

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 650

Short Title: Spending Reduction With Medical House Arrest. (Public)

Sponsors: Senator Vaughan.

Referred to: Judiciary II.

April 20, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE A SHERIFF TO PLACE CERTAIN DEFENDANTS OR
3 PRISONERS ON MEDICAL HOUSE ARREST WITH ELECTRONIC MONITORING IN
4 LIEU OF CONFINEMENT TO THE LOCAL CONFINEMENT FACILITY AND TO
5 AUTHORIZE THE POST-RELEASE SUPERVISION AND PAROLE COMMISSION TO
6 RELEASE CERTAIN PRISONERS WHO REQUIRE ONGOING MAJOR MEDICAL
7 TREATMENT ON MEDICAL RELEASE, PROVIDED THE PRISONER IS PLACED
8 ON HOUSE ARREST WITH ELECTRONIC MONITORING.

9 The General Assembly of North Carolina enacts:

10 SECTION 1. Article 25 of Chapter 15A of the General Statutes is amended by
11 adding a new section to read:

12 "**§ 15A-522. Medical house arrest with electronic monitoring for certain defendants.**

13 (a) A sheriff who has control and custody of a defendant who is awaiting trial and
14 confined in a local jail or other local detention facility may modify the place of confinement of
15 the defendant pursuant to this section by placing the defendant on medical house arrest with
16 electronic monitoring if all of the following criteria are met:

- 17 (1) The defendant is charged only with a nonviolent Class I felony or lesser
18 nonviolent offense and has no prior convictions of a violent felony.
19 (2) The defendant requires ongoing major medical treatment.
20 (3) The sheriff determines that it would be more cost-effective to house the
21 defendant in the defendant's home on house arrest with electronic monitoring
22 while the defendant is undergoing major medical treatment.
23 (4) The defendant agrees to the modification.

24 (b) The only modification that a sheriff may make under this section to the commitment
25 order of a defendant is to place the defendant on medical house arrest with electronic
26 monitoring. The defendant shall be returned to the local jail or other local detention facility,
27 unless otherwise ordered by the court, upon completion of the major medical treatment."

28 SECTION 2. G.S. 15A-521(b) reads as rewritten:

29 "(b) Order of Commitment; Modification. – The order of commitment must:

- 30 (1) State the name of the person charged or identify him if his name cannot be
31 ascertained.
32 (2) Specify the offense charged.
33 (3) Designate the place of confinement.
34 (3a) Authorize the sheriff to modify the place of confinement pursuant to
35 G.S. 15A-522.
36 (4) If release is authorized pursuant to Article 26 of this Chapter, Bail, state the
37 conditions of release. If a separate order stating the conditions has been



1 entered, the commitment may make reference to that order, a copy of which
2 must be attached to the commitment.

3 (5) Subject to the provisions of subdivision (4), direct, as appropriate, that the
4 defendant be:

- 5 a. Produced before a district court judge pursuant to Article 29 of this
6 Chapter, First Appearance before District Court Judge,
- 7 b. Produced before a district court judge for a probable cause hearing as
8 provided in Article 30 of this Chapter, Probable-Cause Hearing,
- 9 c. Produced for trial in the district or superior court, or
- 10 d. Held for other specified purposes.

11 (6) State the name and office of the judicial official making the order and be
12 signed by him.

13 The order of commitment may be modified or continued by the same or another judicial official
14 by supplemental order, order or as provided by G.S. 15A-522."

15 **SECTION 3.** Article 83 of Chapter 15A of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 15A-1352.1. Sheriff may modify designated place of confinement to place prisoner on**
18 **medical house arrest with electronic monitoring.**

19 (a) A sheriff who has control and custody of a person confined in a local confinement
20 facility may modify, pursuant to this section, the person's place of confinement as designated in
21 the commitment order by placing the person on medical house arrest with electronic monitoring
22 if all of the following criteria are met:

- 23 (1) The person was committed to the local confinement facility under
24 G.S. 15A-1352.
- 25 (2) The person is serving a sentence imposed only for the conviction of
26 nonviolent Class I felony offenses or nonviolent misdemeanor offenses and
27 has no prior conviction for a violent felony.
- 28 (3) The person requires ongoing major medical treatment.
- 29 (4) The sheriff determines that it would be more cost-effective to house the
30 person in the person's home on house arrest with electronic monitoring while
31 the person is undergoing major medical treatment.
- 32 (5) The person agrees to the modification.

