

SENATE BILL No. 339

By Committee on Federal and State Affairs

2-21

AN ACT concerning persons in the custody of the secretary of corrections; relating to early medical release.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) When used in this section, the term "crime" shall mean a crime classified as a nonperson felony or a nonperson misdemeanor or a crime which would be classified as a nonperson felony or nonperson misdemeanor if such crime had been committed on or after July 1, 1993.

(b) (1) Upon application of the secretary of corrections or any person convicted of a crime in any court of this state, the Kansas parole board may grant early medical release to such person upon such terms and conditions as prescribed in the order granting such release.

(2) The Kansas parole board shall adopt rules and regulations governing the procedure for initiating, processing, reviewing and establishing criteria for approval of applications for early medical release filed by and on behalf of persons convicted of crime. Rules and regulations adopted by the Kansas parole board shall include criteria and guidelines for determining whether the medical condition precludes the person from posing a threat to the public.

(3) Subject to the provisions of subsections (4) and (5), no early medical release shall be granted until more than 30 days after written notice of the application therefor has been given to: (A) The prosecuting attorney and the judge of the court in which the defendant was convicted; and (B) any victim of the person's crime or the victim's family. Notice of such application shall be given by the secretary of corrections to the victim who is alive and whose address is known to the secretary of corrections, or if the victim is deceased, to the victim's family if the family's address is known to the secretary of corrections. Notice of the receipt of such application shall be given by publication in the official county paper of the county of conviction. The form of notice shall be prescribed by the board. Except as provided by this section, the cost of providing notice shall be paid by the applicant. If the applicant executes a poverty affidavit, the cost of one publication of the notice during a twelve-month period shall be paid by the department of corrections. If more than one notice of application for either a pardon or commutation pursuant to K.S.A. 22-

1 3701, and amendments thereto, or a medical release is published during
2 any twelve-month period the additional cost of publication shall be paid
3 by the applicant. Subject to the provisions of subsection (4), if written
4 notification is not given to such victim who is alive and whose address is
5 known to the secretary of corrections or, if the victim is deceased, to the
6 victim's family if the family's address is known to the secretary of correc-
7 tions, the board shall not grant or deny such application until a time at
8 least 30 days after notification is given by publication as provided in this
9 section.

10 (4) All applications for early medical release shall be referred to the
11 board. The board shall examine each case and may approve such appli-
12 cation and grant an early medical release, except as provided by subsec-
13 tion (5). No application for early medical release shall be approved unless
14 the board determines:

15 (A) The person is suffering from a terminal disease or condition;

16 (B) a reasonable probability exists that the person will not live to serve
17 the term to which sentenced;

18 (C) the person will not pose a threat of harm to the public due to
19 such terminal disease or condition; and

20 (D) the person will not violate any law or condition imposed by the
21 board.

22 (5) If the board approves an application for early medical release, the
23 board shall notify the governor of its recommendation and shall submit a
24 report, together with such information as the board may have concerning
25 the applicant, to the governor within 14 days after the date of approval
26 of the application. If within 14 days of receipt of the notice and report
27 required by this subsection, the governor rejects the board's approval of
28 early medical release, the board's approval shall be void and such person
29 shall not be granted an early medical release pursuant to this section.

30 (c) (1) In the case of persons sentenced under the sentencing guide-
31 lines, application for early medical release from post release supervision
32 shall be made to the sentencing court. Upon application of the secretary
33 of corrections or any person convicted of a crime in any court of this state,
34 such court may grant early medical release to such person upon such
35 terms and conditions as prescribed in the order granting such release.

36 (2) The supreme court shall adopt rules and regulations governing
37 the procedure for initiating, processing, reviewing and establishing cri-
38 teria for approval of applications for early medical release filed by and on
39 behalf of persons convicted of crime. Rules and regulations adopted by
40 the supreme court shall include criteria and guidelines for determining
41 whether the medical condition precludes the person from posing a threat
42 to the public.

43 (3) Subject to the provisions of subsections (4) and (5), no early med-

1 ical release shall be granted until more than 30 days after written notice
2 of the application therefor has been given to: (A) The prosecuting attorney;
3 and (B) any victim of the person's crime or the victim's family. Notice
4 of such application shall be given by the sentencing court to the victim
5 who is alive and whose address is known to the court, or if the victim is
6 deceased, to the victim's family if the family's address is known to the
7 court. Notice of the receipt of such application shall be given by publication
8 in the official county paper of the county of conviction. The form
9 of notice shall be prescribed by the supreme court. Except as provided
10 by this section, the cost of providing notice shall be paid by the applicant.
11 If the applicant executes a poverty affidavit, the cost of one publication
12 of the notice during a twelve-month period shall be paid by the court. If
13 more than one notice of application for either a pardon or commutation
14 pursuant to K.S.A. 22-3701, and amendments thereto, or a medical release
15 is published during any twelve-month period the additional cost of
16 publication shall be paid by the applicant. Subject to the provisions of
17 subsection (4), if written notification is not given to such victim who is
18 alive and whose address is known to the court or, if the victim is deceased,
19 to the victim's family if the family's address is known to the court, the
20 court shall not grant or deny such application until a time at least 30 days
21 after notification is given by publication as provided in this section.

22 (4) The court shall examine each case and may approve such application
23 and grant an early medical release, except as provided by subsection
24 (5). No application for early medical release shall be approved unless
25 the court determines:

26 (A) The person is suffering from a terminal disease or condition;

27 (B) a reasonable probability exists that the person will not live to serve
28 the term to which sentenced;

29 (C) the person will not pose a threat of harm to the public due to
30 such terminal disease or condition; and

31 (D) the person will not violate any law or condition imposed by the
32 court.

33 (5) If the court approves an application for early medical release, the
34 court shall notify the governor of its recommendation and shall submit a
35 report, together with such information as the court may have concerning
36 the applicant, to the governor within 14 days after the date of approval
37 of the application. If within 14 days of receipt of the notice and report
38 required by this subsection, the governor rejects the court's approval of
39 early medical release, the court's approval shall be void and such person
40 shall not be granted an early medical release pursuant to this section.

41 (d) Nothing in this section shall be construed to limit or preclude
42 submission of an application for pardon or commutation of sentence pursuant
43 to K.S.A. 22-3701, and amendments thereto.

1 Sec. 2. This act shall take effect and be in force from and after its
2 publication in the statute book.
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