

Senate File 2278

SENATE FILE _____
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3153)

Passed Senate, Date _____ Passed House, 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, and providing an
3 effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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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. If the department of corrections makes a recommendation
2 1 to the board of parole with supporting medical evidence
2 2 stating any of the following:
2 3 (1) The person suffers from a chronic infirmity, physical
2 4 limitation, serious illness, or serious disease related to
2 5 aging.
2 6 (2) The person has an existing medical or physical
2 7 condition that is permanent and is physically or mentally
2 8 incapacitating.
2 9 (3) The person is terminally ill.
2 10 b. After reviewing the recommendation, the board
2 11 determines all of the following:
2 12 (1) The person is eligible for medical parole under
2 13 paragraph "a".
2 14 (2) A reasonable probability exists that the person can be
2 15 released without detriment to the community or to the person.
2 16 2. Prior to making a determination under subsection 1, the
2 17 board may request that the department of corrections provide
2 18 additional medical evidence supporting the recommendation or
2 19 that a medical examination of the person be conducted.
2 20 3. If the board orders the person released on medical
2 21 parole, the department of corrections, in cooperation with the

2 22 board and the judicial district department of correctional
2 23 services, shall determine the level of appropriate supervision
2 24 of the person. In addition to any other terms and conditions
2 25 of medical parole, supervision of a person on medical parole
2 26 shall consist of periodic medical evaluations at intervals to
2 27 be determined by the board at the time of release.

2 28 4. After a person is released on medical parole, earned
2 29 time shall not reduce the remainder of the person's sentence
2 30 while the person is on medical parole. The term of parole for
2 31 a person on medical parole shall equal the remainder of the
2 32 sentence of the person.

2 33 5. If the board finds a change in circumstances or
2 34 discovers new information concerning a person who has been
2 35 released on medical parole, the board may rescind the medical
3 1 parole or revise the previously granted medical parole release
3 2 date.

3 3 6. The board shall issue its decision to release a person
3 4 on medical parole or deny a person's medical parole or to
3 5 rescind the medical parole or revise the medical parole
3 6 release date of the person in writing and provide a basis for
3 7 the decision. A copy of the decision shall be provided to the
3 8 person.

3 9 7. The board shall adopt rules pursuant to chapter 17A
3 10 which are necessary to carry out the provisions of this
3 11 section.

3 12 DIVISION II

3 13 Sec. 3. Section 124.413, unnumbered paragraph 1, Code
3 14 2003, is amended to read as follows:

3 15 A person sentenced pursuant to section 124.401, subsection
3 16 1, paragraph "a", "b", "c", "e", or "f", shall not be eligible
3 17 for parole unless medically paroled pursuant to section
3 18 906.19, or until the person has served a minimum period of
3 19 confinement of one-third of the maximum indeterminate sentence
3 20 prescribed by law.

3 21 Sec. 4. Section 708.2A, subsection 6, paragraph b, Code
3 22 2003, is amended to read as follows:

3 23 b. A person convicted of violating subsection 4 shall be
3 24 sentenced as provided under section 902.9, subsection 5, and
3 25 shall be denied parole or work release, unless the person is
3 26 medically paroled pursuant to section 906.19, until the person

3 27 has served a minimum of one year of the person's sentence.
3 28 Notwithstanding section 901.5, subsections 1, 3, and 5 and
3 29 section 907.3, the person cannot receive a suspended or
3 30 deferred sentence or a deferred judgment; however, the person
3 31 sentenced shall receive credit for any time the person was
3 32 confined in a jail or detention facility following arrest.

3 33 Sec. 5. Section 901A.2, Code 2003, is amended by adding
3 34 the following new subsection:

3 35 NEW SUBSECTION. 9. A person sentenced under this section
4 1 is eligible for medical parole pursuant to section 906.19.

4 2 Sec. 6. Section 902.1, Code 2003, is amended to read as
4 3 follows:

4 4 902.1 CLASS "A" FELONY.

