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HOUSE BILL NO. 1030
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Rehabilitation and Social Services
on _____)
(Patron Prior to Substitute—Delegate Wilt)

A BILL to amend and reenact §§ 53.1-136, 53.1-154, 53.1-154.1, and 53.1-155 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 53.1-151.1, relating to discretionary parole criteria guidelines.

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-136, 53.1-154, 53.1-154.1, and 53.1-155 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 53.1-151.1 as follows:

§ 53.1-136. Powers and duties of Board; notice of release of certain inmates; report.

In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and eligibility requirements, which shall be published and posted for public review. Such eligibility rules shall require consideration of the prisoner's demonstrated rehabilitation, economic and educational development, commitment to prosocial behavior, and community and family supports;

2. Adopt, subject to approval by the Governor, rules providing for the granting of parole to those prisoners who are eligible for parole pursuant to § 53.1-165.1 on the basis of demonstrated maturity and rehabilitation and the lesser culpability of juvenile offenders;

3. a. Release on parole for such time and upon such terms and conditions as the Board shall prescribe, persons convicted of felonies and confined under the laws of the Commonwealth in any correctional facility in Virginia when those persons become eligible and are found suitable for parole, according to those rules adopted pursuant to subdivisions 1 and 2;

b. Notify the Department of Corrections of its decision to grant discretionary parole or conditional release to an inmate. The Department of Corrections shall set the release date for such inmate no sooner than 30 business days from the date that the Department of Corrections receives such notification from the Chairman of the Board, except that the Department of Corrections may set an earlier release date in the case of an inmate granted conditional release pursuant to § 53.1-40.02. In the case of an inmate granted parole who was convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted conditional release,

32 the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced
33 (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been
34 granted discretionary parole or conditional release pursuant to § 53.1-40.01 or 53.1-40.02 or (ii) by telephone
35 or other electronic means prior to such inmate's release that such inmate has been granted conditional release
36 pursuant to § 53.1-40.02 where death is imminent. Nothing in this section shall be construed to alter the
37 obligations of the Board under § 53.1-155 for investigation prior to release on discretionary parole;

38 c. Provide that in any case where a person who is released on parole has been committed to the
39 Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900
40 et seq.) of Title 37.2 the conditions of his parole shall include the requirement that the person comply with all
41 conditions given him by the Department of Behavioral Health and Developmental Services and that he follow
42 all of the terms of his treatment plan;

43 4. Revoke parole and order the reincarceration of any parolee or impose a condition of participation in any
44 component of the Statewide Community-Based Corrections System for State-Responsible Offenders
45 (§ 53.1-67.2 et seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the
46 conditions of his parole or is otherwise unfit to be on parole;

47 5. Issue final discharges to persons released by the Board on parole when the Board is of the opinion that
48 the discharge of the parolee will not be incompatible with the welfare of such person or of society. Final
49 discharges granted prior to the expiration of a period of parole shall be granted only upon approval by a
50 majority of Board members. The Board shall publish an annual report regarding final discharges issued by the
51 Board during the previous 12 months. The report shall include (i) the name of each prisoner granted final
52 discharge, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was
53 committed, (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the amount
54 of time the prisoner has been on parole in the community, (vi) the basis for the final discharge, and (vii) the
55 vote of each Board member;

56 6. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve or
57 remission of fine, or penalty when requested by the Governor;

58 7. Publish a statement by the fifteenth day of each month regarding the actions taken by the Board on the
59 parole of prisoners during the prior month. The statement shall list (i) the name of each prisoner considered
60 for parole, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense
61 was committed, (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the

62 amount of time the prisoner has served, (vi) whether the prisoner was granted or denied parole, (vii)
63 individualized reasons for the grant or denial of parole, and (viii) the final vote and the names of the Board
64 members who voted in favor of granting parole and those who voted against. However, in the case of a
65 prisoner granted parole, the information set forth in clauses (i) through (viii) regarding such prisoner shall be
66 included in the statement published in the month immediately succeeding the month in which notification of
67 the decision to grant parole was given to the attorney for the Commonwealth and any victims;

