

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act 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*  
 3 *amend the Code of Virginia by adding a section numbered 53.1-151.1, relating to discretionary parole*  
 4 *criteria guidelines.*

5 [H 1030]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

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

11 **§ 53.1-136. Powers and duties of Board; notice of release of certain inmates; report.**

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

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

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

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

24 b. Notify the Department of Corrections of its decision to grant discretionary parole or conditional release  
 25 to an inmate. The Department of Corrections shall set the release date for such inmate no sooner than 30  
 26 business days from the date that the Department of Corrections receives such notification from the Chairman  
 27 of the Board, except that the Department of Corrections may set an earlier release date in the case of an  
 28 inmate granted conditional release pursuant to § 53.1-40.02. In the case of an inmate granted parole who was  
 29 convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted conditional release,  
 30 the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced  
 31 (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been  
 32 granted discretionary parole or conditional release pursuant to § 53.1-40.01 or 53.1-40.02 or (ii) by telephone  
 33 or other electronic means prior to such inmate's release that such inmate has been granted conditional release  
 34 pursuant to § 53.1-40.02 where death is imminent. Nothing in this section shall be construed to alter the  
 35 obligations of the Board under § 53.1-155 for investigation prior to release on discretionary parole;

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

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

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

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

56 7. Publish a statement by the fifteenth day of each month regarding the actions taken by the Board on the

57 parole of prisoners during the prior month. The statement shall list (i) the name of each prisoner considered  
 58 for parole, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense  
 59 was committed, (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the  
 60 amount of time the prisoner has served, (vi) whether the prisoner was granted or denied parole, (vii)  
 61 individualized reasons for the grant or denial of parole, and (viii) the final vote and the names of the Board  
 62 members who voted in favor of granting parole and those who voted against. However, in the case of a  
 63 prisoner granted parole, the information set forth in clauses (i) through (viii) regarding such prisoner shall be  
 64 included in the statement published in the month immediately succeeding the month in which notification of  
 65 the decision to grant parole was given to the attorney for the Commonwealth and any victims;

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

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

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

84 **§ 53.1-151.1. Suitability for release on parole; discretionary parole criteria guidelines.**

