

§ 14-8-7. Good time., AL ST § 14-8-7

Code of Alabama

Title 14. Criminal Correctional and Detention Facilities. (Refs & Annos)

Chapter 8. Temporary Release Programs.

Article 1. . Work Release for State Inmates. (Refs & Annos)

Ala.Code 1975 § 14-8-7

§ 14-8-7. Good time.

Currentness

Inmates employed under this article shall be eligible for good time credit in the same manner as other inmates under the jurisdiction of the board.

Credits

(Acts 1971, 3rd Ex. Sess., No. 307, p. 4595, § 8.)

Editors' Notes

LIBRARY REFERENCES

American Digest System:

Prisons 245(3).

Corpus Juris Secundum:

C.J.S. Prisons and Rights of Prisoners §§ 142 to 144, 147, 151.

Ala. Code 1975 § 14-8-7, AL ST § 14-8-7

Current through Act 2013-301 of the 2013 Regular Session.

§ 14-8-38. Eligibility of inmates for good time credit., AL ST § 14-8-38

Code of Alabama

Title 14. Criminal Correctional and Detention Facilities. (Refs & Annos)

Chapter 8. Temporary Release Programs.

Article 2. . Work Release for County Inmates and State Inmates in County Custody. (Refs & Annos)

Ala.Code 1975 § 14-8-38

§ 14-8-38. Eligibility of inmates for good time credit.

Currentness

County inmates employed under this article shall be eligible for good time credit in the same manner as other inmates confined or detained in the county jail or other county correctional facility. State inmates so employed shall be eligible for good time credit in the same manner as other inmates confined or detained in state prisons or other state correctional facilities.

Credits

(Acts 1976, No. 637, p. 883, § 9.)

Editors' Notes

LIBRARY REFERENCES

American Digest System:

Prisons 245(3).

Corpus Juris Secundum:

C.J.S. Prisons and Rights of Prisoners §§ 142 to 144, 147, 151.

Ala. Code 1975 § 14-8-38, AL ST § 14-8-38

Current through Act 2013-301 of the 2013 Regular Session.

§ 14-9-41. Computation of incentive time deductions., AL ST § 14-9-41

Code of Alabama

Title 14. Criminal Correctional and Detention Facilities. (Refs & Annos)

Chapter 9. Deductions from Sentences.

Article 3. . Deductions from Sentences of Correctional Incentive Time. (Refs & Annos)

Ala.Code 1975 § 14-9-41

§ 14-9-41. Computation of incentive time deductions.

Currentness

(a) Each prisoner who shall hereafter be convicted of any offense against the laws of the State of Alabama and is confined, in execution of the judgment or sentence upon any conviction, in the penitentiary or at hard labor for the county or in any municipal jail for a definite or indeterminate term, other than for life, whose record of conduct shows that he has faithfully observed the rules for a period of time to be specified by this article may be entitled to earn a deduction from the term of his sentence as follows:

- (1) Seventy-five days for each 30 days actually served while the prisoner is classified as a Class I prisoner.
- (2) Forty days for each 30 days actually served while the prisoner is a Class II prisoner.
- (3) Twenty days for each 30 days actually served while the prisoner is a Class III prisoner.
- (4) No good time shall accrue during the period the prisoner is classified as a Class IV prisoner.

(b) Within 90 days after May 19, 1980, the Commissioner of the Department of Corrections shall establish and publish in appropriate directives certain criteria not in conflict with this article for Class I, II, III, and IV prisoner classifications. Such classifications shall encompass consideration of the prisoner's behavior, discipline, and work practices and job responsibilities.

(c)(1) Class I is set aside for those prisoners who are considered to be trustworthy in every respect and who, by virtue of their work habits, conduct, and attitude of cooperation have proven their trustworthiness. An example of a Class I inmate would be one who could work without constant supervision by a security officer.

(2) Class II is that category of prisoners whose jobs will be under the supervision of a correctional employee at all times. Any inmate shall remain in this classification for a minimum period of six months before being eligible for Class I.

(3) Class III is for prisoners with special assignments. They may not receive any of the privileges of Class I and Class II inmates. Any inmate shall remain in this classification for a minimum period of three months before being eligible for Class II.

§ 14-9-41. Computation of incentive time deductions., AL ST § 14-9-41

(4) Class IV is for prisoners not yet classified and for those who are able to work and refuse, or who commit disciplinary infractions of such a nature which do not warrant a higher classification, or inmates who do not abide by the rules of the institution. Inmates who are classified in this earning class receive no correctional incentive time. This class is generally referred to as "flat time" or "day-for-day." Any inmate shall remain in this classification for a minimum period of 30 days before being eligible for Class III.

(5) No inmate may reach any class without first having gone through and meeting the requirements of all lower classifications.

(d) As a prisoner gains a higher classification status he shall not be granted retroactive incentive credit based on the higher classification he has reached, but shall be granted incentive credit based solely on the classification in which he was serving at the time the incentive credit was earned. Nothing in this article shall be interpreted as authorizing an inmate incentive credits based on the highest classification he attains for any period of time in which he was serving in a lower classification or from the date of his sentence.

(e) Provided, however, no person may receive the benefits of correctional incentive time if he or she has been convicted of a Class A felony or has been sentenced to life, or death, or who has received a sentence for more than 15 years in the state penitentiary or in the county jail at hard labor or in any municipal jail. No person may receive the benefits of correctional incentive time if he or she has been convicted of a criminal sex offense involving a child as defined in Section 15-20-21(5). No person may be placed in Class I if he or she has been convicted of an assault where the victims of such assault suffered the permanent loss or use or permanent partial loss or use of any bodily organ or appendage. No person may be placed in Class I if he or she has been convicted of a crime involving the perpetration of sexual abuse upon the person of a child under the age of 17 years.

The court sentencing a person shall note upon the transcript to accompany such prisoner the fact that he or she has been sentenced as a result of a crime that forbids his or her being classified as a Class I prisoner.

(f)(1) If during the term of imprisonment a prisoner commits an offense or violates a rule of the Department of Corrections, all or any part of his correctional incentive time accrued pursuant to this section shall be forfeited.

(2) The Commissioner of the Department of Corrections shall have the power to restore to any prisoner who has heretofore, or who may hereafter, forfeit the deductions allowed him or her for good behavior, work habits and cooperation, or good conduct, by violating any existing law or prison rule or regulation such portion of his deduction for good conduct or good behavior as may be proper in his judgment, upon recommendation and evidence submitted to him by the warden in charge.

(g)(1) When a prisoner is serving two or more terms of imprisonment and the sentences run consecutively, then all such sentences shall be combined for the purpose of computing deductions for correctional incentive time and release date; however, the actual deduction from sentence for correctional incentive time provided by this section shall apply only to sentences to be served.

(2) When a prisoner is serving two or more sentences which run concurrently, the sentence which results in the longer period of incarceration yet remaining shall be considered the term to which such prisoner is sentenced for the purpose of computing

§ 14-9-41. Computation of incentive time deductions., AL ST § 14-9-41

his release date and correctional incentive time under the provisions of this article. When computing the deductions allowed in this section on indeterminate sentences the maximum sentence shall be the basis for the computation. The provisions of this section shall be administered by the chief administrative officer of the penal institution as it applies to prisoners in any state penal institution, by the sheriff of the county as it applies to prisoners in any county jail, and by the chief of police as it applies to prisoners in any municipal jail.

(h) Deductions for good behavior, work habits and cooperation, or good conduct shall be interpreted to give authorized good time retroactively, to those offenders convicted of crimes committed after May 19, 1980, except those convicted of crimes of the unlawful sale or distribution of controlled substances as enumerated in Title 13A and in former Chapter 2 of Title 20, and for any sexual offenses as enumerated in Chapter 6, Title 13A, provided however that the Commissioner of the Department of Corrections shall have the prison records of all inmates, who become eligible under this article, reviewed and shall disqualify any such inmate from being awarded good time under this article at his discretion.

Credits

(Acts 1980, No. 80-446, p. 690, § 2; Acts 1991, No. 91-637, p. 1201, § 1; Act 2005-301, 1st Sp. Sess., p. 571, § 1.)

Notes of Decisions (44)

Ala. Code 1975 § 14-9-41, AL ST § 14-9-41

Current through the end of the 2013 Regular Session.

§ 15-22-26. Standards for release of prisoners on parole., AL ST § 15-22-26

Code of Alabama

Title 15. Criminal Procedure. (Refs & Annos)

Chapter 22. Pardons, Paroles, and Probation. (Refs & Annos)

Article 2. . Pardons and Paroles. (Refs & Annos)

Ala.Code 1975 § 15-22-26

§ 15-22-26. Standards for release of prisoners on parole.

Currentness

No prisoner shall be released on parole merely as a reward for good conduct or efficient performance of duties assigned in prison, but only if the Board of Pardons and Paroles is of the opinion that there is reasonable probability that, if such prisoner is released, he will live and remain at liberty without violating the law and that his release is not incompatible with the welfare of society. If the board shall so determine, such prisoner shall be allowed to go upon parole outside of prison walls and enclosure upon such terms and conditions as the board shall prescribe, but to remain while thus on parole in the legal custody of the warden of the prison from which he is paroled until the expiration of the maximum term specified in his sentence or until he is fully pardoned.

Credits

(Acts 1939, No. 275, p. 426; Code 1940, T. 42, § 7; Acts 1951, No. 599, p. 1030.)

Editors' Notes

LIBRARY REFERENCES

American Digest System:

Pardon and Parole 49.

Corpus Juris Secundum:

C.J.S. Pardon and Parole §§ 48 to 51.

Notes of Decisions (29)

Ala. Code 1975 § 15-22-26, AL ST § 15-22-26

Current through Act 2013-301 of the 2013 Regular Session.

§ 15-22-27.1. Parole of persons convicted of certain felonies or..., AL ST § 15-22-27.1

Code of Alabama

Title 15. Criminal Procedure. (Refs & Annos)

Chapter 22. Pardons, Paroles, and Probation. (Refs & Annos)

Article 2. . Pardons and Paroles. (Refs & Annos)

Ala.Code 1975 § 15-22-27.1

§ 15-22-27.1. Parole of persons convicted of certain felonies or attempts and having been previously convicted of felonies or attempts resulting in serious physical injury.

[Currentness](#)

Any person convicted of any act, or attempt to commit the act, of murder, rape, robbery or assault with a deadly weapon, the commission of which directly and proximately resulted in serious physical injury to another and the commission of which follows within five years a previous conviction of another felony, or attempt thereof, resulting in serious physical injury to another, shall upon conviction serve such sentence as may be imposed without benefit of parole, notwithstanding any law to the contrary.

Credits

(Acts 1977, No. 639, p. 1087.)

Editors' Notes

LIBRARY REFERENCES

American Digest System:

[Pardon and Parole](#) 44.

RESEARCH REFERENCES

Treatises and Practice Aids

[Criminal Offenses and Defenses in Alabama § H10](#), Habitual Felony Offender.

[Notes of Decisions \(5\)](#)

Ala. Code 1975 § 15-22-27.1, AL ST § 15-22-27.1

Current through Act 2013-301 of the 2013 Regular Session.

§ 15-22-27.2. Parole of persons sentenced to life imprisonment..., AL ST § 15-22-27.2

Code of Alabama

Title 15. Criminal Procedure. (Refs & Annos)

Chapter 22. Pardons, Paroles, and Probation. (Refs & Annos)

Article 2. . Pardons and Paroles. (Refs & Annos)

Ala.Code 1975 § 15-22-27.2

§ 15-22-27.2. Parole of persons sentenced to life imprisonment upon second convictions of Class A felonies.

[Currentness](#)

In all cases where a criminal defendant has been convicted of a Class A felony committed after a previous conviction of another Class A felony, and such second conviction results in a sentence to imprisonment for life, he shall not be eligible for parole.

Credits

(Acts 1977, No. 640, p. 1088.)

Editors' Notes

LIBRARY REFERENCES

American Digest System:

[Pardon and Parole](#)  44.

RESEARCH REFERENCES

Treatises and Practice Aids

[Criminal Offenses and Defenses in Alabama § H10](#), Habitual Felony Offender.

[Notes of Decisions \(5\)](#)

Ala. Code 1975 § 15-22-27.2, AL ST § 15-22-27.2

Current through Act 2013-301 of the 2013 Regular Session.

§ 15-22-27.3. Parole of persons convicted of sex offense..., AL ST § 15-22-27.3

Code of Alabama

Title 15. Criminal Procedure. (Refs & Annos)

Chapter 22. Pardons, Paroles, and Probation. (Refs & Annos)

Article 2. . Pardons and Paroles. (Refs & Annos)

Ala.Code 1975 § 15-22-27.3

§ 15-22-27.3. Parole of persons convicted of sex offense involving a child.

Currentness

Any person convicted of a criminal sex offense involving a child as defined in [subdivision \(5\) of Section 15-20-21](#) which constitutes a Class A or B felony shall not be eligible for parole.

Credits

(Act 2005-301, 1st Sp. Sess., p. 571, § 2.)

Editors' Notes

LIBRARY REFERENCES

American Digest System:

[Pardon and Parole](#) ¶44.

Law Review Articles:

[Child Sexual Abuse: Moving Toward a Balanced and Rational Approach](#). 34 Am. J. Trial Advoc. 517 (2011).

RESEARCH REFERENCES

Treatises and Practice Aids

[Criminal Offenses and Defenses in Alabama § S60](#), Sexual Abuse.

[Notes of Decisions \(1\)](#)

Ala. Code 1975 § 15-22-27.3, AL ST § 15-22-27.3

Current through Act 2013-301 of the 2013 Regular Session.

Code of Alabama

Title 15. Criminal Procedure. (Refs & Annos)

Chapter 22. Pardons, Paroles, and Probation. (Refs & Annos)

Article 2. . Pardons and Paroles. (Refs & Annos)

Ala.Code 1975 § 15-22-27

§ 15-22-27. Pardon or parole of person having death sentence commuted to life imprisonment.

Currentness

(a) Any person whose sentence to death has been commuted by the Governor shall not be eligible for a pardon unless sufficient evidence is presented to the Board of Pardons and Paroles to satisfy it that the person was innocent of the crime for which he or she was convicted, the board votes unanimously to grant the person a pardon, and the Governor concurs in and approves the granting of the pardon.

(b) Any person whose sentence to death has been commuted by the Governor shall not be eligible for a parole.

(c) This section shall not be construed to deny any person whose sentence of death has been commuted the right to apply to the courts of this state for any remedy that the person is entitled to under the laws of Alabama.

(d) The Board of Pardons and Paroles shall not grant a parole or pardon to a person whose sentence of death has been commuted by the Governor unless the provisions of subsection (a) are applicable.

Credits

(Acts 1951, No. 804, p. 1401, §§ 1, 2; Act 2003-300, p. 717, § 1.)

Editors' Notes

LIBRARY REFERENCES

American Digest System:

[Pardon and Parole](#) ¶44.

RESEARCH REFERENCES

Treatises and Practice Aids

[Criminal Offenses and Defenses in Alabama § D10](#), Death Penalty.

Ala. Code 1975 § 15-22-27, AL ST § 15-22-27

Current through Act 2013-301 of the 2013 Regular Session.

§ 15-22-27. Pardon or parole of person having death sentence..., AL ST § 15-22-27

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§ 15-22-28. Investigation for parole; cooperation with Board of..., AL ST § 15-22-28

Code of Alabama

Title 15. Criminal Procedure. (Refs & Annos)

Chapter 22. Pardons, Paroles, and Probation. (Refs & Annos)

Article 2. . Pardons and Paroles. (Refs & Annos)

Ala.Code 1975 § 15-22-28

§ 15-22-28. Investigation for parole; cooperation with Board of Corrections; temporary leave; restrictions on paroling; minimum sentence to be served prior to eligibility for parole.

Currentness

(a) It shall be the duty of the Board of Pardons and Paroles, upon its own initiative, to make an investigation of any and all prisoners confined in the jails and prisons of the state with a view of determining the feasibility of releasing the prisoners on parole and effecting their reclamation. Reinvestigations shall be made from time to time as the board may determine or as the Board of Corrections may request. The investigations shall include such reports and other information as the board may require from the Board of Corrections or any of its officers, agents or employees.

(b) It shall be the duty of the Board of Corrections to cooperate with the Board of Pardons and Paroles for the purpose of carrying out the provisions of this article.

(c) Temporary leave from prison, including Christmas furloughs, may be granted only by the Commissioner of Corrections to a prisoner for good and sufficient reason and may be granted within or without the state; provided, that Christmas furloughs shall not be granted to any prisoner convicted of drug peddling, child molesting or rape, or to any maximum security prisoner. A permanent, written record of all such temporary leaves, together with the reasons therefor, shall be kept by such commissioner. He shall furnish the Pardon and Parole Board with a record of each such leave granted and the reasons therefor, and the same shall be placed by the board in the prisoner's file.

(d) No prisoner shall be released on parole except by a majority vote of the board, nor unless the board is satisfied that he will be suitably employed in self-sustaining employment or that he will not become a public charge if so released. The board shall not parole any prisoner for employment by any official of the State of Alabama, nor shall any parolee be employed by an official of the State of Alabama and be allowed to remain on parole; provided, however, that this provision shall not apply in the case of a parolee whose employer, at the time of the parolee's original employment, was not a state official.

(e) The board shall not grant a parole to any prisoner who has not served at least one third or 10 years of his sentence, whichever is the lesser, except by a unanimous affirmative vote of the board.

Credits

(Acts 1939, No. 275, p. 426; Code 1940, T. 42, § 8; Acts 1951, No. 599, p. 1030; Acts 1971, 3rd Ex. Sess., No. 308, p. 4597.)

§ 15-22-28. Investigation for parole; cooperation with Board of..., AL ST § 15-22-28

Editors' Notes

LIBRARY REFERENCES

American Digest System:

[Pardon and Parole](#)  50, 58.

Corpus Juris Secundum:

[C.J.S. Pardon and Parole](#) §§ 48 to 54.

[Notes of Decisions \(14\)](#)

Ala. Code 1975 § 15-22-28, AL ST § 15-22-28

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Code of Alabama

Title 15. Criminal Procedure. (Refs & Annos)

Chapter 22. Pardons, Paroles, and Probation. (Refs & Annos)

Article 2. . Pardons and Paroles. (Refs & Annos)

Ala.Code 1975 § 15-22-29

§ 15-22-29. Conditions of parole; adoption of rules concerning conditions.

Currentness

(a) The Board of Pardons and Paroles, in releasing a prisoner on parole, shall specify in writing the conditions of his parole, and a copy of such conditions shall be given to the parolee. A violation of such conditions may render the prisoner liable to arrest and reimprisonment.

(b) The Board of Pardons and Paroles shall adopt general rules with regard to conditions of parole and their violation and may make special rules to govern particular cases. Such rules, both general and special, may include, among other things, a requirement that:

- (1) The parolee shall not leave the state without the consent of the board;
- (2) He shall contribute to the support of his dependents to the best of his ability;
- (3) He shall make reparation or restitution for his crime;
- (4) He shall abandon evil associates and ways; and
- (5) He shall carry out the instructions of his parole officer and in general so comport himself as such officer shall determine.

Credits

(Acts 1939, No. 275, p. 426; Code 1940, T. 42, § 9; Acts 1951, No. 599, p. 1030.)

Editors' Notes

LIBRARY REFERENCES

American Digest System:

Pardon and Parole  64.

§ 15-22-29. Conditions of parole; adoption of rules concerning..., AL ST § 15-22-29

Corpus Juris Secundum:

[C.J.S. Pardon and Parole §§ 58 to 59.](#)

[Notes of Decisions \(3\)](#)

Ala. Code 1975 § 15-22-29, AL ST § 15-22-29

Current through Act 2013-301 of the 2013 Regular Session.

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Code of Alabama

Title 15. Criminal Procedure. (Refs & Annos)

Chapter 22. Pardons, Paroles, and Probation. (Refs & Annos)

Article 2. . Pardons and Paroles. (Refs & Annos)

Ala.Code 1975 § 15-22-31

§ 15-22-31. Warrant for retaking parolee; arrest without warrant; execution of warrant and fees therefor.

Currentness

(a) If the parole officer having charge of a paroled prisoner or any member of the Board of Pardons and Paroles shall have reasonable cause to believe that such prisoner has lapsed, or is probably about to lapse, into criminal ways or company or has violated the conditions of his parole in an important respect, such officer or board member shall report such fact to the Department of Corrections, which shall thereupon issue a warrant for the retaking of such prisoner and his return to the prison designated.

(b) Any parole officer, police officer, sheriff or other officer with power of arrest, upon the request of the parole officer, may arrest a parolee without a warrant; but, in case of an arrest without a warrant, the arresting officer shall have a written statement by said parole officer setting forth that the parolee has, in his judgment, violated the conditions of parole, in which case such statement shall be sufficient warrant for the detention of said parolee in the county jail or other appropriate place of detention until the warrant issued by the Department of Corrections has been received at the place of his detention; provided, however, that in no case shall a parolee be held longer than 20 days on the order of the parole officer awaiting the arrival of the warrant as provided for in this section.

(c) Any parole officer, any officer authorized to serve criminal process or any peace officer to whom such warrant shall be delivered is authorized and required to execute such warrant by taking such prisoner and returning him to the prison designated by the Department of Corrections, there to be held to await the action of the Board of Pardons and Paroles.

(d) Such officer, other than an officer of the prison or parole officer, shall be entitled to receive the same fees therefor as upon the execution of a warrant of arrest at the place where said prisoner shall be retaken and as for transporting a convict from the place of arrest to the prison, in case such officer also transports the prisoner to the prison. Such fees shall be paid out of the funds standing to the credit of the Department of Corrections.

Credits

(Acts 1939, No. 275, p. 426; Code 1940, T. 42, § 10; Acts 1951, No. 599, p. 1030; Acts 1953, No. 734, p. 993; Acts 1989, No. 89-945, p. 1858, § 1.)

Editors' Notes

LIBRARY REFERENCES

§ 15-22-31. Warrant for retaking parolee; arrest without warrant;..., AL ST § 15-22-31

American Digest System:

Pardon and Parole 69.

Corpus Juris Secundum:

C.J.S. Pardon and Parole § 65.

Notes of Decisions (8)

Ala. Code 1975 § 15-22-31, AL ST § 15-22-31
Current through Act 2013-301 of the 2013 Regular Session.

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§ 15-22-32. Parole court; hearing officers., AL ST § 15-22-32

Code of Alabama

Title 15. Criminal Procedure. (Refs & Annos)

Chapter 22. Pardons, Paroles, and Probation. (Refs & Annos)

Article 2. . Pardons and Paroles. (Refs & Annos)

Ala.Code 1975 § 15-22-32

§ 15-22-32. Parole court; hearing officers.

Currentness

(a) Whenever there is reasonable cause to believe that a prisoner who has been paroled has violated his or her parole, the Board of Pardons and Paroles, at its next meeting, shall declare the prisoner to be delinquent, and time owed shall date from the delinquency. The warden of each prison shall promptly notify the board of the return of a paroled prisoner charged with violation of his or her parole. Thereupon, the board, a single member of the board, a parole revocation hearing officer, or a designated parole officer shall, as soon as practicable, hold a parole court at the prison or at another place as it may determine and consider the case of the parole violator, who shall be given an opportunity to appear personally or by counsel before the board or the parole court and produce witnesses and explain the charges made against him or her. The board member, parole revocation hearing officer, or a designated parole officer, acting as a parole court, shall, within a reasonable time, conduct the parole revocation hearing to determine guilt or innocence of the charges and may recommend to the board revocation or reinstatement of parole. Upon revocation of parole, the board may require the prisoner to serve out in prison the balance of the term for which he or she was originally sentenced, calculated from the date of delinquency or the part thereof as it may determine. The delinquent parolee shall be deemed to have begun serving the balance of the time required on the date of his or her rearrest as a delinquent parolee.

(b) The position of Parole Revocation Hearing Officer is created and established, subject to provisions of the state Merit System.

(c) The board may appoint or employ, as the board deems necessary, three hearing officers who shall conduct a parole court with authority to determine guilt and recommend revocation of parole or reinstatement of parole to the board. The first three appointments shall be provisional appointments made by the board pending job analysis and compilation of the examination for the state Merit System classification, or a licensed practicing attorney with a minimum of 3 years' experience practicing criminal law.

(d) A hearing officer shall receive an annual salary to be determined by the board but not exceeding the maximum salary now or hereafter established for Probation and Parole Officer V. The salary and expenses of the hearing officers shall be paid from the State Treasury in the same manner that the salary and expenses of the state Merit System employees are paid.

Credits

(Acts 1939, No. 275, p. 426, § 12; Code 1940, T. 42, § 12; Acts 1951, No. 599, p. 1030, § 12; Acts 1975, No. 184, § 1; Acts 1981, 3rd Ex. Sess., No. 81-1121, p. 385, § 1; [Act 99-400, p. 667, § 1.](#))

§ 15-22-32. Parole court; hearing officers., AL ST § 15-22-32

Editors' Notes

LIBRARY REFERENCES

American Digest System:

[Pardon and Parole](#)  69.

Corpus Juris Secundum:

[C.J.S. Pardon and Parole § 65.](#)

[Notes of Decisions \(23\)](#)

Ala. Code 1975 § 15-22-32, AL ST § 15-22-32
Current through Act 2013-301 of the 2013 Regular Session.

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§ 15-22-33. Discharge from parole; relief from reports; permission..., AL ST § 15-22-33

Code of Alabama

Title 15. Criminal Procedure. (Refs & Annos)

Chapter 22. Pardons, Paroles, and Probation. (Refs & Annos)

Article 2. . Pardons and Paroles. (Refs & Annos)

Ala.Code 1975 § 15-22-33

§ 15-22-33. Discharge from parole; relief from reports; permission to leave state or county.

Currentness

No person released on parole shall be discharged from parole prior to the expiration of the full maximum term for which he was sentenced unless he is sooner fully pardoned. The Board of Pardons and Paroles, however, may relieve a prisoner on parole from making further reports and may permit such prisoner to leave the state or county if satisfied that this is for the best interests of society.

Credits

(Acts 1939, No. 275, p. 426; Code 1940, T. 42, § 13; Acts 1951, No. 599, p. 1030.)

Editors' Notes

LIBRARY REFERENCES

American Digest System:

[Pardon and Parole](#) § 93.

Corpus Juris Secundum:

[C.J.S. Pardon and Parole](#) § 64.

Ala. Code 1975 § 15-22-33, AL ST § 15-22-33

Current through Act 2013-301 of the 2013 Regular Session.

West's Arkansas Code Annotated

Title 16. Practice, Procedure, and Courts

Subtitle 6. Criminal Procedure Generally (Chapters 80 to 104)

Chapter 93. Probation and Parole (Refs & Annos)

Subchapter 1. General Provisions

A.C.A. § 16-93-101

§ 16-93-101. Definitions

Effective: July 27, 2011

[Currentness](#)

As used in this act:

(1) "Case plan" means an individualized accountability and behavior change strategy for supervised individuals that:

(A) Targets and prioritizes the specific criminal risk factors of the offender based upon his or her assessment results;

(B) Matches the type and intensity of supervision and treatment conditions to the offender's level of risk, criminal risk factors, and individual characteristics, such as gender, culture, motivational stage, developmental stage, and learning style;

(C) Establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations; and

(D) Specifies positive and negative actions that will be taken in response to the supervised individual's behaviors;

(2) "Criminal risk factors" are characteristics and behaviors that affect a person's risk for committing crimes and may include without limitation the following risk and criminogenic need factors:

(A) Antisocial personality;

(B) Criminal thinking;

(C) Criminal associates;

(D) Dysfunctional family;

§ 16-93-101. Definitions, AR ST § 16-93-101

- (E) Low levels of employment or education; and

- (F) Substance abuse;

- (3) “Evidence-based practices” means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism;

- (4) “Intermediate sanctions” means a nonprison accountability measure imposed on an offender in response to a violation of supervision conditions. Such measures may include without limitation:
 - (A) The use of electronic supervision tools;

 - (B) Drug and alcohol testing or monitoring;

 - (C) Day or evening reporting;

 - (D) Restitution;

 - (E) Forfeiture of earned discharge credits;

 - (F) Rehabilitative interventions such as substance abuse and mental health treatment;

 - (G) Reporting requirements to probation or parole officers;

 - (H) Community service or community work project;

 - (I) Secure or unsecure residential treatment facilities; and

 - (J) Short-term, intermittent incarceration;

- (5) “Jacket review” means the review of the file of a transfer-eligible inmate located at any correctional facility in the state by an individual staff member or team of staff members of the Department of Community Correction for purposes of preparing the inmate's application for parole consideration by the Parole Board;

§ 16-93-101. Definitions, AR ST § 16-93-101

(6) “Parole” means the release of the prisoner into the community by the board prior to the expiration of his or her term, subject to conditions imposed by the board and to the supervision of the Department of Community Correction. When a court or other authority has filed a warrant against the prisoner, the board may release him or her on parole to answer the warrant of the court or authority;

(7) “Probation” means a procedure under which a defendant, found guilty upon verdict or plea, is released by the court without imprisonment, subject to conditions imposed by the court and subject to the supervision of the Department of Community Correction, but only if the supervision is requested in writing by the court;

(8) “Recidivism” means the return to incarceration in a Department of Correction or Department of Community Correction community correctional facility other than a technical violator program within a three-year period;

(9) “Risk needs assessment review” means an examination of the results of a validated risk-needs assessment;

(10)(A) “Treatment” means targeted interventions that focus on criminal risk factors in order to reduce the likelihood of criminal behavior.