68 8. Publish an annual report regarding actions taken by the Board on the parole of prisoners during the
69 prior year. Such report shall contain each monthly statement published by the Board pursuant to subdivision 7
70 and a summary that identifies (i) the total number of prisoners considered for parole, (ii) the number of
71 persons granted parole, (iii) the number of persons denied parole, and (iv) the most common reasons for
72 which parole was granted or denied;

73 9. Ensure that each person eligible for parole receives a timely and thorough review of his suitability for
74 release on parole, including a review of any relevant post-sentencing information, *through use of*
75 *discretionary parole criteria guidelines pursuant to § 53.1-151.1*. If parole is denied, the basis for the denial
76 of parole shall be in writing and shall give specific, individualized reasons for such denial to such inmate; and

77 10. Convene a public meeting, either in person or via video conference, when conducting the final
78 deliberation and vote regarding whether the Board will grant parole to a prisoner. The prisoner being
79 considered for parole or his attorney shall be permitted to attend such meeting either, in the Board's
80 discretion, in person or via video conference. The victim shall be permitted to attend and participate in such
81 meeting either, in the Board's discretion, in person or via video or phone conference or to provide written or
82 recorded testimony. No decision to grant discretionary parole shall be made by the Board unless such
83 decision was discussed and debated at a meeting at which no fewer than three of the Board members were
84 present. Whether the Board grants or denies discretionary parole to an inmate, each Board member shall
85 identify his reasoning for such decision at the time such member's vote is cast.

86 ***§ 53.1-151.1. Suitability for release on parole; discretionary parole criteria guidelines.***

87 *A. The Parole Board or staff designated by the Board shall use the information collected through the*
88 *investigation required by § 53.1-155 to determine discretionary parole criteria guidelines when evaluating a*
89 *prisoner's suitability for release on parole. The Department of Corrections shall assist to the fullest extent*
90 *possible with requests for records.*

91 *B. A completed discretionary parole criteria worksheet shall be provided to the prisoner in advance of the*

92 *parole hearing. If an eligible prisoner believes that his worksheet score is inaccurate, the prisoner shall be*
93 *permitted to contest the worksheet score and to provide records necessary to correct such score prior to the*
94 *Board's vote on the decision to grant parole. If the Parole Board finds the prisoner's contest is well-founded,*
95 *the worksheet score shall be updated accordingly. Suitability for release on parole shall be computed using*
96 *the schedule of discretionary parole criteria set out below:*

97 *SCHEDULE OF DISCRETIONARY PAROLE CRITERIA*

98 *1. Compliant with case plan*

99 *No: 0*

100 *Yes: 10*

101 *2. Major infraction within past five years*

102 *None: 0*

103 *Per major infraction: -10*

104 *3. Minor infraction within past five years*

105 *None: 0*

106 *Per minor infraction: -2*

107 *4. Applied for or enrolled in educational, vocational, or therapeutic program*

108 *No: 0*

109 *Yes: 5*

110 *5. Completed educational and vocational programs*

111 *Associate's degree or above: 5*

112 *High school degree or GED: 5*

113 *Journeyman trade skill: 5*

114 *Vocational trade: 3*

115 *6. Verified residential plan*

116 *No: 0*

117 *Yes: 15*

118 *7. Previous state responsible incarceration*

119 *None: 0*

120 *Per previous state responsible incarceration: -5*

121 *8. Length of time served*

122 *Per 10 years: 5*

123 *9. Age of offender at time of offense*

124 *26 years of age or older: 0*

125 *21-25 years of age: 5*

126 *18-20 years of age: 10*

127 *18 years of age or younger: 15*

128 *10. Verified employment plan*

129 *No: 0*

130 *Yes: 15*

131 *TOTAL OF SCORES*

132 *Tier 1: 50 or more points*

133 *Tier 2: 25-49 points*

134 *Tier 3: 0-25 points*

135 *C. A maximum of 10 points may be earned by a prisoner for satisfying the criteria listed in subdivision B*
136 *5, related to verified educational and vocational programs.*