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

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

95 **SCHEDULE OF DISCRETIONARY PAROLE CRITERIA**

96 **1. Compliant with case plan**

97 *No: 0*

98 *Yes: 10*

99 **2. Major infraction within past five years**

100 *None: 0*

101 *Per major infraction: -10*

102 **3. Minor infraction within past five years**

103 *None: 0*

104 *Per minor infraction: -2*

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

106 *No: 0*

107 *Yes: 5*

108 **5. Completed educational and vocational programs**

109 *Associate's degree or above: 5*

110 *High school degree or GED: 5*

111 *Journeyman trade skill: 5*

112 *Vocational trade: 3*

113 **6. Verified residential plan**

114 *No: 0*

115 *Yes: 15*

116 **7. Previous state responsible incarceration**

117 *None: 0*

118 *Per previous state responsible incarceration: -5*

119 8. Length of time served  
 120 Per 10 years: 5  
 121 9. Age of offender at time of offense  
 122 26 years of age or older: 0  
 123 21-25 years of age: 5  
 124 18-20 years of age: 10  
 125 18 years of age or younger: 15  
 126 10. Verified employment plan  
 127 No: 0  
 128 Yes: 15  
 129 TOTAL OF SCORES  
 130 Tier 1: 50 or more points  
 131 Tier 2: 25-49 points  
 132 Tier 3: 0-25 points  
 133 C. A maximum of 10 points may be earned by a prisoner for satisfying the criteria listed in subdivision B  
 134 5, related to verified educational and vocational programs.  
 135 D. A maximum of 15 points may be earned by a prisoner for satisfying the criteria listed in subdivision B  
 136 6, related to a verified residential plan. Satisfaction of such criteria listed in subdivision B 6 requires the  
 137 prisoner to provide a letter of verification.  
 138 E. A prisoner shall earn five points for every 10 years served, and there shall be no limit to the amount of  
 139 points a prisoner may earn for satisfying the criteria listed in subdivision B 8, related to length of time  
 140 served.  
 141 F. A prisoner shall earn 15 points for satisfying the criteria listed in subdivision B 10, related to a verified  
 142 employment plan. Satisfaction of such criteria listed in subdivision B 10 requires the prisoner to provide a  
 143 letter of verification. Any prisoner who is (i) permanently disabled or (ii) 65 years of age or older and retired  
 144 shall receive the full amount of points under subdivision B 10.  
 145 G. If a prisoner's score is within the Tier 1 range, such prisoner shall receive favorable consideration for  
 146 parole. If a prisoner's score is within the Tier 2 range, such prisoner may be considered a suitable candidate  
 147 for parole. If a prisoner's score is within the Tier 3 range, such prisoner is presumed to be unsuitable for  
 148 parole at the time of the hearing.  
 149 If the Parole Board deviates from the recommendation based on the discretionary parole criteria  
 150 worksheet score for a prisoner scored at Tier 1 or Tier 3, the Board shall provide a written explanation for  
 151 such deviation.  
 152 Nothing in this section shall prohibit the Board from making its final determination on whether or not to  
 153 grant discretionary parole based on the individual facts and circumstances of the prisoner.  
 154 **§ 53.1-154. Times at which Parole Board to review cases.**  
 155 The Virginia Parole Board shall by regulation divide each calendar year into such equal parts as it may  
 156 deem appropriate to the efficient administration of the parole system. Unless there be is reasonable cause for  
 157 extension of the time within which to review and decide a case, the Board shall review and decide the case of  
 158 each prisoner no later than that part of the calendar year in which he becomes eligible for parole, and at least  
 159 annually thereafter, until he is released on parole or discharged, except that upon any such review the Board  
 160 may schedule the next review as much as three years thereafter, provided there are ten 10 years or more or  
 161 life imprisonment remaining on the sentence in such case. Such reviews shall include a live interview of the  
 162 prisoner and completion of the discretionary parole criteria guidelines by a Board member or a staff member  
 163 designated by the Board. Such interviews may be conducted in person or by videoconference or telephone at  
 164 the discretion of the Board. Absent imminent death of the prisoner or other extraordinary circumstances,  
 165 which shall be documented by the Board in the prisoner's file, the Board shall not grant parole to any prisoner  
 166 who has not received a live interview within the prior calendar year. Notwithstanding any other provision of  
 167 this article, in the case of a parole revocation, if such person is otherwise eligible for parole, the Board shall  
 168 review and decide his case no later than that part of the calendar year one year subsequent to the part of the  
 169 calendar year in which he was returned to a facility as provided in § 53.1-161. Thereafter, his case shall be  
 170 reviewed as specified in this section. The Board, in addition, may review the case of any prisoner eligible for  
 171 parole at any other time and may review the case of any prisoner prior to that part of the year otherwise  
 172 specified. In the discretion of the Board, interviews may be conducted by the Board or its representatives and  
 173 may be either public or private.  
 174 **§ 53.1-154.1. Authority of Director to recommend parole review; release upon review.**  
 175 The Director is authorized to determine those prisoners who may be suitable parole risks and whose  
 176 interests and those of society will be served by their early parole release and to recommend such prisoners to  
 177 the Parole Board for early parole consideration. In making such recommendation, the Director shall take into  
 178 account the prisoner's criminal history record, mental and physical condition, employability, institutional  
 179 adjustment and such other factors as may be appropriate, including the risk of violence to others. The case of  
 180 any such prisoner so recommended may be reviewed by the Parole Board prior to such prisoner's date of

181 eligibility for parole. Upon appropriate review, *including completion of the discretionary parole criteria*  
 182 *guidelines by the Parole Board or a staff member designated by the Parole Board*, the Parole Board may  
 183 release on parole prior to the date of eligibility for parole any prisoner so recommended by the Director.  
 184 However, no prisoner shall be released until he has served at least one-fourth of the term of imprisonment  
 185 imposed, or until he has served ~~twelve~~ 12 years of the term of imprisonment imposed if one-fourth of the  
 186 term of imprisonment imposed is more than ~~twelve~~ 12 years, except as such time is reduced by any other  
 187 provision of law.

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

190 **§ 53.1-155. Investigation prior to release; transition assistance.**

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

200 B. An investigation conducted pursuant to this section shall include notification that a victim may submit  
 201 to the ~~Virginia~~ Parole Board evidence concerning the impact that the release of the prisoner will have on such  
 202 victim. This notification shall be sent to the last address provided to the Board by any victim of a crime for  
 203 which the prisoner was incarcerated. If additional victim research is necessary, electronic notification shall be  
 204 sent to the attorney for the Commonwealth and the director of the victim/witness program, if one exists, of  
 205 the jurisdiction in which the offense occurred. The Board shall endeavor diligently to contact the victim prior  
 206 to making any decision to release any inmate on discretionary parole. The victim of a crime for which the  
 207 prisoner is incarcerated may present to the Board oral, including by virtual means, or written testimony  
 208 concerning the impact that the release of the prisoner will have on the victim, and the Board shall consider  
 209 such testimony in its review. Once testimony is submitted by a victim, such testimony shall remain in the  
 210 prisoner's parole file and shall be considered by the Board at every parole review. The victim of a crime for  
 211 which the prisoner is incarcerated may submit a request in writing or by electronic means to the Board to be  
 212 notified of (i) the prisoner's parole eligibility date and mandatory release date as determined by the  
 213 Department of Corrections, (ii) any parole-related interview dates, and (iii) the Board's decision regarding  
 214 parole for the prisoner. The victim may request that the Board only notify the victim if, following its review,  
 215 the Board is inclined to grant parole to the prisoner, in which case the victim shall have 45 days to present  
 216 written or oral testimony for the Board's consideration. If the victim has requested to be notified only if the  
 217 Board is inclined to grant parole and no testimony, either written or oral, is received from the victim within at  
 218 least 45 days of the date of the Board's notification, the Board shall render its decision based on information  
 219 available to it in accordance with subsection A. The definition of victim in § 19.2-11.01 shall apply to this  
 220 section.

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

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

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