33 (b) The only modification that a sheriff may make under this section to the commitment
34 order of a person is to place the person on medical house arrest with electronic monitoring. The
35 person shall be returned to the local confinement facility, unless otherwise ordered by the court,
36 upon completion of the major medical treatment."

37 **SECTION 4.** G.S. 15A-1353 is amended by adding a new subsection to read:

38 "(g) There must be included in the commitment, or in a separate order referred to in the
39 commitment, a provision authorizing the sheriff to place the person on medical house arrest
40 with electronic monitoring pursuant to G.S. 15A-1352.1."

41 **SECTION 5.** G.S. 15A-1369 reads as rewritten:

42 **"§ 15A-1369. Definitions.**

43 For purposes of this Article, the term:

- 44 (1) "Commission" means the Post-Release Supervision and Parole Commission.
- 45 (2) "Department" means the Department of Correction.
- 46 (3) "Geriatric" describes an inmate who is 65 years of age or older and suffers
47 from chronic infirmity, illness, or disease related to aging that has
48 progressed such that the inmate is incapacitated to the extent that he or she
49 does not pose a public safety risk.
- 50 (4) "Inmate" means any person sentenced to the custody of the Department of
51 Correction.

- 1 (5) "Medical release" means a program enabling the Commission to release
2 inmates who are permanently and totally disabled, terminally ill, or
3 ~~geriatric~~ geriatric or require ongoing major medical treatment.
4 (6) "Medical release plan" means a comprehensive written medical and
5 psychosocial care plan that is specific to the inmate and includes, at a
6 minimum:
7 a. The proposed course of treatment;
8 b. The proposed site for treatment and post-treatment care;
9 c. Documentation that medical providers qualified to provide the
10 medical services identified in the medical release plan are prepared to
11 provide those services; and
12 d. The financial program in place to cover the cost of this plan for the
13 duration of the medical release, which shall include eligibility for
14 enrollment in commercial insurance, Medicare, or Medicaid or
15 access to other adequate financial resources for the duration of the
16 medical release.
17 (7) "Permanently and totally disabled" describes an inmate who, as determined
18 by a licensed physician, suffers from permanent and irreversible physical
19 incapacitation as a result of an existing physical or medical condition that
20 was unknown at the time of sentencing or, since the time of sentencing, has
21 progressed to render the inmate permanently and totally disabled, such that
22 the inmate does not pose a public safety risk.
23 (7a) "Requires ongoing major medical treatment" describes an inmate who, as
24 determined by a licensed physician, suffers from a chronic illness or health
25 condition that was unknown at the time of sentencing or, since the time of
26 sentencing, has progressed to the stage that if left untreated will likely
27 produce death or permanent and irreversible physical incapacitation and that
28 requires specialized medical equipment or services such as dialysis.
29 (8) "Terminally ill" describes an inmate who, as determined by a licensed
30 physician, has an incurable condition caused by illness or disease that was
31 unknown at the time of sentencing or, since the time of sentencing, has
32 progressed to render the inmate terminally ill, and that will likely produce
33 death within six months, and that is so debilitating such that the inmate does
34 not pose a public safety risk."

35 **SECTION 6.** G.S. 15A-1369.2 reads as rewritten:

36 **"§ 15A-1369.2. Eligibility.**

37 (a) Except as otherwise provided in this section, notwithstanding any other provision of
38 law, an inmate is eligible to be considered for medical release if the Department determines that
39 the inmate is:

- 40 (1) Diagnosed as permanently and totally disabled, terminally ill, or geriatric or
41 requires ongoing major medical treatment under the procedure described in
42 G.S. 15A-1369.3(b)(1); and
43 (2) Incapacitated to the extent that the inmate does not pose a public safety
44 ~~risk~~ risk, or, if the release is for ongoing major medical treatment, satisfies
45 the risk assessment criteria used by the Commission to determine whether an
46 inmate poses a public safety risk.

47 (b) Persons convicted of a capital felony or a Class A, B1, or B2 felony and persons
48 convicted of an offense that requires registration under Article 27A of Chapter 14 of the
49 General Statutes shall not be eligible for release under this Article.

