date may not be set for a  
208 date before the prisoner has separately served the time  
209 prescribed in this subsection for each consecutive sentence  
210 imposed.

211 (f) (1) The board may deviate from the initial parole  
212 consideration date established in subsection (e) or any  
213 reconsideration date prescribed by the board's rules only in  
214 either of the following circumstances:

215 a. To comply with the policy and procedural guidelines  
216 in effect on or before January 1, 2019, issued by the board  
217 under Section 15-22-24~~(e)~~.

218 b. If the prisoner ~~shows~~, by clear and convincing  
219 evidence, shows that he or she is more likely than not to be  
220 granted parole and that he or she would have been considered  
221 for parole on an earlier date under generally applicable rules  
222 or policies previously in effect.

223 (2) Any decision by the board to invoke the procedures  
224 of this subsection shall be subject to legal review by the



## HB299 INTRODUCED

225 deputy Attorney General or assistant Attorney General assigned  
226 to the board, prior to the issuance of a parole certificate  
227 and the prisoner's release. If it is determined that the grant  
228 of parole consideration failed to satisfy the requirements of  
229 this subsection or any rule adopted pursuant to this  
230 subsection, the decision shall be reversed and the prisoner  
231 shall be notified by the board.

232 (3) For purposes of paragraph (f)(1)b., the board shall  
233 adopt rules to determine whether a prisoner is more likely  
234 than not to be granted parole. These rules shall be designed  
235 to minimize the risk a prisoner will be prejudiced by any  
236 statutory or administrative changes in parole standards or  
237 procedures that have occurred since the date of the prisoner's  
238 conviction and shall include, but are not limited to, all of  
239 the following:

240 a. A requirement that the prisoner has completed a  
241 minimum total period of incarceration.

242 b. A requirement that the prisoner complete certain  
243 programs while in custody of the Department of Corrections.

244 c. A requirement that the prisoner provide a statement  
245 of support from a Department of Corrections staff member.

246 d. A requirement that the prisoner have no violent  
247 disciplinarys during a prescribed period preceding the  
248 prisoner's current application for parole consideration.

249 e. A requirement that the prisoner have no  
250 disciplinarys of any kind within a prescribed period  
251 preceding the prisoner's current application for parole  
252 consideration.



## HB299 INTRODUCED

253 f. A requirement that the prisoner's risk of re-offense  
254 is determined to be medium or low following the completion of  
255 a validated risk and needs assessment, as defined in Section  
256 12-25-32, conducted by a trained probation and parole officer.

257 (4) A 30 days' written notice shall be provided to the  
258 Governor and Attorney General for any parole consideration  
259 date set by the board under subdivision (f)(1). The Governor  
260 and Attorney General shall have 14 days from the time notice  
261 is received to object to the grant of parole. If the board  
262 grants parole consideration under subdivision (f)(1) and did  
263 not give adequate notice to the Governor or Attorney General  
264 or granted parole consideration despite an objection from the  
265 Governor or Attorney General, the decision shall be reversed  
266 and the prisoner shall be notified by the board.

267 (g)(1) Notwithstanding any law to the contrary, any  
268 prisoner who is charged with a new federal, state, or local  
269 offense punishable by a term of imprisonment exceeding 12  
270 months shall not be considered for parole until after the  
271 charge has been disposed, whether by trial or other means.

272 (2) A prisoner shall immediately be notified by the  
273 Department of Corrections of any new charges pursuant to  
274 subdivision (1).

275 (h)(1) If a prisoner convicted of a nonviolent offense,  
276 as defined in Section 12-25-32, with a sentence of 20 years or  
277 less is denied parole, the board shall reconsider releasing  
278 the prisoner on parole no more than two years after his or her  
279 parole release denial.

280 (2) Any prisoner denied parole who has served at least



## HB299 INTRODUCED

281 10 years of his or her sentence, and has reached the age of  
282 60, shall have a reconsideration parole hearing at least every  
283 two years following a denial. If the board denies parole, the  
284 board shall provide the prisoner with a detailed plan to  
285 improve the chances parole will be granted at the next  
286 hearing.

