

CONSENT CALENDAR

March 2, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Criminal Justice and Public Safety
to which was referred HB 1335-FN,**

**AN ACT relative to the parole board and the procedure
for medical parole of prisoners. Having considered the
same, report the same with the following amendment,
and the recommendation that the bill OUGHT TO PASS
WITH AMENDMENT.**

Rep. David Meuse

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 1335-FN
Title:	relative to the parole board and the procedure for medical parole of prisoners.
Date:	March 2, 2022
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2022-0811h

STATEMENT OF INTENT

This bill would strengthen the criteria for determining if a resident in a New Hampshire prison qualifies for medical parole. While this situation impacts an extremely small number of people in the prison population, medical parole provides a compassionate alternative to housing a resident nearing the end of life or who is enduring a complex medical situation in a prison setting who is no longer dangerous. The bill restricts eligibility to residents who are permanently incapacitated or permanently debilitated, have a terminal illness, or have a serious and complex medical condition that requires extended services or care that cannot be provided by the prison system. Parole decisions remain in the hands of the parole board, which can also specify the placement of the parolee in a hospital, hospice, or family home. The bill also clarifies that, should the condition of the parolee improve, parole would be revoked. The bill also makes some minor revisions to the membership of the adult parole board and, as amended, has the support of the Department of Corrections and the Adult Parole Board.

Vote 21-0.

Rep. David Meuse
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Criminal Justice and Public Safety

HB 1335-FN, relative to the parole board and the procedure for medical parole of prisoners.
OUGHT TO PASS WITH AMENDMENT.

Rep. David Meuse for Criminal Justice and Public Safety. This bill would strengthen the criteria for determining if a resident in a New Hampshire prison qualifies for medical parole. While this situation impacts an extremely small number of people in the prison population, medical parole provides a compassionate alternative to housing a resident nearing the end of life or who is enduring a complex medical situation in a prison setting who is no longer dangerous. The bill restricts eligibility to residents who are permanently incapacitated or permanently debilitated, have a terminal illness, or have serious and complex medical condition that requires extended services or care that cannot be provided by the prison system. Parole decisions remain in the hands of the parole board, which can also specify the placement of the parolee in a hospital, hospice, or family home. The bill also clarifies that, should the condition of the parolee improve, parole would be revoked. The bill also makes some minor revisions to the membership of the adult parole board and, as amended, has the support of the Department of Corrections and the Adult Parole Board. **Vote 21-0.**

Original: House Clerk

Cc: Committee Bill File

Amendment to HB 1335-FN

1 Amend the bill by replacing section 3 with the following:

2

3 3 Parole of Prisoners; Medical Parole. RSA 651-A:10-a, I-IV are repealed and reenacted to read
4 as follows:

5 I. Only upon the recommendation of the commissioner of the department of corrections and
6 the director of medical and forensic services, and after their review of the information provided by a
7 physician licensed pursuant to RSA 329 or an advanced practice registered nurse pursuant to RSA
8 326, and his or her review of medical needs, resource capabilities, and treatment goals, may the
9 parole board consider medical parole to an inmate, referred to by the department of corrections as a
10 “resident,” incarcerated in a state correctional facility, regardless of the time remaining on his or her
11 minimum sentence. The medical parole request shall cite one of the following medical categories:

12 (a)(1) Permanently incapacitated or permanently debilitated. A resident who satisfies
13 all of the following as certified by a physician licensed pursuant to RSA 329 or an advanced practice
14 registered nurse licensed pursuant to RSA 326:

15 (A) Has a health care condition that prevents the resident from independently
16 performing activities of daily living in a manner that ensures their daily needs are met in a prison
17 environment; and

18 (B) Has such limited physical strength or capacity that the resident poses an
19 extremely low threat to others or to the community; and

20 (C) The condition is unlikely to improve or cannot be managed in the prison
21 health care setting due to the resident’s serious functional impairment and/or the level of care that is
22 needed to ensure the resident’s access to constitutionally appropriate health care in a prison health
23 care setting.

24 (2) Additional consideration shall be given to whether or not there are appropriate
25 services available in the prison health care setting as determined by the director of medical and
26 forensic services.