50 (c) No inmate is eligible under this Article for release for ongoing major medical
51 treatment except one who is serving a sentence imposed only for the conviction of nonviolent

1 Class I felony offenses or nonviolent misdemeanor offenses, has no prior conviction for a
2 violent felony, and does not pose a public safety risk."

3 **SECTION 7.** G.S. 15A-1369.3 reads as rewritten:

4 **"§ 15A-1369.3. Procedure for medical release.**

5 (a) The Commission shall consider an inmate for medical release upon referral by the
6 Department. The Department may base its referral upon either a request or petition for release
7 filed by the inmate, the inmate's attorney, or the inmate's next of kin or upon a recommendation
8 from within the Department.

9 (b) The referral shall include an assessment of the inmate's medical and psychosocial
10 condition and the risk the inmate poses to society, as follows:

11 (1) The Department medical director, or a designee of the director who is a
12 licensed physician, shall review the case of each inmate who meets the
13 eligibility requirements for medical release set forth in G.S. 15A-1369.2.
14 Any physician who examines an inmate being considered for medical release
15 shall prepare a written diagnosis that includes:

16 a. A description of any and all terminal conditions, physical
17 incapacities, and chronic conditions; and

18 b. A prognosis concerning the likelihood of recovery from any and all
19 terminal conditions, physical incapacities, and chronic
20 ~~conditions.~~conditions; and

21 c. If the release is for required ongoing major medical treatment, an
22 analysis of the treatment for the particular chronic illness or health
23 condition and a description of the specialized medical equipment,
24 services, and procedures required to provide the major medical
25 treatment.

26 (2) The Department shall make an assessment of the risk for violence and
27 recidivism that the inmate poses to society. In order to make this assessment,
28 the Department may consider such factors as the inmate's medical condition,
29 the severity of the offense for which the inmate is incarcerated, the inmate's
30 prison record, and the release plan.

31 (c) If the Department determines that the inmate meets the criteria for release, the
32 Department shall forward its referral and medical release plan for the inmate to the
33 Commission. The Department shall complete the risk assessment and forward its referral and
34 medical release plan within 45 days of receiving a request, petition, or recommendation for
35 release.

36 (d) The Commission shall make a determination of whether to grant medical release
37 within 15 days of receiving a referral from the Department for release of a terminally ill inmate
38 and within 20 days of receiving a referral from the Department for release of a permanently and
39 totally disabled ~~inmate or a geriatric inmate.~~ inmate, a geriatric inmate, or an inmate who
40 requires ongoing major medical treatment. In making the determination, the Commission shall
41 make an independent assessment of the risk for violence and recidivism that the inmate poses
42 to society. The Commission also shall provide the victim or victims of the inmate or the
43 victims' family or families with an opportunity to be heard.

44 (e) A denial of medical release by the Commission shall not affect an inmate's
45 eligibility for any other form of parole or release under applicable law.

46 (f) If the Department determines that an inmate should not be considered for release
47 under this Article or the Commission denies medical release under this Article, the inmate may
48 not reapply or be reconsidered unless there is a demonstrated change in the inmate's medical
49 condition."

50 **SECTION 8.** G.S. 15A-1369.4(a) reads as rewritten:

1 "(a) The Commission shall set reasonable conditions upon an inmate's medical release
2 that shall apply through the date upon which the inmate's sentence would have expired. These
3 conditions shall include:

- 4 (1) That the released inmate's care be consistent with the care specified in the
5 medical release plan as approved by the Commission;
- 6 (2) That the released inmate shall cooperate with and comply with the
7 prescribed medical release plan and with reasonable requirements of medical
8 providers to whom the released inmate is to be referred to continued
9 treatment;
- 10 (3) That the released inmate shall be subject to supervision by the Division of
11 Community Corrections and shall permit officers from the Division to visit
12 the inmate at reasonable times at the inmate's home or elsewhere;
- 13 (4) That the released inmate shall comply with any conditions of release set by
14 the ~~Commission; and~~ Commission;
- 15 (5) That the Commission shall receive periodic assessments from the inmate's
16 treating ~~physician.~~ physician; and
- 17 (6) That any inmate released because the inmate requires ongoing major medical
18 treatment shall be subject to house arrest with electronic monitoring for the
19 duration of the inmate's medical release."

20 **SECTION 9.** This act becomes effective December 1, 2011.