

House Study Bill 708

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON MADDOX)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act creating medical parole for certain persons committed to
2 the custody of the department of corrections.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6653HC 80
5 jm/pj/5

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1 1 DIVISION I
1 2 Section 1. NEW SECTION. 217.13A ASSISTANCE FOR PERSONS
1 3 ON MEDICAL PAROLE.
1 4 1. If a person has been released on medical parole
1 5 pursuant to section 906.19 and applies for public assistance,
1 6 including medical assistance, the department of corrections
1 7 shall forward the application for assistance to the department
1 8 of human services, and advise the board of parole that an
1 9 application for assistance has been made.
1 10 2. The department of human services shall, within sixty
1 11 days of receipt of a medical parolee's application for
1 12 assistance, determine the eligibility of the person for
1 13 general assistance, public assistance, medical assistance, or
1 14 any other department or federal health care assistance.
1 15 3. If a person is released on medical parole and is in
1 16 need of public assistance, including medical assistance, the
1 17 department of human services is responsible for the
1 18 administrative costs of the initial and any subsequent
1 19 eligibility determination and for the costs of any public
1 20 assistance, including medical assistance, following a person's
1 21 release on medical parole for as long as the person is
1 22 eligible.
1 23 4. The department of corrections and the department of
1 24 human services shall jointly request proposals from public or
1 25 private vendors to provide contract services for persons
1 26 released on medical parole.
1 27 Sec. 2. NEW SECTION. 906.19 MEDICAL PAROLE.
1 28 1. A person committed to the custody of the director of
1 29 the department of corrections including offenders serving a
1 30 mandatory minimum sentence, an enhanced sentence, a sentence
1 31 which limits the person's parole eligibility, a person serving
1 32 a class "A" felony sentence, or serving a sentence under
1 33 section 902.12, shall be immediately eligible for a medical
1 34 parole under the following circumstances:
1 35 a. The department of corrections makes an application to
2 1 the board of parole with supporting medical evidence stating
2 2 any of the following:
2 3 (1) The person suffers from a chronic infirmity, illness,
2 4 or disease related to aging.
2 5 (2) The person has an existing medical condition that is
2 6 permanent and is physically or mentally incapacitating.
2 7 (3) The person is terminally ill.
2 8 b. After reviewing the application, the board determines
2 9 all of the following:
2 10 (1) The person is eligible for medical parole under
2 11 paragraph "a".
2 12 (2) A reasonable probability exists that the person can be
2 13 released without detriment to the community or to the person.
2 14 2. Prior to making a determination under subsection 1, the
2 15 board may request that the department of corrections provide
2 16 additional medical evidence supporting the application or that
2 17 a medical examination of the person be conducted.
2 18 3. If the board orders the person released on medical
2 19 parole, the department of corrections, in cooperation with the
2 20 board and the judicial district department of correctional
2 21 services, shall determine the level of appropriate supervision
2 22 of the person. In addition to any other terms and conditions

2 23 of medical parole, supervision of a person on medical parole
2 24 shall consist of periodic medical evaluations at intervals to
2 25 be determined by the board at the time of release.
2 26 4. After a person is released on medical parole, earned
2 27 time shall not reduce the remainder of the person's sentence
2 28 while the person is on medical parole. The term of parole for
2 29 a person on medical parole shall equal the remainder of the
2 30 sentence of the person.
2 31 5. If the board finds a change in circumstances or
2 32 discovers new information concerning a person who has been
2 33 released on medical parole, the board may rescind the medical
2 34 parole or revise the previously granted medical parole release
2 35 date.
3 1 6. The board shall issue its decision to release a person
3 2 on medical parole or deny a person's medical parole or to
3 3 rescind the medical parole or revise the medical parole
3 4 release date of the person in writing and provide a basis for
3 5 the decision. A copy of the decision shall be provided to the
3 6 person.

