

LEGISLATIVE COMMITTEE MINUTES

HB1335

Bill as Introduced

HB 1335-FN - AS AMENDED BY THE HOUSE

15Mar2022... 0811h

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 struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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*** [~~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. RSA 651-A:10-a, I-IV are repealed and reenacted to read
 5 as follows:

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

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

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

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

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

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

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

33
 34 (c) Serious and complex medical condition. As certified by a physician licensed pursuant
 35 to RSA 329 or an advanced practice registered nurse licensed pursuant to RSA 326, a resident who
 36 has a serious and complex medical condition, which will require extended services or care that

1 cannot be accommodated, managed, or provided by the department of corrections as determined by
2 the director of medical and forensic services.

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

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

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

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

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

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

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

33 4 Parole of Prisoners; Executive Assistant. Amend RSA 651-A:5 to read as follows:

34 651-A:5 ~~[Executive Assistant]~~ **Director of Operations**. The board may appoint ~~[an executive~~
35 ~~assistant]~~ **a director of operations** who shall be an unclassified employee and shall serve at its
36 pleasure. The salary of the ~~[executive assistant]~~ **director of operations** shall be that established in
37 RSA 94:1-a.

1 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
<i>Funding Source:</i>	<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

**HB 1335-FN FISCAL NOTE
 AS AMENDED BY THE HOUSE (AMENDMENT #2022-0811h) '**

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METHODOLOGY:

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The Department of Corrections is not able to determine the fiscal impact of this bill because it does not have sufficient detail to predict the number of individuals who would be subject to this legislation. The Department states the average annual cost of incarcerating an individual in the general population for the fiscal year ending June 30, 2021 was \$54,386. The average cost to supervise an individual by the Department's Division of Field Services for the fiscal year ending June 30, 2021 was \$603.

The NH Parole Board indicates the bill as amended by the House would have no fiscal impact on the Board.

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

AGENCIES CONTACTED:

Department of Corrections and Parole Board

HB 1335-FN - AS AMENDED BY THE SENATE

15Mar2022... 0811h
04/21/2022 1551s

2022 SESSION

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HOUSE BILL

1335-FN

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21 extremely low threat to others or to the community; and

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23 health care setting due to the prisoner's serious functional impairment and/or the level of care that
24 is needed to ensure the prisoner's access to constitutionally appropriate health care in a prison
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33 4 Parole of Prisoners; Executive Assistant. Amend RSA 651-A:5 to read as follows:

34 651-A:5 [~~Executive Assistant~~] **Director of Operations**. The board may appoint [~~an executive~~
35 ~~assistant~~] **a director of operations** who shall be an unclassified employee and shall serve at its
36 pleasure. The salary of the [~~executive assistant~~] **director of operations** shall be that established in
37 RSA 94:1-a.

1 5 Effective Date. This act shall take effect upon its passage.

HB 1335-FN- FISCAL NOTE
 AS AMENDED BY THE SENATE (AMENDMENT #2022-1551s)

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

FISCAL IMPACT: State County Local None

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Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

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AGENCIES CONTACTED:

Department of Corrections and NH Parole Board

CHAPTER 260
HB 1335-FN - FINAL VERSION

15Mar2022... 0811h
04/21/2022 1551s
26May2022... 2102EBA

2022 SESSION

22-2072
04/05

HOUSE BILL ***1335-FN***

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CHAPTER 260
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CHAPTER 260
HB 1335-FN - FINAL VERSION

- Page 2 -

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9 physician licensed pursuant to RSA 329 or an advanced practice registered nurse pursuant to RSA
10 326, and his or her review of medical needs, resource capabilities, and treatment goals, may the
11 parole board consider medical parole to an inmate, referred to by the department of corrections as a
12 "prisoner," incarcerated in a state correctional facility, regardless of the time remaining on his or her
13 minimum sentence. The medical parole request shall cite one of the following medical categories:

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

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

20 (B) Has such limited physical strength or capacity that the prisoner poses an
21 extremely low threat to others or to the community; and

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

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

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

34 (c) Serious and complex medical condition. As certified by a physician licensed pursuant
35 to RSA 329 or an advanced practice registered nurse licensed pursuant to RSA 326, a prisoner who
36 has a serious and complex medical condition, which will require extended services or care that

CHAPTER 260
HB 1335-FN - FINAL VERSION
- Page 3 -

1 cannot be accommodated, managed, or provided by the department of corrections as determined by
2 the director of medical and forensic services.