(B) Treatment options may include without limitation:

(i) Community-based programs that are consistent with evidence-based practices;

(ii) Cognitive behavioral programs;

(iii) Inpatient and outpatient substance abuse and mental health programs; and

(iv) Other available prevention and intervention programs that have been scientifically proven to reliably reduce recidivism; and

(11) “Validated risk-needs assessment” means a determination of a person's risk to reoffend and the needs that, when addressed, reduce the risk to reoffend through the use of an actuarial assessment tool that assesses the dynamic and static factors that drive criminal behavior.

Credits

Acts of 1968 (1st Ex. Sess.), Act 50, § 23; [Acts of 2005, Act 1994, § 286, eff. Aug. 12, 2005](#); [Acts of 2011, Act 570, § 84, eff. July 27, 2011](#).

Formerly A.S.A. 1947, § 43-2801.

Editors' Notes

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[Sentencing and Punishment](#) 1811, 1819.

Westlaw Topic Nos. 284, 350H.

[C.J.S. Criminal Law § 2145](#).

[C.J.S. Pardon and Parole § 42](#).

A.C.A. § 16-93-101, AR ST § 16-93-101

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

§ 16-93-102. Applicability of provisions, AR ST § 16-93-102

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A.C.A. § 16-93-102

§ 16-93-102. Applicability of provisions

Currentness

The provisions of this act are extended to any person who as of March 1, 1968, may be on parole or eligible to be placed on parole under existing laws, with the same force and effect as if this act had been in operation at the time the person was placed on parole or became eligible to be placed thereon, as the case may be.

Credits

Acts of 1968 (1st Ex. Sess.), Act 50, § 33.

Formerly A.S.A. 1947, § 43-2812.

Editors' Notes

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[Sentencing and Punishment](#) 🔑1870.

Westlaw Topic No. [350H](#).

A.C.A. § 16-93-102, AR ST § 16-93-102

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

§ 16-93-201. Creation--Members--Qualifications and training, AR ST § 16-93-201

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A.C.A. § 16-93-201

§ 16-93-201. Creation--Members--Qualifications and training

Effective: July 27, 2011

Currentness

(a)(1) There is created the Parole Board, to be composed of seven (7) members to be appointed from the state at large by the Governor and confirmed by the Senate.

(2) Seven (7) members shall be full-time officials of this state, one (1) of whom shall be designated by the Governor as the chair of the board.

(3) Each member shall serve a seven-year term, except that the terms shall be staggered by the Governor so that the term of one (1) member expires each year.

(4)(A) A member must have at least a bachelor's degree from an accredited college or university, and the member should have no less than five (5) years' professional experience in one (1) of the following fields:

(i) Parole supervision;

(ii) Probation supervision;

(iii) Corrections;

(iv) Criminal justice;

(v) Law;

(vi) Law enforcement;

(vii) Psychology;

§ 16-93-201. Creation--Members--Qualifications and training, AR ST § 16-93-201

(viii) Psychiatry;

(ix) Sociology;

(x) Social work; or

(xi) Other related field.

(B) If the member does not have at least a bachelor's degree from an accredited college or university, he or she must have no less than seven (7) years' experience in a field listed in subdivision (a)(4)(A) of this section.

(5)(A) A member appointed after July 1, 2011, whether or not he or she has served on the board previously, shall complete a comprehensive training course developed in compliance with guidelines from the National Institute of Corrections, the Association of Paroling Authorities International, or the American Probation and Parole Association.

(B) All members shall complete annual training developed in compliance with guidelines from the National Institute of Corrections, the Association of Paroling Authorities International, or the American Probation and Parole Association.

(C) Training components shall include an emphasis on the following subjects:

(i) Data-driven decision making;

(ii)(a) Evidence-based practice.

(b) As used in this section, "evidence-based practice" means practices proven through research to reduce recidivism;

(iii) Stakeholder collaboration; and

(iv) Recidivism reduction.

(b) If any vacancy occurs on the board prior to the expiration of a term, the Governor shall fill the vacancy for the remainder of the unexpired term, subject to confirmation by the Senate at its next regular session.

(c) The members of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

§ 16-93-201. Creation--Members--Qualifications and training, AR ST § 16-93-201

(d) Four (4) members of the board shall constitute a quorum.

Credits

Acts of 1989, Act 937, §§ 2, 3, 5; Acts of 1993, Act 530, § 1; Acts of 1993, Act 547, § 1; Acts of 1995, Act 285, § 1, eff. Feb. 13, 1995; Acts of 1995, Act 381, § 1, eff. Feb. 20, 1995; Acts of 1997, Act 250, § 120, eff. Feb. 24, 1997; Acts of 1999, Act 979, § 1, eff. March 31, 1999; Acts of 2005, Act 1033, § 1, eff. Aug. 12, 2005; Acts of 2007, Act 697, § 3, eff. July 1, 2007; Acts of 2011, Act 570, § 86, eff. July 27, 2011.

A.C.A. § 16-93-201, AR ST § 16-93-201

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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§ 16-93-202. Official seal--Record and notice--Reports, AR ST § 16-93-202

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Subchapter 2. Parole Board (Refs & Annos)

A.C.A. § 16-93-202

§ 16-93-202. Official seal--Record and notice--Reports

Currentness

- (a) The Parole Board shall adopt an official seal of which the courts shall take judicial notice.
- (b) The board shall keep a record of its acts and shall notify each institution and facility of its decisions relating to persons who have been confined therein.
- (c)(1) An annual report in writing shall be made by the board on or before February 1 of each year for the preceding year.
- (2) The report shall be directed to the Governor and to the General Assembly and shall contain statistical and other data concerning its work, including research studies which it may make on parole or related functions.
- (d)(1) A presentence report, a preparole report, and a supervision history obtained in the discharge of official duty by any member or employee of the board shall be privileged and shall not be disclosed, directly or indirectly, to any person other than the board, a court, or others entitled under this chapter to receive the information.
- (2) However, the board or a court, at its discretion, may permit the inspection of the report or parts thereof by a person having a proper interest therein whenever the interests or welfare of the person involved makes that action desirable or helpful.

Credits

Acts of 1968 (1st Ex. Sess.), Act 50, §§ 26, 27; Acts of 1993, Act 530, § 3; Acts of 1993, Act 547, § 3.

Formerly A.S.A. 1947, §§ 43-2805, 43-2806.

A.C.A. § 16-93-202, AR ST § 16-93-202

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

§ 16-93-202. Official seal--Record and notice--Reports, AR ST § 16-93-202

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Subchapter 2. Parole Board (Refs & Annos)

A.C.A. § 16-93-203

§ 16-93-203. Access to prisoners--Communications and observation facilities--Conduct and character reports

Currentness

It shall be the duty of any correctional official to:

- (1) Grant access at all reasonable times to any prisoner over whom the board has jurisdiction under this chapter to the members of the Parole Board or its properly accredited representatives;
- (2) Provide the board and its representatives facilities for communicating with and observing the person; and
- (3) Furnish the board with:
 - (A) The reports the board requires concerning the conduct and character of any prisoner in his or her custody; and
 - (B) Any facts the board deems pertinent in determining whether:
 - (i) The prisoner shall be transferred and under what conditions the prisoner shall be transferred; or
 - (ii) The prisoner shall be paroled.

Credits

Acts of 1968 (1st Ex. Sess.), Act 50, § 30; Acts of 1993, Act 530, § 4; Acts of 1993, Act 547, § 4.

Formerly A.S.A. 1947, § 43-2809.

Editors' Notes

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Prisons ☞390.

§ 16-93-203. Access to prisoners--Communications and..., AR ST § 16-93-203

Westlaw Topic Nos. [284](#), [310](#).

[C.J.S. Pardon and Parole §§ 45 to 47](#).

[C.J.S. Prisons and Rights of Prisoners §§ 12, 14, 17, 22](#).

A.C.A. § 16-93-203, AR ST § 16-93-203

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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§ 16-93-204. Executive clemency, AR ST § 16-93-204

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A.C.A. § 16-93-204

§ 16-93-204. Executive clemency

Currentness

(a)(1)(A) All applications for pardon, commutation of sentence, reprieve, respite, or remission of fine or forfeiture shall be signed by the applicant under oath.

(B) For purposes of § 5-53-102, the application shall be deemed an official proceeding.

(2) An applicant shall obtain and include with his or her application a certified copy of the applicant's judgment and commitment order or comparable document.

(3) Applications shall be referred to the Parole Board for investigation.

(b) The board shall thereupon investigate each case and shall submit to the Governor its recommendation, a report of the investigation, and all other information the board may have regarding the applicant.

(c)(1) As part of the board's investigation, the chair of the board or his or her designee shall have the power to issue oaths and subpoena witnesses to appear and testify and to bring before the board any relevant books, papers, records, or documents.

(2)(A) The subpoena shall be directed to any sheriff, coroner, or constable of the county in which the designated witness resides or is found.

(B) The endorsed affidavit on the subpoena of any person shall be proof of the service of the subpoena.

(C) The subpoena shall be served and returned in the same manner as subpoenas in civil actions in the circuit courts are served and returned.

(d)(1) Before the board shall consider an application for a pardon or recommend a commutation of sentence, the board shall solicit the written or oral recommendation of the committing court, the prosecuting attorney, and the sheriff of the county from which the person was committed.

§ 16-93-204. Executive clemency, AR ST § 16-93-204

(2)(A) Before considering an application for a pardon or recommending a commutation of sentence of a person who was convicted of capital murder, § 5-10-101, or a Class Y, Class A, or Class B felony, the board shall notify the victim of the crime or the victim's next of kin, if he or she files a request for notice with the prosecuting attorney.

(B) When the board provides notice under subdivision (d)(2)(A) of this section, the board shall solicit the written or oral recommendations of the victim or the victim's next of kin regarding the granting of a pardon or commutation of sentence.

(3) The board shall retain a copy of the recommendations in the board's file.

(4) The recommendations shall not be binding upon the board in advising the Governor whether to grant a pardon or commute a sentence but shall be maintained in the inmate's file.

(5)(A) If a hearing will be held on the application, the board shall notify the victim or the victim's next of kin of the date, time, and place of the hearing.

(B) The notice shall be given when soliciting the recommendations of the victim of the crime or the victim's next of kin.

(e) At least thirty (30) days before submitting to the Governor a recommendation that an application for pardon, commutation of sentence, or remission of fine or forfeiture be granted, the board shall:

(1) Issue a public notice of its intention to make such a recommendation; and

(2) Send notice of its intention to the circuit judge who presided over the applicant's trial, the prosecuting attorney, and the sheriff of the county in which the applicant was convicted and, if applicable, to the victim or the victim's next of kin if the victim or the victim's next of kin registered for notification with the prosecuting attorney under § 16-21-106(c).

(f) Whether the board recommends that an application for pardon, commutation of sentence, or remission of fine or forfeiture be granted or denied by the Governor, the board shall issue public notice of each recommendation.

Credits

Acts of 1968 (1st Ex. Sess.), Act 50, § 32; Acts of 1991, Act 706, § 2; Acts of 1993, Act 530, § 5; Acts of 1993, Act 547, § 5; Acts of 2005, Act 1975, § 3, eff. Aug. 12, 2005.

Formerly A.S.A. 1947, § 43-2811.

§ 16-93-204. Executive clemency, AR ST § 16-93-204

Editors' Notes

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[Pardon and Parole](#)  21 to 28.

Westlaw Topic No. 284.

C.J.S. Pardon and Parole §§ 1 to 41.

[Notes of Decisions \(6\)](#)

A.C.A. § 16-93-204, AR ST § 16-93-204

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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§ 16-93-205. Arkansas inmates in other prison systems--Parole..., AR ST § 16-93-205

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Subchapter 2. Parole Board (Refs & Annos)

A.C.A. § 16-93-205

§ 16-93-205. Arkansas inmates in other prison systems--Parole or transfer

Currentness

(a) The Parole Board may request the appropriate board or commission having jurisdiction over parole or transfer matters in other states or the United States Parole Commission to make recommendations concerning whether Arkansas inmates confined in prison systems of the other states or in federal prisons should be granted parole or transfer when eligible under Arkansas law.

(b) The board may take action at its option on the application of an inmate for parole, using as its criteria the recommendations received from the appropriate board or commission of the other states or the United States Parole Commission in lieu of the personal appearance before the board of the inmate seeking parole or transfer.

Credits

Acts of 1983, Act 700, § 1; [Acts of 1993, Act 530, § 6](#); [Acts of 1993, Act 547, § 6](#).

Formerly A.S.A. 1947, § 43-2809.1.

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  48.1, 55.1.

Westlaw Topic No. 284.

[C.J.S. Pardon and Parole](#) §§ 45 to 51.

A.C.A. § 16-93-205, AR ST § 16-93-205

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

§ 16-93-206. Parole revocation review--Jurisdiction, AR ST § 16-93-206

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A.C.A. § 16-93-206

§ 16-93-206. Parole revocation review--Jurisdiction

Effective: July 27, 2011

[Currentness](#)

- (a) The Parole Board shall serve as the revocation review board for any person subject to either parole or transfer from prison.
- (b) Revocation proceedings for either parole or transfer shall follow all legal requirements applicable to parole and shall be subject to any additional policies, rules, and regulations set by the board.

Credits

Acts of 1993, Act 530, § 2; Acts of 1993, Act 547, § 2; Acts of 1994, 1st Ex. Sess., Act 8, § 1, eff. March 4, 1994; Acts of 1994, 1st Ex. Sess., Act 9, § 1, eff. March 4, 1994; Acts of 1999, Act 1035, § 1, eff. July 30, 1999; Acts of 2003, Act 1390, § 9, eff. July 16, 2003; Acts of 2007, Act 600, § 1, eff. July 31, 2007; Acts of 2007, Act 866, § 1, eff. July 31, 2007; Acts of 2011, Act 570, § 87, eff. July 27, 2011.

Editors' Notes

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[Pardon and Parole](#) [48.1](#) to [54](#), [57.1](#) to [62](#).

Westlaw Topic No. [284](#).

[C.J.S. Pardon and Parole](#) §§ [48](#) to [57](#).

A.C.A. § 16-93-206, AR ST § 16-93-206

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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Subchapter 6. Parole--Eligibility

A.C.A. § 16-93-609

§ 16-93-609. Effect of more than one conviction for certain felonies

Currentness

(a) Any person who commits murder in the first degree, § 5-10-102, rape, § 5-14-103, or aggravated robbery, § 5-12-103, subsequent to March 24, 1983, and who has previously been found guilty of or pleaded guilty or nolo contendere to murder in the first degree, § 5-10-102, rape, § 5-14-103, or aggravated robbery, § 5-12-103, shall not be eligible for release on parole by the Parole Board.

(b)(1) Any person who commits a violent felony offense or any felony sex offense subsequent to August 13, 2001, and who has previously been found guilty of or pleaded guilty or nolo contendere to any violent felony offense or any felony sex offense shall not be eligible for release on parole by the board.

(2) For purposes of this subsection, "a violent felony offense or any felony sex offense" means those offenses listed in § 5-4-501(d)(2).

Credits

Acts of 1983, Act 772, § 1; Acts of 2001, Act 1805, § 1, eff. Aug. 13, 2001.

Formerly A.S.A. 1947, § 43-2807.1.

Editors' Notes

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[Pardon and Parole](#) 44.

Westlaw Topic No. 284.

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[82 Am. Jur. Trials 1](#), Defending Against Claim of Ineffective Assistance of Counsel.

[Notes of Decisions \(5\)](#)

§ 16-93-609. Effect of more than one conviction for certain felonies, AR ST § 16-93-609

A.C.A. § 16-93-609, AR ST § 16-93-609

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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§ 16-93-610. Computation of sentence, AR ST § 16-93-610

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Subchapter 6. Parole--Eligibility

A.C.A. § 16-93-610

§ 16-93-610. Computation of sentence

Currentness

(a) Time served is deemed to begin on the day sentence is imposed, not on the day a prisoner is received by the Department of Correction. It shall continue only during the time in which a prisoner is actually confined in a county jail or other local place of lawful confinement or while under the custody and supervision of the department.

(b) When the sentencing judge imposes sentence, he or she is to direct that the time already served by the defendant in jail or other place of detention is to be credited against the defendant.

Credits

Acts of 1968 (1st Ex. Sess.), Act 50, § 34; [Acts of 2005, Act 1994, § 440, eff. Aug. 12, 2005.](#)

Formerly A.S.A. 1947, § 43-2813.

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  50.

Westlaw Topic No. 284.

[C.J.S. Pardon and Parole](#) §§ 48 to 51.

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[3A Trial Handbook for Arkansas Lawyers](#) § 98:24, Credit for Jail Time or Other Confinement.

[Notes of Decisions \(19\)](#)

A.C.A. § 16-93-610, AR ST § 16-93-610

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539,

§ 16-93-610. Computation of sentence, AR ST § 16-93-610

556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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§ 16-93-612. Parole eligibility--Date of offense, AR ST § 16-93-612

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Title 16. Practice, Procedure, and Courts

Subtitle 6. Criminal Procedure Generally (Chapters 80 to 104)

Chapter 93. Probation and Parole (Refs & Annos)

Subchapter 6. Parole--Eligibility

A.C.A. § 16-93-612

§ 16-93-612. Parole eligibility--Date of offense

Effective: July 27, 2011

[Currentness](#)

- (a) A person's parole eligibility shall be determined by the laws in effect at the time of the offense for which he or she is sentenced to the Department of Correction.
- (b) For an offender serving a sentence for a felony committed before April 1, 1977, [§ 16-93-601](#) governs that person's parole eligibility.
- (c) For an offender serving a sentence for a felony committed between April 1, 1977, and April 1, 1983, [§ 16-93-604](#) governs that person's parole eligibility.
- (d) For an offender serving a sentence for a felony committed on or after April 1, 1983, but before January 1, 1994, [§ 16-93-607](#) governs that person's parole eligibility.
- (e) For an offender serving a sentence for a felony committed on or after January 1, 1994, [§ 16-93-614](#) governs that person's parole eligibility, unless otherwise noted and except:
- (1) If the felony is murder in the first degree, [§ 5-10-102](#), kidnapping, if a Class Y felony, [§ 5-11-102\(b\)\(1\)](#), aggravated robbery, [§ 5-12-103](#), rape, [§ 5-14-103](#), or causing a catastrophe, [§ 5-38-202\(a\)](#), and the offense occurred after July 28, 1995, [§ 16-93-618](#) governs that person's parole eligibility; or
 - (2) If the felony is manufacturing methamphetamine, [§ 5-64-423\(a\)](#) or the former [§ 5-64-401](#), or possession of drug paraphernalia with the intent to manufacture methamphetamine, the former [§ 5-64-403\(c\)\(5\)](#), and the offense occurred after April 9, 1999, [§ 16-93-618](#) governs that person's parole eligibility;
- (f) For an offender serving a sentence for a felony committed on or after January 1, 1994, [§ 16-93-615](#) governs that person's parole eligibility procedures.

§ 16-93-612. Parole eligibility--Date of offense, AR ST § 16-93-612

Credits

Acts of 2011, Act 570, § 97, eff. July 27, 2011.

Editors' Notes

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[Pardon and Parole](#)  50.

Westlaw Topic No. 284.

[C.J.S. Pardon and Parole](#) §§ 48 to 51.

A.C.A. § 16-93-612, AR ST § 16-93-612

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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§ 16-93-613. Parole eligibility--Class Y, Class A, or Class B felonies, AR ST § 16-93-613

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Subchapter 6. Parole--Eligibility

A.C.A. § 16-93-613

§ 16-93-613. Parole eligibility--Class Y, Class A, or Class B felonies

Effective: July 27, 2011

[Currentness](#)

(a) A person who commits a Class Y, Class A, or Class B felony, except those drug offenses addressed in § 16-93-619 or those Class Y felonies addressed in § 16-93-614 or § 16-93-618, and who shall be convicted and incarcerated for that felony, shall be eligible for release on parole as follows:

(1) An inmate under sentence of death or life imprisonment without parole is not eligible for release on parole but may be pardoned or have his or her sentence commuted by the Governor, as provided by law; and

(2)(A) An inmate sentenced to life imprisonment is not eligible for release on parole unless the sentence is commuted to a term of years by executive clemency.

(B) Upon commutation, the inmate is eligible for release on parole as provided in this subchapter.

(b) For parole eligibility purposes, consecutive sentences by one (1) or more courts or for one (1) or more counts are to be considered as a single commitment reflecting the cumulative sentence to be served.

Credits

[Acts of 2011, Act 570, § 98, eff. July 27, 2011.](#)

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  49.

Westlaw Topic No. 284.

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A.C.A. § 16-93-613, AR ST § 16-93-613

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171,

§ 16-93-613. Parole eligibility--Class Y, Class A, or Class B felonies, AR ST § 16-93-613

176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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Subchapter 6. Parole--Eligibility

A.C.A. § 16-93-614

§ 16-93-614. Parole eligibility--Offenses committed after January 1, 1994

Effective: July 27, 2011

[Currentness](#)

(a) As used in this section and §§ 16-93-615 -- 16-93-617, "felonies" means those crimes classified as Class Y, Class A, Class B, Class C, Class D, or unclassified felonies by the laws of this state.

(b)(1) A person who committed a felony before January 1, 1994, and who was convicted and incarcerated for that felony shall be eligible for release on parole under this section and §§ 16-93-615 -- 16-93-617 in accordance with the parole eligibility law in effect at the time the crime was committed.

(2) A person who committed a target offense under the Community Punishment Act, § 16-93-1201 et seq., before January 1, 1994, and who has not been sentenced to a term of incarceration may waive the right to be released under the parole eligibility law in effect at the time the crime was committed and shall become eligible for judicial transfer pursuant to the transfer provisions provided in subdivision (c)(2) of this section.

(3) A person who has committed a felony who is within a target group as currently defined under § 16-93-1202(10) and who is released on parole shall be eligible, pursuant to rules and regulations established by the Parole Board, for commitment to a community correction facility if he or she is found to be in violation of any of his or her parole conditions, unless the parole violation constitutes a nontarget felony offense.

(c) A person who commits a felony on or after January 1, 1994, and who shall be convicted and incarcerated for that felony shall be eligible for transfer to community correction as follows:

(1)(A) An inmate under sentence of death or life imprisonment without parole shall not be eligible for transfer, but may be pardoned or have his or her sentence commuted by the Governor as provided by law.

(B) An inmate sentenced to life imprisonment shall not be eligible for transfer unless his or her sentence is commuted to a term of years by executive clemency.

(C) Upon commutation, an inmate shall be eligible for transfer as provided in this section;

§ 16-93-614. Parole eligibility--Offenses committed after January..., AR ST § 16-93-614

(2)(A)(i)(a) An offender convicted of a target offense under the Community Punishment Act, § 16-93-1201 et seq., may be committed to the Department of Correction and judicially transferred to the Department of Community Correction by specific provision in the commitment that the trial court order such a transfer.

(b) No other offender is eligible for transfer to a Department of Community Correction facility.

(ii) A copy of the commitment shall be forwarded immediately to the Department of Correction and to the Department of Community Correction.

(iii) In the event that an offender is sentenced to the Department of Correction without judicial transfer on one (1) sentence and concurrently sentenced to the Department of Correction with judicial transfer on another sentence, the offender shall remain in the Department of Correction, and the sentence with judicial transfer may be discharged in the same manner as that of an offender transferred back to the Department of Correction.

(B) The Department of Community Correction shall take over supervision of the offender in accordance with the order of the court.

(C) The Department of Community Correction shall provide for the appropriate disposition of the offender as expeditiously as practicable under rules and regulations developed by the Board of Corrections.

(D) The offender shall not be transported to the Department of Correction on the initial placement in a Department of Community Correction facility pursuant to a judicial transfer.

(E) An offender who is transferred back to the Department of Correction for disciplinary reasons may be considered for transfer to Department of Community Correction supervision after earning good-time credit equal to one-half ($\frac{1}{2}$) of the remainder of his or her sentence.

(F) An offender who is sentenced after July 31, 2007, and who is transferred back to the Department of Correction for administrative reasons is eligible for transfer to Department of Community Correction supervision in the same manner as an offender who is sentenced to the Department of Correction without a judicial transfer to the Department of Community Correction; and

(3)(A) Every other classified or unclassified felon who is incarcerated therefor shall be eligible for transfer to community punishment after having served one-third ($\frac{1}{3}$) or one-half ($\frac{1}{2}$), with credit for meritorious good time, of his or her sentence depending on the seriousness determination made by the Arkansas Sentencing Commission, or one-half ($\frac{1}{2}$), with credit for meritorious good time, of the time to which his or her sentence is commuted by executive clemency.

§ 16-93-614. Parole eligibility--Offenses committed after January..., AR ST § 16-93-614

(B) For example, a six-year sentence with optimal meritorious good-time credits will make the offender eligible for transfer in one (1) year if he or she is required to serve one-third ($\frac{1}{3}$) of his or her sentence, or one and one-half ($1\frac{1}{2}$) years if he or she is required to serve one-half ($\frac{1}{2}$) of his or her sentence.

Credits

[Acts of 2011, Act 570, § 99, eff. July 27, 2011.](#)

Editors' Notes

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[Pardon and Parole](#)  49.

Westlaw Topic No. [284](#).

[C.J.S. Pardon and Parole §§ 48 to 51](#).

A.C.A. § 16-93-614, AR ST § 16-93-614

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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Subchapter 6. Parole--Eligibility

A.C.A. § 16-93-615

§ 16-93-615. Parole eligibility procedures--Offenses committed after January 1, 1994

Effective: February 20, 2013

[Currentness](#)

(a)(1)(A) An inmate under sentence for any felony, except those listed in subsection (b) of this section, shall be transferred from the Department of Correction to the Department of Community Correction under this section, [§ 16-93-614](#), [§ 16-93-616](#), and [§ 16-93-617](#), subject to rules promulgated by the Board of Corrections and conditions set by the Parole Board.

(B) The determination under subdivision (a)(1)(A) of this section shall be made by reviewing information such as the result of the risk-needs assessment to inform the decision of whether to release a person on parole by quantifying that person's risk to reoffend, and if parole is granted, this information shall be used to set conditions for supervision.

(C) The Parole Board shall begin transfer release proceedings or a preliminary review under this subchapter no later than six (6) months before a person's transfer eligibility date, and the Parole Board shall authorize jacket review procedures no later than six (6) months before a person's transfer eligibility at all institutions holding parole-eligible inmates to prepare parole applications.

(D) This review may be conducted without a hearing when the inmate has not received a major disciplinary report against him or her that resulted in the loss of good time, there has not been a request by a victim to have input on transfer conditions, and there is no indication in the risk-needs assessment review that special conditions need to be placed on the inmate.

(2)(A) When one (1) or more of the circumstances in subdivision (a)(1) of this section are present, the Parole Board shall conduct a hearing to determine the appropriateness of the inmate for transfer.

(B) The Parole Board has two (2) options:

(i) To transfer the individual to the Department of Community Correction accompanied by notice of conditions of the transfer, including without limitation:

(a) Supervision levels;

§ 16-93-615. Parole eligibility procedures--Offenses committed..., AR ST § 16-93-615

(b) Economic fee sanction;

(c) Treatment program;

(d) Programming requirements; and

(e) Facility placement when appropriate; or

(ii) To deny transfer based on a set of established criteria and to accompany the denial with a prescribed course of action to be undertaken by the inmate to rectify the Parole Board's concerns.

(C) Upon completion of the course of action determined by the Parole Board and after final review of the inmate's file to ensure successful completion, the Parole Board shall authorize the inmate's transfer to the Department of Community Correction under this section, § 16-93-614, § 16-93-616, and § 16-93-617, in accordance with administrative policies and procedures governing the transfer and subject to conditions attached to the transfer.

(3) Should an inmate fail to fulfill the course of action outlined by the Parole Board to facilitate transfer to community correction, it shall be the responsibility of the inmate to petition the Parole Board for rehearing.

(4)(A) The Parole Board shall conduct open meetings and shall make public its findings for each eligible candidate for parole.

(B)(i) Open meetings held under subsection (a)(2)(A) of this section may be conducted through video-conference technology if the person is housed at that time in a county jail and if the technology is available.

(ii) Open meetings utilizing video-conference technology shall be conducted in public.

(5) Inmate interviews may be closed to the public.

(b)(1) An inmate under sentence for one (1) of the following felonies is eligible for discretionary transfer to the Department of Community Correction by the Parole Board after having served one-third ($\frac{1}{3}$) or one-half ($\frac{1}{2}$) of his or her sentence, with credit for meritorious good time, depending on the seriousness determination made by the Arkansas Sentencing Commission, or one-half ($\frac{1}{2}$) of the time to which his or her sentence is commuted by executive clemency, with credit for meritorious good time:

(A) Unless the offense is listed under § 16-93-612(e)(1), the following homicide offenses:

(i) Capital murder, § 5-10-101;

§ 16-93-615. Parole eligibility procedures--Offenses committed..., AR ST § 16-93-615

(ii) Murder in the first degree, § 5-10-102;

(iii) Murder in the second degree, § 5-10-103;

(iv) Manslaughter, § 5-10-104; or

(v) Negligent homicide, § 5-10-105;

(B) An offense for which the inmate is required upon release to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., unless the offense is listed under § 16-93-612(e)(1);

(C) Battery in the first degree, § 5-13-201;

(D) Domestic battering in the first degree, § 5-26-303;

(E) Unless the offense is listed under § 16-93-612(e)(1), the following Class Y felonies:

(i) Kidnapping, § 5-11-102;

(ii) Aggravated robbery, § 5-12-103; or

(iii) Causing a catastrophe, § 5-38-202(a);

(F) Engaging in a continuing criminal enterprise, § 5-64-405; or

(G) Simultaneous possession of drugs and firearms, § 5-74-106.

