

1 SB87
2 177237-2
3 By Senators Pittman, Brewbaker, Albritton, Allen, Marsh, Reed,
4 Stutts, Waggoner and Coleman-Madison
5 RFD: Finance and Taxation General Fund
6 First Read: 07-FEB-17

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8 SYNOPSIS: The Alabama Medical Furlough Act establishes
9 a procedure for the discretionary medical furlough
10 of certain incapacitated inmates convicted of
11 certain criminal offenses.

12 This bill would require the Department of
13 Corrections to annually identify all prisoners who
14 have spent 30 or more days in an infirmary or under
15 a physician's care to determine if the prisoner is
16 eligible for a medical furlough. Upon a
17 determination that the prisoner is eligible for
18 medical furlough, the bill would require the
19 expedited furlough of the inmate, subject to any
20 restrictions deemed appropriate by the department.

21 This bill would also provide that prisoners
22 who have reached a certain age and who have served
23 a certain percentage of their sentence are eligible
24 for medical furloughs under certain conditions.

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26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To amend Sections 14-14-2 and 14-14-4, Code of
4 Alabama 1975, relating to medical furloughs, to require the
5 Department of Corrections to annually identify all prisoners
6 who have spent 30 or more days in an infirmary or under a
7 physician's care; to require the department to evaluate the
8 eligibility of identified prisoners for a medical furlough; to
9 provide for an expedited furlough of eligible prisoners under
10 certain conditions; to provide that prisoners who have reached
11 a certain age and who have served a certain percentage of
12 their sentence are eligible for medical furloughs under
13 certain conditions; and to provide for the medical furlough of
14 prisoners convicted of criminal offenses suffering from
15 life-threatening illnesses when death is imminent and under
16 certain restrictions.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 14-14-2 and 14-14-4, Code of
19 Alabama 1975, are amended to read as follows:

20 "§14-14-2.

21 "For purposes of this chapter, the following words
22 shall have the following meanings:

23 "(1) COMMISSIONER. The Commissioner of the
24 Department of Corrections.

25 "(2) DEPARTMENT. The Department of Corrections.

26 "(3) GERIATRIC INMATE. A person 55 years of age or
27 older convicted in this state of ~~a non-capital felony~~ any

1 offense and sentenced to the penitentiary, who suffers from a
2 chronic life-threatening infirmity, life-threatening illness,
3 or chronic debilitating disease related to aging, who poses a
4 low risk to the community, and who does not constitute a
5 danger to himself or herself or society.

6 "(4) NECESSARY DAILY LIFE FUNCTION. Eating,
7 breathing, toileting, walking, or bathing.

8 ~~"(4) (5) PERMANENTLY INCAPACITATED INMATE. A state~~
9 ~~inmate who possesses a permanent, irreversible physical or~~
10 ~~mental health condition that prevents him or her from being~~
11 ~~able to perpetrate a violent physical action upon another~~
12 ~~person or self or initiate or participate in a criminal act.~~
13 ~~The medical or mental health treatment or need for assistance~~
14 ~~of such individual must require daily assistance from a~~
15 ~~caretaker or a long-term skilled medical or rehabilitation~~
16 ~~center to perform or assist with activities of daily living,~~
17 ~~such as ambulation, dressing, and bathing and/or must require~~
18 ~~medications or treatments, such as hemodialysis, to sustain~~
19 ~~life which require regular diagnostic tests to monitor~~
20 ~~therapeutic effectiveness. Long-term care and housing needs of~~
21 ~~such individual with a physical or mental health condition~~
22 ~~described above must have the potential to exceed the~~
23 ~~capabilities to provide such need within the confinement of a~~
24 ~~secure correctional facility within the department. satisfies~~
25 both of the following:

1 "a. Requires assistance in order to perform two or
2 more necessary daily life functions or who is completely
3 immobile.

4 "b. Has such limited physical or mental ability,
5 strength, or capacity that he or she poses an extremely low
6 risk of physical threat to others or to the community.

7 "~~(5)~~ (6) TERMINALLY ILL INMATE. A person convicted
8 of ~~a non-capital felony~~ any offense who is sentenced to the
9 penitentiary and who has an incurable condition caused by
10 illness or disease which would, with reasonable medical
11 judgment, produce death within 12 months, and who does not
12 constitute a danger to himself or herself or society.

13 "§14-14-4.

14 "(a) (1) The department shall establish a medical
15 furlough program. The commissioner shall adopt the rules and
16 regulations for implementation of the medical furlough
17 program. For each person considered for medical furlough, the
18 commissioner shall determine whether the person is a geriatric
19 inmate, permanently incapacitated inmate, or terminally ill
20 inmate.

21 "(2)a. Under the medical furlough program
22 established under subdivision (1), by January 1 of each
23 calendar year, the department shall identify all prisoners who
24 have spent more than 30 or more days in an infirmary or under
25 a physician's care in the prior calendar year and determine if
26 identified prisoners are eligible for a medical furlough.

