



Medical Release, HB3665

In May, the Illinois State Legislature passed [HB3665](#), a bill that creates medical release for the first time in Illinois. Under the new law, called the Joe Coleman Act after a [dear IPP client](#), the Prisoner Review Board has the authority to release terminally ill or medically incapacitated people from their prison sentences. **The Governor approved this bill in August of 2021 and it will take effect on January 1, 2022.**

The medical release law is an additional mechanism for release, and does not prevent an incarcerated person from seeking other forms of relief, including clemency, resentencing, or post-conviction relief.

Eligibility

People will be eligible for medical release if they are **medically incapacitated** or have been diagnosed with a condition **that will cause medical incapacitation** in the next 6 months, or if they have a **terminal illness**.

A person is medically incapacitated if they been diagnosed with a medical condition that prevents them from completing more than one activity of daily living (like bathing, dressing, or mobility) without assistance or disables them to the point that prison does not create any additional restrictions. The person is only eligible if the medical condition is unlikely to improve noticeably in the future, and if the injury or illness that caused medical incapacitation occurred after sentencing. This definition includes cognitive conditions like dementia.

A **terminal illness** is a condition that is irreversible and incurable and, based on an individual assessment by a doctor, likely to cause death to the inmate within 18 months.

Application

Under the new law, an initial application for medical release must be filed with the Prisoner Review Board. Applications will be maintained on the Prisoner Review Board's website, the Department of Corrections' website, and in the law library and the infirmary of every prison in Illinois.

An initial application can be filed by almost anyone, including a prison official, a medical professional who has treated or diagnosed the incarcerated person, or the incarcerated person's spouse, parent, guardian, grandparent, aunt or uncle, sibling, child over the age of eighteen years, or attorney.

If the incarcerated person does not file the initial application themselves, they must consent to the process. If the incarcerated person is medically unable to consent, the guardian or family member designated to represent their interests must consent to the application.



The initial application can be sent by email or fax. It does not need to be notarized. It must contain: a) the incarcerated person's name and IDOC number, b) their diagnosis, c) a statement that the incarcerated person is either suffering from a terminal illness, has been diagnosed with a condition that will result in medical incapacity within the next 6 months, or has become medically incapacitated subsequent to sentencing due to illness or injury.

Medical Evaluation

Once the Prisoner Review Board receives an initial application, it shall order the Department of Corrections to have a medical practitioner conduct an evaluation and write a report within ten days. The evaluation must include (i) a short statement of the medical diagnosis, including prognosis, likelihood of recovery, and primary symptoms, to include incapacitation; and (ii) a statement confirming or denying that the incarcerated person meets one of the eligibility criteria (i.e., medical incapacitation or terminal illness).

Hearings

The Prisoner Review Board does not have to hold a public hearing to consider a petition, but the incarcerated person can request a hearing, and the Board must grant that request. If a hearing is requested, the incarcerated person may be represented by an attorney and may present witnesses to the Board members.

Review

Petitions will be considered by a three-member panel of the Prisoner Review Board, and decisions shall be made by a simple majority. The Prisoner Review Board may consider the following factors:

- the diagnosis and likelihood of recovery
- the approximate cost of health care to the State should the incarcerated person remain in custody
- the impact that continued incarceration may have on the provision of medical care within the Department
- the present likelihood of and ability to pose a substantial danger to the physical safety of a specifically identifiable person or persons
- any statements by the victim regarding release
- whether the inmate's condition was explicitly disclosed to the original sentencing judge and taken into account at the time of sentencing.

The Prisoner Review Board must make a decision within 90 days of receiving an application.

Release

Incarcerated people granted medical release shall be released on mandatory supervised release for a period of five years, unless the underlying sentence and original mandatory supervised release term were less than five years.