

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 569

An Act to amend and reenact §§ 53.1-134, 53.1-135, 53.1-136, and 53.1-155 of the Code of Virginia, relating to the Parole Board; membership; powers and duties.

[S 647]

Approved April 6, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-134, 53.1-135, 53.1-136, and 53.1-155 of the Code of Virginia are amended and reenacted as follows:

§ 53.1-134. Creation of Parole Board; appointment of members.

There shall be a Parole Board which shall consist of *up to* five members appointed by the Governor and subject to confirmation by the General Assembly, if in session when such appointment is made, and if not in session, then at its next succeeding session. At least one member of the Parole Board shall be a representative of a crime victims' organization or a victim of crime as defined in subsection B of § 19.2-11.01.

The members of the Parole Board shall serve at the pleasure of the Governor. ~~Initial appointments to the Parole Board in the year 1982 shall be for the following terms: two for a one-year term, two for a two-year term, and one for a four-year term. Thereafter, all appointments shall be for terms of four years each. Appointments to fill vacancies shall be made for the unexpired terms.~~

~~The term "Board" as used in this chapter shall mean the Virginia Parole Board.~~

§ 53.1-135. Chairman; Vice Chairman of Board.

The Governor shall designate one of the members so appointed as Chairman of the Board. The Board may elect one of its members as Vice Chairman; in the absence of the Chairman, he shall have the same duties as are conferred upon the Chairman. *The Chairman shall be a full-time state employee. The Governor may designate no more than two other members of the Board as full-time state employees. Members of the Board not designated full-time state employees shall be considered part-time state employees.*

§ 53.1-136. Powers and duties of Board.

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;

2. (a) Release on parole, in accordance with its rules, 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;

(b) Establish the conditions of postrelease supervision authorized pursuant to §§ 18.2-10 and 19.2-295.2 A;

(c) *Notify by certified mail at least twenty-one business days prior to release on parole of any inmate convicted of a felony and sentenced to a term of ten or more years, the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced. In the case of parole granted for medical reasons, where death is imminent, the Commonwealth's Attorney may be notified by telephone or other electronic means prior to release. Nothing in this subsection shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to release;*

3. Revoke parole and any period of postrelease and order the reincarceration of any parolee or felon serving a period of postrelease supervision 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, postrelease supervision or is otherwise unfit to be on parole or on postrelease supervision;

4. 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;

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

6. Publish monthly a statement regarding the action taken by the Board on the parole of prisoners. The statement shall list the name of each prisoner considered for parole and indicate whether parole was granted or denied.

§ 53.1-155. Investigation prior to release.

A. No person shall be released on parole by the Board until a thorough investigation has been made into the prisoner's history, physical and mental condition and character and his conduct, employment and attitude while in prison. The Board shall also determine that his release on parole will not be incompatible with the interests of society or of the prisoner. The provisions of this section shall not be

applicable to persons released on parole pursuant to § 53.1-159.

B. An investigation conducted pursuant to this section shall include notification that a victim may submit to the Virginia Parole Board evidence concerning the impact that the release of the prisoner will have on such victim. This notification shall be sent to the last address provided to the Board by any victim of a crime for which the prisoner was incarcerated ~~when such victim has requested notice of the prisoner's pending release on discretionary or mandatory parole pursuant to the first paragraph of § 53.1-159.~~ *The Board shall endeavor diligently to contact the victim prior to making any decision to release any inmate on discretionary parole.* The victim of a crime for which the prisoner is incarcerated may present to the Board oral or written testimony concerning the impact that the release of the prisoner will have on the victim, and the Board shall consider such testimony in its review. Once testimony is submitted by a victim, such testimony shall remain in the prisoner's parole file and shall be considered by the Board at every parole review. The victim of a crime for which the prisoner is incarcerated may submit a written request to the Board to be notified of (i) the prisoner's parole eligibility date and mandatory release date as determined by the Department of Corrections, (ii) any parole-related interview dates, and (iii) the Board's decision regarding parole for the prisoner. The victim may request that the Board only notify the victim if, following its review, the Board is inclined to grant parole to the prisoner, in which case the victim shall have forty-five days to present written or oral testimony for the Board's consideration. If the victim has requested to be notified only if the Board is inclined to grant parole and no testimony, either written or oral, is received from the victim within at least forty-five days of the date of the Board's notification, the Board shall render its decision based on information available to it in accordance with subsection A. The definition of victim in § 19.2-11.01 shall apply to this section.

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

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