

COMMITTEE ON HOMELAND SECURITY, JUSTICE
AND PUBLIC SAFETY

09/12/2023-AMENDED AND REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY
06/22/2023-HELD IN COMMITTEE

BILL NO. 35-0045

Thirty-Fifth Legislature of the Virgin Islands

February 27, 2023

An Act amending title 5 Virgin Islands Code, chapter 407 relating to eligibility for parole release by adding section 4607 to establish Medical Parole Release, Geriatric Parole Release, and Non-Medical Geriatric Parole Release, and for other related purposes

PROPOSED BY: Senators Franklin D. Johnson and Javan E. James, Sr.

1 *Be it enacted by the Legislature of the Virgin Islands:*

2 **SECTION 1.** Title 5 Virgin Islands Code, chapter 407 is amended as follows:

3 (a) In the chapter heading, after “Parole” insert “and Parole Release”.

4 (b) Insert section 4607 to read:

5 “§ 4607. Parole Release

6 Terminally ill, permanently incapacitated, or geriatric prisoners will be
7 eligible to apply for administrative release without post-release supervision, either
8 by an application from the Bureau of Corrections, the prisoner, a family member,
9 or a designee if it is determined that the prisoner no longer poses a threat to the
10 community or themselves.

11 (a) Definitions. As used in this section, the following terms have the following
12 meanings:

1 (1) “Geriatric parole release” means the administrative release from prison of a
2 geriatric prisoner without post-release supervision.

3 (2) “Geriatric prisoner” means a prisoner who is 65 years of age or older and
4 who suffers from a chronic life-threatening illness or serious age-related medical
5 condition, who requires assistance with necessary daily life functioning and poses a low
6 risk of danger to the community and who does not constitute a danger to self.

7 (3) “Medical documentation” means all communications written, printed
8 recorded or stored in any form about a person’s medical or mental health care, including
9 information concerning a prisoner’s medical history and reports of examinations from a
10 duly licensed physician providing a diagnosis of the condition, disease or syndrome that
11 afflicts the prisoner; a prognosis concerning the likelihood of the prisoner’s recovery
12 from the condition, disease or syndrome; a description of a prisoner’s physical incapacity,
13 if applicable; and a prisoner’s records from a hospital, clinic or other healthcare facility.

14 (4) “Medical parole release” means the administrative release from prison of a
15 terminally ill or permanently incapacitated prisoner without post-release supervision.

16 (5) “Non-medical geriatric prisoner” means a prisoner who is 65 years of age or
17 older and who does not suffer from a chronic life-threatening illness, or serious age-
18 related medical condition, who does not require assistance with necessary daily life
19 functioning and who poses a low risk of danger to the community and who does not
20 constitute a danger to self. The prisoner has completed available training and presented
21 him or herself as a prisoner who has been rehabilitated.

22 (6) “Non-medical geriatric parole release” means the administrative release of a
23 geriatric prisoner from prison without post-release supervision.

24 (7) “Permanently incapacitated prisoner” means a prisoner who, by reason of an
25 existing physical or mental condition that is not terminal, is permanently and irreversibly

1 physically incapacitated and who has such limited physical strength or capacity that the
2 prisoner poses an extremely low risk of physical threat to self or the community.

3 (8) “Terminally ill prisoner” means a prisoner who has an incurable condition
4 caused by illness or disease that is expected to produce death within 18 months, within a
5 reasonable degree of medical certainty, and who does not constitute a danger to self or
6 the community.

7 (b) **Medical parole release.** A terminally ill or permanently incapacitated prisoner
8 may be considered for medical parole release by the Board of Parole. However, this section
9 does not apply to a prisoner who was convicted and sentenced to a term of imprisonment
10 without the possibility of parole.

11 (1) The Bureau of Corrections shall establish an application for medical parole
12 release which must include the prisoner’s plan for residency and medical care if the Board
13 of Parole grants medical parole release.

14 (2) The Medical Director of the Bureau of Corrections shall identify terminally
15 ill and permanently incapacitated prisoners for medical parole release based on medical
16 documentation. No later than 30 days after receipt of all necessary medical
17 documentation that a prisoner is terminally ill or permanently incapacitated, the Medical
18 Director of the Bureau of Corrections, through the Director of the Bureau of Corrections,
19 shall forward an application and the medical documentation to the Board of Parole for
20 consideration for medical parole release. The Board of Parole shall decide a prisoner’s
21 eligibility for medical parole release no later than 60 days after receiving the application
22 and medical documentation from the Bureau of Corrections. The prisoner retains the
23 option of filing a Petition for Writ of Habeas Corpus if the Board of Parole does not act
24 timely upon the application.

25 (3) A prisoner or a prisoner’s family member or designee may request
26 consideration for medical parole release independently by applying and submitting

1 medical documentation to the Bureau of Corrections. The Bureau of Corrections may
2 require independent testing and examination by a physician to confirm a prisoner's
3 diagnosis and prognosis. No later than 30 days after receipt of all necessary medical
4 documentation to establish that a prisoner is terminally ill or permanently incapacitated,
5 the Bureau of Corrections shall forward an application and the medical documentation to
6 the Board of Parole for consideration for medical parole release. The Board of Parole
7 shall decide a prisoner's eligibility for medical parole release no later than 60 days after
8 receiving the application and medical documentation from the Bureau of Corrections.

9 (4) A prisoner who has an immigration detainer may be considered for medical
10 parole release.

11 (5) The authority to grant medical parole release rests solely with the Board of
12 Parole. This section does not grant a right or entitlement to medical parole release.