(2) The transfer of an offender convicted of an offense listed in subdivision (b)(1) of this section is not automatic.

(3)(A) Review of an inmate convicted of the enumerated offenses in subdivision (b)(1) of this section shall be based upon policies and procedures adopted by the Parole Board for the review, and the Parole Board shall conduct a risk-needs assessment review.

§ 16-93-615. Parole eligibility procedures--Offenses committed..., AR ST § 16-93-615

(B) The policies and procedures shall include a provision for notification of the victim or victims that a hearing shall be held and records kept of the proceedings and that there be a listing of the criteria upon which a denial may be based.

(4) Any transfer of an offender specified in this subsection shall be issued upon an order, duly adopted, of the Parole Board in accordance with such policies and procedures.

(5) After the Parole Board has fully considered and denied the transfer of an offender sentenced for committing an offense listed in subdivision (b)(1) of this section, the Parole Board may delay any reconsideration of the transfer for a maximum period of two (2) years.

(6) Notification of the court, prosecutor, sheriff, and the victim or the victim's next of kin for a person convicted of an offense listed in subdivision (b)(1) of this section shall follow the procedures set forth below:

(A)(i) Before the Parole Board shall grant any transfer, the Parole Board shall solicit the written or oral recommendations of the committing court, the prosecuting attorney, and the sheriff of the county from which the inmate was committed.

(ii) If the person whose transfer is being considered by the Parole Board was convicted of one (1) of the offenses enumerated in subdivision (b)(1) of this section, the Parole Board shall also notify the victim of the crime or the victim's next of kin of the transfer hearing and shall solicit written or oral recommendations of the victim or his or her next of kin regarding the granting of the transfer unless the prosecuting attorney has notified the Parole Board at the time of commitment of the prisoner that the victim or his or her next of kin does not want to be notified of future transfer hearings.

(iii) The recommendations shall not be binding upon the Parole Board in the granting of any transfer but shall be maintained in the inmate's file.

(iv) When soliciting recommendations from a victim of a crime, the Parole Board shall notify the victim or his or her next of kin of the date, time, and place of the transfer hearing;

(B)(i) The Parole Board shall not schedule transfer hearings at which victims or relatives of victims of crimes are invited to appear at a facility wherein inmates are housed other than the Central Administration Building of the Department of Correction at Pine Bluff.

(ii) Nothing herein shall be construed as prohibiting the Parole Board from conducting transfer hearings in two (2) sessions, one (1) at the place of the inmate's incarceration for interviews with the inmate, the inmate's witnesses, and correctional personnel, and the second session for victims and relatives of victims as set out in subdivision (b)(6)(B)(i) of this section;

§ 16-93-615. Parole eligibility procedures--Offenses committed..., AR ST § 16-93-615

(C)(i) At the time that any person eligible under subdivision (c)(1) of this section is transferred by the Parole Board, the Department of Community Correction shall give written notice of the granting of the transfer to the sheriff, the committing court, and the chief of police of each city of the first class of the county from which the person was sentenced.

(ii) If the person is transferred to a county other than that from which he or she was committed, the Parole Board shall give notice to the chief of police or marshal of the city to which he or she is transferred, to the chief of police of each city of the first class and the sheriff of the county to which he or she is transferred, and to the sheriff of the county from which the person was committed; and

(D)(i) It shall be the responsibility of the prosecuting attorney of the county from which the inmate was committed to notify the Parole Board at the time of commitment of the desire of the victim or his or her next of kin to be notified of any future transfer hearings and to forward to the Parole Board the last known address and telephone number of the victim or his or her next of kin.

(ii) It shall be the responsibility of the victim or his or her next of kin to notify the Parole Board of any change in address or telephone number.

(iii) It shall be the responsibility of the victim or his or her next of kin to notify the Parole Board after the date of commitment of any change in regard to the desire to be notified of any future transfer hearings.

(c)(1) In all other felonies, before the Parole Board sets conditions for transfer of an inmate to community punishment, a victim, or his or her next of kin in cases in which the victim is unable to express his or her wishes, who has expressed the wish to be consulted by the Parole Board shall be notified of the date, time, and place of the transfer hearing.

(2)(A) A victim or his or her next of kin who wishes to be consulted by the Parole Board shall inform the Parole Board in writing at the time of sentencing.

(B) A victim or his or her next of kin who does not so inform the Parole Board shall not be notified by the Parole Board.

(3)(A) Victim input to the Parole Board shall be limited to oral or written recommendations on conditions relevant to the offender under review for transfer.

(B) The recommendations shall not be binding on the Parole Board, but shall be given due consideration within the resources available for transfer.

(d)(1) The Parole Board shall approve a set of conditions that shall be applicable to all inmates transferred from the Department of Correction to the Department of Community Correction.

§ 16-93-615. Parole eligibility procedures--Offenses committed..., AR ST § 16-93-615

- (2) The set of conditions is subject to periodic review and revision as the Parole Board deems necessary.
- (e)(1) The course of action required by the Parole Board shall not be outside the current resources of the Department of Correction nor the conditions set be outside the current resources of the Department of Community Correction.
- (2) However, the Department of Correction and Department of Community Correction shall strive to accommodate the actions required by the Board of Corrections to the best of their ability.
- (f) Transfer is not an award of clemency, and it shall not be considered as a reduction of sentence or a pardon.
- (g) Every inmate while on transfer status shall remain in the legal custody of the Department of Correction under the supervision of the Department of Community Correction and subject to the orders of the Parole Board.
- (h) An inmate who is sentenced under the provisions of § 5-4-501(c) or § 5-4-501(d) for a serious violent felony or a felony involving violence may be considered eligible for parole or for community correction transfer upon reaching regular parole or transfer eligibility, but only after reaching a minimum age of fifty-five (55) years.
- (i) Decisions on parole release, courses of action applicable prior to transfer, and transfer conditions to be set by the Parole Board shall be based on a reasoned and rational plan developed in conjunction with an accepted risk-needs assessment tool such that each decision is defensible based on preestablished criteria.

Credits

Acts of 2011, Act 570, § 100, eff. July 27, 2011; Acts of 2013, Act 136, § 1, eff. Feb. 20, 2013.

Editors' Notes

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[Pardon and Parole](#)  57.

Westlaw Topic No. 284.

[C.J.S. Pardon and Parole](#) §§ 52 to 57.

A.C.A. § 16-93-615, AR ST § 16-93-615

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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Subchapter 6. Parole--Eligibility

A.C.A. § 16-93-616

§ 16-93-616. Parole eligibility procedures--Offenses committed after January 1, 1994--Computation of sentence

Effective: July 27, 2011

[Currentness](#)

(a)(1) Time served for a sentence shall be deemed to begin on the day sentence is imposed, not on the day a prisoner is received by the Department of Correction.

(2) Time served shall continue only during the time in which an individual is actually confined in a county jail or other local place of lawful confinement or while under the custody and supervision of the department.

(3) Once sentenced to the department, the department shall retain legal custody of the inmate for the duration of the original sentence.

(b) The sentencing judge shall direct, when he or she imposes sentence, that time already served by the defendant in jail or other place of detention shall be credited against the sentence.

Credits

[Acts of 2011, Act 570, § 101, eff. July 27, 2011.](#)

Editors' Notes

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[Pardon and Parole](#)  57.

Westlaw Topic No. 284.

[C.J.S. Pardon and Parole §§ 52 to 57.](#)

A.C.A. § 16-93-616, AR ST § 16-93-616

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§ 16-93-616. Parole eligibility procedures--Offenses committed..., AR ST § 16-93-616

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§ 16-93-617. Parole eligibility procedures--Offenses committed..., AR ST § 16-93-617

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Subchapter 6. Parole--Eligibility

A.C.A. § 16-93-617

§ 16-93-617. Parole eligibility procedures--Offenses committed after January 1, 1994--Revocation of transfer

Effective: July 27, 2011

Currentness

(a) In the event an offender transferred under this section, §§ 16-93-614 -- 16-93-616, or § 16-93-618 violates the terms or conditions of his or her transfer, a hearing shall follow all applicable legal requirements and shall be subject to any additional policies, rules, and regulations set by the Parole Board.

(b)(1) In the event an offender transferred under this section and §§ 16-93-614 -- 16-93-617, or § 16-93-618 is found to be or becomes ineligible for transfer into a Department of Community Correction facility, he or she shall be transported to the Department of Correction to serve the remainder of his sentence.

(2) Notice of the ineligibility and the reasons therefor shall be provided to the offender, and a hearing may be requested before the board if the offender contests the factual basis of the ineligibility. Otherwise, the board may administratively approve the transfer to the Department of Correction.

(c) An offender who is judicially transferred to a Department of Community Correction facility and subsequently transferred back to the Department of Correction by the board for disciplinary or administrative reasons may not become eligible for any further transfer under § 16-93-614(c)(2)(E) and (F).

Credits

Acts of 2011, Act 570, § 102, eff. July 27, 2011.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole  57.

Westlaw Topic No. 284.

C.J.S. Pardon and Parole §§ 52 to 57.

A.C.A. § 16-93-617, AR ST § 16-93-617

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171,

§ 16-93-617. Parole eligibility procedures--Offenses committed..., AR ST § 16-93-617

176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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Subchapter 6. Parole--Eligibility

A.C.A. § 16-93-618

§ 16-93-618. Parole eligibility--Certain Class Y felony offenses
and certain methamphetamine offenses--Seventy percent crimes

Effective: July 27, 2011

[Currentness](#)

(a)(1) Notwithstanding any law allowing the award of meritorious good time or any other law to the contrary, any person who is found guilty of or pleads guilty or nolo contendere to subdivisions (a)(1)(A)-(H) of this section shall not be eligible for parole or community punishment transfer, except as provided in subdivision (a)(3) or subsection (c) of this section, until the person serves seventy percent (70%) of the term of imprisonment to which the person is sentenced, including a sentence prescribed under [§ 5-4-501](#):

(A) Murder in the first degree, [§ 5-10-102](#);

(B) Kidnapping, Class Y felony, [§ 5-11-102](#);

(C) Aggravated robbery, [§ 5-12-103](#);

(D) Rape, [§ 5-14-103](#);

(E) Causing a catastrophe, [§ 5-38-202\(a\)](#);

(F) Manufacturing methamphetamine, [§ 5-64-423\(a\)](#) or the former [§ 5-64-401](#);

(G) Trafficking methamphetamine, [§ 5-64-440\(b\)\(1\)](#); or

(H) Possession of drug paraphernalia with the purpose to manufacture methamphetamine, the former [§ 5-64-403\(c\)\(5\)](#).

(2)(A) The seventy-percent provision of subdivision (a)(1) of this section has no application to any person who is found guilty of or pleads guilty or nolo contendere to kidnapping, Class B felony, [§ 5-11-102](#), regardless of the date of the offense.

§ 16-93-618. Parole eligibility--Certain Class Y felony offenses..., AR ST § 16-93-618

(B) The provisions of this section shall apply retroactively to all persons presently serving a sentence for kidnapping, Class B felony, § 5-11-102.

(3)(A)(i) Regardless of the date of the offense, the seventy-percent provision under subdivision (a)(1) of this section shall include credit for the award of meritorious good time under § 12-29-201 to any person who is found guilty of or pleads guilty or nolo contendere to:

(a) Manufacturing methamphetamine, § 5-64-423(a) or the former § 5-64-401;

(b) Trafficking methamphetamine, § 5-64-440(b)(1); or

(c) Possession of drug paraphernalia with the purpose to manufacture methamphetamine, the former § 5-64-403(c)(5).

(ii) Regardless of the date of the offense and unless the person is sentenced to a term of life imprisonment, the seventy-percent provision under subdivision (a)(1) of this section may include credit for the award of meritorious good time under § 12-29-202 to any person who is found guilty of or pleads guilty or nolo contendere to:

(a) Manufacturing methamphetamine, § 5-64-423(a) or the former § 5-64-401;

(b) Trafficking methamphetamine, § 5-64-440(b)(1); or

(c) Possession of drug paraphernalia with the purpose to manufacture methamphetamine, the former § 5-64-403(c)(5).

(B) In no event shall the time served by any person who is found guilty of or pleads guilty or nolo contendere to manufacturing methamphetamine, § 5-64-423(a) or the former § 5-64-401, trafficking methamphetamine, § 5-64-440(b)(1), or possession of drug paraphernalia with the purpose to manufacture methamphetamine, § 5-64-443(a)(2)(B), be reduced to less than fifty percent (50%) of the person's original sentence.

(4)(A) When any person sentenced under subdivision (a)(3) of this section becomes eligible for parole, the Department of Community Correction shall send a notice of the parole hearing to the prosecuting attorney of the judicial district or districts in which the person was found guilty or pleaded guilty or nolo contendere to an offense listed in subdivision (a)(1) of this section.

(B) The notice shall contain the following language in 12-point capital letters bold type: "INMATE SENTENCED UNDER ARKANSAS CODE § 16-93-618".

§ 16-93-618. Parole eligibility--Certain Class Y felony offenses..., AR ST § 16-93-618

(b) A jury may be instructed under [§ 16-97-103](#) regarding the awarding of meritorious good time under subdivision (a)(3) of this section.

(c) The sentencing judge, in his or her discretion, may waive subsection (a) of this section under the following circumstances:

- (1) The defendant was a juvenile at the time of the offense;
- (2) The juvenile was merely an accomplice to the offense; and
- (3) The offense occurred on or after July 28, 1995.

(d) The awarding of meritorious good time under [§ 12-29-201](#) or [§ 12-29-202](#) shall not be applicable to persons sentenced under subdivisions (a)(1)(A)-(H) of this section.

(e) A person who commits the offense of possession of drug paraphernalia with the intent to manufacture methamphetamine, [§ 5-64-443](#), after the effective date of this act shall not be subject to the provisions of this section.

Credits

[Acts of 2011, Act 570, § 103, eff. July 27, 2011.](#)

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  50.

Westlaw Topic No. 284.

[C.J.S. Pardon and Parole](#) §§ 48 to 51.

A.C.A. § 16-93-618, AR ST § 16-93-618

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

§ 16-93-701. Authority to grant and parameters, AR ST § 16-93-701

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A.C.A. § 16-93-701

§ 16-93-701. Authority to grant and parameters

Effective: July 27, 2011

[Currentness](#)

(a)(1) The Parole Board may release on parole any individual eligible under the provisions of [§ 16-93-601](#) who is confined in any correctional institution administered by the Department of Correction, when in its opinion there is a reasonable probability that the prisoner can be released without detriment to the community or himself or herself.

(2) All paroles shall issue upon order, duly adopted, of the board.

(b)(1) Before ordering the release of any prisoner, the prisoner shall be interviewed by the board or a panel designated by the board and, for all parole decisions after January 1, 2012, the board shall conduct a risk-needs assessment review of all parole applicants.

(2)(A) The parole shall be ordered only for the best interest of society and not as an award for clemency.

(B) The parole shall not be considered as a reduction of sentence or a pardon.

(3) A prisoner shall be placed on parole only when the board believes that he or she is able and willing to fulfill the obligations of a law-abiding citizen.

(4) Every prisoner, while on parole, shall remain in the legal custody of the institution from which he or she was released, but shall be subject to the orders of the board.

Credits

Acts of 1968 (1st Ex. Sess.), Act 50, § 29; Acts of 1989, Act 937, § 6; [Acts of 2011, Act 570, § 104, eff. July 27, 2011.](#)

Formerly A.S.A. 1947, § 43-2808.

§ 16-93-701. Authority to grant and parameters, AR ST § 16-93-701

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#) [§ 49](#), [55.1](#), [66](#).

Westlaw Topic No. [284](#).

C.J.S. [Pardon and Parole §§ 45 to 51](#), [60](#).

[Notes of Decisions \(11\)](#)

A.C.A. § 16-93-701, AR ST § 16-93-701

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: [7](#), [38](#), [39](#), [40](#), [41](#), [67](#), [109](#), [111](#), [135](#), [136](#), [139](#), [145](#), [147](#), [153](#), [169](#), [171](#), [176](#), [210](#), [234](#), [276](#), [282](#), [290](#), [304](#), [308](#), [315](#), [332](#), [336](#), [350](#), [378](#), [427](#), [442](#), [457](#), [458](#), [461](#), [500](#), [504](#), [512](#), [521](#), [522](#), [528](#), [539](#), [556](#), [557](#), [575](#), [600 to 602](#), [713](#), [747](#), [969](#), [990](#), [999](#), [1018](#), [1042](#), [1065](#), [1081](#), [1093](#), [1095](#), [1100](#), [1109](#), [1169](#), [1173](#), [1180](#), [1184](#), [1227](#), [1241](#), [1271](#), [1302](#), [1311](#), [1315](#), [1334](#), [1405](#), [1413](#), [1444](#), [1497](#), [1498](#), [1500](#).

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Subchapter 7. Parole

A.C.A. § 16-93-702

§ 16-93-702. Procedures--Required recommendations

Effective: July 27, 2011

[Currentness](#)

(a) Before the Parole Board shall grant any parole, the board shall solicit the written or oral recommendations of the committing court, the prosecuting attorney, and the sheriff of the county from which the inmate was committed.

(b) If the person whose parole is being considered by the board was convicted of capital murder, [§ 5-10-101](#), or of a Class Y, Class A, or Class B felony, or any violent or sexual offense, the board shall also notify the victim of the crime, or the victim's next of kin, of the parole hearing and shall solicit written or oral recommendations of the victim or the victim's next of kin regarding the granting of the parole, unless the prosecuting attorney has notified the board at the time of commitment of the prisoner that the victim or the victim's next of kin does not want to be notified of future parole hearings.

(c) The board shall retain a copy of the recommendations in the board's file.

(d) The recommendations shall not be binding upon the board in the granting of any parole but shall be maintained in a file that shall be open to the public during reasonable business hours.

(e) When soliciting recommendations from a victim of a crime, the board shall notify the victim or the victim's next of kin of the date, time, and place of the parole hearing.

Credits

Acts of 1969, Act 153, § 1; Acts of 1981, Act 530, § 1; Acts of 1983, Act 8, § 1; Acts of 1983, Act 246, § 1; Acts of 1985, Act 269, § 1; Acts of 1985, Act 917, § 1; [Acts of 1997, Act 1262, § 17, eff. Jan. 1, 1998](#); [Acts of 2011, Act 570, § 104, eff. July 27, 2011](#).

Formerly A.S.A. 1947, § 43-2819.

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  49, 58.

Westlaw Topic No. [284](#).

§ 16-93-702. Procedures--Required recommendations, AR ST § 16-93-702

[C.J.S. Pardon and Parole §§ 48 to 54.](#)

A.C.A. § 16-93-702, AR ST § 16-93-702

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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§ 16-93-703. Procedures--Place of hearings, AR ST § 16-93-703

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Chapter 93. Probation and Parole (Refs & Annos)

Subchapter 7. Parole

A.C.A. § 16-93-703

§ 16-93-703. Procedures--Place of hearings

Effective: July 27, 2011

[Currentness](#)

(a) The Parole Board shall not schedule parole hearings at which victims or relatives of victims of crime are invited to appear at a facility wherein inmates are housed other than the Central Administration Building of the Department of Correction at Pine Bluff.

(b) Nothing in this section shall be construed as prohibiting the board from conducting parole hearings in two (2) sessions, one (1) at the place of the inmate's incarceration for interviews with the inmate, the inmate's witnesses, and correctional personnel, and the second session for victims and relatives of victims as set out in subsection (a) of this section.

Credits

Acts of 1983, Act 525, §§ 1, 2; [Acts of 2011, Act 570, § 104, eff. July 27, 2011](#).

Formerly A.S.A. 1947, §§ 43-2819.1, 43-2819.2.

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  59.

Westlaw Topic No. 284.

[C.J.S. Pardon and Parole § 55](#).

A.C.A. § 16-93-703, AR ST § 16-93-703

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

§ 16-93-704. Procedures--Notice to law enforcement personnel..., AR ST § 16-93-704

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Chapter 93. Probation and Parole (Refs & Annos)

Subchapter 7. Parole

A.C.A. § 16-93-704

§ 16-93-704. Procedures--Notice to law enforcement personnel and committing court

Effective: July 27, 2011

Currentness

(a) At the time that any person is paroled by the Parole Board, the board shall give written notice of the granting of the parole to the sheriff, the committing court, and the chief of police of all cities of the first class of the county from which the person was sentenced.

(b) If the person is paroled to a county other than that from which he or she was committed, the board shall give notice to the chief of police or marshal of the city to which he or she is paroled, to the chief of police of all cities of the first class, to the sheriff of the county to which he or she is paroled, and to the sheriff of the county from which the person was committed.

Credits

Acts of 1969, Act 153, § 2; Acts of 1971, Act 33, § 1; Acts of 2011, Act 570, § 104, eff. July 27, 2011.

Formerly A.S.A. 1947, § 43-2820.

A.C.A. § 16-93-704, AR ST § 16-93-704

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

§ 16-93-705. Revocation-- Procedures and hearings generally, AR ST § 16-93-705

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A.C.A. § 16-93-705

§ 16-93-705. Revocation-- Procedures and hearings generally

Effective: July 27, 2011

[Currentness](#)

(a)(1) At any time during a parolee's release on parole, the Parole Board may issue a warrant for the arrest of the parolee for violation of any conditions of parole or may issue a notice to appear to answer a charge of a violation.

(2) The warrant or notice shall be served personally upon the individual.

(3) The warrant shall authorize all officers named in the warrant to place the parolee in custody at any suitable detention facility pending a hearing.

(4) Any parole officer may arrest a parolee without a warrant or may deputize any officer with power of arrest to do so by giving him or her a written statement setting forth that the parolee, in the judgment of the parole officer, violated conditions of his or her parole.

(5) The written statement delivered with the parolee by the arresting officer to the official in charge of the detention facility to which the parolee is brought shall be sufficient warrant for detaining him or her pending disposition.

(6) If the board or its designee finds, by a preponderance of the evidence, that the parolee has inexcusably failed to comply with a condition of his or her parole, the parole may be revoked at any time prior to the expiration of the period of parole.

(7) A parolee for whose return a warrant has been issued by the board shall be deemed a fugitive from justice if it is found that the warrant cannot be served.

(8) The board shall determine whether the time from the issuance of the warrant to the date of arrest, or any part of it, shall be counted as time served under the sentence.

(b)(1) A parolee arrested for violation of parole shall be entitled to a preliminary hearing to determine whether there is reasonable cause to believe that he or she has violated a condition of parole.

§ 16-93-705. Revocation-- Procedures and hearings generally, AR ST § 16-93-705

(2) The hearing shall be conducted by the parole hearing examiner for the board as soon as practical after arrest and reasonably near the place of the alleged violation or arrest.

(3) The parolee shall be given prior notice of the date, time, and location of the hearing, the purpose of the hearing, and the conditions of parole he or she is alleged to have violated.

(4) Except as provided in subsection (d) of this section, the parolee shall have the right to hear and controvert evidence against him or her, to offer evidence in his or her own behalf, and to be represented by counsel.

(5) If the hearing examiner finds that there is reasonable cause to believe that the parolee has violated a condition of parole, the hearing examiner may order the parolee returned to the custody of the Department of Correction for a revocation hearing before the board.

(6) If the hearing examiner finds that there is reasonable cause to believe that the parolee has violated a condition of parole, the hearing examiner may return the offender to parole supervision rather than to the custody of the Department of Correction and may impose additional supervision conditions in response to the violating conduct.

(7) If the hearing examiner does not find reasonable cause, he or she shall order the parolee released from custody, but that action shall not bar the board from holding a hearing on the alleged violation of parole or from ordering the parolee to appear before it.

(8) The hearing examiner shall prepare and furnish to the board and the parolee a summary of the hearing, including the substance of the evidence and testimony considered.

(c)(1) A parole shall not be revoked except after a revocation hearing, which shall be conducted by the board or its designee within a reasonable period of time after the parolee's arrest.

(2) The parolee shall be given prior notice of the date, time, and location of the hearing, the purpose of the hearing, and the conditions of parole he or she is alleged to have violated.

(3) Except as provided in subsection (d) of this section, the parolee shall have the right to hear and controvert evidence against him or her, to offer evidence in his or her own defense, and to be represented by counsel.

(4) If parole is revoked, the board or its designee shall prepare and furnish to the parolee a written statement of evidence relied on and the reasons for revoking parole.

(d) At a preliminary hearing under subsection (b) of this section or a revocation hearing under subsection (c) of this section:

§ 16-93-705. Revocation-- Procedures and hearings generally, AR ST § 16-93-705

(1) The parolee shall have the right to confront and cross-examine adverse witnesses unless the hearing examiner or the board or its designee specifically finds good cause for not allowing confrontation; and

(2) The parolee may introduce any relevant evidence of the alleged violation, including letters, affidavits, and other documentary evidence, regardless of its admissibility under the rules governing the admission of evidence.

(e) A preliminary hearing under subsection (b) of this section shall not be required if:

(1) The parolee waives a preliminary hearing; or

(2) The revocation hearing under subsection (c) of this section is held promptly after the arrest and reasonably near the place where the alleged violation occurred or where the parolee was arrested.

(f) A preliminary hearing under subsection (b) of this section and a revocation hearing under subsection (c) of this section shall not be necessary if the revocation is based on the parolee's conviction, guilty plea, or plea of nolo contendere to a felony offense for which he or she is sentenced to the Department of Correction or to any other state or federal penal institution.

Credits

Acts of 1968 (1st Ex. Sess.), Act 50, § 31; Acts of 1983, Act 771, § 1; [Acts of 2011, Act 570, § 104, eff. July 27, 2011](#).

Formerly A.S.A. 1947, § 43-2810.

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  69 to 92.

Westlaw Topic No. 284.

[C.J.S. Pardon and Parole](#) §§ 65 to 93.

[Notes of Decisions \(19\)](#)

A.C.A. § 16-93-705, AR ST § 16-93-705

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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A.C.A. § 16-93-708

§ 16-93-708. Parole alternative--Home detention

Effective: July 27, 2011

[Currentness](#)

(a) As used in this section:

(1) "Approved electronic monitoring or supervising device" means any electronic device approved by the Board of Corrections that meets the minimum Federal Communications Commission regulations and requirements, and that is limited in capability to recording or transmitting information as to the criminal defendant's presence in the home;

(2) "Permanently incapacitated" means an inmate who, as determined by a licensed physician:

(A) Has a medical condition that is not necessarily terminal but renders him or her permanently and irreversibly incapacitated; and

(B) Requires immediate and long-term care; and

(3) "Terminally ill" means an inmate who, as determined by a licensed physician:

(A) Has an incurable condition caused by illness or disease; and

(B) Will likely die within two (2) years due to the illness or disease.

(b)(1)(A) Subject to the provisions of subdivision (b)(2) of this section, a defendant convicted of a felony or misdemeanor and sentenced to imprisonment may be incarcerated in a home detention program when the Director of the Department of Correction or the Director of the Department of Community Correction shall communicate to the Parole Board when, in the independent opinions of either a Department of Correction physician or Department of Community Correction physician and a consultant physician in Arkansas, an inmate is either terminally ill or permanently incapacitated and should be considered for transfer to parole supervision.

§ 16-93-708. Parole alternative--Home detention, AR ST § 16-93-708

(B) The Director of the Department of Correction or the Director of the Department of Community Correction shall make the facts described in subdivision (b)(1)(A) of this section known to the Parole Board for consideration of early release to home detention.

(2) The Board of Corrections shall promulgate rules that will establish policy and procedures for incarceration in a home detention program.

(c)(1) In all instances where the Department of Correction may release any inmate to community supervision, in addition to all other conditions that may be imposed by the Department of Correction, the Department of Correction may require the criminal defendant to participate in a home detention program.

(2)(A) The term of the home detention shall not exceed the maximum number of years of imprisonment or supervision to which the inmate could be sentenced.

(B) The length of time the defendant participates in a home detention program and any good-time credit awarded shall be credited against the defendant's sentence.

(d) The Board of Corrections shall establish policy and procedures for participation in a home detention program, including, but not limited to, program criteria, terms, and conditions of release.

Credits

[Acts of 1991, Act 263, §§ 1 to 3](#); [Acts of 1991, Act 307, §§ 1 to 3](#); [Acts of 2005, Act 680, § 3, eff. Aug. 12, 2005](#); [Acts of 2011, Act 570, § 104, eff. July 27, 2011](#).

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  64.1.
[Sentencing and Punishment](#)  2047.
[Westlaw Topic Nos. 284, 350H](#).
[C.J.S. Pardon and Parole § 59](#).

