

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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 amend the Code of Virginia by adding a section numbered 53.1-151.1, relating to discretionary parole criteria guidelines.

[H 1030]

Approved

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, the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been granted discretionary parole or conditional release pursuant to § 53.1-40.01 or 53.1-40.02 or (ii) by telephone or other electronic means prior to such inmate's release that such inmate has been granted conditional release pursuant to § 53.1-40.02 where death is imminent. Nothing in this section shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to release on discretionary parole;
c. Provide that in any case where a person who is released on parole has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 the conditions of his parole shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services and that he follow all of the terms of his treatment plan;
4. Revoke parole and order the reincarceration of any parolee or impose a condition of participation in any component of the Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his parole or is otherwise unfit to be on parole;
5. Issue final discharges to persons released by the Board on parole when the Board is of the opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of society. Final discharges granted prior to the expiration of a period of parole shall be granted only upon approval by a majority of Board members. The Board shall publish an annual report regarding final discharges issued by the Board during the previous 12 months. The report shall include (i) the name of each prisoner granted final discharge, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed, (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the amount of time the prisoner has been on parole in the community, (vi) the basis for the final discharge, and (vii) the vote of each Board member;
6. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve or remission of fine, or penalty when requested by the Governor;
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
218 at 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.

234 **2. That the provisions of this act shall become effective on July 1, 2027.**