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

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

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

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

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

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

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

33 260:4 Parole of Prisoners; Executive Assistant. Amend RSA 651-A:5 to read as follows:

34 651-A:5 [~~Executive Assistant~~] **Director of Operations**. The board may appoint [~~an executive~~
35 ~~assistant~~] **a director of operations** who shall be an unclassified employee and shall serve at its
36 pleasure. The salary of the [~~executive assistant~~] **director of operations** shall be that established in
37 RSA 94:1-a.

CHAPTER 260
HB 1335-FN - FINAL VERSION
- Page 4 -

1 260:5 Effective Date. This act shall take effect upon its passage.

Approved: June 24, 2022
Effective Date: June 24, 2022

Amendments

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
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19 extremely low threat to others or to the community; and

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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.

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Amendment to HB 1335-FN

- Page 2 -

1 (c) Serious and complex medical condition. As certified by a physician licensed pursuant
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Committee Minutes

SENATE CALENDAR NOTICE

Judiciary

Sen Sharon Carson, Chair
Sen Bill Gannon, Vice Chair
Sen Harold French, Member
Sen Rebecca Whitley, Member
Sen Jay Kahn, Member

Date: March 23, 2022

HEARINGS

Tuesday		03/29/2022
(Day)		(Date)
Judiciary	State House 100	1:00 p.m.
(Name of Committee)	(Place)	(Time)
1:00 p.m.	HB 1067-FN	relative to limitations on prosecution for first degree assault.
1:15 p.m.	HB 1335-FN	relative to the parole board and the procedure for medical parole of prisoners.
1:30 p.m.	HB 1476-FN	relative to persons arrested while out on bail.
1:45 p.m.	HB 1360-FN	relative to penalties for controlled drug violations.
2:00 p.m.	HB 1597-FN	permitting arraignments for felonies and preliminary examinations to be heard in circuit court.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 1067-FN

Rep. Abramson

HB 1335-FN

Rep. Murphy

Sen. Rosenwald

HB 1476-FN

Rep. Berry

Rep. Burt

HB 1360-FN

Rep. Roy

HB 1597-FN

Rep. Gordon

Rep. Marsh

Rep. Alexander Jr.

Rep. Long

Rep. Bordenet

Rep. Steven Smith

Sen. Carson

Rep. Ankarberg

Rep. McLean

Rep. M. Smith

Sen. Sherman

Rep. Hamer

Sen. Soucy

Jennifer Horgan 271-7875

Sharon M Carson
Chairman

Senate Judiciary Committee
Jennifer Horgan 271-7875

HB 1335-FN, relative to the parole board and the procedure for medical parole of prisoners.

Hearing Date: March 29, 2022

Time Opened: 1:17 p.m.

Time Closed: 1:47 p.m.

Members of the Committee Present: Senators Gannon, French, Whitley and Kahn

Members of the Committee Absent : Senator Carson

Bill 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."

Sponsors:

Rep. Murphy

Rep. Marsh

Sen. Carson

Sen. Sherman

Sen. Rosenwald

Who supports the bill: Representative Murphy; Senator Carson; Senator Rosenwald; Horace Henriques , Adult Parole Board; Bernadette Campbell, DOC; Ryan Landry, DOC; Robin DeRosa; Janet Lucas

Who opposes the bill: No one

Who is neutral on the bill: Honorable Donna Sytek

Summary of testimony presented in support:

Representative Murphy

- Revises RSA651-A dealing with the parole of prisoners.
- In the 2019 a review and audit of the medical parole process was conducted within the Performance Audit of the Adult Parole Board.
- The bill revises the membership of the Adult Parole Board to be gender neutral, renames the title of the Executive Assistant to Adult Parole Board Director of Operations, and revises processes and criteria necessary to determine if an inmate qualifies for medical parole.
- Section 3 outlines the eligibility and criteria for medical parole.