Notes of Decisions (2)

A.C.A. § 16-93-708, AR ST § 16-93-708

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

§ 16-93-708. Parole alternative--Home detention, AR ST § 16-93-708

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§ 16-93-709. Sex offender may not reside with minors, AR ST § 16-93-709

West's Arkansas Code Annotated

Title 16. Practice, Procedure, and Courts

Subtitle 6. Criminal Procedure Generally (Chapters 80 to 104)

Chapter 93. Probation and Parole (Refs & Annos)

Subchapter 7. Parole

A.C.A. § 16-93-709

§ 16-93-709. Sex offender may not reside with minors

Effective: July 27, 2011

[Currentness](#)

(a) Whenever an inmate in a facility of the Department of Correction who has been found guilty of or has pleaded guilty or nolo contendere to any sexual offense defined in [§ 5-14-101 et seq.](#), or incest as defined by [§ 5-26-202](#), and the sexual offense or incest was perpetrated against a minor, becomes eligible for parole and makes application for release on parole, the Parole Board shall prohibit, as a condition of granting the parole, the parolee from residing upon parole in a residence with any minor, unless the board makes a specific finding that the inmate poses no danger to the minors residing in the residence.

(b) If the board, upon a hearing under [§ 16-93-705](#), finds, by a preponderance of the evidence, that the parolee has failed to comply with this condition of parole, the parole may be revoked and the parolee returned to the custody of the department.

Credits

Acts of 1997, Act 1188, § 2, eff. April 8, 1997; Acts of 2011, Act 570, § 104, eff. July 27, 2011.

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#) [§§ 64.1, 70.1](#).

Westlaw Topic No. [284](#).

C.J.S. [Pardon and Parole](#) [§§ 59, 67 to 68](#).

A.C.A. § 16-93-709, AR ST § 16-93-709

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

West's Arkansas Code Annotated

Title 16. Practice, Procedure, and Courts

Subtitle 6. Criminal Procedure Generally (Chapters 80 to 104)

Chapter 93. Probation and Parole (Refs & Annos)

Subchapter 7. Parole

A.C.A. § 16-93-710

§ 16-93-710. Parole for inmates who have served their term of imprisonment
in a county jail prior to being processed into the Department of Correction

Effective: July 27, 2011

[Currentness](#)

(a)(1) Subject to conditions set by the Parole Board, an offender convicted of a felony and sentenced to a term of imprisonment of two (2) years or less in the Department of Correction, and who has served his or her term of imprisonment in a county jail prior to being processed into the Department of Correction, may be paroled from the Department of Correction county jail backup facility directly to the Department of Community Correction under parole supervision, and upon eligibility determination, processed for release by the board.

(2) Transfer release proceedings or a preliminary review under this subchapter shall begin no later than six (6) months prior to a person's transfer eligibility date, and the Parole Board shall authorize jacket review procedures at all institutions holding parole-eligible inmates to prepare parole applications to comply with this time frame.

(3) The jacket review will be conducted by staff either from the Department of Community Correction or by Department of Correction.

(b) An offender who has been found guilty of or pleaded guilty or nolo contendere to a violent offense as defined by § 5-4-501(c) (2) or a Class Y felony offense shall be ineligible under this section.

(c) As determined by the county sheriff, an offender who has committed violent or sexual acts while incarcerated in a county jail facility shall be ineligible to participate in the program established by this section.

Credits

[Acts of 2011, Act 570, § 104, eff. July 27, 2011.](#)

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  44.

Westlaw Topic No. 284.

§ 16-93-710. Parole for inmates who have served their term of..., AR ST § 16-93-710

A.C.A. § 16-93-710, AR ST § 16-93-710

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

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§ 16-93-711. Parole alternatives--Electronic monitoring of parolees, AR ST § 16-93-711

West's Arkansas Code Annotated

Title 16. Practice, Procedure, and Courts

Subtitle 6. Criminal Procedure Generally (Chapters 80 to 104)

Chapter 93. Probation and Parole (Refs & Annos)

Subchapter 7. Parole

A.C.A. § 16-93-711

§ 16-93-711. Parole alternatives--Electronic monitoring of parolees

Effective: July 27, 2011

[Currentness](#)

(a) As used in this section, “approved electronic monitoring or supervising device” means a device described in [§ 16-93-708\(a\)](#).

(b)(1)(A) Subject to the provisions of subdivision (b)(2) of this section, an inmate serving a sentence in the Department of Correction may be released from incarceration if the:

- (i) Sentence was not the result of a jury or bench verdict;
- (ii) Inmate has served one hundred twenty (120) days of his or her sentence;
- (iii) Inmate has an approved parole plan;
- (iv) Inmate was sentenced from a cell in the sentencing guidelines that does not include incarceration in the presumptive range;
- (v) Conviction is for a Class C or Class D felony;
- (vi) Conviction is not for a crime of violence, regardless of felony level;
- (vii) Conviction is not a sex offense, regardless of felony level;
- (viii) Conviction is not for manufacturing methamphetamine, [§ 5-64-423\(a\)](#) or the former [§ 5-64-401](#);
- (ix) Conviction is not for possession of drug paraphernalia with the purpose to manufacture methamphetamine, [§ 5-64-443](#), if the conviction is a Class C felony or higher;

§ 16-93-711. Parole alternatives--Electronic monitoring of parolees, AR ST § 16-93-711

(x) Conviction is not a crime involving the threat of violence or bodily harm;

(xi) Conviction is not for a crime that resulted in a death; and

(xii) Inmate has not previously failed a drug court program.

(B) The Director of the Department of Correction or the Director of the Department of Community Correction shall make the facts described in subdivision (b)(1)(A) of this section known to the Parole Board for consideration of electronic monitoring.

(2) The Board of Corrections shall promulgate rules that will establish policy and procedures for an electronic monitoring program.

(c)(1) An inmate released from incarceration on parole under this section shall be supervised by the Department of Community Correction using electronic monitoring until the inmate's transfer eligibility date or for at least ninety (90) days of full compliance by the inmate, whichever is sooner.

(2)(A) The term of electronic monitoring shall not exceed the maximum number of years of imprisonment or supervision to which the inmate could be sentenced.

(B) The length of time the defendant participates in an electronic monitoring program and any good-time credit awarded shall be credited against the defendant's sentence.

Credits

[Acts of 2011, Act 570, § 104, eff. July 27, 2011.](#)

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  64.

Westlaw Topic No. 284.

[C.J.S. Pardon and Parole §§ 58 to 59.](#)

A.C.A. § 16-93-711, AR ST § 16-93-711

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

§ 16-93-711. Parole alternatives--Electronic monitoring of parolees, AR ST § 16-93-711

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§ 16-93-712. Parole supervision, AR ST § 16-93-712

West's Arkansas Code Annotated

Title 16. Practice, Procedure, and Courts

Subtitle 6. Criminal Procedure Generally (Chapters 80 to 104)

Chapter 93. Probation and Parole (Refs & Annos)

Subchapter 7. Parole

A.C.A. § 16-93-712

§ 16-93-712. Parole supervision

Effective: July 27, 2011

[Currentness](#)

(a)(1) The Parole Board shall establish written policies and procedures governing the supervision of parolees designed to enhance public safety and to assist the parolees in reintegrating into society.

(2)(A) The supervision of parolees shall be based on evidence-based practices including a validated risk-needs assessment.

(B) Decisions shall target the parolee's criminal risk factors with appropriate supervision and treatment designed to reduce the likelihood of reoffense.

(b) A parole officer shall:

(1) Investigate each case referred to him or her by the Director of the Parole Board, the Department of Community Correction, or the prosecuting attorney;

(2) Furnish to each parolee under his or her supervision a written statement of the conditions of parole and instruct the parolee that he or she must stay in compliance with the conditions of parole or risk revocation under [§ 16-93-705](#);

(3) Develop a case plan for each individual who is assessed as being moderate to high risk to reoffend based on the risk and needs assessment that targets the criminal risk factors identified in the assessment, is responsive to individual characteristics, and provides supervision of offenders according to that case plan;

(4) Stay informed of the parolee's conduct and condition through visitation, required reporting, or other methods and shall report to the board that information upon request;

(5) Use practicable and suitable methods that are consistent with evidence-based practices to aid and encourage a parolee to improve his or her conduct and condition and to reduce the risk of recidivism;

§ 16-93-712. Parole supervision, AR ST § 16-93-712

(6)(A) Conduct a validated risk-needs assessment of the parolee, including without limitation criminal risk factors and specific individual needs.

(B) The actuarial assessment shall include an initial screening and, if necessary, a comprehensive assessment;

(7) Make decisions with the assistance of the risk-needs assessment that are consistent with evidence-based practices on the type of supervision and services necessary to each parolee; and

(8) Receive annual training on evidence-based practices and criminal risk factors, as well as instruction on how to target these factors to reduce recidivism.

(c)(1) The department shall allocate resources, including the assignment of parole officers, to focus on moderate-risk and high-risk offenders as determined by the validated risk-needs assessment provided in subdivision (b)(6) of this section.

(2) The department shall require each public and private treatment and service provider that receives state funds for the treatment of or service for parolees to use evidence-based programs and practices.

(d)(1) The department shall have the authority to sanction a parolee administratively without engaging the revocation process under § 16-93-705.

(2)(A) The department shall develop an intermediate sanctions procedure and grid to guide a parole officer in determining the appropriate response to a violation of conditions of supervision.

(B) Intermediate sanctions administered by the department are required to conform to the sanctioning grid.

(3) Intermediate sanctions shall include without limitation:

(A) Day reporting;

(B) Community service;

(C) Increased substance abuse screening or treatment, or both;

(D) Increased monitoring, including electronic monitoring and home confinement; and

(E)(i) Incarceration in a county jail for no more than seven (7) days.

§ 16-93-712. Parole supervision, AR ST § 16-93-712

(ii) Incarceration as an intermediate sanction shall not be used more than ten (10) times with an individual parolee, and no parolee shall accumulate more than thirty (30) days incarceration as an intermediate sanction before the parole officer files for revocation under [§ 16-93-706](#).

Credits

[Acts of 2011, Act 570, § 104, eff. July 27, 2011.](#)

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  68.

Westlaw Topic No. [284](#).

[C.J.S. Pardon and Parole § 62](#).

A.C.A. § 16-93-712, AR ST § 16-93-712

Current through 2012 Fiscal Sess. and 11/6/2012 election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012, and emerg. eff. acts from 2013 Reg. Sess.: 7, 38, 39, 40, 41, 67, 109, 111, 135, 136, 139, 145, 147, 153, 169, 171, 176, 210, 234, 276, 282, 290, 304, 308, 315, 332, 336, 350, 378, 427, 442, 457, 458, 461, 500, 504, 512, 521, 522, 528, 539, 556, 557, 575, 600 to 602, 713, 747, 969, 990, 999, 1018, 1042, 1065, 1081, 1093, 1095, 1100, 1109, 1169, 1173, 1180, 1184, 1227, 1241, 1271, 1302, 1311, 1315, 1334, 1405, 1413, 1444, 1497, 1498, 1500.

2013 Arkansas Laws Act 131 (H.B. 1254)

ARKANSAS 2013 SESSION LAWS

89th GENERAL ASSEMBLY, GENERAL SESSION, 2013

Additions are indicated by **Text**; deletions by

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ACT 131

H.B. 1254

TECHNICAL CORRECTIONS—PAROLE BOARD RULES

AN ACT TO MAKE TECHNICAL CORRECTIONS TO § 16–93–207; AND FOR OTHER PURPOSES

Subtitle

TO MAKE TECHNICAL CORRECTIONS TO § 16–93–207.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16–93–207(c)(3)(B), concerning what agency shall promulgate rules that will establish a waiver of a waiting period for an application for pardon, commutation of sentence, or remission of a fine or forfeiture, is amended to read as follows:

<< AR ST § 16–93–207 >>

(B)(i) The ~~Board of Corrections~~ **Parole Board** shall promulgate rules that will **shall** establish policies and procedures for waiver of the waiting period.

(ii) The ~~Board of Corrections~~ **Parole Board** may make additions, amendments, changes, or alterations to the rules in accordance with the Arkansas Administrative Procedure Act, § 25–15–201 et seq.

SECTION 2. Arkansas Code § 16–93–207(d)(3)(B), concerning what agency shall promulgate rules that will establish a waiver of a waiting period for an application for pardon, commutation of sentence, or remission of a fine or forfeiture, is amended to read as follows:

<< AR ST § 16–93–207 >>

(B)(i) The ~~Board of Corrections~~ **Parole Board** shall promulgate rules that will **shall** establish policies and procedures for waiver of the waiting period.

(ii) The ~~Board of Corrections~~ **Parole Board** may make additions, amendments, changes, or alterations to the rules in accordance with the Arkansas Administrative Procedure Act, § 25–15–201 et seq.

TECHNICAL CORRECTIONS—PAROLE BOARD RULES, 2013 Arkansas Laws Act...

APPROVED: 2/19/2013

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2013 Arkansas Laws Act 130 (H.B. 1253)

ARKANSAS 2013 SESSION LAWS

89th GENERAL ASSEMBLY, GENERAL SESSION, 2013

Additions are indicated by **Text**; deletions by

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ACT 130

H.B. 1253

PAROLE—REVOCATION HEARING—WAIVER

AN ACT CONCERNING A WAIVER OF A PAROLE REVOCATION HEARING; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING A WAIVER OF A PAROLE REVOCATION HEARING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16–93–705(c)(1), concerning the waiver of a parole revocation hearing, is amended to read as follows:

<< AR ST § 16–93–705 >>

(c)(1)(A) ~~A~~ Unless a parole revocation hearing is knowingly and intelligently waived by the parolee, a parole shall not be revoked except after a revocation hearing, which shall be conducted by the board or its designee within a reasonable period of time after the parolee's arrest.

(B) If a waiver is granted under subdivision (c)(1)(A) of this section, the parolee may subsequently appeal the waiver to the board.

SECTION 2. Arkansas Code § 16–93–705(e), concerning the waiver of a parole revocation hearing, is amended to read as follows:

<< AR ST § 16–93–705 >>

(e) A preliminary hearing under subsection (b) of this section shall not be required if:

(1) The parolee waives a preliminary hearing; or

(2) Unless a parole revocation hearing is knowingly and intelligently waived by the parolee under subsection (c) of this section, The the parole revocation hearing under subsection (c) of this section is held promptly after the arrest and reasonably near the place where the alleged violation occurred or where the parolee was arrested.

PAROLE—REVOCATION HEARING—WAIVER, 2013 Arkansas Laws Act 130 (H.B....

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2013 Arkansas Laws Act 485 (S.B. 259)

ARKANSAS 2013 SESSION LAWS

89th GENERAL ASSEMBLY, GENERAL SESSION, 2013

Additions are indicated by **Text**; deletions by

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ACT 485

S.B. 259

SEX OFFENSES—PAROLE—ELIGIBILITY

AN ACT TO INCLUDE SEXUAL OFFENSES AND OTHER SERIOUS FELONIES AS
OFFENSES NOT ELIGIBLE FOR MANDATORY PAROLE; AND FOR OTHER PURPOSES.

Subtitle

TO INCLUDE SEXUAL OFFENSES AND OTHER SERIOUS FELONIES
AS OFFENSES NOT ELIGIBLE FOR MANDATORY PAROLE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16-93-615(b)(1), regarding certain discretionary transfers of inmates to the Department of Community Correction by the Parole Board, is amended to read as follows:

<< AR ST § 16-93-615 >>

(b)(1) An inmate under sentence for one (1) of the following felonies ~~shall be~~ **is** eligible for discretionary transfer to the Department of Community Correction by the Parole Board after having served one-third ($\frac{1}{3}$) or one-half ($\frac{1}{2}$) of his or her sentence, with credit for meritorious good time, depending on the seriousness determination made by the Arkansas Sentencing Commission, or one-half ($\frac{1}{2}$) of the time to which his or her sentence is commuted by executive clemency, with credit for meritorious good time:

(A) ~~Any homicide, §§ 5-10-101 — 5-10-105, unless the offense is listed under § 16-93-612(e)(1);~~

(B) ~~Sexual assault in the first degree, § 5-14-124;~~

(C) ~~Sexual assault in the second degree, § 5-14-125;~~

(D) ~~Battery in the first degree, § 5-13-201;~~

(E) ~~Domestic battering in the first degree, § 5-26-303; or~~

(F) ~~The following Class Y felonies:~~

(i) ~~Kidnapping, § 5-11-102, unless the offense is listed under § 16-93-612(e)(1);~~

SEX OFFENSES—PAROLE—ELIGIBILITY, 2013 Arkansas Laws Act 485 (S.B. 259)

- (ii) Rape, § 5-14-103, unless the offense is listed under § 16-93-612(e)(1);
 - (iii) Aggravated robbery, § 5-12-103, unless the offense is listed under § 16-93-612(e)(1); or
 - (iv) Causing a catastrophe, § 5-38-202(a), unless the offense is listed under § 16-93-612(e)(1);
- (G) Engaging in a continuing criminal enterprise, § 5-64-405; or
- (H) Simultaneous possession of drugs and firearms, § 5-74-106.
- (A) Unless the offense is listed under § 16-93-612(e)(1), the following homicide offenses:
- (i) Capital murder, § 5-10-101, or attempted capital murder;
 - (ii) Murder in the first degree, § 5-10-102, or attempted murder in the first degree;
 - (iii) Murder in the second degree, § 5-10-103;
 - (iv) Manslaughter, § 5-10-104;
 - (v) Negligent homicide, § 5-10-105; or
 - (vi) An offense under § 5-54-201 et seq.;
- (B) Unless the offense is listed under § 16-93-612(e)(1), the following Class Y felonies:
- (i) Kidnapping, § 5-11-102;
 - (ii) Aggravated robbery, § 5-12-103, or attempted aggravated robbery;
 - (iii) Terroristic act, § 5-13-310;
 - (iv) Causing a catastrophe, § 5-38-202(a);
 - (v) Arson, § 5-38-301;
 - (vi) Aggravated residential burglary, § 5-39-204; or
 - (vii) Unlawful discharge of a firearm from a vehicle, § 5-74-107;
- (C) Unless the offense is listed under § 16-93-612(e)(1), an offense for which the inmate is required upon release to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.;
- (D) Battery in the first degree, § 5-13-201;
- (E) Domestic battering in the first degree, § 5-26-303;
- (F) Engaging in a continuing criminal enterprise, § 5-64-405; or
- (G) Simultaneous possession of drugs and firearms, § 5-74-106.

SEX OFFENSES—PAROLE—ELIGIBILITY, 2013 Arkansas Laws Act 485 (S.B. 259)

/s/D. Sanders

APPROVED: 3/22/2013

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2013 Arkansas Laws Act 132 (S.B. 242)

ARKANSAS 2013 SESSION LAWS

89th GENERAL ASSEMBLY, GENERAL SESSION, 2013

Additions are indicated by **Text**; deletions by

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ACT 132

S.B. 242

TRAFFICKING—HUMAN TRAFFICKING ACT OF 2013

AN ACT ESTABLISHING THE HUMAN TRAFFICKING ACT OF 2013; CONCERNING
THE OFFENSE OF HUMAN TRAFFICKING; AND FOR OTHER PURPOSES.

Subtitle

ESTABLISHING THE HUMAN TRAFFICKING ACT OF 2013;
CONCERNING THE OFFENSE OF HUMAN TRAFFICKING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. **Title**.

This act shall be cited as the "Arkansas Human Trafficking Act of 2013".

SECTION 2. Arkansas Code § 5–11–108 is repealed.

<< Repealed: AR ST § 5–11–108 >>

~~5–11–108. Trafficking of persons:~~

(a) ~~As used in this section:~~

~~(1) "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of the personal services of a person under his or her control as a security for debt, if:~~

~~(A) The value of the debtor's personal services or of the personal services of a person under his or her control as reasonably assessed is not applied toward the liquidation of the debt; or~~

~~(B) The length and nature of the debtor's personal services or of the personal services of a person under his or her control are not respectively limited and defined;~~

~~(2) "Involuntary servitude" means a condition of servitude induced by means of:~~

TRAFFICKING—HUMAN TRAFFICKING ACT OF 2013, 2013 Arkansas Laws Act 132...

(A) Any scheme, plan, or pattern of behavior intended to cause a person to believe that if he or she does not enter into or continue the servitude, he or she or another person will suffer serious physical injury or physical restraint; or

(B) The abuse or threatened abuse of the legal process;

(3) “Peonage” means holding a person against his or her will to pay off a debt; and

(4) “Sexual conduct” means the same as defined in § 5–27–401.

(b) A person commits the offense of trafficking of persons if he or she:

(1) Recruits, harbors, transports, or obtains a person for labor or services through the use of force, fraud, or coercion for the purpose of subjecting the person to:

(A) Involuntary servitude;

(B) Peonage;

(C) Debt bondage;

(D) Slavery;

(E) Marriage;

(F) Adoption; or

(G) Sexual conduct; or

(2) Benefits financially or benefits by receiving anything of value from participation in a venture under subdivision (b)(1) of this section.

(c) Trafficking of persons is a Class A felony.

SECTION 3. Arkansas Code Title 5 is amended to add a new chapter to read as follows:

Chapter 18

The Human Trafficking Act of 2013

<< AR ST § 5–18–101 >>

5–18–101. Title.

This chapter shall be known as and may be cited as the “Human Trafficking Act of 2013”.

<< AR ST § 5–18–102 >>

5–18–102. Definitions.

As used in this chapter:

TRAFFICKING—HUMAN TRAFFICKING ACT OF 2013, 2013 Arkansas Laws Act 132...

- (1) “Commercial sexual activity” means a sexual act or sexually explicit performance for which anything of value is given, promised, or received, directly or indirectly, by a person;
- (2) “Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of the personal services of a person under his or her control as a security for debt, if:
- (A) The value of the debtor's personal services or of the personal services of a person under his or her control as reasonably assessed is not applied toward the liquidation of the debt;
 - (B) The length and nature of the debtor's personal services or of the personal services of a person under his or her control are not respectively limited and defined; or
 - (C) The principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred;
- (3) “Extortion” means the obtaining of property, labor, a service, credit, a commercial sexually activity, or a sexually explicit performance from another person or of an official act of a public officer through a wrongful use of force or fear or under color of official right;
- (4) “Financial harm” means extortion of credit, criminal violation of the usury laws, or employment contracts that violate the statutes of frauds, § 4-59-101;
- (5) “Involuntary servitude” means the inducement or compulsion of a person to engage in labor, services, or commercial sexual activity by means of:
- (A) A scheme, plan, or pattern of behavior with a purpose to cause a person to believe that if he or she does not engage in labor, services, or commercial sexual activity, he or she or another person will suffer serious physical injury or physical restraint;
 - (B) Abuse or threatened abuse of the legal process;
 - (C) The causing of or the threat to cause serious harm to a person;
 - (D) Physically restraining or threatening to physically restrain another person;
 - (E) The kidnapping of or threat to kidnap a person;
 - (F) The taking of another person's personal property or real property;
 - (G) The knowing destruction, concealment, removal, confiscation, or possession of an actual or purported passport, other immigration document, or other actual or purported government identification document of another person;
 - (H) Extortion or blackmail;
 - (I) Deception or fraud;
 - (J) Coercion, duress, or menace;
 - (K) Debt bondage;
 - (L) Peonage; or

TRAFFICKING—HUMAN TRAFFICKING ACT OF 2013, 2013 Arkansas Laws Act 132...

- (M) The facilitation or control of a victim's access to an addictive controlled substance;
- (6) "Labor" means work of economic or financial value;
- (7) "Menace" means a possible danger or threat;
- (8) "Minor" means a person less than eighteen (18) years of age;
- (9) "Organization" means the same as defined in § 5-2-501;
- (10) "Peonage" means holding a person against his or her will to pay off a debt;
- (11) "Serious harm" means any harm, whether physical or nonphysical, including without limitation psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances as the victim to perform or to continue performing labor or service, a commercial sex act, or a sexually explicit performance in order to avoid incurring that harm;
- (12) "Service" means an act committed at the behest of, under the supervision of, or for the benefit of another person;
- (13)(A) "Sex act" means any touching of the sexual or other intimate parts of another person for the purpose of gratifying the sexual desire of a person.
- (B) "Sex act" includes without limitation the touching of the person as well as touching by the person, whether directly or through clothing;
- (14)(A) "Sexually explicit performance" means an act or show, whether public or private, live, photographed, recorded, or videotaped with a purpose to:
- (i) Either:
- (a) Appeal to the prurient interest; or
- (b) Depict, in a patently offensive way, a sex act; and
- (ii) Do so in a way that lacks literary, artistic, political, or scientific value.
- (B) "Sexually explicit performance" includes without limitation any performance that depicts a sex act by a minor or that would create criminal liability under § 5-27-303 or § 5-27-304; and
- (15) "Victim of human trafficking" means a person who has been subjected to trafficking of persons, § 5-18-103.

<< AR ST § 5-18-103 >>

5-18-103. Trafficking of persons.

(a) A person commits the offense of trafficking of persons if he or she knowingly:

- (1) Recruits, harbors, transports, obtains, entices, solicits, isolates, provides, or maintains a person knowing that the person will be subjected to involuntary servitude;

TRAFFICKING—HUMAN TRAFFICKING ACT OF 2013, 2013 Arkansas Laws Act 132...

(2) Benefits financially or benefits by receiving anything of value from participation in a venture under subdivision (a)(1) of this section;

(3) Subjects a person to involuntary servitude; or

(4) Recruits, entices, solicits, isolates, harbors, transports, provides, maintains, or obtains a minor for commercial sexual activity.

(b) It is not a defense to prosecution under subdivision (a)(4) of this section that the actor:

(1) Did not have knowledge of a victim's age; or

(2) Mistakenly believed a victim was not a minor.

(c)(1) Trafficking of persons is a Class A felony.

(2) Trafficking of persons is a Class Y felony if a victim was a minor at the time of the offense.

<< AR ST § 5-18-104 >>

5-18-104. Patronizing a victim of human trafficking.

(a) A person commits the offense of patronizing a victim of human trafficking if he or she knowingly engages in commercial sexual activity with another person knowing that the other person is a victim of human trafficking.

(b)(1) Patronizing a victim of human trafficking is a Class B felony.

(2) Patronizing a victim of human trafficking is a Class A felony if the victim was a minor at the time of the offense.

<< AR ST § 5-18-105 >>

5-18-105. Enhanced liability of an organization.

In addition to any other statutorily authorized sentence or fine, an organization convicted of an offense under this chapter is subject to any combination of the following:

(1) A suspension or revocation of a license, permit, or prior approval granted to the organization by a state or local government agency;

(2) A court order to dissolve or reorganize; and

(3) Other relief as is equitable.

SECTION 4. Arkansas Code § 5-70-102 is amended to read as follows:

<< AR ST § 5-70-102 >>

5-70-102. Prostitution.

TRAFFICKING—HUMAN TRAFFICKING ACT OF 2013, 2013 Arkansas Laws Act 132...

(a) A person commits prostitution if in return for or in expectation of a fee he or she engages in or agrees or offers to engage in sexual activity with any other person.

(b) Prostitution is a:

- (1) Class B misdemeanor for the first offense; and
- (2) Class A misdemeanor for ~~second and subsequent offenses~~ a second or subsequent offense under this section.

(c) It is an affirmative defense to prosecution that the person engaged in an act of prostitution as a result of being a victim of trafficking of persons, § 5-18-103.

SECTION 5. Arkansas Code § 5-70-103 is amended to read as follows:

<< AR ST § 5-70-103 >>

5-70-103. Sexual solicitation.

(a) A person commits the offense of sexual solicitation if he or she:

- (1) Offers to pay a fee to a person to engage in sexual activity with him or her or another person; or
- (2) Solicits or requests a person to engage in sexual activity with him or her in return for a fee.

(b) Sexual solicitation is a:

- (1) Class B misdemeanor for the first offense; and
- (2) Class A misdemeanor for ~~the second and subsequent offenses~~ a second or subsequent offense.

(c) It is an affirmative defense to prosecution under this section that the person engaged in an act of sexual solicitation as a result of being a victim of trafficking of persons, § 5-18-103.

SECTION 6. Arkansas Code Title 12 is amended to add a new chapter to read as follows:

Chapter 19

Human Trafficking — Prevention and Law Enforcement

<< AR ST § 12-19-101 >>

12-19-101. State Task Force for the Prevention of Human Trafficking.

(a)(1) The Attorney General may establish a State Task Force for the Prevention of Human Trafficking.

- (2) The task force shall address all aspects of human trafficking, including sex trafficking and labor trafficking of both United States citizens and foreign nationals.

(b) If established, representatives on the task force shall be appointed by the Attorney General and may include representatives from:

TRAFFICKING—HUMAN TRAFFICKING ACT OF 2013, 2013 Arkansas Laws Act 132...

- (1) The office of the Attorney General;
- (2) The office of the Governor;
- (3) The Department of Labor;
- (4) The Department of Health;
- (5) The Department of Human Services;
- (6) The Arkansas Association of Chiefs of Police;
- (7) The Arkansas Sheriffs' Association;
- (8) The Department of Arkansas State Police;
- (9) The Arkansas Prosecuting Attorneys Association;
- (10) Local law enforcement; and
- (11) Nongovernmental organizations such as:

- (A) Those specializing in the problems of human trafficking;
- (B) Those representing diverse communities disproportionately affected by human trafficking;
- (C) Agencies devoted to child services and runaway services; and
- (D) Academic researchers dedicated to the subject of human trafficking.

(c) If the task force is created by the Attorney General, he or she may invite federal agencies that operate in the state to be members of the task force, including without limitation:

- (1) The Federal Bureau of Investigation;
- (2) United States Immigration and Customs Enforcement; and
- (3) The United States Department of Labor.