27 (b) Terminally Ill. As certified by a physician licensed pursuant to RSA 329 or an
28 advanced practice registered nurse licensed pursuant to RSA 326, a resident who has an illness that
29 is considered terminal or permanently debilitating, and treatments are not going to cure or stop the
30 progression of the illness. Generally, comfort measures and hospice are offered in place of active
31 treatment interventions.

32

Amendment to HB 1335-FN
- Page 2 -

1 (c) Serious and complex medical condition. As certified by a physician licensed pursuant
2 to RSA 329 or an advanced practice registered nurse licensed pursuant to RSA 326, a resident who
3 has a serious and complex medical condition, which will require extended services or care that
4 cannot be accommodated, managed, or provided by the department of corrections as determined by
5 the director of medical and forensic services.

6 II. The director of medical and forensic services, on behalf of a resident, may petition the
7 parole board for a hearing to determine if the person is eligible for medical parole.

8 (a) A representative from the department of corrections' division of medical and forensic
9 services shall attend each medical parole hearing.

10 (b) If the condition, disease, illness, or injury of the resident does not allow for
11 participation of the resident at a scheduled hearing, the resident may have a representative
12 approved by the board or an attorney participate in the hearing on the resident's behalf.

13 II-a. The board shall require as a condition of release on medical parole that the parolee
14 agree to placement and that the parolee is able to be placed for a definite or indefinite period of time
15 in a hospital, hospice, or other housing accommodation suitable to his or her condition, disease,
16 illness, or injury, including a family home, as specified by the board.

17 II-b. Any medical parolee shall remain in the assigned residence except to engage in medical
18 treatment. Any change in residence shall require pre-approval of the parole board unless it is a
19 medically-emergent residence change, as determined by a health care provider. If a medically
20 emergent residential change occurs, the adult parole board shall be notified within 48 hours of the
21 probation parole officer being notified of the change in residence.

22 III. Medical parole shall be granted by a majority vote of the members of the hearing panel if
23 the resident satisfies the criteria under paragraph I and the adult parole board has determined there
24 is a reasonable probability the resident will not violate the law while on medical parole and will
25 conduct himself or herself as a good citizen.

26 IV. The parole board may request, as a condition of medical parole, that such resident or his
27 or her representative submit to the director of medical and forensic services the results of to periodic
28 medical examinations while on medical parole and comply with any other parole conditions imposed
29 by the parole board. The director of medical and forensic services, after review of any such medical
30 examination shall report the findings to the parole board. After review of such findings, the parole
31 board may require the issuance of a warrant to return the parolee to the prison for a revocation
32 hearing. If the parole board finds that the condition, disease, illness, or injury of the parolee has
33 improved to the extent that the parolee no longer meets the criteria specified in paragraph I, or has
34 violated the conditions of parole, the medical parole shall be revoked and the parolee shall be
35 returned to the custody of the state.

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 1335-FN

BILL TITLE: relative to the parole board and the procedure for medical parole of prisoners.

DATE: March 2, 2022

LOB ROOM: 202-204

MOTIONS: **OUGHT TO PASS WITH AMENDMENT**

Moved by Rep. Welch Seconded by Rep. Bordenet AM Vote: 21-0
 Amendment # 2022-0811h

Moved by Rep. Welch Seconded by Rep. Meuse Vote: 21-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Scott Wallace, Clerk

OFFICE OF THE HOUSE CLERK



2/8/2022 3:07:34 PM
Roll Call Committee Registers
Report

2022 SESSION

Criminal Justice and Public Safety

Bill #: HB1335 FN Motion: OTPA AM #: 08114 Exec Session Date: 3.2.22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Abbas, Daryl A. Chairman	21		
Roy, Terry Vice Chairman	1		
Welch, David A.	2		
Burt, John A.	3		
Hopper, Gary S. PEARSON	4		
Green, Dennis E.	5		
Wallace, Scott Clerk	6		
Testerman, Dave BOBBY	7		
True, Chris	8		
Pratt, Kevin M.	9		
Marston, Dick	10		
Harriott-Gathright, Linda C.	11		
Pantelakos, Laura C. S. NEWMAN	12		
O'Hearne, Andrew S.	13		
Bordenet, John	14		
Meuse, David	15		
Newman, Ray E.	16		
Bouldin, Amanda C. HEATH	17		
Conley, Casey M.	18		
Bradley, Amy LAFLAMME	19		
Espitia, Manny HAMBLETT	20		