137 *D. A maximum of 15 points may be earned by a prisoner for satisfying the criteria listed in subdivision B*
138 *6, related to a verified residential plan. Satisfaction of such criteria listed in subdivision B 6 requires the*
139 *prisoner to provide a letter of verification.*

140 *E. A prisoner shall earn five points for every 10 years served, and there shall be no limit to the amount of*
141 *points a prisoner may earn for satisfying the criteria listed in subdivision B 8, related to length of time*
142 *served.*

143 *F. A prisoner shall earn 15 points for satisfying the criteria listed in subdivision B 10, related to a verified*
144 *employment plan. Satisfaction of such criteria listed in subdivision B 10 requires the prisoner to provide a*
145 *letter of verification. Any prisoner who is (i) permanently disabled or (ii) 65 years of age or older and retired*
146 *shall receive the full amount of points under subdivision B 10.*

147 *G. If a prisoner's score is within the Tier 1 range, such prisoner shall receive favorable consideration for*
148 *parole. If a prisoner's score is within the Tier 2 range, such prisoner may be considered a suitable candidate*
149 *for parole. If a prisoner's score is within the Tier 3 range, such prisoner is presumed to be unsuitable for*
150 *parole at the time of the hearing.*

151 *If the Parole Board deviates from the recommendation based on the discretionary parole criteria*
152 *worksheet score for a prisoner scored at Tier 1 or Tier 3, the Board shall provide a written explanation for*
153 *such deviation.*

154 *Nothing in this section shall prohibit the Board from making its final determination on whether or not to*
155 *grant discretionary parole based on the individual facts and circumstances of the prisoner.*

156 **§ 53.1-154. Times at which Parole Board to review cases.**

157 The ~~Virginia~~ Parole Board shall by regulation divide each calendar year into such equal parts as it may
158 deem appropriate to the efficient administration of the parole system. Unless there ~~be~~ *is* reasonable cause for
159 extension of the time within which to review and decide a case, the Board shall review and decide the case of
160 each prisoner no later than that part of the calendar year in which he becomes eligible for parole, and at least
161 annually thereafter, until he is released on parole or discharged, except that upon any such review the Board
162 may schedule the next review as much as three years thereafter, provided there are ~~ten~~ *10* years or more or
163 life imprisonment remaining on the sentence in such case. Such reviews shall include a live interview of the
164 prisoner *and completion of the discretionary parole criteria guidelines* by a Board member or a staff member
165 designated by the Board. Such interviews may be conducted in person or by videoconference or telephone at
166 the discretion of the Board. Absent imminent death of the prisoner or other extraordinary circumstances,
167 which shall be documented by the Board in the prisoner's file, the Board shall not grant parole to any prisoner
168 who has not received a live interview within the prior calendar year. Notwithstanding any other provision of
169 this article, in the case of a parole revocation, if such person is otherwise eligible for parole, the Board shall
170 review and decide his case no later than that part of the calendar year one year subsequent to the part of the
171 calendar year in which he was returned to a facility as provided in § 53.1-161. Thereafter, his case shall be
172 reviewed as specified in this section. The Board, in addition, may review the case of any prisoner eligible for
173 parole at any other time and may review the case of any prisoner prior to that part of the year otherwise
174 specified. In the discretion of the Board, interviews may be conducted by the Board or its representatives and
175 may be either public or private.

176 **§ 53.1-154.1. Authority of Director to recommend parole review; release upon review.**

177 The Director is authorized to determine those prisoners who may be suitable parole risks and whose
178 interests and those of society will be served by their early parole release and to recommend such prisoners to
179 the Parole Board for early parole consideration. In making such recommendation, the Director shall take into
180 account the prisoner's criminal history record, mental and physical condition, employability, institutional
181 adjustment and such other factors as may be appropriate, including the risk of violence to others. The case of
182 any such prisoner so recommended may be reviewed by the Parole Board prior to such prisoner's date of
183 eligibility for parole. Upon appropriate review, *including completion of the discretionary parole criteria*
184 *guidelines by the Parole Board or a staff member designated by the Parole Board*, the Parole Board may

185 release on parole prior to the date of eligibility for parole any prisoner so recommended by the Director.
186 However, no prisoner shall be released until he has served at least one-fourth of the term of imprisonment
187 imposed, or until he has served ~~twelve~~ 12 years of the term of imprisonment imposed if one-fourth of the
188 term of imprisonment imposed is more than ~~twelve~~ 12 years, except as such time is reduced by any other
189 provision of law.