(d) If the task force is created by the Attorney General, the task force shall:

- (1) Develop a state plan;
- (2) Coordinate the implementation of the state plan;
- (3) Coordinate the collection and sharing of human trafficking data among government agencies in a manner that ensures that the privacy of victims of human trafficking is protected and that the data collection shall respect the privacy of victims of human trafficking;
- (4) Coordinate the sharing of information between agencies to detect individuals and groups engaged in human trafficking;

TRAFFICKING—HUMAN TRAFFICKING ACT OF 2013, 2013 Arkansas Laws Act 132...

- (5) Explore the establishment of state policies for time limits for the issuance of law enforcement agency endorsements as described in 8 C.F.R. § 214.11(f)(1), as it existed on January 1, 2013;
- (6) Establish policies to enable state government to work with nongovernmental organizations and other elements of the private sector to prevent human trafficking and provide assistance to victims of human trafficking who are United States citizens or foreign nationals;
- (7) Evaluate various approaches used by state and local governments to increase public awareness of human trafficking, including trafficking of United States citizens and foreign national victims;
- (8) Develop curriculum and train law enforcement agencies, prosecutors, public defenders, judges, and others involved in the criminal and juvenile justice systems on:
- (A) Offenses under the Arkansas Human Trafficking Act of 2013, § 5–18–101 et seq.;
 - (B) Methods used in identifying victims of human trafficking who are United States citizens or foreign nationals, including preliminary interview techniques and appropriate questioning methods;
 - (C) Methods for prosecuting human traffickers;
 - (D) Methods of increasing effective collaboration with nongovernmental organizations and other relevant social service organizations in the course of investigating and prosecuting a human trafficking case;
 - (E) Methods for protecting the rights of victims of human trafficking, taking into account the need to consider human rights and special needs of women and minors;
 - (F) The necessity of treating victims of human trafficking as crime victims rather than criminals; and
 - (G) Methods for promoting the safety of victims of human trafficking; and
- (9) Submit a report of its findings and recommendations to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

SECTION 7. Arkansas Code § 16–93–618(a)(1), concerning sentencing for certain Class Y felonies, is amended to read as follows:

<< AR ST § 16–93–618 >>

(a)(1) Notwithstanding any law allowing the award of meritorious good time or any other law to the contrary, ~~any~~ a person who is found guilty of or pleads guilty or nolo contendere to subdivisions (a)(1)(A)–~~(H)~~ (I) of this section shall not be eligible for parole or community ~~punishment~~ correction transfer, except as provided in subdivision (a)(3) or subsection (c) of this section, until the person serves seventy percent (70%) of the term of imprisonment to which the person is sentenced, including a sentence prescribed under § 5–4–501:

- (A) Murder in the first degree, § 5–10–102;
- (B) Kidnapping, Class Y felony, § 5–11–102;
- (C) Aggravated robbery, § 5–12–103;
- (D) Rape, § 5–14–103;

TRAFFICKING—HUMAN TRAFFICKING ACT OF 2013, 2013 Arkansas Laws Act 132...

- (E) Trafficking of persons, Class Y felony, § 5–18–103;
- ~~(F)~~ (F) Causing a catastrophe, § 5–38–202(a);
- ~~(G)~~ (G) Manufacturing methamphetamine, § 5–64–423(a) or the former § 5–64–401;
- ~~(H)~~ (H) Trafficking methamphetamine, § 5–64–440(b)(1); or
- ~~(I)~~ (I) Possession of drug paraphernalia with the purpose to manufacture methamphetamine, the former § 5–64–403(c)(5).

SECTION 8. Arkansas Code Title 16, Chapter 118, is amended to add a section to read as follows:

<< AR ST § 16–118–109 >>

16–118–109. Civil cause of action for victims of human trafficking.

- (a) As used in this section, “victim of human trafficking” means the same as defined in § 5–18–102.
- (b) An individual who is a victim of human trafficking may bring a civil action in any appropriate state court.
- (c) The court may award actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief.
- (d) A prevailing plaintiff shall also be awarded attorney's fees and costs.
- (e) Three (3) times actual damages shall be awarded on proof of actual damages when a defendant's acts were willful and malicious.
- (f)(1) A statute of limitation period imposed for the filing of a civil action under this section will not begin to run until the plaintiff discovers that the human trafficking incident occurred and that the defendant caused, was responsible for, or profited from the human trafficking incident.
 - (2) If the plaintiff is a minor, the limitation period will not begin until he or she is eighteen (18) years of age.
 - (3) If the plaintiff is under a disability at the time the cause of action accrues so that it is impossible or impracticable for him or her to bring an action, the time of the disability will not be part of the time limited for the commencement of the action.
 - (4) If the plaintiff is subject to threats, intimidation, manipulation, or fraud perpetrated by the defendant or by any person acting in the interest of the defendant, the time period during which the threats, intimidation, manipulation, or fraud occurred will not be part of the statute of limitations for the commencement of this action.
 - (5) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute of limitations is due to conduct by the defendant that induced the plaintiff to delay the filing of the action or placed the plaintiff under duress.

APPROVED: 2/19/2013

2013 Arkansas Laws Act 1335 (H.B. 1350)

ARKANSAS 2013 SESSION LAWS

89th GENERAL ASSEMBLY, GENERAL SESSION, 2013

Additions are indicated by **Text**; deletions by

~~Text~~ .

Vetoed are indicated by ~~Text~~ ;

stricken material by **Text** .

ACT 1335

H.B. 1350

CORRECTIONAL INSTITUTIONS—CRIMINAL DEFENDANTS

AN ACT AMENDING STATUTES CONCERNING CRIMINAL DEFENDANTS, THE DEPARTMENT OF CORRECTION, AND THE DEPARTMENT OF COMMUNITY CORRECTION; AND FOR OTHER PURPOSES.

Subtitle

AMENDING STATUTES CONCERNING CRIMINAL DEFENDANTS, THE DEPARTMENT OF CORRECTION, AND THE DEPARTMENT OF COMMUNITY CORRECTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 12–27–127(a), regarding judicial transfer to the Department of Community Correction, is amended to read as follows:

<< AR ST § 12–27–127 >>

(a) All commitments ~~must~~ **shall** specify that the inmate is to be judicially transferred to the Department of Community Correction pursuant to § 16–93–1206(b)(3) or the commitment will be treated as a commitment to the Department of Correction and subject to regular transfer eligibility.

SECTION 2. Arkansas Code § 16–90–402 is amended to read as follows:

<< AR ST § 16–90–402 >>

16–90–402. Delivery of defendant and copy of judgment to proper officials.

(a)(1) ~~The sheriff, in~~ **In** executing a judgment of confinement, ~~the county sheriff~~ shall deliver the defendant with a certified; standardized copy of the ~~judgment and commitment~~ **sentencing order** to the ~~officials of~~ the Department of Correction, ~~Department of Community Correction,~~ or to the ~~jailer~~ **another detention facility**, as indicated in the ~~judgment~~ **sentencing order**.

(2) **If electronic filing of court records has been implemented by the circuit clerk in the county where the defendant's conviction occurred, the standardized copy of the sentencing order may be electronically transmitted by the circuit clerk to the Department of Correction, the Department of Community Correction, or to another detention facility, as indicated in the sentencing order.**

CORRECTIONAL INSTITUTIONS—CRIMINAL DEFENDANTS, 2013 Arkansas Laws...

(b) The standardized copy of the sentencing order shall be developed by representatives from the Department of Correction, the Arkansas Judicial Council, and the Arkansas Prosecuting Attorneys' Association Administrative Office of the Courts, the Arkansas Sentencing Commission, and the Prosecutor Coordinator's office.

SECTION 3. Arkansas Code § 16-90-1304(b)(1) and (2), regarding certain time frames involved in an inmate's discharge date, is amended to read as follows:

<< AR ST § 16-90-1304 >>

(b)(1) No less than ~~seven (7)~~ forty-five (45) days before the discharge date, the Department of Community Correction shall submit notice to:

(A) The prosecuting attorney; and

(B) The Parole Board.

(2) Within thirty (30) days before the discharge date, the prosecuting attorney or the Parole Board may file a petition in the sentencing court stating any reasonable objection to early discharge under this subchapter warranting the forfeiture of earned-discharge credit.

SECTION 4. Arkansas Code § 16-93-618(d), regarding the reward of meritorious good time, is amended to read as follows:

<< AR ST § 16-93-618 >>

(d) The awarding of meritorious good time under § 12-29-201 or § 12-29-202 shall not be applicable does not apply to persons sentenced under subdivisions ~~(a)(1)(A)—(H)~~ (a)(1)(A)—(E) of this section.

SECTION 5. Arkansas Code § 16-93-708(a)(1), concerning the definition of “approved electronic monitoring or supervising device”, is amended to read as follows:

<< AR ST § 16-93-708 >>

(1) “Approved electronic monitoring or supervising device” means ~~any~~ an electronic device approved by the Board of Corrections that meets the minimum Federal Communications Commission regulations and requirements, and that is ~~limited in capability to recording or transmitting information as to the criminal defendant's presence in the home~~ utilizes available technology that is able to track a person's location and monitor his or her location;

SECTION 6. Arkansas Code § 16-93-711(b)(1)(B), regarding who notifies the Parole Board regarding inmates eligible for electronic monitoring of parolees, is amended to read as follows:

<< AR ST § 16-93-711 >>

(B) The Director of the Department of Correction ~~or the Director of the Department of Community Correction~~ shall make the facts described in subdivision (b)(1)(A) of this section known to the Parole Board for consideration of electronic monitoring.

CORRECTIONAL INSTITUTIONS—CRIMINAL DEFENDANTS, 2013 Arkansas Laws...

SECTION 7. Arkansas Code § 19–5–1139 is amended to read as follows:

<< AR ST § 19–5–1139 >>

19–5–1139. Best Practices Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the “Best Practices Fund”.

(b) The Best Practices Fund may consist of the proceeds from the payment of parole or probation supervision fees under § 16–93–104(a).

(c)(1) Expenditures from the Best Practices Fund shall be used to establish and maintain programs and services that implement practices that are proven to reduce the risk of having repeat offenders or recidivism, including programs that address treatment needs of offenders.

(2) Programs funded by the Best Practices Fund, whether provided by the Department of **Community** Correction; or another state agency; or contracted with a private vendor, shall meet criteria promulgated in Department of **Community** Correction rules that establish evidence-based practices.

(3)(A) The funds deposited into the Best Practices Fund supplement and do not replace the state and local resources that are currently directed toward offender rehabilitation programs through the Department of Community Correction, the Department of Human Services, or any other state agency.

(B) ~~Any~~ **An** expenditure from the General Revenue Fund Account of the State Apportionment Fund or the Community Correction Revolving Fund shall not be reduced based on the availability of funds in the Best Practices Fund.

/s/Williams

APPROVED: 4/18/2013

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PAROLE—VIOLATIONS—SANCTIONS, 2013 Arkansas Laws Act 1415 (S.B. 860)

2013 Arkansas Laws Act 1415 (S.B. 860)

ARKANSAS 2013 SESSION LAWS

89th GENERAL ASSEMBLY, GENERAL SESSION, 2013

Additions are indicated by **Text**; deletions by

~~Text~~ .

Vetoos are indicated by ~~Text~~ ;

stricken material by **Text** .

ACT 1415

S.B. 860

PAROLE—VIOLATIONS—SANCTIONS

AN ACT CONCERNING SANCTIONS ADMINISTERED TO A PAROLE VIOLATOR; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING SANCTIONS ADMINISTERED TO A PAROLE VIOLATOR.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16–93–712(d)(3)(E), concerning parole supervision and the sanctions available for parole violators, is amended to read as follows:

<< AR ST § 16–93–712 >>

(E)(i) Incarceration in a county jail for no more than seven (7) days.

(ii) Incarceration as an intermediate sanction shall not be used more than ~~ten (10)~~ **seven (7)** times with an individual parolee, and no parolee shall accumulate more than ~~thirty (30)~~ **twenty-one (21)** days incarceration as an intermediate sanction before the parole officer files for revocation under § 16–93–706.

/s/Rapert

APPROVED: 4/22/2013

921.22. Determination of exact period of imprisonment by Parole..., FL ST § 921.22

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 921. Sentence (Refs & Annos)

West's F.S.A. § 921.22

921.22. Determination of exact period of imprisonment by Parole Commission

Currentness

Upon the recommendation of the Department of Corrections, the Parole Commission shall have the authority to determine the exact period of imprisonment to be served by defendants sentenced under the provisions of [s. 921.18](#), but a prisoner shall not be held in custody longer than the maximum sentence provided for the offense.

Credits

Laws 1957, c. 57-366, § 6; Laws 1961, c. 61-530, § 18; Laws 1970, c. 70-339, § 129; Laws 1970, c. 70-441, § 1; Laws 1977, c. 77-120, § 17; Laws 1979, c. 79-3, § 29; [Laws 1988, c. 88-122, § 46](#).

Editors' Notes

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[Notes of Decisions \(4\)](#)

West's F. S. A. § 921.22, FL ST § 921.22

Current with chapters in effect from the 2013 1st Reg.Sess. of the 23rd Legislature through July 2, 2013

921.22. Determination of exact period of imprisonment by Parole..., FL ST § 921.22

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West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 944. State Correctional System (Refs & Annos)

West's F.S.A. § 944.275

944.275. Gain-time

Currentness

(1) The department is authorized to grant deductions from sentences in the form of gain-time in order to encourage satisfactory prisoner behavior, to provide incentive for prisoners to participate in productive activities, and to reward prisoners who perform outstanding deeds or services.

(2)(a) The department shall establish for each prisoner sentenced to a term of years a “maximum sentence expiration date,” which shall be the date when the sentence or combined sentences imposed on a prisoner will expire. In establishing this date, the department shall reduce the total time to be served by any time lawfully credited.

(b) When a prisoner with an established maximum sentence expiration date is sentenced to an additional term or terms without having been released from custody, the department shall extend the maximum sentence expiration date by the length of time imposed in the new sentence or sentences, less lawful credits.

(c) When an escaped prisoner or a parole violator is returned to the custody of the department, the maximum sentence expiration date in effect when the escape occurred or the parole was effective shall be extended by the amount of time the prisoner was not in custody plus the time imposed in any new sentence or sentences, but reduced by any lawful credits.

(3)(a) The department shall also establish for each prisoner sentenced to a term of years a “tentative release date” which shall be the date projected for the prisoner's release from custody by virtue of gain-time granted or forfeited as described in this section. The initial tentative release date shall be determined by deducting basic gain-time granted from the maximum sentence expiration date. Other gain-time shall be applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, shall be applied to make the tentative release date proportionately later.

(b) When an initial tentative release date is reestablished because of additional sentences imposed before the prisoner has completely served all prior sentences, any gain-time granted during service of a prior sentence and not forfeited shall be applied.

(c) The tentative release date may not be later than the maximum sentence expiration date.

(4)(a) As a means of encouraging satisfactory behavior, the department shall grant basic gain-time at the rate of 10 days for each month of each sentence imposed on a prisoner, subject to the following:

944.275. Gain-time, FL ST § 944.275

1. Portions of any sentences to be served concurrently shall be treated as a single sentence when determining basic gain-time.
2. Basic gain-time for a partial month shall be prorated on the basis of a 30-day month.
3. When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, basic gain-time shall be granted for the amount of time the maximum sentence expiration date was extended.

(b) For each month in which an inmate works diligently, participates in training, uses time constructively, or otherwise engages in positive activities, the department may grant incentive gain-time in accordance with this paragraph. The rate of incentive gain-time in effect on the date the inmate committed the offense which resulted in his or her incarceration shall be the inmate's rate of eligibility to earn incentive gain-time throughout the period of incarceration and shall not be altered by a subsequent change in the severity level of the offense for which the inmate was sentenced.

1. For sentences imposed for offenses committed prior to January 1, 1994, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

2. For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:

a. For offenses ranked in offense severity levels 1 through 7, under s. 921.0012 or s. 921.0013, up to 25 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

b. For offenses ranked in offense severity levels 8, 9, and 10, under s. 921.0012 or s. 921.0013, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

3. For sentences imposed for offenses committed on or after October 1, 1995, the department may grant up to 10 days per month of incentive gain-time, except that no prisoner is eligible to earn any type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed. For purposes of this subparagraph, credits awarded by the court for time physically incarcerated shall be credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by this section, a prisoner shall not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

(c) An inmate who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped inmate, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his or her sentence may be granted meritorious gain-time of from 1 to 60 days.

(d) Notwithstanding subparagraphs (b)1. and 2., the education program manager shall recommend, and the Department of Corrections may grant, a one-time award of 60 additional days of incentive gain-time to an inmate who is otherwise eligible

944.275. Gain-time, FL ST § 944.275

and who successfully completes requirements for and is awarded a general educational development certificate or vocational certificate. Under no circumstances may an inmate receive more than 60 days for educational attainment pursuant to this section.

(5) When a prisoner is found guilty of an infraction of the laws of this state or the rules of the department, gain-time may be forfeited according to law.

(6)(a) Basic gain-time under this section shall be computed on and applied to all sentences imposed for offenses committed on or after July 1, 1978, and before January 1, 1994.

(b) All incentive and meritorious gain-time is granted according to this section.

(c) All additional gain-time previously awarded under former subsections (2) and (3) and all forfeitures ordered prior to the effective date of the act that created this section shall remain in effect and be applied in establishing an initial tentative release date.

(7) The department shall adopt rules to implement the granting, forfeiture, restoration, and deletion of gain-time.

Credits

Laws 1978, c. 78-304, § 1; Laws 1979, c. 79-3, § 57; Laws 1983, c. 83-131, § 8; Laws 1991, c. 91-281, § 3; Laws 1993, c. 93-406, § 26; Laws 1995, c. 95-184, § 26; Laws 1995, c. 95-294, § 2. Amended by Laws 1996, c. 96-388, § 59, eff. July 1, 1996; Laws 1997, c. 97-102, § 1853, eff. July 1, 1997.

Notes of Decisions (140)

West's F. S. A. § 944.275, FL ST § 944.275

Current with chapters in effect from the 2013 1st Reg.Sess. of the 23rd Legislature through July 2, 2013

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West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.16

947.16. Eligibility for parole; initial parole interviews; powers and duties of commission

Effective: July 1, 2013

[Currentness](#)

(1) Every person who has been convicted of a felony or who has been convicted of one or more misdemeanors and whose sentence or cumulative sentences total 12 months or more, who is confined in execution of the judgment of the court, and whose record during confinement or while under supervision is good, shall, unless otherwise provided by law, be eligible for interview for parole consideration of her or his cumulative sentence structure as follows:

(a) An inmate who has been sentenced for an indeterminate term or a term of 3 years or less shall have an initial interview conducted by a hearing examiner within 8 months after the initial date of confinement in execution of the judgment.

(b) An inmate who has been sentenced for a minimum term in excess of 3 years but of less than 6 years shall have an initial interview conducted by a hearing examiner within 14 months after the initial date of confinement in execution of the judgment.

(c) An inmate who has been sentenced for a minimum term of 6 or more years but other than for a life term shall have an initial interview conducted by a hearing examiner within 24 months after the initial date of confinement in execution of the judgment.

(d) An inmate who has been sentenced for a term of life shall have an initial interview conducted by a hearing examiner within 5 years after the initial date of confinement in execution of the judgment.

(e) An inmate who has been convicted and sentenced under [ss. 958.011-958.15](#), or any other inmate who has been determined by the department to be a youthful offender, shall be interviewed by a parole examiner within 8 months after the initial date of confinement in execution of the judgment.

(2) The following special types of cases shall have their initial parole interview as follows:

(a) An initial interview may be postponed for a period not to exceed 90 days. Such postponement shall be for good cause, which shall include, but need not be limited to, the need for the department to obtain a presentence or postsentence investigation report or a probation or parole or mandatory conditional release violation report. The reason for postponement shall be noted in writing and included in the official record. No postponement for good cause shall result in an initial interview being conducted later than 90 days after the inmate's initially scheduled initial interview.

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(b) An initial interview may be deferred for any inmate who is out to court. Such deferral shall not result in an initial interview being conducted later than 90 days after the department provides written notice to the commission that the inmate has been returned from court.

(c) An initial interview may be deferred for any inmate confined in any appropriate treatment facility within the state, public or private, by virtue of transfer from the department under any applicable law. Such deferral shall not result in an initial interview being conducted later than 90 days after the department provides written notice to the commission that the inmate has been returned to the department.

(d) An inmate designated a mentally disordered sex offender shall have an initial interview conducted within 90 days of receiving written notification by the department to the commission of the need for such interview and that the inmate's file contains all investigative reports deemed necessary by the commission to conduct such interview.

(e) Any inmate who has been determined to be an incapacitated person pursuant to [s. 744.331](#) shall have an initial interview conducted within 90 days after the date the commission is provided with written notice that the inmate has been restored to capacity by the court.

(f) An initial interview may be held at the discretion of the commission after the entry of a commission order to revoke parole or mandatory conditional release.

(g) For purposes of determining eligibility for parole interview and release, the mandatory minimum portion of a concurrent sentence will begin on the date the sentence begins to run as provided in [s. 921.161](#). The mandatory minimum portions of consecutive sentences shall be served at the beginning of the maximum sentence as established by the Department of Corrections. Each mandatory minimum portion of consecutive sentences shall be served consecutively; provided, that in no case shall a sentence begin to run before the date of imposition. The commission shall conduct an initial interview for an inmate serving a mandatory minimum sentence according to the following schedule:

1. An inmate serving a mandatory term of 7 years or less shall have an initial interview no sooner than 6 months prior to the expiration of the mandatory minimum portion of the sentence.

2. An inmate serving a mandatory term in excess of 7 years but of less than 15 years shall have an initial interview no sooner than 12 months prior to the expiration of the mandatory minimum portion of the sentence.

3. An inmate serving a mandatory term of 15 years or more shall have an initial interview no sooner than 18 months prior to the expiration of the mandatory minimum portion of the sentence.

(h) If an inmate is serving a sentence imposed by a county or circuit court of this state concurrently with a sentence imposed by a court of another state or of the United States, and if the department has designated the correctional institution of the other jurisdiction as the place for reception and confinement of such person, the inmate so released to another jurisdiction shall be

947.16. Eligibility for parole; initial parole interviews; powers and..., FL ST § 947.16

eligible for consideration for parole, except that the commission shall determine the presumptive parole release date and the effective parole release date by requesting such person's record file from the receiving jurisdiction. Upon receiving such records, the commission panel assigned by the chair shall determine such release dates based on the relevant information in that file. The commission may concur with the parole release decision of the jurisdiction granting parole and accepting supervision. The provisions of [s. 947.174](#) do not apply to an inmate serving a concurrent sentence in another jurisdiction pursuant to [s. 921.16\(2\)](#).

(3) Notwithstanding the provisions of [ss. 775.021](#) and [921.16](#), if an inmate has received a consecutive sentence or sentences imposed by a court or courts of this state, the inmate shall be eligible for consideration for parole, unless otherwise expressly prohibited by law.

(4) A person who has become eligible for an initial parole interview and who may, according to the objective parole guidelines of the commission, be granted parole shall be placed on parole in accordance with the provisions of this law; except that, in any case of a person convicted of murder, robbery, burglary of a dwelling or burglary of a structure or conveyance in which a human being is present, aggravated assault, aggravated battery, kidnapping, sexual battery or attempted sexual battery, incest or attempted incest, an unnatural and lascivious act or an attempted unnatural and lascivious act, lewd and lascivious behavior, assault or aggravated assault when a sexual act is completed or attempted, battery or aggravated battery when a sexual act is completed or attempted, arson, or any felony involving the use of a firearm or other deadly weapon or the use of intentional violence, at the time of sentencing the judge may enter an order retaining jurisdiction over the offender for review of a commission release order. This jurisdiction of the trial court judge is limited to the first one-third of the maximum sentence imposed. When any person is convicted of two or more felonies and concurrent sentences are imposed, then the jurisdiction of the trial court judge as provided herein applies to the first one-third of the maximum sentence imposed for the highest felony of which the person was convicted. When any person is convicted of two or more felonies and consecutive sentences are imposed, then the jurisdiction of the trial court judge as provided herein applies to one-third of the total consecutive sentences imposed.

(a) In retaining jurisdiction for the purposes of this act, the trial court judge shall state the justification with individual particularity, and such justification shall be made a part of the court record. A copy of such justification shall be delivered to the department together with the commitment issued by the court pursuant to [s. 944.17](#).

(b) Gain-time as provided for by law shall accrue, except that an offender over whom the trial court has retained jurisdiction as provided herein shall not be released during the first one-third of her or his sentence by reason of gain-time.

(c) In such a case of retained jurisdiction, the commission, within 30 days after the entry of its release order, shall send notice of its release order to the original sentencing judge and to the appropriate state attorney. The release order shall be made contingent upon entry of an order by the appropriate circuit judge relinquishing jurisdiction as provided for in paragraphs (d) and (f). If the original sentencing judge is no longer in service, such notice shall be sent to the chief judge of the circuit in which the offender was sentenced. The chief judge may designate any circuit judge within the circuit to act in the place of the original sentencing judge. Such notice shall stay the time requirements of [s. 947.1745](#).

(d) Within 10 days after receipt of the notice provided for in paragraph (c), the original sentencing judge or her or his replacement shall notify the commission as to whether or not the court further desires to retain jurisdiction. If the original sentencing judge or her or his replacement does not so notify the commission within the 10-day period or notifies the commission that the court does not desire to retain jurisdiction, then the commission may dispose of the matter as it sees fit.

947.16. Eligibility for parole; initial parole interviews; powers and..., FL ST § 947.16

(e) Upon receipt of notice of intent to retain jurisdiction from the original sentencing judge or her or his replacement, the commission shall, within 10 days, forward to the court its release order, the findings of fact, the parole hearing examiner's report and recommendation, and all supporting information upon which its release order was based.

(f) Within 30 days of receipt of the items listed in paragraph (e), the original sentencing judge or her or his replacement shall review the order, findings, and evidence; and, if the judge finds that the order of the commission is not based on competent substantial evidence or that the parole is not in the best interest of the community or the inmate, the court may vacate the release order. The judge or her or his replacement shall notify the commission of the decision of the court, and, if the release order is vacated, such notification shall contain the evidence relied on and the reasons for denial. A copy of such notice shall be sent to the inmate.

(g) The decision of the original sentencing judge or, in her or his absence, the chief judge of the circuit to vacate any parole release order as provided in this section is not appealable. Each inmate whose parole release order has been vacated by the court shall be reinterviewed within 2 years after the date of receipt of the vacated release order and every 2 years thereafter, or earlier by order of the court retaining jurisdiction. However, each inmate whose parole release order has been vacated by the court and who has been:

1. Convicted of murder or attempted murder;
2. Convicted of sexual battery or attempted sexual battery;
3. Convicted of kidnapping or attempted kidnapping;
4. Convicted of robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, or the attempt thereof of any of these crimes, in which a human being is present and a sexual act is attempted or completed; or
5. Sentenced to a 25-year minimum mandatory sentence previously provided in [s. 775.082](#),

shall be reinterviewed once within 7 years after the date of receipt of the vacated release order and once every 7 years thereafter, if the commission finds that it is not reasonable to expect that parole would be granted during the following years and states the bases for the finding in writing. For an inmate who is within 7 years of his or her tentative release date, the commission may establish a reinterview date before the 7-year schedule.

(h) An inmate whose parole release order has been vacated by the court may not be given a presumptive parole release date during the period of retention of jurisdiction by the court. During such period, a new effective parole release date may be authorized at the discretion of the commission without further interview unless an interview is requested by no fewer than two commissioners. Any such new effective parole release date must be reviewed in accordance with the provisions of paragraphs (c), (d), (e), (f), and (g).

947.16. Eligibility for parole; initial parole interviews; powers and..., FL ST § 947.16

(5) Within 90 days after any interview for parole, the inmate shall be advised of the presumptive parole release date. Subsequent to the establishment of the presumptive parole release date, the commission may, at its discretion, review the official record or conduct additional interviews with the inmate. However, the presumptive parole release date may not be changed except for reasons of institutional conduct or the acquisition of new information not available at the time of the initial interview.

(6) This section as amended by chapter 82-171, Laws of Florida, shall apply only to those persons convicted on or after the effective date of chapter 82-171; and this section as in effect before being amended by chapter 82-171 shall apply to any person convicted before the effective date of chapter 82-171.

Credits

Laws 1941, c. 20519, § 12; Laws 1943, c. 21775, § 3; Laws 1971, c. 71-110, §§ 1, 2; Laws 1974, c. 74-122, § 2; Laws 1977, c. 77-120, § 88; Laws 1978, c. 78-318, § 1; Laws 1978, c. 78-417, § 11; Laws 1979, c. 79-3, § 106; Laws 1979, c. 79-42, § 5; Laws 1979, c. 79-164, § 195; Laws 1979, c. 79-310, § 2; Laws 1979, c. 79-341, § 8; Laws 1981, c. 81-30, § 1; Laws 1981, c. 81-322, § 4; Laws 1982, c. 82-171, §§ 9, 19; Laws 1982, c. 82-401, §§ 1, 2; Laws 1983, c. 83-131, § 9; Laws 1983, c. 83-216, § 189; Laws 1985, c. 85-107, § 1; Laws 1985, c. 85-295, § 3. Amended by [Laws 1989, c. 89-96, § 111](#); [Laws 1997, c. 97-102, § 1673, eff. July 1, 1997](#); [Laws 1997, c. 97-289, § 1, eff. Oct. 1, 1997](#); [Laws 2010, c. 2010-95, § 1, eff. July 1, 2010](#); [Laws 2010, c. 2010-117, § 45, eff. July 1, 2010](#); [Laws 2013, c. 2013-119, § 1, eff. July 1, 2013](#).

