

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 601**

By Senator Garcia

[Introduced January 27, 2026; referred  
to the Committee on Health and Human Resources;  
and then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §62-12A-1, §62-12A-2, §62-12A-3, §62-12A-4, §62-12A-5, §62-12A-6, and  
3 §62-12A-7, relating to authorizing medical parole for certain inmates in the custody of the  
4 Division of Corrections and Rehabilitation; defining terms; providing for petition for medical  
5 parole and process for completing and submitting petition; providing for review of petitions  
6 by superintendents of correctional institutions; providing for notice of medical parole to  
7 interested parties, for hearings, and for development of terms and conditions of release;  
8 setting requirements for commissioner's final decision on petitions; establishing process  
9 for reconsideration and review of decisions denying medical parole; establishing reporting  
10 requirements; and providing rule-making authority.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 12A. MEDICAL PAROLE.**

**§62-12A-1. Definitions.**

1 For purposes of this article:  
2       (a) "Geriatric" means a person who is aged 55 or older; is experiencing a chronic infirmity,  
3       illness, or chronic debilitating disease that is related to aging; and who requires assistance with at  
4       least one necessary daily life function.  
5       (b) "Medical parole" means a release on parole pursuant to the provisions of this article  
6       due to a terminal illness, medical incapacity, or geriatric condition.  
7       (c) "Medically incapacitated" means that an individual requires assistance with at least one  
8       necessary daily life function because of a medical, cognitive, or mental health condition that is not  
9       expected to improve.  
10      (d) "Necessary daily life function" means an essential self-care task including, but not  
11       limited to, breathing, bathing and showering, personal hygiene and grooming, dressing, toilet  
12       hygiene, functional mobility, and self-feeding.  
13      (e) "Terminal illness" means a serious and advanced condition with an end-of-life

14 trajectory, including, but not limited to, metastatic solid-tumor cancer, amyotrophic lateral sclerosis  
15 (ALS), end-stage organ disease, and advanced dementia. A specific prognosis of life expectancy  
16 is not necessary for an inmate to be deemed to have a terminal illness.

**§62-12A-2. Petition for medical parole.**

1 (a) Any inmate incarcerated in a state correctional institution may petition for medical  
2 parole because of a terminal illness, medical incapacity, or geriatric condition.

3 (b) The superintendent of a state correctional institution shall consider an inmate for  
4 medical parole upon receipt of a written petition submitted by:

5 (1) The inmate;  
6 (2) The inmate's legal counsel;  
7 (3) The inmate's legal guardian or conservator;  
8 (4) A family member acting on behalf of the inmate; or  
9 (5) Medical or correctional staff employed or contracted by the Division of Corrections and

10 Rehabilitation.

11 (c) The division shall provide written medical parole petition forms online and in each  
12 correctional institution's law library and medical facility. Petition forms shall include, at a minimum,  
13 space for the petitioner to specify the reason for the medical parole request and the relevant  
14 medical diagnosis and prognosis, as well as space to submit a medical parole plan. The medical  
15 parole plan must be a written statement including:

16 (1) A written diagnosis accompanied by a signed affidavit on letterhead from a licensed  
17 physician, if not a medical provider utilized by the division;  
18 (2) The proposed course of treatment for the inmate seeking medical parole;  
19 (3) The proposed site for treatment and post-treatment care;  
20 (4) Documentation that medical providers qualified to provide the medical services  
21 identified in the plan are prepared to provide such services;  
22 (5) The financial plan in place to cover the cost of the proposed care for the duration of the

23 medical parole; and

24 (6) A release form signed by the inmate permitting copies of the medical parole petition and  
25 all supporting documents, including the medical parole plan, to be provided to and reviewed by  
26 medical staff at and the superintendent of the inmate's correctional institution, the Commissioner  
27 of the Division of Corrections and Rehabilitation or his or her designee, and the Parole Board. If  
28 the inmate is not competent to sign the release form, the inmate's legal or medical guardian shall  
29 sign the release form on the inmate's behalf.

30 (d) If the inmate or petitioner fails to submit a medical parole plan with the medical parole  
31 petition, the plan shall be developed by the superintendent of the state correctional institution in  
32 which the inmate is incarcerated within 30 days of submission of the petition, in consultation with a  
33 case manager assigned to the inmate for purposes of developing the medical parole plan. The  
34 absence of a medical parole plan from a medical parole petition shall not be a reason for the  
35 commissioner to deny medical parole under §62-12A-5 of this code.