2022 SESSION

Criminal Justice and Public Safety

Bill #: _____ Motion: _____ AM #: _____ Exec Session Date: _____

TOTAL VOTE:



OFFICE OF THE HOUSE CLERK

2/8/2022 3:07:34 PM
Roll Call Committee Registers
Report



2022 SESSION

Criminal Justice and Public Safety

Bill #: HB 1335 EV Motion: OTP AM #: 0811H Exec Session Date: 3.2.22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Abbas, Daryl A. Chairman	21		
Roy, Terry Vice Chairman	1		
Welch, David A.	2		
Burt, John A.	3		
Hopper, Gary S. <u>PEARSON</u>	4		
Green, Dennis E.	5		
Wallace, Scott Clerk	6		
Testerman, Dave <u>BOBAY</u>	7		
True, Chris	8		
Pratt, Kevin M.	9		
Marston, Dick	10		
Harriott-Gathright, Linda C.	11		
Pantelakos, Laura C. <u>S. NEWMAN</u>	12		
O'Hearne, Andrew S.	13		
Bordenet, John	14		
Meuse, David	15		
Newman, Ray E.	16		
Bouldin, Amanda C. <u>HEATH</u>	17		
Conley, Casey M.	18		
Bradley, Amy <u>LAFRAMME</u>	19		
Espitia, Manny <u>HAMBLETT</u>	20		

21 0



2/8/2022 3:07:34 PM
Roll Call Committee Registers
Report

2022 SESSION

Criminal Justice and Public Safety

Bill #: HB1335 Motion: OTPA AM #: 0811H Exec Session Date: 3.2-22

TOTAL VOTE:



HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1335-FN

BILL TITLE: relative to the parole board and the procedure for medical parole of prisoners.

DATE: February 9, 2022

LOB ROOM: 204 **Time Public Hearing Called to Order:** 1330

Time Adjourned: 1318

Committee Members: Reps. Abbas, Roy, Wallace, Welch, Burt, Hopper, Green, Testerman, True, Pratt, Marston, Harriott-Gathright, Pantelakos, O'Hearne, Bordenet, Meuse, R. Newman, Amanda Bouldin, Conley, Bradley and Espitia

Bill Sponsors:

Rep. Murphy
Sen. Sherman

Rep. Marsh
Sen. Rosenwald

Sen. Carson

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Murphy

- Introduced the bill

***Horace Henriques - NH Parole Board**

- Supports the bill

Jennifer Sargent - NH Adult Parole Board

- Supports the bill

Jeff Strelzan - AG's Office

- Opposed the bill

Helen Hanks - NH DOC

- Opposes the bill

Donna Sytek

- Supports the bill

Respectfully submitted,

Rep.Scott Wallace

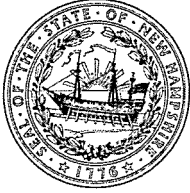
House Remote Testify

Criminal Justice and Public Safety Committee Testify List for Bill HB1335 on 2022-02-09

Support: 0 Oppose: 0 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
smith, jennifer	Pembroke, NH jaycmd7699@gmail.com	A Member of the Public	Myself	Support	No	No	2/5/2022 5:45 PM
Lyon, Margaret	New london, NH lyon.margaret@gmail.com	A Member of the Public	Myself	Support	No	No	2/7/2022 7:06 AM
Lucas, Janet	Campton, NH janluca1953@gmail.com	A Member of the Public	Myself	Support	No	No	2/7/2022 7:19 AM
Rosenwald, Cindy	Nashua, NH cindy.rosenwald@leg.state.nh.us	An Elected Official	SD 13	Support	No	No	2/7/2022 9:01 AM
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/7/2022 12:40 PM
Sherman, Senator	SD 24, NH jennifer.horgan@leg.state.nh.us	An Elected Official	SD24	Support	No	No	2/9/2022 8:33 AM