- The current language is very broad, lacks essential details, and is very brief, reading “terminal, debilitating, incapacitating, or incurable medical condition or syndrome”.
- This bill provides a significantly more detailed framework and is consistent with current medical practice and issues.
- Under this bill there are three categories for medical parole with criteria to be met to qualify within each of the three categories.
- This will make it no longer one size fits all.
- Clear rules are critical and welcomed in the care of patients.
- The language recognizes the complexity of care and that medicine changes over time.
- Often the treatment of complex medical issues in a correctional facility cannot be managed beyond simply the consideration of cost.
- Hospice and palliative care are now recognized subspecialties with many up-to-date options for care and for whom specialized settings are necessary.
- Clarifies rules, details a process to track and review parolees, establishes up to date parole conditions, and makes clear Parole Board responsibilities.
- Senator Gannon asked if this is not changing who would be paroled, it is just specifying the details.
 - The bill provides the criteria and expands the processes for evaluation, reentry programs, and if an individual breaks the rules, there is a reassessment.
- Senator Gannon asked if this would let any new individuals qualify that would not qualify currently.
 - No. This is basically based on a medical condition. This is placing them, from a physician’s perspective, in the right place for the care that they need. If an individual recovers, they would go back and serve the balance of their sentence.
- Senator Gannon asked if prisons not have adequate care for these people.
 - The majority of the people that qualify for medical parole, and there are only a few, are usually in a position to do very little potential harm to the community. For example, if someone had a massive stroke.
- Senator Kahn asked what the House amendment did.
 - The bill is now a reconciliation between the Medical Parole Board and the Department of Corrections (DOC).
- Senator Gannon asked how many individuals qualified for medical parole this a year.
 - His understanding is that there have only been a few of these considered in the State.

Dr. Horace Henriques (NH Adult Parole Board) (provided written testimony)

- The overarching criticisms in the 2019 audit were regarding the lack of definitions or criteria, inconsistent applications, and definable supervision.

- The DOC and the Adult Parole Board worked together to create harmony and clarity in the language.
- RSA 651-A utilizes the term “prisoner” throughout, but that is not a term used by the DOC anymore. Individuals are now referred to as “residents”. This bill addresses that.
- The Adult Parole Board is an independent and separate entity from the DOC and serves as the final step to transition inmates into society.
- This is not changing the ability of parole, it is just establishing an evidence-based framework for release and monitoring.
- In a petition, the DOC takes into consideration any number of parameters within the DOC medical structure.
- A petition is only considered by the DOC for those who have not achieved their minimum sentencing date.
- Medical parole is not offered to those with a life sentence.
- Paragraph 1 creates definitions that impede expansion of medical parole but allow the DOC to consider medical conditions which preclude the DOC rehabilitation mission, and allow medical care which likely may avoid death, thus honoring the Courts sentencing.
- An example of this would be an Alzheimer patient that can no longer comprehend or a paraplegic with bed sores.
- Paragraph II(a) outlines the parameters of release and the consequences if the privileges are abused.
- Paragraph III sets criteria for public safety.
- Paragraph IV defines and demands follow up and reporting, so that reassessment is required.
- The DOC does have an aging population that may grow the need for medical parole.
- Senator Gannon asked about individuals that are paroled to in home care, as that means the care needed would be minimal.
 - That would be a situation where someone would have to go to numerous medical appointments during the day to the point that coordinating that is not easily doable for the DOC.
- Senator Kahn asked if a parole would be granted to someone who needed hospice care and they could do that in their home.
 - Yes.
- Senator French asked if someone is granted medical parole, but then becomes well enough to go back to prison, would they go back to finish their sentence.
 - Yes. Medical parole is only offered to those who have not achieved their minimum sentence. If an individual has reached their minimal parole date while on medical parole, they could then petition for regular parole.
- Senator Gannon asked raised concerns about releasing criminals who have done horrendous things simply due to convenience.

- Would likely parole someone to a hospice environment or to an acute care facility and then they were sent home for a week for rehab and then further surgery. It would only be within the parameters of the medical care they receive.