1 "b. Upon a determination that the prisoner is
2 eligible for a medical furlough under paragraph a., the
3 prisoner shall be placed on medical furlough within 30 days
4 after the determination under any conditions of release
5 determined to be appropriate as provided in subsection (d).

6 "c. Notwithstanding the definition of "geriatric
7 inmate" under Section 14-14-2, the following individuals who
8 suffer from chronic life-threatening infirmities,
9 life-threatening illness, or chronic debilitating disease
10 relating to aging, shall be eligible for a medical furlough:

11 "1. A prisoner 55 years of age who has served at
12 least 50 percent of his or her sentence.

13 "2. A prisoner 60 years of age who has served at
14 least 45 percent of his or her sentence.

15 "3. A prisoner 65 years of age who has served at
16 least 40 percent of his or her sentence.

17 "d. Regardless of the percentage of the sentence
18 served as required in paragraph c., the department may make a
19 determination that illness or infirmity suffered by the person
20 is so severe that he or she is immediately eligible for a
21 medical furlough.

22 "(3)a. By January 1 of each calendar year, the
23 department shall identify all prisoners convicted of any
24 offense who are suffering from a life-threatening illness and
25 whose death is imminent within the year.

26 "b. Upon a determination that a prisoner satisfies
27 paragraph a., the prisoner shall be placed on medical furlough

1 within 30 days under any conditions of release determined to
2 be appropriate as provided in subsection (d).

3 "(b) Notwithstanding any other law to the contrary,
4 an inmate who has not served his or her minimum sentence shall
5 be considered eligible for consideration for furlough under
6 this chapter.

7 "~~(c) This chapter shall not apply to inmates~~
8 ~~convicted of capital murder or a sexual offense.~~

9 "~~(d)~~ (c) Medical furlough consideration shall be in
10 addition to any other release for which an inmate may be
11 eligible.

12 "~~(e)~~ (d) The commissioner shall determine the
13 conditions of release of any inmate pursuant to this chapter,
14 including the appropriate level of supervision of the inmate,
15 and shall develop a discharge plan for each inmate released
16 under this chapter. Prior to the commissioner granting any
17 release based on the appropriate medical documentation
18 pursuant to subsection (b) of Section 14-14-5, employees of
19 the department shall contact appropriate departments and
20 agencies, which may include, but shall not be limited to, the
21 Department of Public Health, the Department of Human
22 Resources, Medicare, Medicaid, hospice organizations, or other
23 public and nonprofit community service agencies as the
24 commissioner may deem necessary for consultation in developing
25 an appropriate discharge plan, and to confirm that required
26 care and resources are available to meet the inmate's needs.
27 This chapter is not intended to expand or create new

1 responsibilities for public agencies for arranging and
2 providing care.

3 ~~"(f)~~ (e) In considering an inmate for medical
4 furlough, the department may request that additional medical
5 evidence be produced, or that additional medical examinations
6 be conducted.

7 ~~"(g)~~ (f) Except as provided herein, the furlough of
8 an inmate on medical furlough shall be for the remainder of
9 the inmate's sentence. In addition to terms and conditions
10 prescribed by the department, supervision of an inmate on
11 medical furlough shall at a minimum consist of biannual
12 medical evaluations by a medical care provider at intervals to
13 be determined by the commissioner at the time of release.

14 ~~"(h)~~ (g) If the medical condition of an inmate
15 released pursuant to this chapter should improve to the extent
16 that he or she no longer meets the criteria by which he or she
17 was released, or if he or she violates a condition of release
18 or becomes a danger to himself or herself or others, the
19 commissioner shall revoke the furlough.

20 ~~"(i)~~ (h) The commissioner shall report annually to
21 the Joint Legislative Interim Prison Committee, House
22 Judiciary Sentencing Commission Subcommittee, and the Alabama
23 Sentencing Commission on the number of applications for
24 medical furlough, the nature of the illnesses, diseases, and
25 conditions of the applicants, the number of inmates granted
26 and denied release, and the number of persons on medical
27 furlough who have been returned to the custody of the

1 department. The commissioner shall further report on the
2 status of all inmates who meet the criteria for medical
3 furlough as defined in Section 14-14-2. This report shall
4 include those individuals who have spent more than 30 calendar
5 days within the prior 12 month time period in an infirmary or
6 under direct medical supervision for the medical condition
7 associated with the furlough request or its comorbidities,
8 including whether the individual was granted an expedited
9 furlough under subdivision (a)(2). The report shall be made in
10 a manner that does not disclose any individual identifying
11 information for any particular inmate and shall be compliant
12 in all respects with the Health Insurance Portability and
13 Accountability Act."

14 Section 2. This act shall become effective
15 immediately following its passage and approval by the
16 Governor, or its otherwise becoming law.