287 (3) If the board fails to provide the prisoner with a  
288 detailed plan as provided in subdivision (2), the board shall  
289 reconsider releasing the prisoner on parole within 90 days of  
290 the denial.

291 (i) (1) A prisoner with a serious chronic health  
292 condition whose parole was denied shall have the right to seek  
293 judicial review of the denial as provided in this subsection.  
294 For the purposes of this section, a "serious chronic health  
295 condition" includes any non-terminal physical or medical  
296 condition rendering an individual permanently and irreversibly  
297 incapacitated as determined by reasonable medical judgment.

298 (2) Within 28 days of receiving from the board, in  
299 writing, the reason for the denial of parole, the prisoner, or  
300 an individual acting on the prisoner's behalf, may appeal the  
301 decision.

302 (3) The venue for an appeal shall be the circuit court  
303 of the county of conviction.

304 (4) The petition shall be heard by the circuit judge  
305 who presided over the trial or, if the judge is no longer  
306 serving, by any of the circuit judges in the circuit where the  
307 prisoner was convicted.

308 (5) Review by the court shall be de novo by the circuit



## HB299 INTRODUCED

309 court without a jury.

310 (6) The decision by the circuit court may be appealed  
311 pursuant to the court of criminal appeals and is subject to  
312 the Rules of Appellate Procedure."

313 "§15-22-37

314 (a) The Board of Pardons and Paroles may adopt rules,  
315 not inconsistent with ~~the provisions of~~ this article, ~~touching~~  
316 ~~upon~~ relating to all matters ~~dealt with~~ included in this  
317 article, including, among others, practice and procedure in  
318 matters pertaining to paroles, pardons, and remission of fines  
319 and forfeitures; ~~provided, however, that no.~~ No rule adopted  
320 by the board ~~shall have the effect of denying to~~ may deny any  
321 person whose application for parole or the revocation of whose  
322 parole is being considered by the board from having the  
323 benefit of counsel or witnesses upon the hearing.

324 (b) The Board of Pardons and Paroles shall adopt rules  
325 to do all of the following:

326 (1) Establish a program of limited supervision for  
327 qualifying parolees ~~who qualify~~ addressing eligibility using  
328 validated risk and needs assessments, as defined in Section  
329 12-25-32, transfers among levels of supervision, to include  
330 guidelines for the transfer of lower-risk individuals to an  
331 administrative form of parole, and reporting requirements.

332 (2) Develop policies and procedures for screening,  
333 assessment, and referral for parolees to connect with  
334 recidivism reduction services including, but not limited to,  
335 cognitive behavioral intervention and substance abuse  
336 treatment.



## HB299 INTRODUCED

337 (3) Establish a matrix of rewards for compliance and  
338 pro-social behaviors and swift, certain, and graduated  
339 sanctions to be imposed by the board, as provided under  
340 subsections (e) and (f) of Section 15-22-32, in response to  
341 corresponding violations of parole terms or conditions  
342 imposed.

343 (4) Establish clear guidelines and procedures that  
344 retain the board's discretion in individual parole release  
345 cases. ~~The guidelines shall provide that, if a prisoner~~  
346 ~~convicted of a nonviolent offense, as defined in Section~~  
347 ~~12-25-32, with a sentence of 20 years or less is denied~~  
348 ~~parole, the board shall reconsider releasing the prisoner on~~  
349 ~~parole no more than two years after such parole release~~  
350 ~~denial.~~ The guidelines shall ~~allow~~ use a current validated  
351 risk and needs assessment as defined in Section 12-25-32, past  
352 criminal history, program completion, institutional  
353 misconduct, and other individual characteristics related to  
354 the likelihood of offending in the future to be factored into  
355 the release decision while working to allocate prison space  
356 for the most violent and greatest risk prisoners.

357 (5) Ensure that the provisions of subsections (k) and  
358 (l) of Section 15-22-24 are implemented relating to the  
359 supervision and treatment of parolees.