Christopher T. Sununu
Governor

State of New Hampshire

Adult Parole Board

NH State Prison

P.O. BOX 14

CONCORD, NH 03302-0014

603-271-2569 FAX: 603-271-6179

TDD Access: 1-800-735-2964

Jennifer B. Sargent
Chairman

Jay Mackey
Executive Assistant

HB1335/A: Section 3 Presented to the House Criminal Justice and Public Safety Committee, February 9, 2022

Mr. Chairman and members of the Criminal Justice and Public Safety Committee thank you for hearing and considering my testimony as to the medical parole portion of HB1335, specifically section 3

For the record, my name is Horace Henriques and I am a member of the NH Adult Parole Board starting my third year of service. I am a retired Transplant and Trauma surgeon having practiced in NH at Dartmouth for 25 years. I have served on the Adult Parole Board for just over two years.

As Dr Murphy mentioned this legislative effort is in response to the Performance Audit of 2019 of the NH Adult parole board ordered by your committee. The overarching criticisms of the Parole Board were lack of definitions and inconsistent applications. The concept of cost as it applies to parole was unfavorably viewed.

What you have before you are our response to the Audit's 16 specific points of concern. As a starting point, I would like to emphasize that the NH Adult Parole Board is an independent and separate entity from the DOC. We are a continuum from the Courts through the DOC to transition inmates to society. We are functionally separate from the DOC.

Currently we hear 2-4 cases per year and have 1 active medical parolee. Yet we have an aging prison population with medical issues. In the past two year we have heard 4 cases over the last year or so, and they would have slotted as 2 applications for the Hospice type care, 1 for the permanently incapacitated, and 1 for the Serious and Complex medical condition. This last case highlights the difference between medical parole and Parole. While on medical parole the parolee was on house arrest and not allowed to go grocery shopping or go into the community to attend church, as these activities would not have been allowed in the prison.

I realize the DOC has raised concerns about the proposed legislation. However, what is not challenged is the proposed three "buckets" or the medical conditions for medical parole to be considered. The terminally ill, the hospice eligible with limited life expectancy, the permanently incapacitate, that person who has had a debilitating stroke, or advanced dementia, and the third bucket, the serious and complex condition, the paraplegic with bedsores.

The specific revisions provide specific definitions to already enacted NH statutes. Importantly these revisions would enact those medical parolees have equivalent levels of scrutiny for the privilege of the request, are tracked and periodically reviewed, and ensure those with curable medical situation are returned to be reviewed by usual parole criteria.

The Parole board with these medically defined and nationally recognized definitions can be consistent across board reviews.

What is also not contested, The DOC Division of Medical and Forensics Services initiates the request for Medical Parole, and medical parole only applies to those inmates who have not met their minimum sentence. The Parole Board does not make clinical decisions.

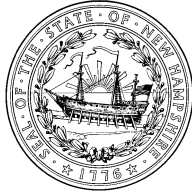
Any concerns by the DOC to the medical parole proposal were only voiced with the letter of February 4th. Now having talked with the Director of Medical and Forensic Services and her Associate Director, I believe our differences are minor and essentially perceptions of vocabulary definitions. It is because we are separate entities, added to the turmoil of Covid and quarantine rules we have been distanced further. There are nuanced but important practice differences between prison medical systems and university medical systems, which I am just learning about. But tomorrow I have every belief these terminology issues will be resolved.

To our disparities, members of the DOC are here to add further comment, but in preliminary chats I would again categorize the differences as terminology. Our goals of clearer definitions, consistent application and care are inline.

I believe in our face-to-face discussion in the next days these will be comfortably resolved as separate entities understand each other's administrative rule and practice documents.

Mr. Chairman and committee members, we believe that HB1335 clearly updates and specifies the processes of medical parole with more specific criteria for consideration of medical parole. It clarifies rules of medical parole. It tracks and reviews medical parolees. It establishes up to date parole conditions consistent with and recognizing changes in medical practices. And it makes clear parole board responsibilities for medical parolees risk assessment and monitoring while on parole.

As a representative of the NH Adult Parole Board, I ask your forbearance, we would like to have some time to collaborate with the DOC and return to you with an amendment. I will be meeting with the deputy director of Forensic and Medical Services this week and hope to have an agreement ready for the committee's consideration following that. For the amendment I would encourage you to vote "Ought to Pass" on HB1335/A in its reconciled and mutually supported version. I am happy to take any further questions.



STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS
DIVISION OF MEDICAL & FORENSIC
SERVICES

Helen Hanks, MM
Commissioner

Paula Mattis, MSW, FACHE
Director

PO Box 1806, Rm. 328A
Concord, NH 03302-1806
603-271-3707 FAX: 603-223-2333
TDD Access: 1-800-735-2964
paula.mattis@doc.nh.gov

To: The Honorable Members of the Criminal Justice and Public Safety Committee

From: Paula Mattis, Director, Medical and Forensic Services
New Hampshire Department of Corrections

Date: February 4, 2022

Re: **HB 1335-FN**
An act relative to the parole board and the procedure for medical parole of prisoners.

The New Hampshire Department of Corrections (NHDOC) is submitting this testimony in opposition to HB 1335-FN *An act relative to the parole board and the procedure for medical parole of prisoners*, as written.

The State of New Hampshire's current statute is a medical parole statute that includes consideration of costs. Medical parole as currently legislated by the State of New Hampshire is not a compassionate release program. The NHDOC feels that it is imperative to decide the reason(s) for drafting legislation that will have a resounding impact.

The proposed legislation lacks clarity as to purpose and guiding principles. If the conceptual framework is medical parole, it is lacking reference to costs. If the proposed legislation is intended to be based on a compassionate release model, it is lacking the ability to compassionately release based on age, family circumstances, and other extraordinary and compelling reasons. Medical condition is not the sole reason for compassionate release and may not even be a factor in determining compassionate release.

The Department is neutral regarding sections 1, 2, and 4 of the proposed bill. Our concerns are relative to section 3, "Parole of Prisoners; Medical Parole Amend RSA 651-A:10-a." We will provide our concerns in order per the bill text. We also respectfully request use of the word "resident" in place of "inmate."

Section 3.I. (a) and Section 3.I. (b) reference allowing the medical parole board to request an additional physician licensed pursuant to RSA 329 to certify that someone is permanently incapacitated. As mentioned in the fiscal note, this may result in costs that are not predictable and potentially exorbitant for the NHDOC.

Section 3.I. (a) (1) and (2): We suggest that the terms "mental condition" and "mental ability" be removed. One reason is that these are general terms that can mean many things and are contextual in nature. Another reason is that in the case of section 3.1(a) (2) it is uncommon to talk about mental ability

in connection to physical threat to others. For example, one can be limited in the area of cognitive skills or have neurological issues but still be able to harm physically another person. Finally, this language sets the stage for arguments that someone's mental condition/mental ability is untreatable, when it can be that a resident is refusing to participate in behavioral health treatment such as sexual offender treatment and/or substance use disorder treatment. It has the potential to create a large number of cases that will be argued, possibly through the courts, to resolve questions that will be raised by such terminology.

What follows are recommended language changes:

For 3.1. (a) (1)

Has a healthcare condition that prevents the resident from mostly and independently performing self-care in a manner that ensures daily needs are met in the prison environment.

For 3.I. (a) (2) *Has such limited physical ability, strength, or capacity that the resident poses an extremely low risk of physical threat to others or to the community.*

For 3.I (a) (3)

The condition is unlikely to improve or cannot be managed in the prison healthcare setting due to the resident's serious functional or cognitive impairment and/or the level of care that is needed to ensure the resident's well-being. Additional consideration is given to whether or not there are appropriate services available in the prison healthcare setting as determined by the director of medical and forensic services.

Section 3.I. (b) is specific to terminal illness.

For 3.I (b) (1), *The illness is considered terminal and treatments are not going to cure or stop the progression of the illness. Generally, comfort measures and hospice are offered in the place of active treatment interventions.*

For 3.I (b) (2) we suggest elimination of this criterion. Refusing healthcare treatment is a right for residents. Unless they have a legally appointed guardian over person, they are responsible to be active participants in their treatment planning and decisions. Without having a metric for "noncompliance", which is a moving target at best due to the individuality of treatment plans, "noncompliance" is elusive. Additionally, "noncompliance" in what realm? As related to the current condition or conditions that may contribute to the current condition? The Department would not be able to discharge the responsibilities required of this provision. Also, we do not have the additional staff it would take to monitor and determine noncompliance with a prior standing medical treatment plan.