3 7 DIVISION II

3 8 Sec. 3. Section 124.413, unnumbered paragraph 1, Code
3 9 2003, is amended to read as follows:

3 10 A person sentenced pursuant to section 124.401, subsection
3 11 1, paragraph "a", "b", "c", "e", or "f", shall not be eligible
3 12 for parole unless medically paroled pursuant to section
3 13 906.19, or until the person has served a minimum period of
3 14 confinement of one-third of the maximum indeterminate sentence
3 15 prescribed by law.

3 16 Sec. 4. Section 708.2A, subsection 6, paragraph b, Code
3 17 2003, is amended to read as follows:

3 18 b. A person convicted of violating subsection 4 shall be
3 19 sentenced as provided under section 902.9, subsection 5, and
3 20 shall be denied parole or work release, unless the person is
3 21 medically paroled pursuant to section 906.19, until the person
3 22 has served a minimum of one year of the person's sentence.

3 23 Notwithstanding section 901.5, subsections 1, 3, and 5 and
3 24 section 907.3, the person cannot receive a suspended or
3 25 deferred sentence or a deferred judgment; however, the person
3 26 sentenced shall receive credit for any time the person was
3 27 confined in a jail or detention facility following arrest.

3 28 Sec. 5. Section 901A.2, Code 2003, is amended by adding
3 29 the following new subsection:

3 30 NEW SUBSECTION. 9. A person sentenced under this section
3 31 is eligible for medical parole pursuant to section 906.19.

3 32 Sec. 6. Section 902.1, Code 2003, is amended to read as
3 33 follows:

3 34 902.1 CLASS "A" FELONY.

3 35 Upon a plea of guilty, a verdict of guilty, or a special
4 1 verdict upon which a judgment of conviction of a class "A"
4 2 felony may be rendered, the court shall enter a judgment of
4 3 conviction and shall commit the defendant into the custody of
4 4 the director of the Iowa department of corrections for the
4 5 rest of the defendant's life. Nothing in the Iowa corrections
4 6 code pertaining to deferred judgment, deferred sentence,
4 7 suspended sentence, or reconsideration of sentence applies to
4 8 a class "A" felony, and a person convicted of a class "A"
4 9 felony shall not be released on parole unless the governor
4 10 commutes the sentence to a term of years, or the person is
4 11 medically paroled pursuant to section 906.19.

4 12 Sec. 7. Section 902.7, Code 2003, is amended to read as
4 13 follows:

4 14 902.7 MINIMUM SENTENCE == USE OF A DANGEROUS WEAPON.

4 15 At the trial of a person charged with participating in a
4 16 forcible felony, if the trier of fact finds beyond a
4 17 reasonable doubt that the person is guilty of a forcible
4 18 felony and that the person represented that the person was in
4 19 the immediate possession and control of a dangerous weapon,
4 20 displayed a dangerous weapon in a threatening manner, or was
4 21 armed with a dangerous weapon while participating in the
4 22 forcible felony the convicted person shall serve a minimum of
4 23 five years of the sentence imposed by law. A person sentenced
4 24 pursuant to this section shall not be eligible for parole,
4 25 unless the person is medically paroled pursuant to section
4 26 906.19, until the person has served the minimum sentence of
4 27 confinement imposed by this section.

4 28 Sec. 8. Section 902.8, Code 2003, is amended to read as
4 29 follows:

4 30 902.8 MINIMUM SENTENCE == HABITUAL OFFENDER.

4 31 ~~At~~ A habitual offender is any person convicted of a class
4 32 "C" or a class "D" felony, who has twice before been convicted
4 33 of any felony in a court of this or any other state, or of the

4 34 United States. An offense is a felony if, by the law under
4 35 which the person is convicted, it is so classified at the time
5 1 of the person's conviction. A person sentenced as an habitual
5 2 offender shall not be eligible for parole unless medically
5 3 paroled pursuant to section 906.19, or until the person has
5 4 served the minimum sentence of confinement of three years.