360 (6) Establish criteria, guidelines, and procedures to  
361 discharge parolees from parole supervision requirements prior  
362 to the expiration of the full maximum term for which the  
363 parolee was sentenced, unless the parolee was convicted of a  
364 violent offense as defined in Section 12-25-32, which shall



## HB299 INTRODUCED

365 include review of a parolee for discharge from parole  
366 supervision at least every two years if the parolee has  
367 satisfied all financial obligations owed to the court,  
368 including restitution, and has not had his or her supervision  
369 revoked.

370 (c) Notwithstanding any other provision of law to the  
371 contrary, subsections (a) through (c) of Section  
372 41-22-5~~(a)-(e)~~, Section 41-22-5.1(b), Section 41-22-6, and  
373 subsections (a) through (e) and subsection (g) of Section  
374 41-22-23~~(a)-(e), (g)~~ of the Alabama Administrative Procedure  
375 Act shall apply to the board's adoption, amendment, or repeal  
376 of rules, procedures, guidelines, or other policies, except  
377 rules, procedures, guidelines, or other policies concerning  
378 the supervision of parolees or probationers. The Alabama  
379 Administrative Procedure Act shall not otherwise apply to the  
380 board. The notice required by ~~subdivision (a)(1) of~~ Section  
381 41-22-5(a)(1) shall be given, and notice shall be given to the  
382 Governor and Attorney General or their designees.

383 (d) The Director of Pardons and Paroles shall post on  
384 the board's website the guidelines provided under subdivision  
385 (b)(4) and the board's existing rules, procedures, guidelines,  
386 or other policies concerning the grant or denial of pardons,  
387 the grant or denial of paroles, the restoration of political  
388 and civil rights, the remission of fines and forfeitures, and  
389 the revocation of parole."

390 "§15-22-43

391 (a) (1) The Board of Pardons and Paroles shall establish  
392 a special medical parole docket and adopt the rules for



## HB299 INTRODUCED

393 implementation pursuant to Section 15-22-24(e). For each  
394 person considered for medical parole, the board shall  
395 determine whether the person is a geriatric inmate,  
396 permanently incapacitated inmate, or terminally ill inmate for  
397 purposes of placing the person on a special medical parole  
398 docket to be considered for parole by the board. An open  
399 public hearing shall be held, pursuant to Section 15-22-23, to  
400 consider the medical parole of the inmate. Notices of the  
401 hearing shall be sent pursuant to Sections 15-22-23 and  
402 15-22-36. The notice shall clearly state the inmate is being  
403 considered for a medical parole.

404 (2) The Department of Corrections shall immediately  
405 provide, upon request from the board, a list of geriatric,  
406 permanently incapacitated, and terminally ill inmates who are  
407 otherwise eligible for parole, subject to the limitations  
408 provided under Section 15-22-28(e). By January 1 of each  
409 calendar year, the Department of Corrections shall  
410 additionally identify all inmates who have spent more than 30  
411 or more days in an infirmary in the prior calendar year or  
412 received costly and frequent medical treatment outside a  
413 Department of Corrections facility in the previous 12 months,  
414 as well as all inmates suffering from a life-threatening  
415 illness and whose death is imminent within 12 months, who are  
416 otherwise parole eligible, subject to the limitations provided  
417 under Section 15-22-28(e), and shall immediately provide this  
418 information to the board to determine if identified inmates  
419 may be considered for a medical parole.

420 (3) Upon a determination that the inmate is eligible





## HB299 INTRODUCED

421 for a medical parole, the board shall place the inmate on the  
422 next available special medical parole docket pursuant to rules  
423 adopted by the board for the board to consider the individual  
424 for medical parole.

425 (4) The board shall hold a medical parole hearing  
426 within 30 days of an inmate being placed on the list of  
427 geriatric, permanently incapacitated, or terminally ill  
428 inmates.

429 (b) Medical parole consideration shall be in addition  
430 to any other release for which an inmate may be eligible.