For 3.I. (c) we suggest briefer wording:

The resident has a serious and complex medical condition, which will require extended services, or care that cannot be accommodated, managed, or provided by the New Hampshire Department of Corrections as determined by the director of medical and forensic services.

We recommend that section 3.II. be amended to allow for the possibility of an unconscious patient who may not be in a position to appoint a representative.

- The Department has no suggestions for 3.II-a.
- It is recommended that 3.II-b reflect a process to request changes if the resident needs to leave or change the assigned residence.
- We have no suggested changes for 3.III or 3.IV.

It is important to note that this proposed legislation has eliminated the cost of care as a determinant of the need for medical parole. Cost is an important metric in the provision of healthcare services. Again, if compassionate release is the model that is being sought, there are many other factors that need to be included. We believe that clarification is needed both to understand if medical parole is changing to compassionate release or if there is a need for both a medical parole statute and a compassionate release statute.

The number of recommendations and questions we have is why we are requesting that you do not support this legislation. We believe that it requires extensive modifications to be a successful law. We hope that more effort will be put forth to determine what the goal(s) are for this bill or what problems we are trying to resolve through such a massive change effort.

Thank you for considering this testimony.

If you have questions, please feel free to call me at 603-271-5563 or to e-mail me at Paula.L.Mattis@doc.nh.gov.

HB 1335-FN - AS INTRODUCED

2022 SESSION

22-2072

04/05

HOUSE BILL ***1335-FN***

AN ACT relative to the parole board and the procedure for medical parole of prisoners.

SPONSORS: Rep. Murphy, Graf. 12; Rep. Marsh, Carr. 8; Sen. Carson, Dist 14; Sen. Sherman,
Dist 24; Sen. Rosenwald, Dist 13

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill revises the criteria necessary for determining if an inmate qualifies for medical parole and revises the membership of the adult parole board. The bill also renames the position of "executive assistant to the parole board" as the "parole board director of operations."

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the parole board and the procedure for medical parole of prisoners.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Compensation of Certain State Officers; Department of Corrections; Director of Operations.
2 Amend RSA 94:1-a, I(b), Grade CC to read as follows:

3 CC Department of corrections [~~executive assistant to~~] parole board **director of operations**

4 2 Parole of Prisoners; Adult Parole Board. Amend RSA 651-A:3, I-III to read as follows:
5 651-A:3 Adult Parole Board; Establishment; Procedures.

6 I. There shall be an adult parole board with [5] members **as set forth in paragraph II**~~[5-2~~
7 ~~of which shall be attorneys with active licenses]~~. The members of the board shall be appointed by
8 the governor with the consent of the council for staggered terms of 5 years or until their successors
9 are appointed. No member shall serve more than 2 consecutive terms. A vacancy on the board shall
10 be filled for the unexpired term.

11 II. The composition of the board shall be as follows:

12 (a) [~~One member as chairman~~] **Two attorneys who are members of the New**
13 **Hampshire bar in good standing and who are in active status.**

14 (b) [~~Four~~] **Three** additional members, to include:

15 (1) One member with law enforcement or corrections experience, either current or
16 former.

17 (2) One member with criminal justice experience, which may be direct employment
18 experience, current or former, in some capacity within the criminal justice system, or [~~post-~~
19 ~~secondary~~] **postsecondary** school teaching, scholarship, and research pertaining to the criminal
20 justice system.

21 (3) [~~One at-large member who is either an attorney with an active New Hampshire~~
22 ~~license or a mental health professional with an active New Hampshire license;~~

23 (4) One at-large member without any categorical designation.

