

HOUSE BILL No. 2469

By Committee on Corrections and Juvenile Justice

1-23

Proposed Amendments to HB 2469 - Highberger
House Corrections and Juvenile Justice
Prepared by: Natalie Scott, Assistant Revisor
February 8, 2020

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to terminal medical release; criteria for release; amending K.S.A. 2019
3 Supp. 22-3729 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2019 Supp. 22-3729 is hereby amended to read as
7 follows: 22-3729. (a) (1) Upon application of the secretary of corrections,
8 the chairperson of the prisoner review board may grant release to any
9 person deemed by a doctor licensed to practice medicine and surgery in
10 Kansas to have a terminal medical condition likely to cause death within
11 ~~30~~ 90 days upon such terms and conditions as prescribed in the order
12 granting such release.

13 (2) The secretary of corrections shall adopt rules and regulations
14 governing the prisoner review board's procedure for initiating, processing,
15 reviewing and establishing criteria for review of applications filed on
16 behalf of persons deemed to have a ~~terminal medical condition~~ likely to
17 cause death within ~~30~~ 90 days. Such rules and regulations shall include
18 criteria and guidelines for determining whether the terminal medical
19 condition precludes the person from posing a threat to the public.

120

20 (3) All applications for a terminal medical condition release shall be
21 referred to the chairperson of the board. The chairperson of the board shall
22 examine each case and may approve such application and grant a release.
23 An application for release shall not be approved unless the chairperson of
24 the board determines that the person has been deemed by a doctor licensed
25 to practice medicine and surgery in Kansas to have a ~~terminal medical~~
26 condition likely to cause death within ~~30~~ 90 days and does not represent a
27 future risk to public safety. The chairperson of the board may request
28 additional information or evidence the chairperson of the board deems
29 necessary from a doctor licensed to practice medicine and surgery in
30 Kansas.

120

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

- 35 (i) Person's illness or condition significantly improves; the;
- 36 (ii) person does not die within ~~30~~ 90 days of release, if the;

120

1 (iii) person fails to comply with any condition of release, ~~or if the~~; or
 2 (iv) board otherwise concludes that the person presents a threat or risk
 3 to public safety.

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

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

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

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

20 (A) The person's current condition as confirmed by a doctor licensed
 21 to practice medicine and surgery in Kansas, including ~~whether the~~
 22 condition is terminal and likely to cause death within ~~30 90~~ days;

120

- 23 (B) the person's age and personal history;
- 24 (C) the person's criminal history;
- 25 (D) the person's length of sentence and time the person has served;
- 26 (E) the nature and circumstances of the current offense;
- 27 (F) the risk or threat to the community if released;
- 28 (G) whether an appropriate release plan has been established; and
- 29 (H) any other factors deemed relevant by the board member.

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

33 (c) The secretary shall give notice of the granting of a terminal
 34 medical condition release to: (1) The prosecuting attorney and the judge of
 35 the court in which the person was convicted; and (2) any victim of the
 36 person's crime if alive or the victim's family if the victim is deceased,
 37 whose address is known by the secretary.

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

40 Sec. 2. K.S.A. 2019 Supp. 22-3729 is hereby repealed.

41 Sec. 3. This act shall take effect and be in force from and after its
 42 publication in the statute book.