431 (c) In considering an inmate for medical parole, the  
432 board may request that additional medical evidence be  
433 produced, or that additional medical examinations be conducted  
434 by the Department of Corrections.

435 (d) In determining factors for a medical parole, the  
436 board shall take into consideration all of the following:

437 (1) Risk for violence.

438 (2) Criminal history.

439 (3) Institutional behavior.

440 (4) Age of the inmate, currently and at the time of the  
441 offense.

442 (5) Severity of the illness, disease, or infirmities  
443 and whether the same existed at the time of the offense.

444 (6) All available medical and mental health records.

445 (7) Reentry plans, which include alternatives to caring  
446 for terminally ill or permanently incapacitated inmates in  
447 traditional prison settings.

448 (e) This article shall not apply to inmates ~~convicted~~



## HB299 INTRODUCED

449 serving a life without parole sentence for a conviction of  
450 capital murder or to inmates convicted of a Class A felony sex  
451 offense, as provided in Section 15-20A-5.

452 (f) Unless provided otherwise in this article, any  
453 medical parole under this article shall comply with Article 2,  
454 Chapter 22, Title 15.

455 (g) (1) An inmate whose medical parole was denied shall  
456 have the right to seek judicial review of the denial as  
457 provided in this subsection.

458 (2) Within 28 days of receiving from the board, in  
459 writing, the reason for the denial of parole, the inmate, or  
460 an individual acting on the inmate's behalf, may appeal the  
461 decision.

462 (3) The venue for an appeal shall be the circuit court  
463 of the county of conviction.

464 (4) The petition shall be heard by the circuit judge  
465 who presided over the trial or, if the judge is no longer  
466 serving, by any of the circuit judges in the circuit where the  
467 inmate was convicted.

468 (5) Review by the court shall be de novo by the circuit  
469 court without a jury.

470 (6) The decision by the circuit court may be appealed  
471 pursuant to the court of criminal appeals and is subject to  
472 the Rules of Appellate Procedure.

473 ~~(g)~~ (h) The board shall report annually to the Joint  
474 Legislative Interim Prison Committee, House Judiciary  
475 Sentencing Commission Subcommittee, the Joint Prison Oversight  
476 Committee, and the Alabama Sentencing Commission on the number



## HB299 INTRODUCED

477 of medical paroles granted, the nature of the illnesses,  
478 diseases, and conditions of those paroled, the number of  
479 inmates granted and denied medical parole, and the number of  
480 cases granted medical parole, but that could not be released.  
481 The crimes for which the inmates have been convicted shall  
482 also be provided in the annual report. The report shall be  
483 made in a manner that does not disclose any individual  
484 identifying information for any particular inmate and shall be  
485 compliant in all respects with the Health Insurance  
486 Portability and Accountability Act.

487 ~~(h)~~ (i) This article shall not be deemed to grant any  
488 entitlement or right to release."

489 Section 2. Section 14-14-5, Code of Alabama 1975, is  
490 amended to read as follows:

491 "§14-14-5

492 (a) An inmate, or any concerned person, including, but  
493 not limited to, the inmate's attorney, family, physician, or  
494 an employee or official of the department may ~~initiate~~  
495 ~~consideration~~ apply for medical furlough by submitting to the  
496 department ~~an initial a~~ medical release furlough application  
497 form along with supporting documentation as required by the  
498 department. The department shall provide an inmate with a copy  
499 of all supporting documentation upon the inmate's request.  
500 Supporting documentation shall include all of the following:

501 (1) Information concerning the inmate's medical  
502 history, prognosis, and age.

503 (2) Medical authorization form.

504 (3) ~~(b) (1) The initial application form shall include~~



## HB299 INTRODUCED

505 ~~the~~ A report of a physician ~~or physicians~~ employed by the  
506 department or its health care provider ~~and a~~ stating that the  
507 physician is of the opinion that the inmate is either  
508 terminally ill, permanently incapacitated, or that the inmate  
509 suffers from a chronic infirmity, illness, or disease related  
510 to aging.