36 (e) Within 72 hours of any inmate's diagnosis of a terminal illness, medical staff at the  
37 inmate's correctional institution shall notify the inmate of the diagnosis. If an appropriate Health  
38 Insurance Portability and Accountability Act of 1996 (HIPAA) release form is on file for the inmate,  
39 medical staff shall also provide notice of the diagnosis to the inmate's legal counsel, legal guardian  
40 or conservator, and/or family member.

41 (f) Medical staff at each state correctional institution under the control of the division shall  
42 periodically review and consult with inmates possessing acute medical needs to determine  
43 whether they may satisfy the criteria for medical parole, and shall inform such inmates of the  
44 availability of the medical parole petition process.

45 (g) Any inmate may request assistance in obtaining and completing a medical parole  
46 petition, and relevant staff members at the inmate's correctional institution shall assist the inmate  
47 in completing and submitting the petition within 30 days of the inmate's initial request for  
48 assistance.

**§62-12A-3. Review and recommendation by superintendent.**

1       (a) Inmates shall submit all medical parole petitions to the superintendent of the  
2 correctional institution in which the inmate is incarcerated. A petition submitted to any other  
3 division employee or office shall be forwarded by the recipient to the appropriate superintendent  
4 for processing and review.

5       (b) The superintendent shall review each medical parole petition and, in consultation with  
6 the correctional institution's medical staff, confirm the relevant diagnosis of a petitioner asserting a  
7 terminal illness or medical incapacity or the medical conditions of a petitioner asserting a geriatric  
8 condition, as the case may be. Following such confirmation, the superintendent shall prepare a  
9 report summarizing the inmate's institutional history, rehabilitative or educational programming,  
10 evidence or lack of evidence of violence in the institutional setting, and other indicia of a risk of  
11 violence that the inmate poses to society, as demonstrated by the inmate's present medical  
12 condition and evidence-based factors.

13       (c) Following review of the medical parole petition, the superintendent shall make a  
14 recommendation as to the release of the inmate on medical parole. Whether or not the  
15 superintendent recommends in favor of medical parole, the superintendent shall forward the  
16 recommendation, petition, and all supporting documents to the commissioner within 15 days of  
17 receipt of the petition for petitioners asserting a terminal illness or medical incapacity, and within  
18 30 days of receipt of the petition for petitioners asserting a geriatric condition.

**§62-12A-4. Notice by commissioner; hearing; terms and conditions of release.**

1       (a) Upon receipt of a medical parole petition, supporting documents, and the  
2 recommendation of the superintendent, the commissioner shall notify the following individuals that  
3 the inmate is being considered for medical parole:

4           (1) The prosecuting attorney for the county in which the inmate was prosecuted and  
5 sentenced;

6           (2) The inmate;

7       (3) The person who petitioned for medical parole, if not the inmate; and

8       (4) If applicable, the victim of the offense or a victim's family member or other adult  
9       individual that the victim requested be notified prior to or at the time of any release of the inmate.

10      (b) The commissioner shall provide the notice required by subsection (a) of this section  
11     telephonically or in writing. Notice to a victim or other person requested by the victim to be notified  
12     shall be provided to the last known address or addresses or telephone number or numbers  
13     provided by the victim or other person to be notified. If notification by telephone is attempted,  
14     notification is not complete unless it is given directly to the person requesting notification and after  
15     that person's identity has been verified.

16      (c) Any individual who receives notice under subsection (a) of this section may provide a  
17     written statement to the commissioner in support of or in opposition to the inmate's medical parole  
18     petition. Written statements must be provided to the commissioner on or before the deadline for  
19     the commissioner's final decision.

20      (d) The commissioner, in his or her discretion, may conduct a hearing on the medical  
21     parole petition. The commissioner shall determine who may attend the hearing; attendees may  
22     include, but are not limited to:

23       (1) The inmate;

24       (2) The person who petitioned for medical parole, if not the inmate;

25       (3) The inmate's or petitioner's legal counsel;

26       (4) The prosecuting attorney for the county in which the inmate was prosecuted and  
27     sentenced;

28       (5) If applicable, the victim or victim's family members;

29       (6) Division staff deemed necessary by the commissioner; and

30       (7) A representative of the Parole Board.

31      (e) Any hearing held under subsection (d) of this section shall be closed to the public. The  
32     commissioner, or his or her designee, shall preside over every phase of the hearing and may

33 impose procedural requirements such as time limits on oral testimony. The commissioner shall not  
34 be bound by the West Virginia rules of evidence in conducting the hearing. The commissioner may  
35 ask questions, and any person giving oral testimony shall testify under oath. The hearing shall be  
36 recorded in a manner to allow a written transcript of the proceedings to be produced if necessary.

