

**HOUSE JUDICIARY COMMITTEE
REPRESENTATIVE LAWRENCE R. KLEMIN, CHAIRMAN
JANUARY 6, 2021**

**STEVEN D. HALL, DIRECTOR TRANSITIONAL PLANNING SERVICES
NORTH DAKOTA DEPARTMENT OF CORRECTIONS & REHABILITATION
PRESENTING TESTIMONY HOUSE BILL 1071**

For the record, my name is Steven Hall, and I am the Director for Transitional Planning Services within the North Dakota Department of Corrections and Rehabilitation (DOCR). I am here to testify on behalf of the department in support of House Bill 1071, which amends Section 12-59-08 of the North Dakota Century Code.

House Bill 1071 modifies the definition of individuals eligible for medical parole by expanding the definition to include individuals who have a substantial risk of developing a serious or terminal medical condition based on underlying medical conditions.

Section 12-59-08 of the North Dakota Century Code was amended in 2017 as part of the criminal justice and corrections reform legislation. One of its purposes was to make people with a serious or terminal medical condition that were subject to the mandatory sentencing and truth-in-sentencing requirements under Sections 12.1-32-02.1 and 12.1-32-09.1 eligible for parole rather than requiring them to go through the commutation process with the Pardon Advisory Board to remove those restrictions.

Currently, the parole board has the authority to consider medical parole for individuals who have a serious or terminal medical condition, as diagnosed by a DOCR medical provider. A serious medical condition, as defined by Parole Board policy, is an injury, illness, disease, physiologic or psychological condition or disorder that poses an immediate risk to the adult in custody's health or life and requires high risk or high complex medical intervention or intensive or high needs or specialized care. Examples

include stroke, heart attack, and aggressive or advanced stage forms of cancer; a medical condition that requires long term hospitalization, nursing home, or hospice care; or a mental illness that causes adults in custody to be unable to provide for essential needs and requires long-term hospitalization, nursing home, or group home placement. A terminal medical condition is defined as a serious medical condition with a prognosis that death is likely and imminent. A medical parole is used for individuals who are not eligible for traditional parole, most often because they are subject to mandatory sentencing or truth-in-sentencing restrictions on parole eligibility.

During the pandemic, there were several individuals who were not eligible for traditional parole who the State Correctional Health Authority presented to the Parole Board for a medical parole based on the combination of their underlying condition(s) and the risk of serious or terminal medical conditions created by the spread of COVID-19 within DOCR correctional facilities. If they would contract COVID-19, their underlying conditions likely would meet the definitions of serious medical condition or terminal medical condition. However, it is preferable from a legal, fiscal, and operational perspective proactively to find more appropriate housing and care options for those individuals through a medical parole than to risk them contracting COVID-19 in congregate housing in a DOCR facility. The Parole Board was hesitant to grant some of the medical paroles due to the statutory language and requested an expansion of legislative authority to address these situations.

Specifically, the solution to this challenge in House Bill 1071 is to expand the Parole Board's authority to grant medical paroles to explicitly include a substantial risk of serious or terminal medical conditions, based on the combination of underlying conditions and pandemic events, if diagnosed as such by a DOCR medical provider.

In closing, House Bill 1071 provides the Parole Board authority to consider individuals with underlying health conditions who have a substantial risk to develop into a serious or terminal medical condition based on a pandemic event and who do not otherwise qualify for parole. During the past year, the DOCR learned how the congregate living conditions of correctional facilities can foster the spread of pandemic illness and pose a significant risk to those with underlying health conditions in the legal and physical custody of the DOCR.