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[C.J.S. Prisons and Rights of Prisoners](#) §§ 142 to 144, 147 to 151.

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[101 ALR 1402](#), Constitutionality of Statute Conferring on Court Power to Suspend Sentence.

947.16. Eligibility for parole; initial parole interviews; powers and..., FL ST § 947.16

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Generally; Effect of Sentencing Guidelines, [Fla. Jur. 2d Criminal Law Procedure § 2984](#).
Persons Subject to Consecutive Sentences, [Fla. Jur. 2d Criminal Law Procedure § 2986](#).
Limited Jurisdiction, [Fla. Jur. 2d Criminal Law Procedure § 2990](#).
Necessity for Statement Justifying Retention of Jurisdiction, [Fla. Jur. 2d Criminal Law Procedure § 2991](#).
Effect of Court's Retention of Jurisdiction, [Fla. Jur. 2d Criminal Law Procedure § 2993](#).
Inmate's Request for Review by Parole Commission, [Fla. Jur. 2d Criminal Law Procedure § 3006](#).
Review at Discretion of Parole Commission, [Fla. Jur. 2d Criminal Law Procedure § 3008](#).

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[Florida Pleading and Practice Forms § 96:30](#), Statutory Judgment and Sentence Form.
[Florida Pleading and Practice Forms § 96:40](#), Motion to Reduce or Suspend Sentence--Sentence Where No Mitigation Shown.

Treatises and Practice Aids

[11 Florida Practice Series App. G](#), Judgment and Sentence Forms, Including Costs.
[16 Florida Practice Series § 1:44](#), Judicial Discretion in the Imposition of Sentence--Post-Sentence Jurisdiction.
[16 Florida Practice Series § 12:19](#), Parole--Eligibility for Parole.
[16 Florida Practice Series § 12:20](#), Parole--Presumptive Parole Release Date.

[Notes of Decisions \(328\)](#)

West's F. S. A. § 947.16, FL ST § 947.16

Current with chapters in effect from the 2013 1st Reg.Sess. of the 23rd Legislature through July 2, 2013

947.18. Conditions of parole, FL ST § 947.18

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.18

947.18. Conditions of parole

Effective: October 1, 2008

[Currentness](#)

No person shall be placed on parole merely as a reward for good conduct or efficient performance of duties assigned in prison. No person shall be placed on parole until and unless the commission finds that there is reasonable probability that, if the person is placed on parole, he or she will live and conduct himself or herself as a respectable and law-abiding person and that the person's release will be compatible with his or her own welfare and the welfare of society. No person shall be placed on parole unless and until the commission is satisfied that he or she will be suitably employed in self-sustaining employment or that he or she will not become a public charge. The commission shall determine the terms upon which such person shall be granted parole. If the person's conviction was for a controlled substance violation, one of the conditions must be that the person submit to random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in [s. 943.10\(3\)](#). In addition to any other lawful condition of parole, the commission may make the payment of the debt due and owing to the state under [s. 960.17](#) or the payment of the attorney's fees and costs due and owing to the state under [s. 938.29](#) a condition of parole subject to modification based on change of circumstances. If the person's conviction was for a crime that was found to have been committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, one of the conditions must be that the person be prohibited from knowingly associating with other criminal gang members or associates, except as authorized by law enforcement officials, prosecutorial authorities, or the court, for the purpose of aiding in the investigation of criminal activity.

Credits

Laws 1941, c. 20519, § 14; Laws 1977, c. 77-452, § 4; Laws 1983, c. 83-256, § 2; [Laws 1988, c. 88-122, § 72](#); [Laws 1990, c. 90-337, § 15](#). Amended by [Laws 1996, c. 96-232, § 4](#), eff. Jan. 1, 1997; [Laws 1997, c. 97-102, § 1875](#), eff. July 1, 1997; [Laws 1997, c. 97-271, § 43](#), eff. July 1, 1997; [Laws 2003, c. 2003-402, § 135](#), eff. July 1, 2004; [Laws 2008, c. 2008-238, § 22](#), eff. Oct. 1, 2008.

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947.18. Conditions of parole, FL ST § 947.18

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Necessity to Explain Consideration of Aggravating Circumstances, [Fla. Jur. 2d Criminal Law Procedure § 3005](#).
Particular Terms and Conditions, [Fla. Jur. 2d Criminal Law Procedure § 3012](#).

Treatises and Practice Aids

[16 Florida Practice Series § 12:22](#), Parole--Terms and Conditions of Parole.

[Notes of Decisions \(35\)](#)

West's F. S. A. § 947.18, FL ST § 947.18

Current with chapters in effect from the 2013 1st Reg.Sess. of the 23rd Legislature through July 2, 2013

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947.19. Terms of parole, FL ST § 947.19

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.19

947.19. Terms of parole

Currentness

(1) The commission, upon authorizing an effective parole release date, shall specify in writing the terms and conditions of the parole, a certified copy of which shall be given to the parolee.

(2) A parolee may, within 120 days of receipt of the certified copy of the terms and conditions of parole, request that the commission modify the terms and conditions of parole; the parolee must specify in writing the reasons for requesting such modifications.

(3) A panel of no fewer than two commissioners appointed by the chair shall consider requests for review of the terms and conditions of parole, render a written decision to continue or to modify the terms and conditions of parole, specifying the reasons therefor, and inform the parolee of the decision in writing within 30 days of the date of receipt of request for review. Such panel shall not include those commissioners who authorized the original conditions of parole.

(4) During any period of requested review of terms and conditions of parole, the parolee shall be subject to the authorized terms and conditions of parole until such time according to the provisions of this section a decision is made to continue or modify the terms and conditions of parole.

Credits

Laws 1941, c. 20519, § 15; Laws 1945, c. 22858, § 7; Laws 1978, c. 78-417, § 17; Laws 1979, c. 79-42, § 10; Laws 1982, c. 82-171, § 15. Amended by [Laws 1997, c. 97-102, § 1678, eff. July 1, 1997](#).

Editors' Notes

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Westlaw Topic No. 284.

[C.J.S. Pardon and Parole § 59](#).

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947.19. Terms of parole, FL ST § 947.19

Treatises and Practice Aids

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[16 Florida Practice Series § 12:22](#), Parole--Terms and Conditions of Parole.

[16 Florida Practice Series § 12:24](#), Discharge from Parole Supervision or Release Supervision.

Notes of Decisions (2)

West's F. S. A. § 947.19, FL ST § 947.19

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947.20. Rules of commission, FL ST § 947.20

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.20

947.20. Rules of commission

Currentness

The commission shall adopt general rules on the terms and conditions of parole and what shall constitute the violation thereof and may make special rules to govern particular cases. Such rules, both general and special, may include, among other things, a requirement that the parolee shall not leave the state or any definite area in Florida without the consent of the commission; that the parolee shall contribute to the support of her or his dependents to the best of her or his ability; that the parolee shall make reparation or restitution for her or his crime; that the parolee shall not associate with persons engaged in criminal activity; and that the parolee shall carry out the instructions of her or his parole supervisor and, in general, comport herself or himself in accordance with the terms and conditions of her or his parole.

Credits

Laws 1941, c. 20519, § 15; Laws 1978, c. 78-417, § 18. Amended by [Laws 1997, c. 97-102, § 1679, eff. July 1, 1997](#).

Editors' Notes

LAW REVIEW AND JOURNAL COMMENTARIES

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Particular Terms and Conditions, [Fla. Jur. 2d Criminal Law Procedure](#) § 3012.

[Notes of Decisions](#) (3)

West's F. S. A. § 947.20, FL ST § 947.20

Current with chapters in effect from the 2013 1st Reg.Sess. of the 23rd Legislature through July 2, 2013

947.21. Violations of parole, FL ST § 947.21

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.21

947.21. Violations of parole

Currentness

(1) A violation of the terms of parole may render the parolee liable to arrest and a return to prison to serve out the term for which the parolee was sentenced.

(2) An offender whose parole is revoked may, at the discretion of the commission, be credited with any portion of the time the offender has satisfactorily served on parole.

Credits

Laws 1941, c. 20519, § 15; Laws 1974, c. 74-112, § 22. Amended by [Laws 1997, c. 97-102, § 1680, eff. July 1, 1997](#).

Editors' Notes

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947.21. Violations of parole, FL ST § 947.21

[Notes of Decisions \(48\)](#)

West's F. S. A. § 947.21, FL ST § 947.21

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947.22. Authority to arrest parole violators with or without warrant, FL ST § 947.22

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.22

947.22. Authority to arrest parole violators with or without warrant

Effective: October 1, 2002

[Currentness](#)

(1) If a member of the commission or a duly authorized representative of the commission has reasonable grounds to believe that a parolee has violated the terms and conditions of her or his parole in a material respect, such member or representative may issue a warrant for the arrest of such parolee. The warrant shall be returnable before a member of the commission or a duly authorized representative of the commission. The commission, a commissioner, or a parole examiner with approval of the parole examiner supervisor, may release the parolee on bail or her or his own recognizance, conditioned upon her or his appearance at any hearings noticed by the commission. If not released on bail or her or his own recognizance, the parolee shall be committed to jail pending hearings pursuant to [s. 947.23](#). The commission, at its election, may have the hearing conducted by one or more commissioners or by a duly authorized representative of the commission. Any parole and probation officer, any officer authorized to serve criminal process, or any peace officer of this state is authorized to execute the warrant.

(2) Any parole and probation officer, when she or he has reasonable ground to believe that a parolee, control releasee, or conditional releasee has violated the terms and conditions of her or his parole, control release, or conditional release in a material respect, has the right to arrest the releasee or parolee without warrant and bring her or him forthwith before one or more commissioners or a duly authorized representative of the Parole Commission or Control Release Authority; and proceedings shall thereupon be had as provided herein when a warrant has been issued by a member of the commission or authority or a duly authorized representative of the commission or authority.

(3) If a law enforcement officer has probable cause to believe that a parolee has violated the terms and conditions of his or her parole, the officer shall arrest and take into custody the parolee without a warrant, and a warrant need not be issued in the case.

Credits

Laws 1941, c. 20519, § 16; Laws 1971, c. 71-111, § 1; Laws 1982, c. 82-171, § 16; Laws 1982, c. 82-193, § 1; Laws 1983, c. 83-216, § 191; Laws 1985, c. 85-295, § 5; [Laws 1990, c. 90-337, § 13](#); [Laws 1991, c. 91-280, § 12](#). Amended by [Laws 1997, c. 97-102, § 1681, eff. July 1, 1997](#); [Laws 2002, c. 2002-255, § 3, eff. Oct. 1, 2002](#).

Editors' Notes

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Parole and Probation Officers or Supervisors, [Fla. Jur. 2d Criminal Law Procedure § 116.](#)
Arrest of Parolee, [Fla. Jur. 2d Criminal Law Procedure § 3017.](#)

Forms

[Florida Pleading and Practice Forms § 23:3](#), Arrest or Imprisonment by Law Enforcement Officer.
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Notes of Decisions (6)

West's F. S. A. § 947.22, FL ST § 947.22
Current with chapters in effect from the 2013 1st Reg.Sess. of the 23rd Legislature through July 2, 2013

947.24. Discharge from parole supervision or release supervision, FL ST § 947.24

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.24

947.24. Discharge from parole supervision or release supervision

Effective: July 1, 2001

Currentness

(1) When a person is placed on parole, control release, or conditional release, the commission shall determine the period of time the person will be under parole supervision or release supervision in the following manner:

(a) If the person is being paroled or released under supervision from a single or concurrent sentence, the period of time the person will be under parole supervision or release supervision may not exceed 2 years unless the commission designates a longer period of time, in which case it must advise the parolee or releasee in writing of the reasons for the extended period. In any event, the period of parole supervision or release supervision may not exceed the maximum period for which the person has been sentenced.

(b) If the person is being paroled or released under supervision from a consecutive sentence or sentences, the period of time the person will be under parole supervision or release supervision will be for the maximum period for which the person was sentenced.

(2) The commission shall review the progress of each person who has been placed on parole, control release, or conditional release after 2 years of supervision in the community and biennially thereafter. The department shall provide to the commission the information necessary to conduct such a review. Such review must include consideration of whether to modify the reporting schedule, thereby authorizing the person under parole supervision or release supervision to submit reports quarterly, semiannually, or annually. The commission, after having retained jurisdiction of a person for a sufficient length of time to evidence satisfactory rehabilitation and cooperation, may further modify the terms and conditions of the person's parole, control release, or conditional release, may discharge the person from parole supervision or release supervision, may relieve the person from making further reports, or may permit the person to leave the state or country, upon finding that such action is in the best interests of the person and society.

(3) This section does not affect the rights of a parolee to request modification of the terms and conditions of parole under s. 947.19.

Credits

Laws 1941, c. 20519, § 18; Laws 1963, c. 63-83, § 1; Laws 1974, c. 74-112, § 9; Laws 1977, c. 77-104, § 256; Laws 1985, c. 85-107, § 4; Laws 1988, c. 88-122, § 27; Laws 1993, c. 93-61, § 10. Amended by Laws 2001, c. 2001-124, § 6, eff. July 1, 2001.

947.24. Discharge from parole supervision or release supervision, FL ST § 947.24

Notes of Decisions (7)

West's F. S. A. § 947.24, FL ST § 947.24

Current with chapters in effect from the 2013 1st Reg.Sess. of the 23rd Legislature through July 2, 2013

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947.141. Violations of conditional release, control release, or..., FL ST § 947.141

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.141

947.141. Violations of conditional release, control release, or
conditional medical release or addiction-recovery supervision

Effective: October 1, 2004

Currentness

(1) If a member of the commission or a duly authorized representative of the commission has reasonable grounds to believe that an offender who is on release supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated the terms and conditions of the release in a material respect, such member or representative may cause a warrant to be issued for the arrest of the releasee; if the offender was found to be a sexual predator, the warrant must be issued.

(2) Upon the arrest on a felony charge of an offender who is on release supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731, the offender must be detained without bond until the initial appearance of the offender at which a judicial determination of probable cause is made. If the trial court judge determines that there was no probable cause for the arrest, the offender may be released. If the trial court judge determines that there was probable cause for the arrest, such determination also constitutes reasonable grounds to believe that the offender violated the conditions of the release. Within 24 hours after the trial court judge's finding of probable cause, the detention facility administrator or designee shall notify the commission and the department of the finding and transmit to each a facsimile copy of the probable cause affidavit or the sworn offense report upon which the trial court judge's probable cause determination is based. The offender must continue to be detained without bond for a period not exceeding 72 hours excluding weekends and holidays after the date of the probable cause determination, pending a decision by the commission whether to issue a warrant charging the offender with violation of the conditions of release. Upon the issuance of the commission's warrant, the offender must continue to be held in custody pending a revocation hearing held in accordance with this section.

(3) Within 45 days after notice to the Parole Commission of the arrest of a releasee charged with a violation of the terms and conditions of conditional release, control release, conditional medical release, or addiction-recovery supervision, the releasee must be afforded a hearing conducted by a commissioner or a duly authorized representative thereof. If the releasee elects to proceed with a hearing, the releasee must be informed orally and in writing of the following:

(a) The alleged violation with which the releasee is charged.

(b) The releasee's right to be represented by counsel.

(c) The releasee's right to be heard in person.

947.141. Violations of conditional release, control release, or..., FL ST § 947.141

- (d) The releasee's right to secure, present, and compel the attendance of witnesses relevant to the proceeding.
 - (e) The releasee's right to produce documents on the releasee's own behalf.
 - (f) The releasee's right of access to all evidence used against the releasee and to confront and cross-examine adverse witnesses.
 - (g) The releasee's right to waive the hearing.
- (4) Within a reasonable time following the hearing, the commissioner or the commissioner's duly authorized representative who conducted the hearing shall make findings of fact in regard to the alleged violation. A panel of no fewer than two commissioners shall enter an order determining whether the charge of violation of conditional release, control release, conditional medical release, or addiction-recovery supervision has been sustained based upon the findings of fact presented by the hearing commissioner or authorized representative. By such order, the panel may revoke conditional release, control release, conditional medical release, or addiction-recovery supervision and thereby return the releasee to prison to serve the sentence imposed, reinstate the original order granting the release, or enter such other order as it considers proper. Effective for inmates whose offenses were committed on or after July 1, 1995, the panel may order the placement of a releasee, upon a finding of violation pursuant to this subsection, into a local detention facility as a condition of supervision.
- (5) Effective for inmates whose offenses were committed on or after July 1, 1995, notwithstanding the provisions of ss. 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and 951.23, or any other law to the contrary, by such order as provided in subsection (4), the panel, upon a finding of guilt, may, as a condition of continued supervision, place the releasee in a local detention facility for a period of incarceration not to exceed 22 months. Prior to the expiration of the term of incarceration, or upon recommendation of the chief correctional officer of that county, the commission shall cause inquiry into the inmate's release plan and custody status in the detention facility and consider whether to restore the inmate to supervision, modify the conditions of supervision, or enter an order of revocation, thereby causing the return of the inmate to prison to serve the sentence imposed. The provisions of this section do not prohibit the panel from entering such other order or conducting any investigation that it deems proper. The commission may only place a person in a local detention facility pursuant to this section if there is a contractual agreement between the chief correctional officer of that county and the Department of Corrections. The agreement must provide for a per diem reimbursement for each person placed under this section, which is payable by the Department of Corrections for the duration of the offender's placement in the facility. This section does not limit the commission's ability to place a person in a local detention facility for less than 1 year.
- (6) Whenever a conditional release, control release, conditional medical release, or addiction-recovery supervision is revoked by a panel of no fewer than two commissioners and the releasee is ordered to be returned to prison, the releasee, by reason of the misconduct, shall be deemed to have forfeited all gain-time or commutation of time for good conduct, as provided for by law, earned up to the date of release. However, if a conditional medical release is revoked due to the improved medical or physical condition of the releasee, the releasee shall not forfeit gain-time accrued before the date of conditional medical release. This subsection does not deprive the prisoner of the right to gain-time or commutation of time for good conduct, as provided by law, from the date of return to prison.

947.141. Violations of conditional release, control release, or..., FL ST § 947.141

(7) If a law enforcement officer has probable cause to believe that an offender who is on release supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated the terms and conditions of his or her release by committing a felony offense, the officer shall arrest the offender without a warrant, and a warrant need not be issued in the case.

Credits

Laws 1988, c. 88-122, § 20; Laws 1993, c. 93-61, § 5; Laws 1993, c. 93-277, § 5; Laws 1994, c. 94-121, § 1; Laws 1995, c. 95-283, §§ 40, 58. Amended by Laws 1997, c. 97-194, § 30, eff. Oct. 1, 1998; Laws 1997, c. 97-239, § 4, eff. May 30, 1997; Laws 2001, c. 2001-110, § 15, eff. July 1, 2001; Laws 2002, c. 2002-255, § 2, eff. Oct. 1, 2002; Laws 2004, c. 2004-11, § 49, eff. Oct. 1, 2004.

Notes of Decisions (29)

West's F. S. A. § 947.141, FL ST § 947.141

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947.146. Control Release Authority, FL ST § 947.146

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.146

947.146. Control Release Authority

Effective: October 1, 2012

Currentness

(1) There is created a Control Release Authority which shall be composed of the members of the Parole Commission and which shall have the same chair as the commission. The authority shall utilize such commission staff as it determines is necessary to carry out its purposes.

(2) The authority shall implement a system for determining the number and type of inmates who must be released into the community under control release in order to maintain the state prison system between 99 and 100 percent of its total capacity as defined in s. 944.023. No inmate has a right to control release. Control release is an administrative function solely used to manage the state prison population within total capacity. An inmate may not receive an advancement of his or her control release date by an award of control release allotments for any period of time before the date the inmate becomes statutorily eligible for control release or before the subsequent date of establishment of the inmate's advanceable control release date.

(3) Within 120 days prior to the date the state correctional system is projected pursuant to s. 216.136 to exceed 99 percent of total capacity, the authority shall determine eligibility for and establish a control release date for an appropriate number of parole ineligible inmates committed to the department and incarcerated within the state who have been determined by the authority to be eligible for discretionary early release pursuant to this section. In establishing control release dates, it is the intent of the Legislature that the authority prioritize consideration of eligible inmates closest to their tentative release date. The authority shall rely upon commitment data on the offender information system maintained by the department to initially identify inmates who are to be reviewed for control release consideration. The authority may use a method of objective risk assessment in determining if an eligible inmate should be released. Such assessment shall be a part of the department's management information system. However, the authority shall have sole responsibility for determining control release eligibility, establishing a control release date, and effectuating the release of a sufficient number of inmates to maintain the inmate population between 99 percent and 100 percent of total capacity. Inmates who are ineligible for control release are inmates who are parole eligible or inmates who:

(a) Are serving a sentence that includes a mandatory minimum provision for a capital offense or drug trafficking offense and have not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Are serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

(c) Are convicted, or have been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;

947.146. Control Release Authority, FL ST § 947.146

(d) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Are convicted, or have been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense;

(f) Are convicted, or have been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;

(g) Are sentenced, have previously been sentenced, or have been sentenced at any time under s. 775.084, or have been sentenced at any time in another jurisdiction as a habitual offender;

(h) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against a state attorney or assistant state attorney; or against a justice or judge of a court described in Art. V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction; or

(i) Are convicted, or have been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or have ever been convicted of any degree of murder or attempted murder in another jurisdiction;

(j) Are convicted, or have been previously convicted, of DUI manslaughter under s. 316.193(3)(c) 3., and are sentenced, or have been sentenced at any time, as a habitual offender for such offense, or have been sentenced at any time in another jurisdiction as a habitual offender for such offense;

(k) 1. Are serving a sentence for an offense committed on or after January 1, 1994, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), (5), or (6), and the subtotal of the offender's sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

2. Are serving a sentence for an offense committed on or after October 1, 1995, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), (5), (6), (7), (8), or (9), and the subtotal of the offender's sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

(l) Are serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm, semiautomatic firearm, or machine gun in which additional points are added to the subtotal of the offender's sentence points pursuant to former s. 921.0014 or s. 921.0024; or

947.146. Control Release Authority, FL ST § 947.146

(m) Are convicted, or have been previously convicted, of committing or attempting to commit manslaughter, kidnapping, robbery, carjacking, home-invasion robbery, or a burglary under s. 810.02(2).

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense.

(4) Control release dates shall be based upon a system of uniform criteria which shall include, but not be limited to, present offenses for which the person is committed, past criminal conduct, length of cumulative sentences, and age of the offender at the time of commitment, together with any aggravating or mitigating circumstances.

(5) Whenever the inmate population drops below 99 percent of total capacity and remains below 99 percent for 90 consecutive days without requiring the release of inmates under this section, all control release dates shall become void and no inmate shall be eligible for release under any previously established control release date. An inmate shall not have a right to a control release date, nor shall the authority be required to establish or reestablish any additional control release dates except under the provisions of subsection (2).

(6) For purpose of determining eligibility for control release, the mandatory minimum portion of a concurrent sentence will begin on the date the sentence begins to run as provided in s. 921.161. The mandatory minimum portions of consecutive sentences shall be served at the beginning of the maximum sentence as established by the Department of Corrections. With respect to offenders who have more than one sentence with a mandatory minimum portion, each mandatory minimum portion of consecutive sentences shall be served consecutively; provided, that in no case shall a sentence begin to run before the date of imposition of that sentence.

(7) The authority has the power and duty to:

(a) Extend or advance the control release date of any inmate for whom a date has been established pursuant to subsection (2), based upon one or more of the following:

1. Recently discovered information of:

a. Past criminal conduct;

b. Verified threats by inmates provided by victims, law enforcement, or the department;

c. Potential risk to or vulnerability of a victim;

d. Psychological or physical trauma to the victim due to the criminal offense;

947.146. Control Release Authority, FL ST § 947.146

- e. Court-ordered restitution;
 - f. History of abuse or addiction to a chemical substance verified by a presentence or postsentence investigation report;
 - g. The inmate's ties to organized crime;
 - h. A change in the inmate's sentence structure;
 - i. Cooperation with law enforcement;
 - j. Strong community support; and
 - k. A documented mental condition as a factor for future criminal behavior.
2. The recommendation of the department regarding:
- a. A medical or mental health-related condition; or
 - b. Institutional adjustment of the inmate, which may include refusal by the inmate to sign the agreement to the conditions of the release plan.
3. Total capacity of the state prison system.
- (b) Authorize an individual commissioner to postpone a control release date for not more than 60 days without a hearing for any inmate who has become the subject of a disciplinary proceeding, a criminal arrest, an information, or an indictment; who has been terminated from work release; or about whom there is any recently discovered information as specified in paragraph (a).
 - (c) Determine the terms, conditions, and period of time of control release for persons released pursuant to this section.
 - (d) Determine violations of control release and what actions shall be taken with reference thereto.
 - (e) Provide for victim input into the decisionmaking process which may be used by the authority as aggravation or mitigation in determining which persons shall be released on control release.

947.146. Control Release Authority, FL ST § 947.146

(f) Make such investigations as may be necessary for the purposes of establishing, modifying, or revoking a control release date.

(g) Contract with a public defender or private counsel for representation of indigent persons charged with violating the terms of control release.

(h) Adopt such rules as the authority deems necessary for implementation of the provisions of this section.

(8) The Department of Corrections shall select and contract with public or private organizations for the provision of basic support services for inmates whose term of control release supervision does not exceed 180 days. Basic support services shall include, but not be limited to, substance abuse counseling, temporary housing, family counseling, and employment support programs.

(9) The authority shall examine such records as it deems necessary of the department, the Department of Children and Family Services, the Department of Law Enforcement, and any other such agency for the purpose of either establishing, modifying, or revoking a control release date. The victim impact statement shall be included in such records for examination. Such agencies shall provide the information requested by the authority for the purposes of fulfilling the requirements of this section.

(10) The authority shall adopt as a standard condition for all persons released pursuant to this section that such persons shall not commit a violation which constitutes a felony. The authority shall determine the appropriate terms, conditions, and lengths of supervision, if any, for persons placed on control release, except that such lengths of supervision shall be determined as provided in s. 947.24 and may not exceed the maximum period for which the person has been sentenced. If the person's conviction was for a controlled substance violation, the conditions must include a requirement that the person submit to random substance abuse testing intermittently throughout the term of supervision, and, when warranted, a requirement that the person participate in substance abuse assessment and substance abuse treatment services upon the direction of the correctional probation officer as defined in s. 943.10(3). Effective July 1, 1994, and applicable for offenses committed on or after that date, the authority may require, as a condition of control release, that the control releasee make payment of the debt due and owing to a county or municipal detention facility under s. 951.032 for medical care, treatment, hospitalization, or transportation received by the releasee while in that detention facility. The authority, in determining whether to order such repayment and the amount of such repayment, shall consider the amount of the debt, whether there was any fault of the institution for the medical expenses incurred, the financial resources of the releasee, the present and potential future financial needs and earning ability of the releasee, and dependents, and other appropriate factors. If any inmate placed on control release supervision is also subject to probation or community control, the department shall supervise such person according to the conditions imposed by the court, and the authority shall defer to such supervision. If the court revokes the probation or community control, the authority, as the result of the revocation, may vacate the grant of control release and resulting deferred control release supervision or take other action it considers appropriate. If the term of control release supervision exceeds that of the probation or community control, then supervision shall revert to the authority's conditions upon expiration of the probation or community control.

(11) If an inmate is released on control release supervision subject to a detainer for a pending charge and the pending charge results in a new commitment to incarceration before expiration of the terms of control release supervision, the authority may vacate the grant of control release and the control release supervision or take other action it considers appropriate.

947.146. Control Release Authority, FL ST § 947.146

(12) When the authority has reasonable grounds to believe that an offender released under this section has violated the terms and conditions of control release, such offender shall be subject to the provisions of s. 947.141 and shall be subject to forfeiture of gain-time pursuant to s. 944.28(1).

(13) If it is discovered that any control releasee was placed on control release by error or while statutorily ineligible for such release, the order of control release may be vacated and the Control Release Authority may cause a warrant to be issued for the arrest and return of the control releasee to the custody of the Department of Corrections for service of the unserved portion of the sentence or combined sentences.

(14) Effective July 1, 1996, all control release dates established prior to such date become void and no inmate shall be eligible for release under any previously established control release date. Offenders who are under control release supervision as of July 1, 1996, shall be subject to the conditions established by the authority until such offenders have been discharged from supervision. Offenders who have warrants outstanding based on violation of supervision as of July 1, 1996, or who violate the terms of their supervision subsequent to July 1, 1996, shall be subject to the provisions of s. 947.141.

Credits

Laws 1989, c. 89-526, § 2; Laws 1990, c. 90-77, § 3; Laws 1990, c. 90-186, § 2; Laws 1990, c. 90-211, § 7; Laws 1990, c. 90-337, § 12; Laws 1991, c. 91-280, § 11; Laws 1992, c. 92-310, § 15; Laws 1993, c. 93-61, § 6; Laws 1993, c. 93-406, §§ 27, 30(1); Laws 1994, c. 94-111, § 1; Laws 1994, c. 94-121, § 2; Laws 1994, c. 94-294, § 2; Laws 1995, c. 95-184, § 27; Laws 1995, c. 95-251, § 4. Amended by Laws 1996, c. 96-422, § 19, eff. June 7, 1996; Laws 1997, c. 97-102, § 1873, eff. July 1, 1997; Laws 1997, c. 97-194, § 31, eff. Oct. 1, 1998; Laws 1998, c. 98-417, § 8, eff. Oct. 1, 1998; Laws 1999, c. 99-8, § 321, eff. June 29, 1999; Laws 1999, c. 99-12, § 3, eff. July 1, 1999; Laws 1999, c. 99-201, § 12, eff. Oct. 1, 1999; Laws 2001, c. 2001-236, § 7, eff. Oct. 1, 2001; Laws 2005, c. 2005-119, § 7, eff. Oct. 1, 2005; Laws 2007, c. 2007-212, § 3, eff. Oct. 1, 2007; Laws 2010, c. 2010-121, § 5, eff. Oct. 1, 2010; Laws 2012, c. 2012-21, § 8, eff. Oct. 1, 2012.

