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SENATE BILL NO. 5050

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Surovell
on September 2, 2020)(Patron Prior to Substitute—Senator Obenshain)
Senate Amendments in [] - September 4, 2020

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

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-136 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 by *electronic* [~~or~~ and] 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. *Upon receiving notice from the chairman of the Virginia Parole Board that the proper notification has been made to the attorney for the Commonwealth following a decision to grant parole to any prisoner, the Department of Corrections shall set the release date for such prisoner no sooner than 21 business days from the date of notification.* 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 denial of parole as described in subdivision 3 a. *If parole was granted to a prisoner, his name shall be included on the statement published on the last day of every month only if the attorney for the Commonwealth and any victims have been notified of such decision to grant parole prior to the statement's publication; otherwise, such prisoner's name shall be included on the statement published the following month;* 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,

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60 the basis for the denial of parole shall be in writing and shall give specific reasons for such denial to
61 such inmate.

62 **§ 53.1-155. Investigation prior to release; transition assistance.**

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

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

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

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

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