Ryan Landry & Bernadette Campbell (Department of Corrections)

- Senator Whitley asked why it is important to shift the language from ‘prisoner’ to ‘resident’.
 - Mr. Landry stated that the DOC changed that terminology a few years ago and made the request for that change. Made that change because the use of the word ‘prisoner’ was found to be derogatory or disrespectful. Referring to them as ‘residents’ shows respect, and respect goes a long way. If we respect the residents, they respect us, making for a peaceful, productive, and professional relationship.
- Senator Whitley asked if that language is providing humanity to these individuals, which is important to the safety of everyone involved.
 - Mr. Landry stated that it is.
- Senator Whitley asked about the insurance aspect.
 - Ms. Campbell stated that residents have case managers they work with before their release. In most cases an individual will be set up with Medicare or Medicaid and have their upcoming appointments set, with the facility having that information in place, to make sure the transition is smooth.

Summary of testimony presented in opposition:

None

Neutral Information Presented:

Honorable Donna Sytek

- Medical parole does not depend on the level of offense, but on the seriousness of the individual’s medical condition.
- The bill changes the requirement that the Board only have one member be an attorney to two.
- The current statute requires that at a revocation hearing an attorney of the Board be present.
- When the Board was reorganized the position of the Executive Assistant changed to more of a Director of Operations role. There is no change in pay with this change.
- Noted that the fiscal note has been amended from its original form.
- On page 3, line 24 there is a typo. It reads “director of medical and forensic services the results of to periodic medical examinations” That “to” should be struck.
- Suggested changing the language to refer to “prisoners” and not “residents” in order to be consistent with the rest of the chapter and because “prisoner” is defined in statute.

- Senator Gannon asked on page 2, line 16 it refers to “health care conditions”, should that be more specific.
 - Would defer to the doctors on that.
- Senator French asked how these inmates are covered in terms of insurance and medical payments.
 - The State must pay for their care while they are incarcerated. The previous language of the statute referred to ‘excessive cost’. The audit said ‘excessive cost’ needed to be defined. This takes away the requirement for defining ‘excessive cost’ and instead says if it is beyond the capacity of DOC to provide the services. There is a lot of in-house services at the DOC.
- Senator French asked if once those individuals are paroled the State no longer pays.
 - Yes. Remembers a prisoner released on medical parole who had private insurance
- Senator French asked if the DOC would set an individual up with insurance before their release.
 - They do that for other parolees, so would expect they would do the same for medical parole. These individuals are going to a facility who would not accept them without proof of a capacity to pay. Many of these individuals just go home to die. There are currently two medical parolees.

jch
Date Hearing Report completed: April 1, 2022

Speakers

Senate Remote Testify

Judiciary Committee Testify List for Bill HB1335 on 2022-03-29

Support: 5 Oppose: 0

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Carson, Senator	An Elected Official	Myself	Support
Rosenwald, Cindy	An Elected Official	SD 13	Support
DeRosa, Robin	A Member of the Public	Myself	Support
Lucas, Janet	A Member of the Public	Myself	Support
Carson, Senator Sharon	An Elected Official	Myself	Support

Testimony



Christopher T. Sununu
Governor

State of New Hampshire

Adult Parole Board

NH State Prison

P.O. BOX 14

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Jennifer B. Sargent
Chairman

Jay Mackey
Executive Assistant

HB1335/A: Section 3
Comments to the NH Senate Judiciary Committee
March 29, 2022

Madam Chair and members of the Judiciary Committee thank you for hearing and considering my testimony as to the medical parole portion of HB 1335 FN, 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.

As Dr. Murphy mentioned this legislative effort is in response to the Performance Audit of 2019 of the NH Adult Parole Board. The overarching criticisms of the Parole Board were lack of definitions or criteria, inconsistent applications, and definable supervision. The concept of cost as it applies to the parole board was unfavorably viewed. The DOC and the APB have worked together to create harmony and clarity in the language used. The realities of the prison processes are not readily mirrored in the public arena especially in the use of language. An example is the word used throughout the legislative chapter, "prisoner", is not used within the prison system. The substitute DOC reference is, "resident". We have attempted to clarify this potential confusion in the first paragraph.

What you have before you are the DOC and APB consensus Bill and specific responses to the Audit's sixteen specific points of concern.

