

20200490D

## SENATE BILL NO. 5050

Offered August 18, 2020

Prefiled August 17, 2020

A *BILL to amend and reenact §§ 53.1-136, 53.1-155, and 53.1-160 of the Code of Virginia and to repeal § 53.1-154.1 of the Code of Virginia, relating to parole; notice and certification; monthly reports; discretionary early consideration.*

Patrons—Obenshain, Ruff and Suetterlein

Referred to Committee on Rehabilitation and Social Services

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

**1. That §§ 53.1-136, 53.1-155, and 53.1-160 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 by certified mail at least 21 business days prior to release on discretionary parole of any inmate convicted of a felony and sentenced to a term of 10 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 attorney for the Commonwealth may be notified by telephone or other electronic means prior to release. *Prior to release, the Chairman of the Parole Board shall certify under oath compliance with the provisions of this subdivision.* Nothing in this section shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to release;

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 ~~monthly~~ *on the last day of every month* a statement regarding the action taken by the Board on the parole of prisoners. The statement shall (i) list the name of each prisoner considered for parole, *the offenses of which the prisoner was convicted, the jurisdictions in which such offenses were committed, and the amount of time the prisoner has served* and (ii) indicate whether parole was granted or denied, as well as the basis for *such grant or denial* of parole as described in subdivision 3 a; and

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

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

INTRODUCED

SB5050

59 A. No person shall be released on parole by the Board until a thorough investigation has been made  
60 into the prisoner's history, physical and mental condition and character and his conduct, employment and  
61 attitude while in prison. The Board shall also determine that his release on parole will not be  
62 incompatible with the interests of society or of the prisoner. The provisions of this section shall not be  
63 applicable to persons released on parole pursuant to § 53.1-159.

64 B. An investigation conducted pursuant to this section shall include notification that a victim may  
65 submit to the Virginia Parole Board evidence concerning the impact that the release of the prisoner will  
66 have on such victim. This notification shall be sent to the last address provided to the Board by any  
67 victim of a crime for which the prisoner was incarcerated *and to the attorney for the Commonwealth*  
68 *and the director of the victim/witness program, if one exists, of the jurisdiction in which the offense*  
69 *occurred.* The Board shall endeavor diligently to contact the victim prior to making any decision to  
70 release any inmate on discretionary parole. The victim of a crime for which the prisoner is incarcerated  
71 may present to the Board oral or written testimony concerning the impact that the release of the prisoner  
72 will have on the victim, and the Board shall consider such testimony in its review. Once testimony is  
73 submitted by a victim, such testimony shall remain in the prisoner's parole file and shall be considered  
74 by the Board at every parole review. The victim of a crime for which the prisoner is incarcerated may  
75 submit a written request to the Board to be notified of (i) the prisoner's parole eligibility date and  
76 mandatory release date as determined by the Department of Corrections, (ii) any parole-related interview  
77 dates, and (iii) the Board's decision regarding parole for the prisoner. The victim may request that the  
78 Board only notify the victim if, following its review, the Board is inclined to grant parole to the  
79 prisoner, in which case the victim shall have forty-five days to present written or oral testimony for the  
80 Board's consideration. If the victim has requested to be notified only if the Board is inclined to grant  
81 parole and no testimony, either written or oral, is received from the victim within at least forty-five days  
82 of the date of the Board's notification, the Board shall render its decision based on information available  
83 to it in accordance with subsection A. The definition of victim in § 19.2-11.01 shall apply to this  
84 section.

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

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

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

98 **§ 53.1-160. Notice to be given upon prisoner release, escape, etc.**

99 A. Prior to the release or discharge of any prisoner, the Department shall have notice of the release  
100 or discharge delivered by first-class mail or by electronic means to the court that committed the person  
101 to the Department of Corrections and to the sheriff, chief of police, and attorney for the Commonwealth  
102 (i) of the jurisdiction in which the offense occurred, (ii) of the jurisdiction in which the person resided  
103 prior to conviction, and (iii), if different from clauses (i) and (ii), of the jurisdiction in which the person  
104 intends to reside subsequent to being released or discharged. Such notice shall include, but not be  
105 limited to, identification of the specific offense or offenses for which the prisoner had been sentenced,  
106 the term or terms of imprisonment imposed, and the date the prisoner was committed to the Department  
107 of Corrections.

108 The Department shall (a) have notice of the release or discharge of any prisoner delivered by  
109 first-class mail 15 days prior to any such occurrence, or by telephone if notice by first-class mail cannot  
110 be delivered 15 days prior to the occurrence; (b) give notice as soon as practicable following the transfer  
111 of any prisoner to a jail facility, a different prison facility, or any other correctional or detention facility  
112 by first-class mail or telephone; (c) give notice as soon as practicable by telephone upon the escape of a  
113 prisoner; and (d) give notice as soon as practicable by first-class mail upon the change of a prisoner's  
114 name, to any victim, as defined in § 19.2-11.01, of the offense for which the prisoner was incarcerated  
115 or to any person designated in writing by the victim. Notice shall be given using the address and  
116 telephone number provided by the victim. For the purposes of this section, "prisoner" means a person  
117 sentenced to serve more than 30 days of incarceration or detention.

118 B. Fifteen days prior to the release of any prisoner to an authorized work release program or release  
119 to attend a business, educational or other related community program, the Department shall give notice  
120 to (i) the attorney for the Commonwealth, (ii) the chief law-enforcement officer of the jurisdiction in

which the work on release will be performed or attendance at an authorized program will be permitted, and (iii) any victim, as defined in § 19.2-11.01, of the offense for which the prisoner was incarcerated or any person designated in writing by the victim at the address or phone number provided by the victim.

Every notice to the attorney for the Commonwealth or to the chief law-enforcement officer shall include the name, address, and criminal history of the participating prisoner, and other information upon request. The transmission of information shall be confidential and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

C. Notification under this section may be provided to a victim as defined in § 19.2-11.01 through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.

No civil liability shall attach for the failure to give notice as provided in this section. *However, prior to the release or discharge of any prisoner, the Chairman of the Parole Board shall certify under oath compliance with the provisions of this section.*

**2. That § 53.1-154.1 of the Code of Virginia is repealed.**