13 (6) The provisions for medical parole release set forth in this section are in
14 addition to any other form of release for which a prisoner may be eligible.

15 (c) **Geriatric parole release.** Notwithstanding any other law to the contrary, a
16 geriatric prisoner may be considered for geriatric parole release by the Board of Parole.

17 (1) The Bureau of Corrections shall establish an application for geriatric parole
18 release which must include the prisoner's plan for residency and medical care if the Board
19 of Parole grants the geriatric parole release.

20 (2) The Medical Director of the Bureau of Corrections shall identify geriatric
21 prisoners for geriatric parole release based on medical documentation. If the Medical
22 Director of the Bureau of Corrections determines that a prisoner may be eligible for
23 geriatric parole release, the Medical Director, through the Director of the Bureau of
24 Corrections, must forward an application and the medical documentation to the Board of
25 Parole for consideration of the prisoner for geriatric parole release.

1 (3) A prisoner, or a prisoner's family member or a designee may request
2 consideration for geriatric parole release independently by applying and submitting
3 medical documentation to the Bureau of Corrections. The Bureau of Corrections may
4 also require independent testing and examination by a physician to confirm a prisoner's
5 diagnosis and prognosis. The Bureau of Corrections shall forward an application for
6 geriatric parole release and the medical documentation received from a prisoner or the
7 prisoner's family member or designee to the Board of Parole for consideration of the
8 prisoner for geriatric parole release.

9 (4) In determining whether to grant geriatric parole, the prisoner's age may not
10 be the primary factor. The Board of Parole shall consider the following factors:

11 (A) The sentence imposed on the prisoner and the percentage of total time
12 served;

13 (B) The severity of illness, disease, or infirmities;

14 (C) The prisoner's age;

15 (D) The prisoner's institutional behavior;

16 (E) The prisoner's criminal history; and

17 (F) The prisoner's level of danger to self or the community.

18 (5) The authority to grant geriatric parole release rests solely with the Board of
19 Parole. This section does not grant any right or entitlement to geriatric parole release.

20 (d) **Non-medical geriatric parole release.** Notwithstanding any other law to the
21 contrary, a non-medical geriatric prisoner may be considered for non-medical geriatric parole
22 release by the Board of Parole.

23 (1) The Bureau of Corrections shall establish an application for non-medical
24 geriatric parole release which must include the prisoner's plan for residency if granted
25 non-medical geriatric parole release by the Board of Parole.

1 (2) The Director of the Bureau of Corrections shall forward an application and
2 the medical documentation to the Board of Parole for consideration of the prisoner for
3 non-medical geriatric parole release.

4 (3) A prisoner, or a prisoner's family member or a designee may request
5 consideration for non-medical geriatric parole release independently by applying to the
6 Bureau of Corrections. The Bureau of Corrections shall forward an application for non-
7 medical geriatric parole release and the documentation from a prisoner or a prisoner's
8 family member or designee to the Board of Parole for consideration of the prisoner for
9 non-medical geriatric parole release.

10 (4) In determining whether to grant geriatric parole release, age of the prisoner
11 may not be the primary factor. The Board of Parole shall consider the following factors:

12 (A) The sentence imposed on the prisoner and percentage of total time
13 served;

14 (B) The ability of the prisoner to contribute as a private citizen in the
15 community;

16 (C) The prisoner's age;

17 (D) The prisoner's institutional behavior;

18 (E) The prisoner's criminal history;

19 (F) The prisoner must be considered low risk as determined by a forensic
20 psychiatrist or psychologist; and

21 (G) The prisoner's level of danger to self and the community.

22 (5) The authority to grant non-medical geriatric parole release rests solely with
23 the Board of Parole. This section does not grant any right or entitlement to non-medical
24 geriatric parole release. Prisoners do not have the right to appeal the decision of the Board
25 of Parole. Prisoners have the right to submit a new application if non-medical geriatric
26 parole release is not granted.

1 (6) A prisoner who is sentenced to imprisonment on or after the prisoner's 62nd
2 birthday shall serve at least 40% of the sentence imposed by the presiding judicial officer
3 before the prisoner is eligible for consideration or release under this section.

4 (7) The provisions for non-medical geriatric parole release set forth in this
5 section are in addition to any other form of release for which a prisoner may be eligible.

6 **BILL SUMMARY**

7 This bill establishes medical parole release, geriatric parole release, and non-medical geriatric
8 parole release as types of parole releases that the Board of Parole may consider. Terminally
9 ill prisoners, permanently incapacitated, or geriatric prisoners would be eligible to apply for
10 parole release, either by an application from the Bureau of Corrections, the prisoner, a family
11 member, or a designee. A prisoner convicted of a crime for which the sentence imposed is
12 without the possibility of parole is not eligible for any parole release programs. The Bureau
13 of Corrections spends a significant amount of funds caring for terminally ill prisoners,
14 permanently incapacitated prisoners, and geriatric prisoners, some of whom have chronic
15 life-threatening illnesses or serious age-related medical conditions. This bill allows the Board
16 of Parole to consider medical parole release, geriatric parole release, or non-medical geriatric
17 parole release for prisoners who pose a low risk of danger to the community and who does
18 not constitute a danger to themselves. The Bureau of Corrections would be required to
19 establish an application for the three types of parole release which would include a prisoner's
20 plan for residency and medical care if such parole release is granted by the Board of Parole.
21 Medical parole release, geriatric parole release, and non-medical geriatric parole releases are
22 in addition to other forms of release and will not be a right."."

23 **23-0359/February 7, 2023/PFA**

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