5 5 Sec. 9. Section 902.8A, Code 2003, is amended to read as
5 6 follows:

5 7 902.8A MINIMUM SENTENCE FOR CONSPIRING TO MANUFACTURE, OR
5 8 DELIVERY OF, AMPHETAMINE OR METHAMPHETAMINE TO A MINOR.

5 9 A person who has been convicted for a first violation under
5 10 section 124.401D shall not be eligible for parole unless
5 11 medically paroled pursuant to section 906.19, or until the
5 12 person has served a minimum term of confinement of ten years.

5 13 Sec. 10. Section 902.11, unnumbered paragraph 1, Code
5 14 Supplement 2003, is amended to read as follows:

5 15 A person serving a sentence for conviction of a felony, who
5 16 has a criminal record of one or more prior convictions for a
5 17 forcible felony or a crime of a similar gravity in this or any
5 18 other state, shall be denied parole or work release unless
5 19 medically paroled pursuant to section 906.19, or unless the
5 20 person has served at least one-half of the maximum term of the
5 21 defendant's sentence. However, the mandatory sentence
5 22 provided for by this section does not apply if either of the
5 23 following apply:

5 24 Sec. 11. Section 902.12, unnumbered paragraph 1, Code
5 25 Supplement 2003, is amended to read as follows:

5 26 A person serving a sentence for conviction of the following
5 27 felonies shall be denied parole or work release unless the
5 28 person has served at least seven-tenths of the maximum term of
5 29 the person's sentence or the person has been medically paroled
5 30 pursuant to section 906.19:

5 31 EXPLANATION

5 32 This bill relates to providing medical parole to a person
5 33 committed to the custody of the department of corrections.

5 34 DIVISION I == Under the division, any person committed to
5 35 the custody of the department of corrections including
6 1 offenders serving a mandatory minimum sentence, an enhanced
6 2 sentence, a sentence which limits the person's parole
6 3 eligibility, a person serving a class "A" felony sentence, or
6 4 serving a sentence under section 902.12, may be eligible for
6 5 medical parole. The division provides that a person committed
6 6 to the custody of the department of corrections shall be
6 7 immediately eligible for medical parole under the following
6 8 circumstances: (1) the person suffers from a chronic
6 9 infirmity, illness, or disease related to aging; (2) the
6 10 person has an existing medical condition which is permanent
6 11 and is physically or mentally incapacitating; or (3) the
6 12 person is terminally ill.

6 13 If the board of parole under the division orders the person
6 14 released on medical parole, the department of corrections in
6 15 cooperation with the board and the judicial district
6 16 department of correctional services shall determine the level
6 17 of appropriate supervision of the person. In addition to any
6 18 other terms and conditions of supervision, a person on medical
6 19 parole shall have periodic medical evaluations at intervals to
6 20 be determined by the board of parole at the time of release.

6 21 The division also provides that if the board of parole
6 22 finds a change in circumstances or discovers new information
6 23 concerning a person who has been released on medical parole,
6 24 the board may rescind the medical parole or revise the
6 25 previously granted parole release date.

6 26 If a person is released on medical parole pursuant to the
6 27 division and applies for public assistance, including medical
6 28 assistance, the department of corrections shall forward the
6 29 application for assistance to the department of human
6 30 services, and advise the board of parole that an application
6 31 for assistance has been made.

6 32 The division provides that the department of human services
6 33 shall, within 60 days of receipt of a medical parolee's
6 34 application for assistance, determine the eligibility of the
6 35 person for general assistance, public assistance, medical
7 1 assistance, or any type of assistance.

7 2 The division also provides that the department of human
7 3 services is responsible for the administrative costs of the
7 4 initial and any subsequent eligibility determination and for
7 5 the costs of any public assistance, including medical
7 6 assistance, following a person's release on medical parole for
7 7 as long as the person is eligible.

7 8 DIVISION II == The division amends various Code sections to
7 9 conform with the changes in Division I.

7 10 LSB 6653HC 80
7 11 jm/pj/5