24 III. The governor shall designate one member as [~~chairman~~] **chairperson**. The salary of
25 the [~~chairman~~] **chairperson** shall be that established in RSA 94:1-a as grade GG, with appropriate
26 step to be determined in accordance the provisions of RSA 94:1-d. The [~~chairman~~] **chairperson**
27 shall designate one other member to serve as [~~temporary designee chairman~~] **vice chairperson who**
28 **shall serve as chairperson** in [~~his or her~~] **the chairperson's** absence, however, the [~~designated~~
29 ~~chairman~~] **vice chairperson** shall not receive the [~~chairman's~~] **chairperson's** salary or employee
30 status while serving in the [~~chairman's~~] **chairperson's** absence. In the case of a revocation hearing
31 an attorney of the board shall be present at the hearing. Board members shall be paid an annual

1 stipend of \$20,000 for each member, to be paid in equal installments on each state employee pay
2 period date. Board members shall be paid mileage at the state employee rate while engaged in
3 parole hearings or administrative meetings.

4 3 Parole of Prisoners; Medical Parole Amend RSA 651-A:10-a, I-IV to read as follows:

5 I. Upon the recommendation of the commissioner of the department of corrections and the
6 administrative director of forensic and medical services, after review of the information provided by
7 a physician licensed pursuant to RSA 329, the parole board may grant medical parole to an inmate
8 residing in a state correctional facility, regardless of the time remaining on his or her sentence,
9 provided [~~all of the following conditions apply:~~

10 ~~(a) The inmate has a terminal, debilitating, incapacitating, or incurable medical~~
11 ~~condition or syndrome, as certified by a physician licensed pursuant to RSA 329, and, if requested by~~
12 ~~the parole board, at least one additional physician licensed pursuant to RSA 329.~~

13 ~~(b) The cost of medical care, treatment, and resources for the inmate is determined to be~~
14 ~~excessive.~~

15 ~~(c) The parole board has determined that there is a reasonable probability that the~~
16 ~~inmate will not violate the law while on medical parole and will conduct himself or herself as a good~~
17 ~~citizen]~~ **that the inmate falls into one or more of the following medical categories:**

18 **(a) Permanently incapacitated. An inmate who satisfies all of the following as**
19 **certified by a physician licensed pursuant to RSA 329, and, if requested by the board, at**
20 **least one additional physician licensed pursuant to RSA 329:**

21 **(1) Has a medical or mental condition that is not necessarily terminal but**
22 **prevents the inmate from performing activities of daily living without routine assistance,**
23 **or for the inmate's own safety, requires constant supervision;**

24 **(2) Has such limited physical or mental ability, strength, or capacity that**
25 **the inmate poses an extremely low risk of physical threat to others or to the community,**
26 **and that incarceration does not offer additional restrictions; and**

27 **(3) The condition or illness is unlikely to improve noticeably or has little**
28 **possibility of benefitting from prison rehabilitative efforts throughout the remaining**
29 **period of the sentence.**

30 **(b) Terminally ill. An inmate who satisfies all of the following as certified by a**
31 **physician licensed pursuant to RSA 329, and, if requested by the board, at least one**
32 **additional physician licensed pursuant to RSA 329:**

33 **(1) Will likely die within 6-12 months if the illness runs its normal course or**
34 **is entering into hospice care; and**

35 **(2) The irreversible and incurable disease, illness, or injury is not caused by**
36 **noncompliance with a prior standing medical treatment plan.**

1 (c) *Serious and complex medical condition. An inmate who satisfies one or*
2 *more of the following:*

3 (1) *Requires medical care, treatment, and resources that exceed the*
4 *department's medical capabilities, or requires atypical care; or*

5 (2) *Suffers from a serious, life or limb threatening disease, and persistent*
6 *medical condition which requires tertiary level of care, with concurrent immediate and*
7 *acute long-term care and defined rehabilitation needs as certified by a physician licensed*
8 *pursuant to RSA 329, and, if requested by the board, at least one additional physician*
9 *licensed pursuant to RSA 329.*

10 II. The administrative director of forensic and medical services, on behalf of an inmate, may
11 petition the parole board for hearing to determine if the inmate is eligible for medical parole ~~and if~~
12 ~~the inmate is eligible, shall submit the parole plan to the parole board.]~~ *A licensed medical*
13 *practitioner from the department shall attend any medical parole hearing. If the*
14 *condition, disease, illness, or injury of the inmate does not allow for participation of the*
15 *inmate at a scheduled hearing, the inmate may have a representative approved by the*
16 *board or have an attorney participate in the hearing on the inmate's behalf.*

