

1 HB613
2 151048-2
3 By Representative Wren
4 RFD: Public Safety and Homeland Security
5 First Read: 11-APR-13

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8 SYNOPSIS: The Alabama Medical Furlough Act establishes
9 a procedure for the discretionary medical furlough
10 of certain incapacitated inmates convicted of
11 non-capital felony offenses.

12 This bill would further provide for the
13 definition of a permanently incapacitated inmate
14 and would require the Commissioner of the
15 Department of Corrections to report to certain
16 legislative committees and the Alabama Sentencing
17 Commission the condition of all inmates who have
18 spent more than 60 days in an infirmary or under
19 medical supervision, as well as steps taken to
20 evaluate medical furloughs for those inmates.

21 This bill would require the commissioner to
22 implement a program to annually evaluate all
23 inmates who have spent 60 days or more in an
24 infirmary or under a physician's care to determine
25 if the inmate should be considered for a medical
26 furlough.

1 This bill would also authorize the
2 commissioner to revoke a medical furlough for any
3 reason that would be deemed a violation of parole.
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5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 To amend Sections 14-14-2, 14-14-4, 14-14-5, and
10 14-14-7, Code of Alabama 1975, relating to the Alabama Medical
11 Furlough Act, to further provide for the definition of
12 permanently incapacitated inmate; to require the Commissioner
13 of the Department of Corrections to report to certain
14 legislative committees and the Alabama Sentencing Commission
15 the condition of all inmates who have spent a certain number
16 of days in the infirmary or under medical supervision; to
17 require the commissioner to implement a program to evaluate
18 annually certain inmates who have spent a certain number of
19 days in the infirmary or under medical supervision for a
20 medical furlough; and to authorize the commissioner to revoke
21 a medical furlough for any reason that would be deemed a
22 violation of parole.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 14-14-2, 14-14-4, 14-14-5, and
25 14-14-7, Code of Alabama 1975, are amended to read as follows:

26 "§14-14-2.

1 "For purposes of this chapter, the following words
2 shall have the following meanings:

3 "(1) COMMISSIONER. The Commissioner of the
4 Department of Corrections.

5 "(2) DEPARTMENT. The Department of Corrections.

6 "(3) GERIATRIC INMATE. A person 55 years of age or
7 older convicted in this state of a non-capital felony offense
8 and sentenced to the penitentiary, who suffers from a chronic
9 life-threatening infirmity, life-threatening illness, or
10 chronic debilitating disease related to aging, who poses a low
11 risk to the community, and who does not constitute a danger to
12 himself or herself or society.

13 "(4) PERMANENTLY INCAPACITATED INMATE. A state
14 inmate convicted of a non-capital felony offense and sentenced
15 to the penitentiary who does not constitute a danger to
16 himself or herself or society, and who, ~~by reason of an~~
17 ~~existing medical condition which is not terminal, is~~
18 ~~permanently and irreversibly incapacitated, and as a result of~~
19 ~~the medical or mental condition requires immediate and~~
20 ~~long-term residential care~~ satisfies both of the following:

21 "a. Requires assistance in order to perform two or
22 more daily life functions or is completely immobile.

23 "b. Has such limited physical or mental ability,
24 strength, or capacity that he or she poses an extremely low
25 risk of physical threat to others in the community.

1 "For the purposes of this subdivision, "daily life
2 function" means eating, breathing, toileting, walking, or
3 bathing.

4 "(5) TERMINALLY ILL INMATE. A person convicted of a
5 non-capital felony offense who is sentenced to the
6 penitentiary and who has an incurable condition caused by
7 illness or disease which would, with reasonable medical
8 judgment, produce death within 12 months, and who does not
9 constitute a danger to himself or herself or society.

10 "§14-14-4.

11 "(a) The department shall establish a medical
12 furlough program. The commissioner shall adopt the rules and
13 regulations for implementation of the medical furlough
14 program. For each person considered for medical furlough, the
15 commissioner shall determine whether the person is a geriatric
16 inmate, permanently incapacitated inmate, or terminally ill
17 inmate.

18 "(b) Notwithstanding any other law to the contrary,
19 an inmate who has not served his or her minimum sentence shall
20 be considered eligible for consideration for furlough under
21 this chapter.

22 "(c) This chapter shall not apply to inmates
23 convicted of capital murder or a sexual offense.

24 "(d) Medical furlough consideration shall be in
25 addition to any other release for which an inmate may be
26 eligible.

1 "(e) The commissioner shall determine the conditions
2 of release of any inmate pursuant to this chapter, including
3 the appropriate level of supervision of the inmate, and shall
4 develop a discharge plan for each inmate released under this
5 chapter. Prior to the commissioner granting any release based
6 on the appropriate medical documentation pursuant to
7 subsection (b) of Section 14-14-5, employees of the department
8 shall contact appropriate departments and agencies, which may
9 include, but shall not be limited to, the Department of Public
10 Health, the Department of Human Resources, Medicare, Medicaid,
11 hospice organizations, or other public and nonprofit community
12 service agencies as the commissioner may deem necessary for
13 consultation in developing an appropriate discharge plan, and
14 to confirm that required care and resources are available to
15 meet the inmate's needs. This chapter is not intended to
16 expand or create new responsibilities for public agencies for
17 arranging and providing care.

18 "(f) In considering an inmate for medical furlough,
19 the department may request that additional medical evidence be
20 produced, or that additional medical examinations be
21 conducted.

