

22102809D

HOUSE BILL NO. 435

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 53.1-136, 53.1-154, and 53.1-155 of the Code of Virginia, relating to powers and duties of the Parole Board.

Patrons—Wright and Campbell, R.R.

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-136, 53.1-154, and 53.1-155 of the Code of Virginia are amended and reenacted as follows:

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

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;

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. Establish the conditions of postrelease supervision authorized pursuant to § 18.2-10 and subsection A of § 19.2-295.2;

c. 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;

d. Provide that in any case where a person who is released on parole or postrelease supervision 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 or postrelease supervision 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 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 or postrelease supervision or is otherwise unfit to be on parole or on postrelease supervision;

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;

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 by the fifteenth day of each month a statement regarding the action taken by the Board on the parole of prisoners during the prior month. The statement shall list (i) the name of each prisoner considered for parole, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed, (iv) the amount of time the prisoner has served, (v) whether the prisoner was granted or denied parole, and (vi) the basis for the grant or denial of parole. However, in the case

INTRODUCED

HB435

59 of a prisoner granted parole, the information set forth in clauses (i) through (vi) regarding such prisoner
60 shall be included in the statement published in the month immediately succeeding the month in which
61 notification of the decision to grant parole was given to the attorney for the Commonwealth and any
62 victims; and

63 8. Ensure that each person eligible for parole receives a timely and thorough review of his suitability
64 for release on parole, including a review of any relevant post-sentencing information. If parole is denied,
65 the basis for the denial of parole shall be in writing and shall give specific reasons for such denial to
66 such inmate.

67 *No person shall be released on parole unless the decision to grant parole is made unanimously by*
68 *the Board.*

69 **§ 53.1-154. Times at which Virginia Parole Board to review cases.**

70 The Virginia Parole Board shall by regulation divide each calendar year into such equal parts as it
71 may deem appropriate to the efficient administration of the parole system. Unless there be reasonable
72 cause for extension of the time within which to review and decide a case, the Board shall review and
73 decide the case of each prisoner no later than that part of the calendar year in which he becomes
74 eligible for parole, and ~~at least annually every three years~~ thereafter, until he is released on parole or
75 discharged, ~~except that upon any such review the Board may schedule the next review as much as three~~
76 ~~years thereafter,~~ provided that there are ~~ten~~ 10 years or more or life imprisonment remaining on the
77 sentence in such case. Notwithstanding any other provision of this article, in the case of a parole
78 revocation, if such person is otherwise eligible for parole, the Board shall review and decide his case no
79 later than that part of the calendar year one year subsequent to the part of the calendar year in which he
80 was returned to a facility as provided in § 53.1-161. Thereafter, his case shall be reviewed as specified
81 in this section. The Board, in addition, may review the case of any prisoner eligible for parole at any
82 other time and may review the case of any prisoner prior to that part of the year otherwise specified. In
83 the discretion of the Board, interviews may be conducted by the Board or its representatives and may be
84 either public or private.

85 **§ 53.1-155. Investigation prior to release; transition assistance.**

86 A. No person shall be released on parole by the Board until a thorough investigation has been made
87 into the prisoner's history, physical and mental condition, and character and his conduct, employment,
88 and attitude while in prison. *If applicable, the Board shall review in its entirety the transcript from the*
89 *trial that resulted in the conviction or convictions for which the prisoner is currently serving a term of*
90 *imprisonment.* The Board shall also determine that his release on parole will not be incompatible with
91 the interests of society or of the prisoner. The provisions of this section shall not be applicable to
92 persons released on parole pursuant to § 53.1-159.

93 B. An investigation conducted pursuant to this section shall include notification that a victim may
94 submit to the Virginia Parole Board evidence concerning the impact that the release of the prisoner will
95 have on such victim. This notification shall be sent to the last address provided to the Board by any
96 victim of a crime for which the prisoner was incarcerated. If additional victim research is necessary,
97 electronic notification shall be sent to the attorney for the Commonwealth and the director of the
98 victim/witness program, if one exists, of the jurisdiction in which the offense occurred. The Board shall
99 endeavor diligently to contact the victim prior to making any decision to release any inmate on
100 discretionary parole. The victim of a crime for which the prisoner is incarcerated may present to the
101 Board oral or written testimony concerning the impact that the release of the prisoner will have on the
102 victim, and the Board shall consider such testimony in its review. Once testimony is submitted by a
103 victim, such testimony shall remain in the prisoner's parole file and shall be considered by the Board at
104 every parole review. The victim of a crime for which the prisoner is incarcerated may submit a request
105 in writing or by electronic means to the Board to be notified of (i) the prisoner's parole eligibility date
106 and mandatory release date as determined by the Department of Corrections, (ii) any parole-related
107 interview dates, and (iii) the Board's decision regarding parole for the prisoner. The victim may request
108 that the Board only notify the victim if, following its review, the Board is inclined to grant parole to the
109 prisoner, in which case the victim shall have ~~forty-five~~ 45 days to present written or oral testimony for
110 the Board's consideration. If the victim has requested to be notified only if the Board is inclined to grant
111 parole and no testimony, either written or oral, is received from the victim within at least ~~forty-five~~ 45
112 days of the date of the Board's notification, the Board shall render its decision based on information
113 available to it in accordance with subsection A. The definition of victim in § 19.2-11.01 shall apply to
114 this section.

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

118 C. Notwithstanding the provisions of subsection A, if a physical or mental examination of a prisoner
119 eligible for parole has been conducted within the last ~~twelve~~ 12 months, and the prisoner has not
120 required medical or psychiatric treatment within a like period while incarcerated, the prisoner may be

121 released on parole by the Parole Board directly from a local correctional facility.

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

INTRODUCED

HB435