4 5 Upon a plea of guilty, a verdict of guilty, or a special
4 6 verdict upon which a judgment of conviction of a class "A"
4 7 felony may be rendered, the court shall enter a judgment of
4 8 conviction and shall commit the defendant into the custody of
4 9 the director of the Iowa department of corrections for the
4 10 rest of the defendant's life. Nothing in the Iowa corrections
4 11 code pertaining to deferred judgment, deferred sentence,
4 12 suspended sentence, or reconsideration of sentence applies to
4 13 a class "A" felony, and a person convicted of a class "A"
4 14 felony shall not be released on parole unless the governor
4 15 commutes the sentence to a term of years, or the person is
4 16 medically paroled pursuant to section 906.19.

4 17 Sec. 7. Section 902.7, Code 2003, is amended to read as
4 18 follows:

4 19 902.7 MINIMUM SENTENCE == USE OF A DANGEROUS WEAPON.

4 20 At the trial of a person charged with participating in a
4 21 forcible felony, if the trier of fact finds beyond a
4 22 reasonable doubt that the person is guilty of a forcible
4 23 felony and that the person represented that the person was in
4 24 the immediate possession and control of a dangerous weapon,
4 25 displayed a dangerous weapon in a threatening manner, or was
4 26 armed with a dangerous weapon while participating in the
4 27 forcible felony the convicted person shall serve a minimum of
4 28 five years of the sentence imposed by law. A person sentenced
4 29 pursuant to this section shall not be eligible for parole,
4 30 unless the person is medically paroled pursuant to section
4 31 906.19, until the person has served the minimum sentence of
4 32 confinement imposed by this section.

4 33 Sec. 8. Section 902.8, Code 2003, is amended to read as
4 34 follows:
4 35 902.8 MINIMUM SENTENCE == HABITUAL OFFENDER.
5 1 ~~An~~ A habitual offender is any person convicted of a class
5 2 "C" or a class "D" felony, who has twice before been convicted
5 3 of any felony in a court of this or any other state, or of the
5 4 United States. An offense is a felony if, by the law under
5 5 which the person is convicted, it is so classified at the time
5 6 of the person's conviction. A person sentenced as an habitual
5 7 offender shall not be eligible for parole unless medically
5 8 paroled pursuant to section 906.19, or until the person has
5 9 served the minimum sentence of confinement of three years.

5 10 Sec. 9. Section 902.8A, Code 2003, is amended to read as
5 11 follows:

5 12 902.8A MINIMUM SENTENCE FOR CONSPIRING TO MANUFACTURE, OR
5 13 DELIVERY OF, AMPHETAMINE OR METHAMPHETAMINE TO A MINOR.
5 14 A person who has been convicted for a first violation under
5 15 section 124.401D shall not be eligible for parole unless
5 16 medically paroled pursuant to section 906.19, or until the
5 17 person has served a minimum term of confinement of ten years.

5 18 Sec. 10. Section 902.11, unnumbered paragraph 1, Code
5 19 Supplement 2003, is amended to read as follows:

5 20 A person serving a sentence for conviction of a felony, who
5 21 has a criminal record of one or more prior convictions for a
5 22 forcible felony or a crime of a similar gravity in this or any
5 23 other state, shall be denied parole or work release unless
5 24 medically paroled pursuant to section 906.19, or unless the
5 25 person has served at least one-half of the maximum term of the
5 26 defendant's sentence. However, the mandatory sentence
5 27 provided for by this section does not apply if either of the
5 28 following apply:

5 29 Sec. 11. Section 902.12, unnumbered paragraph 1, Code
5 30 Supplement 2003, is amended to read as follows:

5 31 A person serving a sentence for conviction of the following
5 32 felonies shall be denied parole or work release unless the
5 33 person has served at least seven-tenths of the maximum term of
5 34 the person's sentence or the person has been medically paroled
5 35 pursuant to section 906.19:

6 1 DIVISION III

6 2 Sec. 12. EFFECTIVE DATE. This Act takes effect January 1,
6 3 2005.

6 4 SF 2278

6 5 jm/cc/26