511 (4) A notarized report of at least one other duly  
512 licensed physician who is board certified in the field of  
513 medicine for which the inmate is seeking a medical furlough,  
514 ~~and~~ who is not an employee of the department. ~~These reports~~  
515 ~~shall each be,~~ stating that the physician is of the opinion  
516 that the inmate is either terminally ill, permanently  
517 incapacitated, or that the inmate suffers from a chronic  
518 infirmity, illness, or disease related to aging.

519 ~~(2) (b)~~ The commissioner shall provide the ~~initial~~  
520 medical furlough application form and medical authorization  
521 forms to all department medical care providers, ~~and~~.  
522 Additionally, the forms shall be available at every  
523 correctional facility for distribution to inmates.

524 (c) Consideration for medical furlough shall be  
525 initiated by the submission of ~~an~~ a medical furlough  
526 application form, along with supporting documentation, to the  
527 commissioner from the department, the inmate, or the inmate's  
528 representative, ~~along with the department's supporting~~  
529 ~~documentation to the commissioner.~~

530 (d) If the appropriate medical documentation pursuant  
531 to subsection ~~(b)~~ (a) has indicated that the inmate is a  
532 geriatric inmate, permanently incapacitated, or terminally



## HB299 INTRODUCED

533 ill, the commissioner, within 60 days of receipt of ~~an initial~~  
534 a medical furlough application form, shall make a decision  
535 regarding the release of the inmate on medical furlough  
536 pursuant to ~~the provisions of~~ this chapter. ~~The initial~~  
537 ~~application form and supporting document of inmates, who have~~  
538 ~~been diagnosed by a physician as suffering from a chronic~~  
539 ~~illness or disease related to aging, shall be submitted to the~~  
540 ~~commissioner within 60 days of receipt of the application by~~  
541 ~~the department. Supporting documentation shall include~~  
542 ~~information concerning the inmate's medical history and~~  
543 ~~prognosis, age, and institutional behavior. At the inmate's~~  
544 ~~request, the department shall also provide a copy of all~~  
545 ~~supporting documentation to the inmate.~~

546 (e) In determining eligibility factors for a medical  
547 furlough, the commissioner shall take into consideration all  
548 of the following factors:

549 (1) Risk for violence.

550 (2) Criminal history.

551 (3) Institutional behavior.

552 (4) Age of the inmate, currently and at the time of the  
553 offense.

554 (5) Severity of the illness, disease, or infirmities.

555 (6) All available medical and mental health records.

556 (7) Release plans, which include alternatives to caring  
557 for terminally ill or permanently incapacitated inmates in  
558 traditional prison settings.

559 (f) (1) If the commissioner determines that a geriatric  
560 inmate, permanently incapacitated inmate, or terminally ill



## HB299 INTRODUCED

561 inmate meets the requirements for release to medical furlough  
562 pursuant to this chapter, the commissioner shall release the  
563 inmate on medical furlough pursuant to ~~the provisions of~~ this  
564 chapter within 90 days of receipt by the commissioner of the  
565 ~~initial medical furlough~~ application form and supporting  
566 documentation.

567 (2) An inmate released on medical furlough may reside  
568 in this state or another state.

569 (g) The commissioner ~~shall have the authority to~~ may  
570 revoke the inmate's furlough pursuant to ~~subsection (h) of~~  
571 Section 14-14-4 (h).

572 ~~(g)~~ (h) At least 30 days prior to release of a geriatric  
573 inmate, permanently incapacitated inmate, or terminally ill  
574 inmate under subsection (f), the commissioner shall provide  
575 notification of the medical furlough release to the district  
576 attorney of the jurisdiction where the inmate was last  
577 sentenced and shall also provide notification of the medical  
578 furlough release to the victim, victim's representative, and  
579 other interested individual via certified mail, return receipt  
580 requested, or by using the automated victim notification  
581 system as provided in Section 15-22-36 and Section  
582 15-22-36.2."

583 Section 3. This act shall become effective on October  
584 1, 2024.