

HOUSE BILL No. 2071

By Committee on Corrections and Juvenile Justice

1-18

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to terminal medical release; criteria for release; permitting release
3 earlier in terminal diagnosis; amending K.S.A. 2022 Supp. 22-3729 and
4 repealing the existing section.
5

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

7 Section 1. K.S.A. 2022 Supp. 22-3729 is hereby amended to read as
8 follows: 22-3729. (a) (1) Upon application of the secretary of corrections,
9 the chairperson of the prisoner review board may grant release to any
10 person deemed by a doctor licensed to practice medicine and surgery in
11 Kansas to have a terminal medical condition likely to cause death within
12 ~~30~~ 120 days upon such terms and conditions as prescribed in the order
13 granting such release.

14 (2) The secretary of corrections shall adopt rules and regulations
15 governing the prisoner review board's procedure for initiating, processing,
16 reviewing and establishing criteria for review of applications filed on
17 behalf of persons deemed to have a terminal medical condition likely to
18 cause death within ~~30~~ 120 days. Such rules and regulations shall include
19 criteria and guidelines for determining whether the terminal medical
20 condition precludes the person from posing a threat to the public.

21 (3) All applications for a terminal medical condition release shall be
22 referred to the chairperson of the board. The chairperson of the board shall
23 examine each case and may approve such application and grant a release.
24 An application for release shall not be approved unless the chairperson of
25 the board determines that the person has been deemed by a doctor licensed
26 to practice medicine and surgery in Kansas to have a terminal medical
27 condition likely to cause death within ~~30~~ 120 days and does not represent a
28 future risk to public safety. The chairperson of the board may request
29 additional information or evidence the chairperson of the board deems
30 necessary from a doctor licensed to practice medicine and surgery in
31 Kansas.

32 (4) (A) The chairperson of the board shall establish any conditions
33 related to the release of the person. The release shall be conditional, and be
34 subject to revocation pursuant to K.S.A. 75-5217, and amendments
35 thereto, if the:

36 (i) Person's illness or condition significantly improves, ~~the~~;

- 1 (ii) person does not die within ~~30~~ 120 days of release, ~~if the~~;
 2 (iii) person fails to comply with any condition of release, ~~or if the~~; *or*
 3 (iv) board otherwise concludes that the person presents a threat or risk
 4 to public safety.

5 (B) The person shall remain on release supervision until the release is
 6 revoked, expiration of the maximum sentence or discharged by the board.
 7 Subject to the provisions of ~~subsection (f)~~ of K.S.A. 75-5217(f), and
 8 amendments thereto, the person shall receive credit for the time during
 9 which the person is on terminal medical condition release supervision
 10 towards service of the prison and postrelease supervision obligations of
 11 determinate sentences or indeterminate sentences.

12 (5) The secretary of corrections shall cause the person to be
 13 supervised upon release, and shall have the authority to initiate revocation
 14 of the person at any time for the reasons indicated in subsection (a)(4).

15 (6) The decision of the chairperson of the board on the application
 16 and the decision of the board regarding any revocation shall be final and
 17 not subject to review by any administrative agency or court.

18 (7) In determining whether a person meets the criteria to be released
 19 under this section, the chairperson of the board shall consider ~~the~~
 20 ~~following~~:

21 (A) The person's current condition as confirmed by a doctor licensed
 22 to practice medicine and surgery in Kansas, including whether the
 23 condition is terminal and likely to cause death within ~~30~~ 120 days;

24 (B) the person's age and personal history;

25 (C) the person's criminal history;

26 (D) the person's length of sentence and time the person has served;

27 (E) the nature and circumstances of the current offense;

28 (F) the risk or threat to the community if released;

29 (G) whether an appropriate release plan has been established; and

30 (H) any other factors deemed relevant by the board member.

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

34 (c) The secretary shall give notice of the granting of a terminal
 35 medical condition release to:

36 (1) The prosecuting attorney and the judge of the court in which the
 37 person was convicted; and

38 (2) any victim of the person's crime if alive or the victim's family if
 39 the victim is deceased, whose address is known by the secretary.

40 (d) This section does not apply to any person sentenced to
 41 imprisonment for an off-grid offense.

42 Sec. 2. K.S.A. 2022 Supp. 22-3729 is hereby repealed.

43 Sec. 3. This act shall take effect and be in force from and after its

- 1 publication in the statute book.