I would like to emphasize that the NH Adult Parole Board is an independent and separate entity from the DOC. We act as a final step from the Courts through the DOC to transition inmates to society. We are functionally separate from the DOC but bound by court rulings and legislative statutes. The changes are defining more precise conditions for medical parole, stepping away from making the decision who is medically eligible, and establishing a framework to create evidenced based consistency for release and monitoring.

I point you to the introduction of Paragraph I; where it is clearly established that the petition for medical parole for the APB to consider is a DOC decision. In the petition DOC takes into consideration any number of parameters within the DOC medical structure. The petition for medical parole is only considered by the DOC for those who have not achieved their minimum sentencing date. Medical parole is not offered to those with a life sentence.

Page 2

The definitions in Paragraph I (a), (b), (c) impede expansion of medical parole but allow the DOC to consider medical conditions which (a) preclude the DOC rehabilitation mission and (b) allow medical care which likely may avoid death, thus honoring the Courts sentencing. Examples would be an Alzheimer patient who can no longer comprehend (Ia), or a paraplegic with bed sores (Ic).

Paragraph IIa and IIb define parameters of release and consequences if the privilege is abused.

Paragraph III sets as a criterion, public safety.

Paragraph IV defines and demands follow-up and reporting so that reassessment becomes part of medical parole. It recognizes the necessary supervision by field services, and the criteria needed for the privilege of NH parole.

As a perspective, we have heard three cases during my service and have two active medical parolees. Yet we have an aging prison population with medical issues. So, the 2019 Audit highlighted a small issue that will be growing.

Madam Chair 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.

Thank you for your time and consideration

HB1335 Presented to the Senate Judiciary Committee, March 29, 2022
Representative James Murphy, Grafton 12, Hanover and Lyme

Thank you Madame Chairman and honorable members of the Senate Judiciary Committee for allowing me the opportunity to present HB1335, relative to the parole board and the procedures for medical parole of prisoners.

For the record, my name is Jim Murphy and I represent Grafton 12 which is Lyme and Hanover, where I have lived for over 40 years. I am also a first term representative after having practiced Orthopaedic surgery for 4 decades in the Upper Valley.

HB1335 is a bipartisan bill that revises portions of section 651-A:10-a of the Title 62 Criminal Justice code chapter 651-A dealing with the parole of prisoners. This bill came about in response to a review and audit of the Medical Parole process in the 2019 Performance audit of the NH Adult Parole Board. These revisions promulgate rules for medical parole, encodes that medical parolees have equivalent levels of scrutiny for parole, tracks and reviews medical parolees and establishes medical parole conditions.

There are basically three changes to the current medical parole statute. First, it revises the membership of the adult parole board and makes terms gender neutral. Second, it renames the position of "executive assistant to the parole board" to "adult parole board director of operations". Lastly, it revises processes and criteria necessary for determining if an inmate qualifies for medical parole.

Section 3 of this bill was created to clearly and unambiguously determine eligibility and process criteria for medical parole. If one were to look at the original bill and specifically Section 3, Roman numeral I, on page 2 the language as written is very broad without essential details and is extremely brief. It states as criteria for medical parole, "Terminal, debilitating, or incurable medical condition or syndrome". The proposed revision is significantly more detailed, clearly stated and consistent with current medical practice and issues and is clear about process. HB1335 now specifies 3 categories for medical parole within which all the criteria for medical parole must be met in order to qualify for parole within each of these 3 separate categories. This bill outlines specific criteria for each category and as such is more consistent and aligned with the many potential qualifying categories which may exist. It is no longer one size fits all. From a physician's perspective, clear rules and criteria are critical and welcomed in the care of patients. These specific qualifying categories recognize that medicine and the complex care of patients change over time and has evolved regardless of ones status as inmate or not. Oftentimes, the treatment of many complex medical conditions cannot be managed in a correctional facility beyond simply the consideration of cost.. For example, hospice and palliative care are now recognized specialties with many up to date treatment options available for the terminally ill and for whom specialized settings for their care are needed. The scope of

medicine has expanded and times have changed and these statute changes are better aligned with these changes.

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 details a process to track and review 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.

We therefore encourage you to vote in support of these important revisions to medical parole. We also have available here today members of the NH adult parole board prepared to present their own detailed testimonies regarding parole criteria and processes, parole board membership and the renaming of the executive assistant to the parole board. I am happy to take any questions now if the committee wishes.