190 This section shall have no application to persons not eligible for parole pursuant to subsections B, B1 and
191 E of § 53.1-151.

192 **§ 53.1-155. Investigation prior to release; transition assistance.**

193 A. No person shall be released on parole by the Board until a thorough investigation has been made into
194 the prisoner's history, physical and mental condition and character, and his conduct, employment, and attitude
195 while in prison. All information collected through such investigation shall be made available to the prisoner
196 or his attorney, provided that (i) neither the prisoner nor his attorney shall further disclose, reproduce, copy,
197 or disseminate such information in any way and (ii) the Board shall redact all personal information of the
198 victim. *Such information shall also be used by the Board, or staff designated by the Board, to complete the*
199 *discretionary parole criteria guidelines.* The Board shall also determine that his release on parole will not be
200 incompatible with the interests of society or of the prisoner. The provisions of this section shall not be
201 applicable to persons released on parole pursuant to § 53.1-159.

202 B. An investigation conducted pursuant to this section shall include notification that a victim may submit
203 to the ~~Virginia~~ Parole Board evidence concerning the impact that the release of the prisoner will have on such
204 victim. This notification shall be sent to the last address provided to the Board by any victim of a crime for
205 which the prisoner was incarcerated. If additional victim research is necessary, electronic notification shall be
206 sent to the attorney for the Commonwealth and the director of the victim/witness program, if one exists, of
207 the jurisdiction in which the offense occurred. The Board shall endeavor diligently to contact the victim prior
208 to making any decision to release any inmate on discretionary parole. The victim of a crime for which the
209 prisoner is incarcerated may present to the Board oral, including by virtual means, or written testimony
210 concerning the impact that the release of the prisoner will have on the victim, and the Board shall consider
211 such testimony in its review. Once testimony is submitted by a victim, such testimony shall remain in the
212 prisoner's parole file and shall be considered by the Board at every parole review. The victim of a crime for
213 which the prisoner is incarcerated may submit a request in writing or by electronic means to the Board to be
214 notified of (i) the prisoner's parole eligibility date and mandatory release date as determined by the
215 Department of Corrections, (ii) any parole-related interview dates, and (iii) the Board's decision regarding

216 parole for the prisoner. The victim may request that the Board only notify the victim if, following its review,
217 the Board is inclined to grant parole to the prisoner, in which case the victim shall have 45 days to present
218 written or oral testimony for the Board's consideration. If the victim has requested to be notified only if the
219 Board is inclined to grant parole and no testimony, either written or oral, is received from the victim within at
220 least 45 days of the date of the Board's notification, the Board shall render its decision based on information
221 available to it in accordance with subsection A. The definition of victim in § 19.2-11.01 shall apply to this
222 section.

223 Although any information presented by the victim of a crime for which the prisoner is incarcerated shall
224 be retained in the prisoner's parole file and considered by the Board, such information shall not infringe on
225 the Board's authority to exercise its decision-making authority.

226 C. Notwithstanding the provisions of subsection A, if a physical or mental examination of a prisoner
227 eligible for parole has been conducted within the last 12 months, and the prisoner has not required medical or
228 psychiatric treatment within a like period while incarcerated, the prisoner may be released on parole by the
229 Parole Board directly from a local correctional facility.

230 The Department shall offer each prisoner to be released on parole or under mandatory release who has
231 been sentenced to serve a term of imprisonment of at least three years the opportunity to participate in a
232 transition program within six months of such prisoner's projected or mandatory release date. The program
233 shall include advice for job training opportunities, recommendations for living a law-abiding life, and
234 financial literacy information. The Secretary of Public Safety and Homeland Security shall prescribe
235 guidelines to govern these programs.