37 (f) Following review of the medical parole petition and following any hearing held under  
38 subsection (d) of this section, if it appears to the commissioner that a decision to release the  
39 inmate on medical parole is likely, the commissioner shall investigate and determine the suitability  
40 of the proposed place of residence and course of treatment set forth in the petition's medical  
41 parole plan. The commissioner may, in his or her discretion, additionally consult with the Parole  
42 Board in developing appropriate terms and conditions of release for the medical parole.

**§62-12A-5. Commissioner's final decision; reconsideration and review.**

1 (a) The commissioner shall issue a final, written decision on the medical parole petition no  
2 later than 30 days after receipt of the recommendation of the superintendent. The commissioner  
3 shall consider the following factors in making a decision, with no single factor to be treated as  
4 being dispositive:

5 (1) The inmate's diagnosis, as confirmed by the superintendent, and likelihood of recovery;  
6 (2) The approximate cost of providing health care to the inmate that would result to the  
7 division if the inmate were to remain incarcerated;

8 (3) The impact that the inmate's continued incarceration may have on the provision of  
9 medical care by the division generally and within the inmate's correctional institution specifically;  
10 (4) The inmate's present likelihood of and ability to pose substantial danger to the physical  
11 safety of a specifically identifiable person or persons;

12 (5) Whether the inmate's medical condition was explicitly disclosed to the original  
13 sentencing judge or taken into account at the time of sentencing, and, if so, what if any changes  
14 have occurred to the inmate's health; and

15 (6) Any written statements in support of or in opposition to the medical parole petition

16 submitted in accordance with §62-12A-4(c) of this code.

17 (b) The commissioner's decision shall be accompanied by a written statement of reasons  
18 supporting the decision as well as a statement of all conditions that must be met prior to the  
19 inmate's release.

20 (c) (1) An inmate who is denied medical parole may petition for reconsideration and review  
21 no sooner than six months following the date of the commissioner's decision denying parole. Any  
22 such petition for reconsideration and review must specify material changes to the inmate's  
23 medical condition(s) that have occurred since the time of the prior petition's submission. The  
24 commissioner shall deny any petition for reconsideration and review that lacks a statement of such  
25 material changes.

26 (2) When the commissioner denies any medical parole petition, the commissioner shall, at  
27 the time of denial, notify the inmate of the month and year he or she may submit a petition for  
28 reconsideration and review. The commissioner shall, at least once every three years, reconsider  
29 and review the case of every inmate who was denied medical parole and who is still eligible.

#### **§62-12A-6. Reporting.**

1 (a) The commissioner shall, not later than December 1 of each year, make an annual  
2 report available on the division's website detailing, for the prior year:

3 (1) The number of medical parole petitions received;

4 (2) The number of petitions approved, the number denied, and the number of applicants, if  
5 any, that died while awaiting a decision;

6 (3) The average number of days that elapsed from the initial submission of medical parole  
7 petitions to the commissioner's final decision on each;

8 (4) The cost savings realized by the division as a result of no longer providing health care  
9 to inmates released on medical parole;

10 (5) By each inmate who was either granted or denied medical parole:

11 (A) Demographic data (including the inmate's race, ethnicity, gender, age, and correctional

12 institution);

13 (B) Source of the medical parole petition;

14 (C) A basic description of the underlying medical condition(s);

15 (D) The highest class of offense for the inmate;

16 (E) The amount of time the inmate has been or was incarcerated;

17 (F) The reasons supporting the decision on the medical parole petition;

18 (G) A basic description of the medical setting of release; and

19 (H) Whether the inmate, if granted medical parole, died after being granted parole but prior

20 to being released from custody; and

21 (6) The number of inmates approved for medical parole but whose release was delayed by

22 more than one month, and for each such inmate:

23 (A) Demographic data (including the inmate's race, ethnicity, gender, age, and correctional

24 institution);

25 (B) The reason for the delay;

26 (C) Whether the inmate remains incarcerated as of the date of the annual report; and

27 (D) A basic description of the underlying medical condition(s).

**§62-12A-7.****Rulemaking.**

1 The commissioner may propose rules for legislative approval in accordance with the

2 provisions of §29A-3-1 *et seq.* of this code in implementing the provisions of this article.

NOTE: The purpose of this bill is to establish a medical parole program for eligible inmates in the custody of the Division of Corrections and Rehabilitation. The bill provides for medical parole petitions to be submitted by inmates and provides for a review process by superintendents of correctional institutions and the commissioner of corrections and rehabilitation. The bill provides for notice of possible medical parole to interested parties, for hearings on parole petitions, and for development of terms and conditions of release. The bill sets a process for reconsideration and review of denials of medical parole, sets reporting requirements, and includes rulemaking authority.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.