Thank you.

Voting Sheets

Sent

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # 1335

Hearing date: _____

Executive Session date: _____

Motion of: 1534 Vote: 3-2

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Motion of: OTPA Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: ~~concern~~ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Gannon

Notes: reference back to prisoner request from parole board

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Thursday, April 14, 2022

THE COMMITTEE ON Judiciary

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, the committee recommends that the Bill

ought to pass with amendment

by a vote of: 5-0

Amendment # 2022-1551s

Senator Bill Gannon
For the Committee

Jennifer Horgan 271-7875

JUDICIARY

HB 1335-FN, relative to the parole board and the procedure for medical parole of prisoners.

Ought to Pass with Amendment, Vote 5-0.

Senator Bill Gannon for the committee.

HB1335-FN

Bill Details

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

Sponsors: (*Prime*)Murphy (D), Marsh (D), Carson (R), Sherman (D), Rosenwald (D)

LSR Number: **22-2072**

General Status: **SIGNED BY GOVERNOR**

Chapter Number: **260**

House:

Committee: Criminal Justice and Public Safety

Due Out: 3/10/2022

Status: CONCURRED

Senate:

Committee: Judiciary

Floor Date: 4/21/2022

Status: PASSED/ADOPTED WITH AMENDMENT

Bill Docket

Body	Description
H	Introduced 01/05/2022 and referred to Criminal Justice and Public Safety
H	--CANCELLED-- Public Hearing: 02/04/2022 11:30 am LOB 202-204
H	Public Hearing: 02/09/2022 01:30 am LOB 202-204
H	Subcommittee Work Session: 02/25/2022 09:00 am LOB 202-204
H	--CANCELLED-- Subcommittee Work Session: 03/04/2022 09:00 am LOB 202-204
H	Executive Session: 03/02/2022 10:00 AM LOB 202-204
H	Committee Report: Ought to Pass with Amendment # 2022-0811h (Vote 21-0; CC)
H	Amendment # 2022-0811h: AA VV 03/15/2022 HJ 6
H	Ought to Pass with Amendment 2022-0811h: MA VV 03/15/2022 HJ 6
S	Introduced 03/17/2022 and Referred to Judiciary; SJ 6
S	Hearing: 03/29/2022, Room 100, SH, 01:15 pm; SC 13
S	Committee Report: Ought to Pass with Amendment # 2022-1551s, 04/21/2022; SC 16
S	Committee Amendment # 2022-1551s, AA, VV; 04/21/2022; SJ 9
S	Ought to Pass with Amendment 2022-1551s, MA, VV; OT3rdg; 04/21/2022; SJ 9
H	House Concurs with Senate Amendment (Rep. Abbas): MA VV 05/12/2022 HJ 13
S	Enrolled Bill Amendment # 2022-2102e Adopted, VV, (In recess of 05/26/2022); SJ 13
H	Enrolled Bill Amendment # 2022-2102-EBA: AA VV (in recess of) 05/26/2022
S	Enrolled Adopted, VV, (In recess 05/26/2022); SJ 13
H	Enrolled (in recess of) 05/26/2022 HJ 14
H	Signed by Governor Sununu 06/24/2022: Chapter 260; 06/24/2022 HJ 14

Other Referrals

June 3, 2022
2022-2102-EBA
07/10

Enrolled Bill Amendment to HB 1335-FN

The Committee on Enrolled Bills 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 as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 1335-FN

This enrolled bill amendment makes a technical correction to the bill.

Enrolled Bill Amendment to HB 1335-FN

Amend section 2 of the bill by deleting line 2.

Senate Inventory Checklist for Archives

Bill Number: HB1335

Senate Committee: Judiciary

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 15345 - amendment # 15515
 ___ - amendment # _____ ___ - amendment # _____

- Executive Session Sheet
- Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # _____ ___ - amendment # _____
 ___ - amendment # _____ ___ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

- ___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- Enrolled Bill Amendment(s) 2102E
- ___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

as amended by the senate ___ as amended by the house
 final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

[Signature]
 Committee Aide

8/12/22
 Date

Senate Clerk's Office *AK*