17 II-a. *The board shall require as a condition of release on medical parole that the*
18 *parolee agree to placement and that the parolee is able to be placed for a definite or*
19 *indefinite period of time in a hospital, hospice, or other housing accommodation suitable*
20 *to his or her condition, disease, illness, or injury, including a family home, as specified by*
21 *the board.*

22 II-b. *Any medical parolee shall remain in the assigned residence except to engage*
23 *in medical treatment.*

24 III. Medical parole shall be granted by a majority vote of the members of the hearing panel
25 *if the inmate satisfies the criteria under paragraph I and the parole board has determined*
26 *that there is a reasonable probability that the inmate will not violate the law while on*
27 *medical parole and will conduct himself or herself as a good citizen.*

28 IV. The parole board may request, as a condition of medical parole, that such inmate, *or his*
29 *or her representative,* submit to *the administrative director of forensic and medical*
30 *services, the results of* periodic medical examinations while on medical parole and comply with any
31 other parole conditions imposed by the parole board. The administrative director of forensic and
32 medical services, after review of any such medical examination shall report the findings to the parole
33 board. *After review of such findings the parole board may require the issuance of a*
34 *warrant to return the parolee to the prison for a revocation hearing.* If the parole board~~;~~
35 ~~after review of such findings, determines that the parolee no longer has a terminal, debilitating,~~
36 ~~incapacitating, or incurable medical condition or syndrome,]~~ *finds that the condition, disease,*
37 *illness, or injury of the parolee has improved to the extent that the parolee no longer meets*

1 *the criteria specified in paragraph I, or has violated the conditions of parole*, the medical
2 parole shall be revoked and the parolee shall be returned to the custody of the state.

3 4 Parole of Prisoners; Executive Assistant. Amend RSA 651-A:5 to read as follows:

4 651-A:5 ~~[Executive Assistant]~~ **Director of Operations**. The board may appoint ~~[an executive~~
5 ~~assistant]~~ **a director of operations** who shall be an unclassified employee and shall serve at its
6 pleasure. The salary of the ~~[executive assistant]~~ **director of operations** shall be that established in
7 RSA 94:1-a.

8 5 Effective Date. This act shall take effect upon its passage.

**HB 1335-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the parole board and the procedure for medical parole of prisoners.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill revises the criteria necessary for determining if an inmate qualifies for medical parole and revises the membership of the adult parole board. The bill also renames the position of "executive assistant to the parole board" as the "parole board director of operations."

The Department of Corrections indicates the language in proposed RSA 651-A:10-a, I (a) provides an opportunity for the parole board to request corroboration by another licensed physician before granting medical parole. The Department assumes this will increase costs by an indeterminable amount if the adult parole board sets a requirement for a specific type of community based physician to be paid for by the Department. In addition, the Department expects it would incur additional costs to hire specialty risk assessors to determine if an inmate meets the conditions of proposed in RSA 651-A:10-a, I (a) (1) through (3). The Department is not able to predict the number of people that would or would not be released on parole due to the proposed language, but does have the following information on the current prison population:

- 90% of the female population and 35% of the male population are receiving mental health services.
- The current prison population consists of 142 women and 1,845 men.

The NH Adult Parole Board indicates there is no fiscal impact associated with changing the title of executive assistant to director of operations as the salary would remain the same. In addition, the proposed changes to RSA 651-A:3, I-III will have no fiscal impact as they are language changes to streamline the text and also make the title of the chair of the board gender-neutral.

Regarding proposed RSA 651-A:10-a, I-IV, the Board assumes there would be no fiscal impact as the changes address how the Department of Corrections petitions the Board for medical parole of an inmate, how the parole board judges the inmate against the new criteria for medical parole, how the inmate or their representative provides ongoing medical reports to allow the parole board to determine the inmate's continued appropriateness for medical parole, and how the parole board revokes medical parole. The Board notes the changes to how the Department petitions the Board for medical parole of an inmate and how the Board judges the inmate against the new criteria for medical parole were developed to address the Parole Board Audit of April 2019 and to align New Hampshire's criteria with the best national medical and medical parole practices and criteria.

It is assumed that any fiscal impact would occur after FY 2022.

AGENCIES CONTACTED:

Department of Corrections and New Hampshire Adult Parole Board