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SENATE BILL NO. 1247

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact §§ 53.1-136, 53.1-154, and 53.1-155 of the Code of Virginia, relating to Parole Board; decision requirements; annual reports.

Patron—Obenshain

Referred to Committee on Rehabilitation and Social Services

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. *No decision to grant discretionary parole shall be made by the Board unless such decision was discussed and debated at a meeting at which all Board members were present. If the Board grants discretionary parole to an inmate, each Board member shall identify his reasoning for such decision at the time such member's vote is cast;*

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. *Final discharges 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*

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59 *the prisoner's sentence and the date such sentence was imposed, (v) the amount of time the prisoner has*
60 *been on parole or postrelease supervision in the community, (vi) the basis for the final discharge, and*
61 *(vii) the vote of each Board member;*

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

64 7. Publish a statement regarding the action taken by the Board on the parole of prisoners within 30
65 days of such action. The statement shall list (i) the name of each prisoner considered for parole, (ii) the
66 offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed,
67 (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the amount of
68 time the prisoner has served, (vi) whether the prisoner was granted or denied parole, and (vii) the basis
69 for the grant or denial of parole. However, in the case of a prisoner granted parole, the information set
70 forth in clauses (i) through (vii) regarding such prisoner shall be included in the statement published in
71 the month immediately succeeding the month in which notification of the decision to grant parole was
72 given to the attorney for the Commonwealth and any victims; and

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

77 **§ 53.1-154. Times at which Virginia Parole Board to review cases.**

78 The Virginia Parole Board shall by regulation divide each calendar year into such equal parts as it
79 may deem appropriate to the efficient administration of the parole system. Unless there ~~be~~ *is* reasonable
80 cause for extension of the time within which to review and decide a case, the Board shall review and
81 decide the case of each prisoner no later than that part of the calendar year in which he becomes
82 eligible for parole, and at least annually thereafter, until he is released on parole or discharged, except
83 that upon any such review the Board may schedule the next review as much as three years thereafter,
84 provided there are ~~ten~~ *10* years or more or life imprisonment remaining on the sentence in such case.
85 *Such reviews shall include a live interview of the prisoner by a Board member or a staff member*
86 *designated by the Board. Such interviews may be conducted in person or by videoconference or*
87 *telephone at the discretion of the Board. Absent imminent death of the prisoner or other extraordinary*
88 *circumstances, which shall be documented by the Board in the prisoner's file, the Board shall not grant*
89 *parole to any prisoner who has not received a live interview within the prior calendar year.*
90 Notwithstanding any other provision of this article, in the case of a parole revocation, if such person is
91 otherwise eligible for parole, the Board shall review and decide his case no later than that part of the
92 calendar year one year subsequent to the part of the calendar year in which he was returned to a facility
93 as provided in § 53.1-161. Thereafter, his case shall be reviewed as specified in this section. The Board,
94 in addition, may review the case of any prisoner eligible for parole at any other time and may review
95 the case of any prisoner prior to that part of the year otherwise specified. In the discretion of the Board,
96 interviews may be conducted by the Board or its representatives and may be either public or private.

97 **§ 53.1-155. Investigation prior to release; transition assistance.**

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

103 B. An investigation conducted pursuant to this section shall include notification that a victim may
104 submit to the Virginia Parole Board evidence concerning the impact that the release of the prisoner will
105 have on such victim. This notification shall be sent to the last address provided to the Board by any
106 victim of a crime for which the prisoner was incarcerated. If additional victim research is necessary,
107 electronic notification shall be sent to the attorney for the Commonwealth and the director of the
108 victim/witness program, if one exists, of the jurisdiction in which the offense occurred. The Board shall
109 ~~endeavor diligently to~~ *contact* the victim prior to making any decision to release any inmate on
110 discretionary parole. The victim of a crime for which the prisoner is incarcerated may present to the
111 Board oral, *including by virtual means*, or written testimony concerning the impact that the release of
112 the prisoner will have on the victim, and the Board shall consider such testimony in its review. Once
113 testimony is submitted by a victim, such testimony shall remain in the prisoner's parole file and shall be
114 considered by the Board at every parole review. The victim of a crime for which the prisoner is
115 incarcerated may submit a request in writing or by electronic means to the Board to be notified of (i)
116 the prisoner's parole eligibility date and mandatory release date as determined by the Department of
117 Corrections, (ii) any parole-related interview dates, and (iii) the Board's decision regarding parole for the
118 prisoner. The victim may request that the Board only notify the victim if, following its review, the
119 Board is inclined to grant parole to the prisoner, in which case the victim shall have ~~forty-five~~ *45* days
120 to present written or oral testimony for the Board's consideration. If the victim has requested to be

121 notified only if the Board is inclined to grant parole and no testimony, either written or oral, is received
122 from the victim within at least ~~forty-five~~ 45 days of the date of the Board's notification, the Board shall
123 render its decision based on information available to it in accordance with subsection A. The definition
124 of victim in § 19.2-11.01 shall apply to this section.

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

128 C. Notwithstanding the provisions of subsection A, if a physical or mental examination of a prisoner
129 eligible for parole has been conducted within the last ~~twelve~~ 12 months, and the prisoner has not
130 required medical or psychiatric treatment within a like period while incarcerated, the prisoner may be
131 released on parole by the Parole Board directly from a local correctional facility.

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