22 "(g) Except as provided herein, the furlough of an
23 inmate on medical furlough shall be for the remainder of the
24 inmate's sentence. In addition to terms and conditions
25 prescribed by the department, supervision of an inmate on
26 medical furlough shall at a minimum consist of biannual

1 medical evaluations by a medical care provider at intervals to
2 be determined by the commissioner at the time of release.

3 "(h) If the medical condition of an inmate released
4 pursuant to this chapter should improve to the extent that he
5 or she no longer meets the criteria by which he or she was
6 released, or if he or she violates a condition of release or
7 becomes a danger to himself or herself or others, the
8 commissioner shall revoke the furlough.

9 "(i) The commissioner shall report annually to the
10 Joint Legislative Interim Prison Committee, House Judiciary
11 Sentencing Commission Subcommittee, and the Alabama Sentencing
12 Commission on the number of applications for medical furlough,
13 the nature of the illnesses, diseases, and conditions of the
14 applicants, the number of inmates granted and denied release,
15 and the number of persons on medical furlough who have been
16 returned to the custody of the department. The commissioner
17 shall further report on the condition of all inmates who have
18 spent more than 60 days in an infirmary or under medical
19 supervision and the steps taken to evaluate the
20 appropriateness of granting medical furloughs to those
21 inmates.

22 "§14-14-5.

23 "(a) An inmate, or any concerned person, including,
24 but not limited to, the inmate's attorney, family, physician,
25 or an employee or official of the department may initiate
26 consideration for medical furlough by submitting to the

1 department an initial medical release application form along
2 with supporting documentation.

3 "(b) The commissioner shall implement a program to
4 provide for the department to annually evaluate any inmate who
5 has spent 60 or more days in an infirmary or under a
6 physician's care to determine if the inmate should be
7 considered for a medical furlough.

8 "(b)(1)(c)(1) The initial application form shall
9 include the report of a physician or physicians employed by
10 the department or its health care provider and a notarized
11 report of at least one other duly licensed physician who is
12 board certified in the field of medicine for which the inmate
13 is seeking a medical furlough and who is not an employee of
14 the department. These reports shall each be of the opinion
15 that the inmate is either terminally ill, permanently
16 incapacitated, or that the inmate suffers from a chronic
17 infirmity, illness, or disease related to aging.

18 "(2) The commissioner shall provide the initial
19 application and medical authorization forms to all department
20 medical care providers, and the forms shall be available at
21 every correctional facility for distribution to inmates.

22 "(c)(d) Consideration for medical furlough shall be
23 initiated by the submission of an application from the
24 department, the inmate, or the inmate's representative, along
25 with the department's supporting documentation to the
26 commissioner.

1 "~~(d)~~(e) If the appropriate medical documentation
2 pursuant to subsection ~~(b)~~(c) has indicated that the inmate is
3 permanently incapacitated or terminally ill, the commissioner,
4 within 30 days of receipt of an initial application form,
5 shall make a decision. The initial application form and
6 supporting document of inmates, who have been diagnosed by a
7 physician as suffering from a chronic illness or disease
8 related to aging, shall be submitted to the commissioner
9 within 60 days of receipt of the application by the
10 department. Supporting documentation shall include information
11 concerning the inmate's medical history and prognosis, age,
12 and institutional behavior. At the inmate's request, the
13 department shall also provide a copy of all supporting
14 documentation to the inmate.

15 "~~(e)~~(f) In determining eligibility factors for a
16 medical furlough, the commissioner shall take into
17 consideration all of the following factors:

18 "(1) Risk for violence.

19 "(2) Criminal history.

20 "(3) Institutional behavior.

21 "(4) Age of the inmate, currently and at the time of
22 the offense.

23 "(5) Severity of the illness, disease, or
24 infirmities.

25 "(6) All available medical and mental health
26 records.

1 "(7) Release plans, which include alternatives to
2 caring for terminally ill or permanently incapacitated inmates
3 in traditional prison settings.

4 "~~(f)~~(g) The commissioner shall notify the district
5 attorney of the jurisdiction where the inmate was last
6 sentenced of the consideration of an inmate for a medical
7 furlough and afford the district attorney where the crime was
8 prosecuted a reasonable opportunity to object. The
9 commissioner shall also notify the victim or victims of the
10 crimes listed in paragraphs a. to i., inclusive, of
11 subdivision (1) of subsection (e) of Section 15-22-36, for
12 which the defendant is currently incarcerated, of the review
13 to consider a medical furlough. Notice shall be sent by
14 certified mail, return receipt requested, to the victim or
15 victims named in the indictment.

16 "~~(g)~~(h) The commissioner shall make a determination
17 whether to grant medical furlough for terminally ill inmates
18 within 30 days of receipt of an initial application and
19 supporting documentation.

20 "~~(h)~~(i) The commissioner shall make a determination
21 whether to grant medical furlough for permanently
22 incapacitated inmates within 30 days of receipt of an initial
23 application and supporting documentation.

24 "~~(i)~~(j) The commissioner shall make a determination
25 on whether to grant medical furlough for geriatric inmates
26 within 30 days of receipt of the application and supporting
27 documentation from the department.

1 "§14-14-7.

2 "The commissioner may revoke a medical furlough
3 granted pursuant to this chapter ~~at his or her discretion~~ for
4 any reason that would be deemed a violation of parole."

5 Section 2. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.