Notes of Decisions (36)

West's F. S. A. § 947.146, FL ST § 947.146

Current with chapters in effect from the 2013 1st Reg.Sess. of the 23rd Legislature through July 2, 2013

947.147. Victim restitution as condition of control release, FL ST § 947.147

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.147

947.147. Victim restitution as condition of control release

Currentness

If the defendant is released under control release, any restitution ordered under s. 775.089 shall be a condition of such release. The Control Release Authority may revoke the offender's control release if the defendant fails to comply with such order. In determining whether to revoke control release, the Control Release Authority shall consider the defendant's employment status, earning ability, and financial resources; the willfulness of the defendant's failure to pay; and any other special circumstances that may have a bearing on the defendant's ability to pay.

Credits

Laws 1991, c. 91-167, § 1; Laws 1993, c. 93-37, § 8.

West's F. S. A. § 947.147, FL ST § 947.147

Current with chapters in effect from the 2013 1st Reg.Sess. of the 23rd Legislature through July 2, 2013

947.149. Conditional medical release, FL ST § 947.149

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.149

947.149. Conditional medical release

Currentness

(1) The commission shall, in conjunction with the department, establish the conditional medical release program. An inmate is eligible for consideration for release under the conditional medical release program when the inmate, because of an existing medical or physical condition, is determined by the department to be within one of the following designations:

(a) "Permanently incapacitated inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or others.

(b) "Terminally ill inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and death is imminent, so that the inmate does not constitute a danger to herself or himself or others.

(2) Notwithstanding any provision to the contrary, any person determined eligible under this section and sentenced to the custody of the department may, upon referral by the department, be considered for conditional medical release by the commission, in addition to any parole consideration for which the inmate may be considered, except that conditional medical release is not authorized for an inmate who is under sentence of death. No inmate has a right to conditional medical release or to a medical evaluation to determine eligibility for such release.

(3) The authority and whether or not to grant conditional medical release and establish additional conditions of conditional medical release rests solely within the discretion of the commission, in accordance with the provisions of this section, together with the authority to approve the release plan to include necessary medical care and attention. The department shall identify inmates who may be eligible for conditional medical release based upon available medical information and shall refer them to the commission for consideration. In considering an inmate for conditional medical release, the commission may require that additional medical evidence be produced or that additional medical examinations be conducted, and may require such other investigations to be made as may be warranted.

(4) The conditional medical release term of an inmate released on conditional medical release is for the remainder of the inmate's sentence, without diminution of sentence for good behavior. Supervision of the medical releasee must include periodic medical evaluations at intervals determined by the commission at the time of release.

947.149. Conditional medical release, FL ST § 947.149

(5)(a) If it is discovered during the conditional medical release that the medical or physical condition of the medical releasee has improved to the extent that she or he would no longer be eligible for conditional medical release under this section, the commission may order that the releasee be returned to the custody of the department for a conditional medical release revocation hearing, in accordance with s. 947.141. If conditional medical release is revoked due to improvement in the medical or physical condition of the releasee, she or he shall serve the balance of her or his sentence with credit for the time served on conditional medical release and without forfeiture of any gain-time accrued prior to conditional medical release. If the person whose conditional medical release is revoked due to an improvement in medical or physical condition would otherwise be eligible for parole or any other release program, the person may be considered for such release program pursuant to law.

(b) In addition to revocation of conditional medical release pursuant to paragraph (a), conditional medical release may also be revoked for violation of any condition of the release established by the commission, in accordance with s. 947.141, and the releasee's gain-time may be forfeited pursuant to s. 944.28(1).

(6) The department and the commission shall adopt rules as necessary to implement the conditional medical release program.

Credits

Laws 1992, c. 92-310, § 16; Laws 1994, c. 94-121, § 2. Amended by Laws 1997, c. 97-102, § 1672, eff. July 1, 1997.

West's F. S. A. § 947.149, FL ST § 947.149

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947.165. Objective parole guidelines, FL ST § 947.165

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.165

947.165. Objective parole guidelines

Effective: July 1, 2013

[Currentness](#)

(1) The commission shall develop and implement objective parole guidelines which shall be the criteria upon which parole decisions are made. The objective parole guidelines shall be developed according to an acceptable research method and shall be based on the seriousness of offense and the likelihood of favorable parole outcome. The guidelines shall require the commission to aggravate or aggregate each consecutive sentence in establishing the presumptive parole release date. Factors used in arriving at the salient factor score and the severity of offense behavior category shall not be applied as aggravating circumstances. If the sentencing judge files a written objection to the parole release of an inmate as provided for in [s. 947.1745\(6\)](#), such objection may be used by the commission as a basis to extend the presumptive parole release date.

(2) At least once a year, the commission shall review the objective parole guidelines and make any revisions considered necessary by virtue of statistical analysis of commission actions, which analysis uses acceptable research and methodology.

Credits

Laws 1978, c. 78-417, § 12; Laws 1979, c. 79-42, § 6; Laws 1979, c. 79-310, § 3; Laws 1981, c. 81-259, § 499; Laws 1982, c. 82-171, § 10; Laws 1985, c. 85-107, § 2; Laws 1986, c. 86-183, § 32; [Laws 1993, c. 93-61, § 7](#). Amended by [Laws 2013, c. 2013-119, § 4, eff. July 1, 2013](#).

Editors' Notes

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947.165. Objective parole guidelines, FL ST § 947.165

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[Notes of Decisions \(29\)](#)

West's F. S. A. § 947.165, FL ST § 947.165

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Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.168

947.168. Consideration for persons serving parole-eligible and parole-ineligible sentences

Currentness

(1) A person serving a parole-eligible sentence who subsequently receives a parole-ineligible sentence shall be considered for parole on the parole-eligible sentence.

(2) A grant of parole on the parole-eligible sentence shall result in the initiation of service of the parole-ineligible sentence, which shall continue until expiration of sentence, expiration of sentence as reduced by accumulated gain-time, or an executive order granting clemency.

(3) Actual terms of parole service shall not be initiated until the satisfactory completion of the parole-ineligible sentence and subsequent review by the commission as provided in subsection (4).

(4) Following completion of the parole-ineligible sentence, the commission shall reinterview the offender and consider any new information provided by the Department of Corrections. Upon an affirmative vote by the commission, the offender shall be released on parole and required to meet any conditions set by the commission pursuant to [s. 947.19](#).

Credits

Laws 1986, c. 86-183, § 38; [Laws 1991, c. 91-239, § 2](#). Amended by [Laws 1997, c. 97-194, §32, eff. Oct. 1, 1998](#).

Editors' Notes

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[Pardon and Parole](#)  51.

Westlaw Topic No. [284](#).

[C.J.S. Pardon and Parole §§ 48 to 51](#).

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Persons Serving Parole-Eligible and Parole-Ineligible Sentences, [Fla. Jur. 2d Criminal Law Procedure § 2988](#).

Treatises and Practice Aids

[16 Florida Practice Series § 12:19](#), Parole--Eligibility for Parole.

947.168. Consideration for persons serving parole-eligible and..., FL ST § 947.168

West's F. S. A. § 947.168, FL ST § 947.168

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947.172. Establishment of presumptive parole release date, FL ST § 947.172

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Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.172

947.172. Establishment of presumptive parole release date

[Currentness](#)

(1) The hearing examiner shall conduct an initial interview in accordance with the provisions of [s. 947.16](#). This interview shall include introduction and explanation of the objective parole guidelines as they relate to presumptive and effective parole release dates and an explanation of the institutional conduct record and satisfactory release plan for parole supervision as each relates to parole release.

(2) Based on the objective parole guidelines and any other competent evidence relevant to aggravating and mitigating circumstances, the hearing examiner shall, within 10 days after the interview, recommend in writing to a panel of no fewer than two commissioners appointed by the chair a presumptive parole release date for the inmate. The chair shall assign cases to such panels on a random basis, without regard to the inmate or to the commissioners sitting on the panel. If the recommended presumptive parole release date falls outside the matrix time ranges as determined by the objective parole guidelines, the hearing examiner shall include with the recommendation a statement in writing as to the reasons for the decision, specifying individual particularities. If a panel fails to reach a decision on a recommended presumptive parole release date, the chair or any other commissioner designated by the chair shall cast the deciding vote. Within 90 days after the date of the initial interview, the inmate shall be notified in writing of the decision as to the inmate's presumptive parole release date.

(3) A presumptive parole release date shall become binding on the commission when agreement on the presumptive parole release date is reached. Should the presumptive parole release date fall outside the matrix time ranges as determined by the objective parole guidelines, the reasons for this decision shall be stated in writing with individual particularities.

Credits

Laws 1978, c. 78-417, §§ 13, 21; Laws 1979, c. 79-3, § 107; Laws 1979, c. 79-42, § 7; Laws 1981, c. 81-259, § 500; Laws 1981, c. 81-322, § 5; Laws 1982, c. 82-171, § 11; Laws 1985, c. 85-295, § 4. Amended by [Laws 1997, c. 97-102, § 1674, eff. July 1, 1997](#).

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  50, 60, 61.

Westlaw Topic No. 284.

C.J.S. [Pardon and Parole](#) §§ 48 to 52, 55 to 56.

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947.172. Establishment of presumptive parole release date, FL ST § 947.172

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Powers and Functions of Commission, [Fla. Jur. 2d Criminal Law Procedure § 2982](#).

Generally; Effect of Sentencing Guidelines, [Fla. Jur. 2d Criminal Law Procedure § 2984](#).

Inmate's Request for Review by Parole Commission, [Fla. Jur. 2d Criminal Law Procedure § 3006](#).

Treatises and Practice Aids

[16 Florida Practice Series § 12:20](#), Parole--Presumptive Parole Release Date.

[Notes of Decisions \(142\)](#)

West's F. S. A. § 947.172, FL ST § 947.172

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947.173. Review of presumptive parole release date, FL ST § 947.173

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Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.173

947.173. Review of presumptive parole release date

Currentness

(1) An inmate may request one review of his or her initial presumptive parole release date established according to [s. 947.16\(1\)](#) if the inmate shows cause in writing, with individual particularities, within 60 days after the date the inmate is notified of the decision on the presumptive parole release date.

(2) A panel of no fewer than two commissioners appointed by the chair shall review the inmate's request for review and shall notify the inmate in writing of its decision within 60 days after the date of receipt of the request by the commission.

(3) The commission may affirm or modify the authorized presumptive parole release date. However, in the event of a decision to modify the presumptive parole release date, in no case shall this modified date be after the date established under the procedures of [s. 947.172](#). It is the intent of this legislation that, once set, presumptive parole release dates be modified only for good cause in exceptional circumstances.

Credits

Laws 1978, c. 78-417, § 14; Laws 1979, c. 79-42, § 8; Laws 1979, c. 79-164, § 196; Laws 1982, c. 82-171, § 12; [Laws 1993, c. 93-61, § 8](#). Amended by [Laws 1996, c. 96-422, § 20, eff. June 7, 1996](#); [Laws 1997, c. 97-102, § 1874, eff. July 1, 1997](#).

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  62.

Westlaw Topic No. 284.

[C.J.S. Pardon and Parole § 57](#).

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Proper Aggravating Factors--Objection by Judge, [Fla. Jur. 2d Criminal Law Procedure § 3002](#).

Inmate's Request for Review by Parole Commission, [Fla. Jur. 2d Criminal Law Procedure § 3006](#).

Review at Discretion of Parole Commission, [Fla. Jur. 2d Criminal Law Procedure § 3008](#).

Treatises and Practice Aids

[16 Florida Practice Series § 12:20, Parole--Presumptive Parole Release Date](#).

947.173. Review of presumptive parole release date, FL ST § 947.173

[16 Florida Practice Series § 12:21](#), Parole--Effective Parole Release Date.

[Notes of Decisions \(69\)](#)

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947.174. Subsequent interviews, FL ST § 947.174

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Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.174

947.174. Subsequent interviews

Effective: July 1, 2013

[Currentness](#)

(1)(a) For any inmate, except an inmate convicted of an offense enumerated in paragraph (b), whose presumptive parole release date falls more than 2 years after the date of the initial interview, a hearing examiner shall schedule an interview for review of the presumptive parole release date. Such interview shall take place within 2 years after the initial interview and every 2 years thereafter.

(b) For any inmate convicted of murder or attempted murder; sexual battery or attempted sexual battery; kidnapping or attempted kidnapping; or robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, or the attempt thereof of any of these crimes, in which a human being is present and a sexual act is attempted or completed, or any inmate who has been sentenced to a 25-year minimum mandatory sentence previously provided in [s. 775.082](#), and whose presumptive parole release date is more than 7 years after the date of the initial interview, a hearing examiner shall schedule an interview for review of the presumptive parole release date. The interview shall take place once within 7 years after the initial interview and once every 7 years thereafter if the commission finds that it is not reasonable to expect that parole will be granted at a hearing during the following years and states the bases for the finding in writing. For an inmate who is within 7 years of his or her tentative release date, the commission may establish an interview date before the 7-year schedule.

(c) Such interviews shall be limited to determining whether or not information has been gathered which might affect the presumptive parole release date. The provisions of this subsection shall not apply to an inmate serving a concurrent sentence in another jurisdiction pursuant to [s. 921.16\(2\)](#).

(2) The commission, for good cause, may at any time request that a hearing examiner conduct a subsequent hearing according to the procedures outlined in this section. Such request shall specify in writing the reasons for such review.

(3) The department shall, within a reasonable amount of time, make available and bring to the attention of the commission such information as is deemed important to the review of the presumptive parole release date, including, but not limited to, current progress reports, psychological reports, and disciplinary reports.

(4) The department or a hearing examiner may recommend that an inmate be placed in a work-release program prior to the last 18 months of her or his confinement before the presumptive parole release date. If the commission does not deny the recommendation within 30 days of the receipt of the recommendation, the inmate may be placed in such a program, and the department shall advise the commission of the fact prior to such placement.

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(5) For purposes of this section, the commission shall develop and make available to all inmates guidelines which:

(a) Define what constitutes an unsatisfactory institutional record. In developing such guidelines, the commission shall consult with the department.

(b) Define what constitutes a satisfactory release plan and what constitutes verification of the plan prior to placement on parole.

Credits

Laws 1978, c. 78-417, § 15; Laws 1979, c. 79-42, § 9; Laws 1979, c. 79-310, § 4; Laws 1981, c. 81-322, § 6; Laws 1982, c. 82-171, § 13; Laws 1988, c. 88-122, § 21. Amended by Laws 1997, c. 97-102, § 1675, eff. July 1, 1997; Laws 1997, c. 97-289, § 2, eff. Oct. 1, 1997; Laws 2010, c. 2010-95, § 2, eff. July 1, 2010; Laws 2013, c. 2013-119, § 2, eff. July 1, 2013.

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#) 59, 62.
Westlaw Topic No. 284.
[C.J.S. Pardon and Parole](#) §§ 55, 57.

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Powers and Functions of Commission, [Fla. Jur. 2d Criminal Law Procedure](#) § 2982.
Subsequent Interviews, [Fla. Jur. 2d Criminal Law Procedure](#) § 3007.

Treatises and Practice Aids

[16 Florida Practice Series](#) § 12:19, Parole--Eligibility for Parole.

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Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.181

947.181. Fines, fees, restitution, or other costs ordered to be paid as conditions of parole

Effective: July 1, 2012

[Currentness](#)

(1) The commission shall require the payment of fines, fees, restitution, or other court-ordered costs as a condition of parole unless the commission finds reasons to the contrary. Restitution to the aggrieved party for injury, damage, or loss caused by the offense for which the parolee was imprisoned shall have first priority in the payment of amounts owed under this section. If the commission does not require the payment of fines, fees, restitution, or other court-ordered costs or requires only partial payment of the fines, fees, restitution, or other court-ordered costs, the commission shall state on the record the reasons for its decision.

(2) If the parolee fails to make the payments as required in subsection (1), it shall be considered by the commission as a violation of parole as specified in [s. 947.21](#) and may be cause for revocation of parole.

(3) If a defendant is paroled, any restitution ordered under [s. 775.089](#) shall be a condition of such parole. The Parole Commission may revoke parole if the defendant fails to comply with such order.

(4) In determining whether to revoke parole, the commission shall consider the defendant's employment status, earning ability, and financial resources; the willfulness of the defendant's failure to pay; and any other special circumstances that may have a bearing on the defendant's ability to pay.

Credits

Laws 1977, c. 77-150, § 3; Laws 1979, c. 79-400, § 304; Laws 1984, c. 84-363, §§ 5, 10; Laws 1988, c. 88-122, § 25; Laws 1993, c. 93-37, § 9. Amended by Laws 1997, c. 97-102, § 1677, eff. July 1, 1997; Laws 2012, c. 2012-100, § 21, eff. July 1, 2012.

Editors' Notes

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[Pardon and Parole](#)  64.1.

Westlaw Topic No. 284.

C.J.S. Pardon and Parole § 59.

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947.181. Fines, fees, restitution, or other costs ordered to be..., FL ST § 947.181

Particular Terms and Conditions--Reparation or Restitution, [Fla. Jur. 2d Criminal Law Procedure § 3013](#).

Treatises and Practice Aids

[16 Florida Practice Series § 12:22](#), Parole--Terms and Conditions of Parole.

[Notes of Decisions \(4\)](#)

West's F. S. A. § 947.181, FL ST § 947.181

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947.185. Application for intellectual disability services as condition..., FL ST § 947.185

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Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.185

947.185. Application for intellectual disability services as condition of parole

Effective: July 1, 2013

[Currentness](#)

The Parole Commission may require as a condition of parole that any inmate who has been diagnosed as having an intellectual disability as defined in [s. 393.063](#) shall, upon release, apply for services from the Agency for Persons with Disabilities.

Credits

Laws 1983, c. 83-274, § 9; Laws 1988, c. 88-122, § 26. Amended by Laws 1999, c. 99-8, § 322, eff. June 29, 1999; Laws 2006, c. 2006-227, § 66, eff. July 1, 2006; Laws 2013, c. 2013-162, § 44, eff. July 1, 2013.

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Particular Terms and Conditions, Fla. Jur. 2d [Criminal Law Procedure](#) § 3012.

Treatises and Practice Aids

[16 Florida Practice Series](#) § 12:22, [Parole--Terms and Conditions of Parole](#).

West's F. S. A. § 947.185, FL ST § 947.185

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947.1405. Conditional release program, FL ST § 947.1405

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Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.1405

947.1405. Conditional release program

Effective: May 26, 2010

Currentness

(1) This section and s. 947.141 may be cited as the “Conditional Release Program Act.”

(2) Any inmate who:

(a) Is convicted of a crime committed on or after October 1, 1988, and before January 1, 1994, and any inmate who is convicted of a crime committed on or after January 1, 1994, which crime is or was contained in category 1, category 2, category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida Rules of Criminal Procedure (1993), and who has served at least one prior felony commitment at a state or federal correctional institution;

(b) Is sentenced as a habitual or violent habitual offender or a violent career criminal pursuant to s. 775.084; or

(c) Is found to be a sexual predator under s. 775.21 or former s. 775.23,

shall, upon reaching the tentative release date or provisional release date, whichever is earlier, as established by the Department of Corrections, be released under supervision subject to specified terms and conditions, including payment of the cost of supervision pursuant to s. 948.09. Such supervision shall be applicable to all sentences within the overall term of sentences if an inmate's overall term of sentences includes one or more sentences that are eligible for conditional release supervision as provided herein. Effective July 1, 1994, and applicable for offenses committed on or after that date, the commission may require, as a condition of conditional release, that the releasee make payment of the debt due and owing to a county or municipal detention facility under s. 951.032 for medical care, treatment, hospitalization, or transportation received by the releasee while in that detention facility. The commission, in determining whether to order such repayment and the amount of such repayment, shall consider the amount of the debt, whether there was any fault of the institution for the medical expenses incurred, the financial resources of the releasee, the present and potential future financial needs and earning ability of the releasee, and dependents, and other appropriate factors. If any inmate placed on conditional release supervision is also subject to probation or community control, resulting from a probationary or community control split sentence within the overall term of sentences, the Department of Corrections shall supervise such person according to the conditions imposed by the court and the commission shall defer to such supervision. If the court revokes probation or community control and resentences the offender to a term of incarceration, such revocation also constitutes a sufficient basis for the revocation of the conditional release supervision on any nonprobationary or noncommunity control sentence without further hearing by the commission. If any such supervision on any nonprobationary or noncommunity control sentence is revoked, such revocation may result in a forfeiture of all gain-time, and the commission may revoke the resulting deferred conditional release supervision or take other action it considers appropriate. If the term of conditional release supervision exceeds that of the probation or community control, then, upon expiration of

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the probation or community control, authority for the supervision shall revert to the commission and the supervision shall be subject to the conditions imposed by the commission. A panel of no fewer than two commissioners shall establish the terms and conditions of any such release. If the offense was a controlled substance violation, the conditions shall include a requirement that the offender submit to random substance abuse testing intermittently throughout the term of conditional release supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3). The commission shall also determine whether the terms and conditions of such release have been violated and whether such violation warrants revocation of the conditional release.

(3) As part of the conditional release process, the commission, through review and consideration of information provided by the department, shall determine:

(a) The amount of reparation or restitution.

(b) The consequences of the offense as reported by the aggrieved party.

(c) The aggrieved party's fear of the inmate or concerns about the release of the inmate.

(4) The commission shall provide to the aggrieved party information regarding the manner in which notice of any developments concerning the status of the inmate during the term of conditional release may be requested.

(5) Within 180 days prior to the tentative release date or provisional release date, whichever is earlier, a representative of the department shall review the inmate's program participation, disciplinary record, psychological and medical records, criminal records, and any other information pertinent to the impending release. The department shall gather and compile information necessary for the commission to make the determinations set forth in subsection (3). A department representative shall conduct a personal interview with the inmate for the purpose of determining the details of the inmate's release plan, including the inmate's planned residence and employment. The department representative shall forward the inmate's release plan to the commission and recommend to the commission the terms and conditions of the conditional release.

(6) The commission shall review the recommendations of the department, and such other information as it deems relevant, and may conduct a review of the inmate's record for the purpose of establishing the terms and conditions of the conditional release. The commission may impose any special conditions it considers warranted from its review of the release plan and recommendation. If the commission determines that the inmate is eligible for release under this section, the commission shall enter an order establishing the length of supervision and the conditions attendant thereto. However, an inmate who has been convicted of a violation of chapter 794 or found by the court to be a sexual predator is subject to the maximum level of supervision provided, with the mandatory conditions as required in subsection (7), and that supervision shall continue through the end of the releasee's original court-imposed sentence. The length of supervision must not exceed the maximum penalty imposed by the court.

(7)(a) Any inmate who is convicted of a crime committed on or after October 1, 1995, or who has been previously convicted of a crime committed on or after October 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145,

947.1405. Conditional release program, FL ST § 947.1405

and is subject to conditional release supervision, shall have, in addition to any other conditions imposed, the following special conditions imposed by the commission:

1. A mandatory curfew from 10 p.m. to 6 a.m. The commission may designate another 8-hour period if the offender's employment precludes the above specified time, and such alternative is recommended by the Department of Corrections. If the commission determines that imposing a curfew would endanger the victim, the commission may consider alternative sanctions.

2. If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, child care facility, park, playground, designated public school bus stop, or other place where children regularly congregate. A releasee who is subject to this subparagraph may not relocate to a residence that is within 1,000 feet of a public school bus stop. Beginning October 1, 2004, the commission or the department may not approve a residence that is located within 1,000 feet of a school, child care facility, park, playground, designated school bus stop, or other place where children regularly congregate for any releasee who is subject to this subparagraph. On October 1, 2004, the department shall notify each affected school district of the location of the residence of a releasee 30 days prior to release and thereafter, if the releasee relocates to a new residence, shall notify any affected school district of the residence of the releasee within 30 days after relocation. If, on October 1, 2004, any public school bus stop is located within 1,000 feet of the existing residence of such releasee, the district school board shall relocate that school bus stop. Beginning October 1, 2004, a district school board may not establish or relocate a public school bus stop within 1,000 feet of the residence of a releasee who is subject to this subparagraph. The failure of the district school board to comply with this subparagraph shall not result in a violation of conditional release supervision. A releasee who is subject to this subparagraph may not be forced to relocate and does not violate his or her conditional release supervision if he or she is living in a residence that meets the requirements of this subparagraph and a school, child care facility, park, playground, designated public school bus stop, or other place where children regularly congregate is subsequently established within 1,000 feet of his or her residence.

3. Active participation in and successful completion of a sex offender treatment program with qualified practitioners specifically trained to treat sex offenders, at the releasee's own expense. If a qualified practitioner is not available within a 50-mile radius of the releasee's residence, the offender shall participate in other appropriate therapy.

4. A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, a qualified practitioner in the sexual offender treatment program, and the sentencing court.

5. If the victim was under the age of 18, a prohibition against contact with children under the age of 18 without review and approval by the commission. The commission may approve supervised contact with a child under the age of 18 if the approval is based upon a recommendation for contact issued by a qualified practitioner who is basing the recommendation on a risk assessment. Further, the sex offender must be currently enrolled in or have successfully completed a sex offender therapy program. The commission may not grant supervised contact with a child if the contact is not recommended by a qualified practitioner and may deny supervised contact with a child at any time. When considering whether to approve supervised contact with a child, the commission must review and consider the following:

a. A risk assessment completed by a qualified practitioner. The qualified practitioner must prepare a written report that must include the findings of the assessment and address each of the following components:

(I) The sex offender's current legal status;

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- (II) The sex offender's history of adult charges with apparent sexual motivation;
- (III) The sex offender's history of adult charges without apparent sexual motivation;
- (IV) The sex offender's history of juvenile charges, whenever available;
- (V) The sex offender's offender treatment history, including a consultation from the sex offender's treating, or most recent treating, therapist;
- (VI) The sex offender's current mental status;
- (VII) The sex offender's mental health and substance abuse history as provided by the Department of Corrections;
- (VIII) The sex offender's personal, social, educational, and work history;
- (IX) The results of current psychological testing of the sex offender if determined necessary by the qualified practitioner;
- (X) A description of the proposed contact, including the location, frequency, duration, and supervisory arrangement;
- (XI) The child's preference and relative comfort level with the proposed contact, when age-appropriate;
- (XII) The parent's or legal guardian's preference regarding the proposed contact; and
- (XIII) The qualified practitioner's opinion, along with the basis for that opinion, as to whether the proposed contact would likely pose significant risk of emotional or physical harm to the child.

The written report of the assessment must be given to the commission.

b. A recommendation made as a part of the risk-assessment report as to whether supervised contact with the child should be approved;

c. A written consent signed by the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, agreeing to the sex offender having supervised contact with the child after receiving full disclosure of the sex offender's present legal status, past criminal history, and the results of the risk assessment. The commission may not approve contact with the child if the parent or legal guardian refuses to give written consent for supervised contact;

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d. A safety plan prepared by the qualified practitioner, who provides treatment to the offender, in collaboration with the sex offender, the child's parent or legal guardian, and the child, when age appropriate, which details the acceptable conditions of contact between the sex offender and the child. The safety plan must be reviewed and approved by the Department of Corrections before being submitted to the commission; and

e. Evidence that the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, understands the need for and agrees to the safety plan and has agreed to provide, or to designate another adult to provide, constant supervision any time the child is in contact with the offender.

The commission may not appoint a person to conduct a risk assessment and may not accept a risk assessment from a person who has not demonstrated to the commission that he or she has met the requirements of a qualified practitioner as defined in this section.

6. If the victim was under age 18, a prohibition on working for pay or as a volunteer at any school, child care facility, park, playground, or other place where children regularly congregate, as prescribed by the commission.

7. Unless otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program, a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.

8. Effective for a releasee whose crime is committed on or after July 1, 2005, a prohibition on accessing the Internet or other computer services until a qualified practitioner in the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services.

9. A requirement that the releasee must submit two specimens of blood to the Department of Law Enforcement to be registered with the DNA database.

10. A requirement that the releasee make restitution to the victim, as determined by the sentencing court or the commission, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.

11. Submission to a warrantless search by the community control or probation officer of the probationer's or community controllee's person, residence, or vehicle.

(b) For a releasee whose crime was committed on or after October 1, 1997, in violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to conditional release supervision, in addition to any other provision of this subsection, the commission shall impose the following additional conditions of conditional release supervision:

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1. As part of a treatment program, participation in a minimum of one annual polygraph examination to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. The polygraph examination must be conducted by a polygrapher who is a member of a national or state polygraph association and who is certified as a postconviction sex offender polygrapher, where available, and at the expense of the releasee. The results of the examination shall be provided to the releasee's probation officer and qualified practitioner and may not be used as evidence in a hearing to prove that a violation of supervision has occurred.

2. Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.

3. A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.

4. If there was sexual contact, a submission to, at the releasee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.

5. Electronic monitoring of any form when ordered by the commission. Any person who has been placed under supervision and is electronically monitored by the department must pay the department for the cost of the electronic monitoring service at a rate that may not exceed the full cost of the monitoring service. Funds collected under this subparagraph shall be deposited into the General Revenue Fund. The department may exempt a person from the payment of all or any part of the electronic monitoring service cost if the department finds that any of the factors listed in s. 948.09(3) exist.

(8) It is the finding of the Legislature that the population of offenders released from state prison into the community who meet the conditional release criteria poses the greatest threat to the public safety of the groups of offenders under community supervision. Therefore, the Department of Corrections is to provide intensive supervision by experienced correctional probation officers to conditional release offenders. Subject to specific appropriation by the Legislature, caseloads may be restricted to a maximum of 40 conditional release offenders per officer to provide for enhanced public safety and to effectively monitor conditions of electronic monitoring or curfews, if so ordered by the commission.

(9) The commission shall adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to implement the provisions of the Conditional Release Program Act.

(10) Effective for a releasee whose crime was committed on or after September 1, 2005, in violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145, and the unlawful activity involved a victim who was 15 years of age or younger and the offender is 18 years of age or older or for a releasee who is designated as a sexual predator pursuant to s. 775.21, in addition to any other provision of this section, the commission must order electronic monitoring for the duration of the releasee's supervision.

(11) Effective for a releasee whose crime was committed on or after October 1, 2008, and who has been found to have committed the crime for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, the commission shall, in addition to any other conditions imposed, impose a condition prohibiting the releasee from knowingly associating with other

947.1405. Conditional release program, FL ST § 947.1405

criminal gang members or associates, except as authorized by law enforcement officials, prosecutorial authorities, or the court, for the purpose of aiding in the investigation of criminal activity.

(12) In addition to all other conditions imposed, for a releasee who is subject to conditional release for a crime that was committed on or after May 26, 2010, and who has been convicted at any time of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses listed in s. 943.0435(1)(a)1.a.(I), or a similar offense in another jurisdiction against a victim who was under 18 years of age at the time of the offense, if the releasee has not received a pardon for any felony or similar law of another jurisdiction necessary for the operation of this subsection, if a conviction of a felony or similar law of another jurisdiction necessary for the operation of this subsection has not been set aside in any postconviction proceeding, or if the releasee has not been removed from the requirement to register as a sexual offender or sexual predator pursuant to s. 943.04354, the commission must impose the following conditions:

(a) A prohibition on visiting schools, child care facilities, parks, and playgrounds without prior approval from the releasee's supervising officer. The commission may also designate additional prohibited locations to protect a victim. The prohibition ordered under this paragraph does not prohibit the releasee from visiting a school, child care facility, park, or playground for the sole purpose of attending a religious service as defined in s. 775.0861 or picking up or dropping off the releasee's child or grandchild at a child care facility or school.

(b) A prohibition on distributing candy or other items to children on Halloween; wearing a Santa Claus costume, or other costume to appeal to children, on or preceding Christmas; wearing an Easter Bunny costume, or other costume to appeal to children, on or preceding Easter; entertaining at children's parties; or wearing a clown costume without prior approval from the commission.

Credits

Laws 1988, c. 88-122, § 19; Laws 1989, c. 89-531, § 12; Laws 1990, c. 90-337, § 11; Laws 1991, c. 91-225, § 2; Laws 1991, c. 91-280, § 8; Laws 1992, c. 92-310, § 14; Laws 1993, c. 93-277, § 4; Laws 1993, c. 93-417, § 4; Laws 1994, c. 94-121, § 2; Laws 1994, c. 94-294, § 3; Laws 1995, c. 95-264, § 5; Laws 1995, c. 95-283, § 57. Amended by Laws 1996, c. 96-388, § 64, eff. July 1, 1996; Laws 1997, c. 97-78, § 10, eff. May 23, 1997; Laws 1997, c. 97-102, § 1872, eff. July 1, 1997; Laws 1997, c. 97-308, § 1, eff. Oct. 1, 1997; Laws 2000, c. 2000-246, § 3, eff. Oct. 1, 2000; Laws 2001, c. 2001-124, § 5, eff. July 1, 2001; Laws 2004, c. 2004-55, § 1, eff. Oct. 1, 2004; Laws 2004, c. 2004-371, § 16, eff. July 1, 2004; Laws 2005, c. 2005-28, § 12, eff. Sept. 1, 2005; Laws 2005, c. 2005-67, § 2, eff. Jan. 1, 2006; Laws 2008, c. 2008-172, § 27, eff. Oct. 1, 2008; Laws 2008, c. 2008-238, § 23, eff. Oct. 1, 2008; Laws 2009, c. 2009-63, § 9, eff. July 1, 2009; Laws 2010, c. 2010-92, § 10, eff. May 26, 2010.

Notes of Decisions (66)

West's F. S. A. § 947.1405, FL ST § 947.1405

Current with chapters in effect from the 2013 1st Reg.Sess. of the 23rd Legislature through July 2, 2013

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.1745

947.1745. Establishment of effective parole release date

Effective: July 1, 2013

[Currentness](#)

If the inmate's institutional conduct has been satisfactory, the presumptive parole release date shall become the effective parole release date as follows:

(1) Within 90 days before the presumptive parole release date, a hearing examiner shall conduct a final interview with the inmate in order to establish an effective parole release date and parole release plan. If it is determined that the inmate's institutional conduct has been unsatisfactory, a statement to this effect shall be made in writing with particularity and shall be forwarded to a panel of no fewer than two commissioners appointed by the chair.

(2) If the panel finds that the inmate's parole release plan is unsatisfactory, this finding may constitute new information and good cause in exceptional circumstances as described in [s. 947.173](#), under which the panel may extend the presumptive parole release date for not more than 1 year. The panel may review any subsequently proposed parole release plan at any time.

(3) Within 30 days after receipt of the inmate's parole release plan, the panel shall determine whether to authorize the effective parole release date. The inmate must be notified of the decision in writing within 30 days after the decision by the panel.

(4) If an effective date of parole has been established, release on that date is conditioned upon the completion of a satisfactory plan for parole supervision. An effective date of parole may be delayed for up to 60 days by a commissioner without a hearing for the development and approval of release plans.

(5) An effective date of parole may be delayed by a commissioner for up to 60 days without a hearing based on:

(a) New information not available at the time of the effective parole release date interview.

(b) Unsatisfactory institutional conduct which occurred subsequent to the effective parole release date interview.

(c) The lack of a verified parole release plan.

947.1745. Establishment of effective parole release date, FL ST § 947.1745

(6) Within 90 days before the effective parole release date interview, the commission shall send written notice to the sentencing judge of any inmate who has been scheduled for an effective parole release date interview. If the sentencing judge is no longer serving, the notice must be sent to the chief judge of the circuit in which the offender was sentenced. The chief judge may designate any circuit judge within the circuit to act in the place of the sentencing judge. Within 30 days after receipt of the commission's notice, the sentencing judge, or the designee, shall send to the commission notice of objection to parole release, if the judge objects to such release. If there is objection by the judge, such objection may constitute good cause in exceptional circumstances as described in [s. 947.173](#), and the commission may schedule a subsequent review within 2 years, extending the presumptive parole release date beyond that time. However, for an inmate who has been:

(a) Convicted of murder or attempted murder;

(b) Convicted of sexual battery or attempted sexual battery;

(c) Convicted of kidnapping or attempted kidnapping;

(d) Convicted of robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, or the attempt thereof of any of these crimes, in which a human being is present and a sexual act is attempted or completed; or

(e) Sentenced to a 25-year minimum mandatory sentence previously provided in [s. 775.082](#),

the commission may schedule a subsequent review under this subsection once every 7 years, extending the presumptive parole release date beyond that time if the commission finds that it is not reasonable to expect that parole would be granted at a review during the following years and states the bases for the finding in writing. For an inmate who is within 7 years of his or her release date, the commission may schedule a subsequent review before the 7-year schedule. With any subsequent review the same procedure outlined above will be followed. If the judge remains silent with respect to parole release, the commission may authorize an effective parole release date. This subsection applies if the commission desires to consider the establishment of an effective release date without delivery of the effective parole release date interview. Notice of the effective release date must be sent to the sentencing judge, and either the judge's response to the notice must be received or the time period allowed for such response must elapse before the commission may authorize an effective release date.

Credits

Laws 1982, c. 82-171, § 14; Laws 1983, c. 83-216, § 190; Laws 1986, c. 86-183, § 33; Laws 1988, c. 88-122, § 22; Laws 1991, c. 91-110, § 53; Laws 1993, c. 93-61, § 9. Amended by Laws 1997, c. 97-102, § 1676, eff. July 1, 1997; Laws 1997, c. 97-289, § 3, eff. Oct. 1, 1997; Laws 2010, c. 2010-95, § 3, eff. July 1, 2010; Laws 2013, c. 2013-119, § 3, eff. July 1, 2013.

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#) ¶50, 54.

Westlaw Topic No. 284.

947.1745. Establishment of effective parole release date, FL ST § 947.1745

[C.J.S. Pardon and Parole §§ 48 to 51.](#)

RESEARCH REFERENCES

ALR Library

[143 ALR 1486](#), Statute Conferring Power Upon Administrative Body in Respect to the Parole of Prisoners, or the Discharge of Parolees, as Unconstitutional Infringement of Power of Executive or Judiciary.

Encyclopedias

Effect of Sentencing Court's Objection to Date, [Fla. Jur. 2d Criminal Law Procedure § 2999](#).

Proper Aggravating Factors--Objection by Judge, [Fla. Jur. 2d Criminal Law Procedure § 3002](#).

Review at Discretion of Parole Commission, [Fla. Jur. 2d Criminal Law Procedure § 3008](#).

Treatises and Practice Aids

[16 Florida Practice Series § 12:19](#), Parole--Eligibility for Parole.

[16 Florida Practice Series § 12:21](#), Parole--Effective Parole Release Date.

[16 Florida Practice Series § 12:22](#), Parole--Terms and Conditions of Parole.

Notes of Decisions (20)

West's F. S. A. § 947.1745, FL ST § 947.1745

Current with chapters in effect from the 2013 1st Reg.Sess. of the 23rd Legislature through July 2, 2013

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947.1746. Establishment of effective parole release date, FL ST § 947.1746

West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.1746

947.1746. Establishment of effective parole release date

Currentness

Within 30 days of the receipt of new information or upon receipt of a written recommendation from the department that an inmate be considered for mitigation of the authorized presumptive parole release date, the commission may, at its discretion, provide for a final interview to establish an effective parole release date or may review the official record and establish an effective parole release date without provision of a final interview, unless an interview is requested by no fewer than two commissioners.

Credits

Laws 1983, c. 83-131, § 27.

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  50.

Westlaw Topic No. 284.

[C.J.S. Pardon and Parole](#) §§ 48 to 51.

RESEARCH REFERENCES

Treatises and Practice Aids

[16 Florida Practice Series § 12:22](#), Parole--Terms and Conditions of Parole.

West's F. S. A. § 947.1746, FL ST § 947.1746

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West's Florida Statutes Annotated

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 947. Parole Commission (Refs & Annos)

West's F.S.A. § 947.1747

947.1747. Community control as a special condition of parole

Currentness

Upon the establishment of an effective parole release date as provided for in [ss. 947.1745](#) and [947.1746](#), the commission may, as a special condition of parole, require an inmate to be placed in the community control program of the Department of Corrections as described in [s. 948.10](#) for a period not exceeding 6 months. In every case in which the commission decides to place an inmate on community control as a special condition of parole, the commission shall provide a written explanation of the reasons for its decision.

Credits

Laws 1988, c. 88-122, § 68. Amended by Laws 2004, c. 2004-373, § 42, eff. July 1, 2004.

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#)  64.1.

Westlaw Topic No. 284.

C.J.S. Pardon and Parole § 59.

RESEARCH REFERENCES

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[16 Florida Practice Series § 12:22](#), Parole--Terms and Conditions of Parole.

West's F. S. A. § 947.1747, FL ST § 947.1747

Current with chapters in effect from the 2013 1st Reg.Sess. of the 23rd Legislature through July 2, 2013

§ 17-10-16. Sentence of death, life imprisonment without parole,...., GA ST § 17-10-16

West's Code of Georgia Annotated

Title 17. Criminal Procedure (Refs & Annos)

Chapter 10. Sentence and Punishment (Refs & Annos)

Article 1. Procedure for Sentencing and Imposition of Punishment (Refs & Annos)

Ga. Code Ann., § 17-10-16

§ 17-10-16. Sentence of death, life imprisonment without parole, or life imprisonment; ineligibility for parole, work release, or leave programs

Currentness

(a) Notwithstanding any other provision of law, a person who is convicted of an offense committed after May 1, 1993, for which the death penalty may be imposed under the laws of this state may be sentenced to death, imprisonment for life without parole, or life imprisonment as provided in Article 2 of this chapter.

(b) Notwithstanding any other provision of law, any person who is convicted of an offense for which the death penalty may be imposed and who is sentenced to imprisonment for life without parole shall not be eligible for any form of parole during such person's natural life unless the State Board of Pardons and Paroles or a court of this state shall, after notice and public hearing, determine that such person was innocent of the offense for which the sentence of imprisonment for life without parole was imposed. Such person shall not be eligible for any work release program, leave, or any other program administered by the Department of Corrections the effect of which would be to reduce the term of actual imprisonment to which such person was sentenced.

Credits

Laws 1993, p. 1654, § 3.

Notes of Decisions (12)

Ga. Code Ann., § 17-10-16, GA ST § 17-10-16

Current through the end of the 2013 Regular Session.

§ 42-4-7. Record of inmates to be kept; earned allowances, GA ST § 42-4-7

West's Code of Georgia Annotated
Title 42. Penal Institutions
Chapter 4. Jails (Refs & Annos)
Article 1. General Provisions

Ga. Code Ann., § 42-4-7

§ 42-4-7. Record of inmates to be kept; earned allowances

Currentness

(a) The sheriff shall keep a record of all persons committed to the jail of the county of which he or she is sheriff. This record shall contain the name of the person committed, such person's age, sex, race, under what process such person was committed and from what court the process issued, the crime with which the person was charged, the date of such person's commitment to jail, the day of such person's discharge, under what order such person was discharged, and the court from which the order issued. This record shall be subject to examination by any person in accordance with the provisions of Article 4 of Chapter 18 of Title 50, relating to the inspection of public records.

(b)(1) The sheriff, chief jailer, warden, or other officer designated by the county as custodian of inmates confined as county inmates for probation violations of felony offenses or as provided in subsection (a) of Code Section 17-10-3 may award earned time allowances to such inmates based on institutional behavior. Earned time allowances shall not be awarded which exceed one-half of the period of confinement imposed, except that the sheriff or other custodian may authorize the award of not more than four days' credit for each day on which an inmate does work on an authorized work detail; provided, however, that such increased credit for performance on a work detail shall not apply to an inmate who is incarcerated for:

(A) A second or subsequent offense of driving under the influence under Code Section 40-6-391 within a five-year period of time, as measured from the date of any previous arrest for which a conviction was obtained or a plea of nolo contendere was accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted;

(B) A misdemeanor of a high and aggravated nature; or

(C) A crime committed against a family member as defined in Code Section 19-13-1.

(2) While an inmate sentenced to confinement as a county inmate is in custody as a county inmate, the custodian of such inmate may award an earned time allowance consistent with this subsection and subsection (b) of Code Section 17-10-4 based on the institutional behavior of such inmate while in custody as a county inmate.

(3) An inmate sentenced to confinement as a county inmate shall be released at the expiration of his or her sentence less the time deducted for earned time allowances.

§ 42-4-7. Record of inmates to be kept; earned allowances, GA ST § 42-4-7

(c) Commencing January 1, 1984, those provisions of subsection (b) of this Code section which provide for good-time allowances to be awarded to inmates sentenced to confinement as county inmates as provided in subsection (a) of Code Section 17-10-3 shall apply to all such inmates in confinement on December 31, 1983, and all inmates who commit crimes on or after January 1, 1984, and are subsequently convicted and sentenced to confinement as county inmates. Conversion of the computation of the sentences of county inmates in confinement on December 31, 1983, from earned time governed sentences to good-time governed sentences shall be made by the sheriff or other custodian of such inmates. Commencing July 1, 1994, those provisions of subsection (b) of this Code section which provide for good-time allowances to be awarded to inmates sentenced to confinement as county inmates for probation violations of felony offenses shall apply to all such inmates in confinement on June 30, 1994, and all inmates whose probation is revoked or who commit crimes on or after July 1, 1994, and are subsequently sentenced to confinement as county inmates. Commencing July 1, 2000, the award of earned time allowances pursuant to subsection (b) of this Code section for persons who commit crimes on or after July 1, 2000, and are subsequently convicted and sentenced to confinement as county inmates and inmates whose probation is revoked on or after July 1, 2000, or who commit crimes on or after July 1, 2000, and are subsequently sentenced to confinement as county inmates is not automatic or mandatory but shall be based upon institutional behavior.

Credits

Laws 1877, p. 111, § 1; Laws 1983, p. 1340, § 1; Laws 1993, p. 632, § 1; Laws 1994, p. 1955, § 1; Laws 2000, p. 1111, § 2; Laws 2004, Act 457, § 1, eff. July 1, 2004.

Formerly Code 1882, § 366a; Penal Code 1895, § 1125; Penal Code 1910, § 1154; Code 1933, § 77-108.

Notes of Decisions (4)

Ga. Code Ann., § 42-4-7, GA ST § 42-4-7
Current through the end of the 2013 Regular Session.

§ 42-5-100. Persons to whom earned-time allowances not applicable, GA ST § 42-5-100

West's Code of Georgia Annotated

Title 42. Penal Institutions

Chapter 5. Correctional Institutions of State and Counties (Refs & Annos)

Article 5. Awarding Earned-Time Allowances (Refs & Annos)

Ga. Code Ann., § 42-5-100

§ 42-5-100. Persons to whom earned-time allowances not applicable

Currentness

The earned-time allowances, which could have been awarded by the board to inmates based upon the performance of the inmate, in effect on December 31, 1983, shall not apply to:

- (1) Those persons who commit crimes on or after January 1, 1984, and who are subsequently convicted and sentenced to the custody of the board;
- (2) Those persons who have committed a crime prior to January 1, 1984, but who have not been convicted and sentenced as of December 31, 1983, and who are subsequently sentenced to the custody of the board, including those whose sentences have been probated or suspended, on or after January 1, 1984; however, such persons shall receive the full benefit of the earned-time allowances, in effect on December 31, 1983, and shall receive a release or discharge date computed as if they had been sentenced to the custody of the board, prior to December 31, 1983; or
- (3) Those persons previously sentenced to the custody of the board, including those whose sentences have been probated or suspended, as of December 31, 1983; however, such persons shall receive the full benefit of the earned-time allowances in effect on December 31, 1983, and shall receive a release or discharge date the same as reflected in the records of such person on December 31, 1983, less any creditable earned time that such person could have earned as a result of forfeited earned time.

Credits

Laws 1983, p. 1340, § 2; Laws 1984, p. 22, § 42.

Notes of Decisions (10)

Ga. Code Ann., § 42-5-100, GA ST § 42-5-100

Current through the end of the 2013 Regular Session.

§ 42-9-20. Power of board to grant reprieves, pardons, and..., GA ST § 42-9-20

West's Code of Georgia Annotated
Title 42. Penal Institutions
Chapter 9. Pardons and Paroles (Refs & Annos)
Article 1. General Provisions

Ga. Code Ann., § 42-9-20

§ 42-9-20. Power of board to grant reprieves, pardons, and paroles; duty to supervise parolees, aid parolees and probationers, and study prisoner cases

Currentness

In all cases in which the chairman of the board or any other member designated by the board has suspended the execution of a death sentence to enable the full board to consider and pass on same, it shall be mandatory that the board act within a period not exceeding 90 days from the date of the suspension order. In the cases which the board has power to consider, the board shall be charged with the duty of determining which inmates serving sentences imposed by a court of this state may be released on pardon or parole and fixing the time and conditions thereof. The board shall also be charged with the duty of supervising all persons placed on parole, of determining violations thereof and of taking action with reference thereto, of making such investigations as may be necessary, and of aiding parolees or probationers in securing employment. It shall be the duty of the board personally to study the cases of those inmates whom the board has power to consider so as to determine their ultimate fitness for such relief as the board has power to grant. The board by an affirmative vote of a majority of its members shall have the power to commute a sentence of death to one of life imprisonment.

Credits

Laws 1943, p. 185, § 11; Laws 1973, p. 1294, § 1; Laws 1982, p. 3, § 42; Laws 1983, p. 500, § 6.

Editors' Notes

LIBRARY REFERENCES

[Pardon and Parole](#) [§ 23.1](#), [45.1](#), [66](#), [68](#), [69](#).
Westlaw Topic No. [284](#).
[C.J.S. Pardon and Parole](#) §§ [1](#) to [2](#), [5](#) to [6](#), [11](#) to [16](#), [22](#) to [26](#), [29](#) to [30](#), [44](#), [60](#), [62](#), [65](#).

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[Georgia Procedure Criminal Procedure § 33:4](#), Commutation.
[Georgia Procedure Criminal Procedure § 33:10](#), Supervision and Search of Parolees.

[Notes of Decisions \(10\)](#)

Ga. Code Ann., § 42-9-20, GA ST § 42-9-20
Current through June 15, 2013

§ 42-9-20. Power of board to grant reprieves, pardons, and..., GA ST § 42-9-20

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§ 42-9-39. Limitations on authority to grant pardons and paroles..., GA ST § 42-9-39

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Title 42. Penal Institutions

Chapter 9. Pardons and Paroles (Refs & Annos)

Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-39

§ 42-9-39. Limitations on authority to grant pardons and paroles in certain cases

Effective: July 1, 2006

Currentness

(a) The provisions of this Code section shall be binding upon the board in granting pardons and paroles, notwithstanding any other provisions of this article or any other law relating to the powers of the board.

(b) Except as otherwise provided in subsection (b) of Code Section 17-10-7, when a person is convicted of murder and sentenced to life imprisonment and such person has previously been incarcerated under a life sentence, such person shall serve at least 30 years in the penitentiary before being granted a pardon and before becoming eligible for parole.

(c) When a person receives consecutive life sentences as the result of offenses occurring in the same series of acts and any one of the life sentences is imposed for the crime of murder, such person shall serve consecutive 30 year periods for each such sentence, up to a maximum of 60 years, before being eligible for parole consideration.

(d) Any other provisions of this Code section to the contrary notwithstanding, the board shall have the authority to pardon any person convicted of a crime who is subsequently determined to be innocent of said crime.

Credits

Laws 1983, p. 523, § 1; Laws 1994, p. 1959, § 14; Laws 2006, Act 571, § 27, eff. July 1, 2006.

Notes of Decisions (4)

Ga. Code Ann., § 42-9-39, GA ST § 42-9-39

Current through the end of the 2013 Regular Session.

§ 42-9-40. Parole guidelines system, GA ST § 42-9-40

West's Code of Georgia Annotated

Title 42. Penal Institutions

Chapter 9. Pardons and Paroles (Refs & Annos)

Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-40

§ 42-9-40. Parole guidelines system

Currentness

(a) The board shall adopt, implement, and maintain a parole guidelines system for determining parole action. The guidelines system shall be used in determining parole actions on all inmates, except those serving life sentences, who will become statutorily eligible for parole consideration. The system shall be consistent with the board's primary goal of protecting society and shall take into consideration the severity of the current offense, the inmate's prior criminal history, the inmate's conduct, and the social factors which the board has found to have value in predicting the probability of further criminal behavior and successful adjustment under parole supervision.

(b) The guidelines system required by subsection (a) of this Code section shall be adopted by rules or regulations of the board. The rules or regulations shall be adopted in conformity with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

Credits

Laws 1980, p. 404, § 1.

Notes of Decisions (25)

Ga. Code Ann., § 42-9-40, GA ST § 42-9-40

Current through the end of the 2013 Regular Session.

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§ 42-9-42. Vote required to extend clemency; written opinions;..., GA ST § 42-9-42

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Title 42. Penal Institutions

Chapter 9. Pardons and Paroles (Refs & Annos)

Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-42

§ 42-9-42. Vote required to extend clemency; written opinions; prerequisites to probation, pardon or parole; terms and conditions; status of parolees; peonage forbidden

Currentness

(a) No person shall be granted clemency, pardon, parole, or other relief from sentence except by a majority vote of the board. A majority of the members of the board may commute a death sentence to life imprisonment, as provided in Code Section 42-9-20.

(b) A grant of clemency, pardon, parole, or other relief from sentence shall be rendered only by a written decision which shall be signed by at least the number of board members required for the relief granted and which shall become a part of the permanent record.

(c) Good conduct, achievement of a fifth-grade level or higher on standardized reading tests, and efficient performance of duties by an inmate shall be considered by the board in his favor and shall merit consideration of an application for pardon or parole. No inmate shall be placed on parole until and unless the board shall find that there is reasonable probability that, if he is so released, he will live and conduct himself as a respectable and law-abiding person and that his release will be compatible with his own welfare and the welfare of society. Furthermore, no person shall be released on pardon or placed on parole unless and until the board is satisfied that he will be suitably employed in self-sustaining employment or that he will not become a public charge. However, notwithstanding other provisions of this chapter, the board may, in its discretion, grant pardon or parole to any aged or disabled persons.

(d)(1) Any person who is paroled shall be released on such terms and conditions as the board shall prescribe. The board shall diligently see that no peonage is allowed in the guise of parole relationship or supervision. The parolee shall remain in the legal custody of the board until the expiration of the maximum term specified in his sentence or until he is pardoned by the board.

(2) The board may require the payment of a parole supervision fee of at least \$10.00 per month as a condition of parole or other conditional release. The monthly amount shall be set by rule of the board and shall be uniform state wide. The board may require or the parolee or person under conditional release may request that up to 24 months of the supervision fee be paid in advance of the time to be spent on parole or conditional release. In such cases, any advance payments are nonreimbursable in the event of parole or conditional release revocation or if parole or conditional release is otherwise terminated prior to the expiration of the sentence being served on parole or conditional release. Such fees shall be collected by the board to be paid into the general fund of the state treasury.

(e) If a parolee violates the terms of his parole, he shall be subject to rearrest or extradition for placement in the actual custody of the board, to be redelivered to any state or county correctional institution of this state.

§ 42-9-42. Vote required to extend clemency; written opinions;..., GA ST § 42-9-42

Credits

Laws 1943, p. 185, § 13; Laws 1974, p. 474, § 1; Laws 1975, p. 795, § 1; Laws 1984, p. 775, § 1; Laws 1985, p. 414, § 1; Laws 1986, p. 1596, § 3.

Notes of Decisions (17)

Ga. Code Ann., § 42-9-42, GA ST § 42-9-42

Current through the end of the 2013 Regular Session.

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§ 42-9-42.1. HIV testing of persons eligible for clemency,.... GA ST § 42-9-42.1

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Chapter 9. Pardons and Paroles (Refs & Annos)

Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-42.1

§ 42-9-42.1. HIV testing of persons eligible for clemency, pardon, parole, or other relief from sentence; conditions imposed where person determined to be infected with HIV

Currentness

(a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for such term in Code Section 31-22-9.1.

(b) The board is authorized to obtain from any penal institution, with at least 60 days prior notice to that institution, and any such penal institution is authorized to provide the board with HIV test results regarding any person who applies or is eligible for clemency, a pardon, a parole, or other relief from a sentence or to require such person to submit to an HIV test and to consider the results of any such test in determining whether to grant clemency, a pardon, a parole, or other relief to such person. Test results obtained pursuant to the authority of this Code section may not be the sole basis for determining whether to grant or deny any such relief to such person, however. The board is further authorized to impose conditions upon any person to whom the board grants clemency, a pardon, a parole, or other relief and who is determined by an HIV test to be infected with HIV, which conditions may include without being limited to those designed to prevent the spread of HIV by that person.

Credits

Laws 1988, p. 1799, § 10.

Ga. Code Ann., § 42-9-42.1, GA ST § 42-9-42.1

Current through the end of the 2013 Regular Session.

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§ 42-9-43. Information to be used by board in considering cases...., GA ST § 42-9-43

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Title 42. Penal Institutions

Chapter 9. Pardons and Paroles (Refs & Annos)

Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-43

§ 42-9-43. Information to be used by board in considering cases. Disposition of prisoners pardoned or paroled

Effective: July 1, 2013

Currentness

(a) The board, in considering any case within its power, shall cause to be brought before it all pertinent information on the person in question. Included therein shall be:

(1) A report by the superintendent, warden, or jailer of the jail or state or county correctional institution in which the person has been confined upon the conduct of record of the person while in such jail or state or county correctional institution;

(2) The results of such physical and mental examinations as may have been made of the person;

(3) The extent to which the person appears to have responded to the efforts made to improve his or her social attitude;

(4) The industrial record of the person while confined, the nature of his or her occupations while so confined, and a recommendation as to the kind of work he or she is best fitted to perform and at which he or she is most likely to succeed when and if he or she is released;

(5) The educational programs in which the person has participated and the level of education which the person has attained based on standardized reading tests; and

(6) The written, oral, audiotaped, or videotaped testimony of the victim, the victim's family, or a witness having personal knowledge of the victim's personal characteristics.

(b)(1) As used in this subsection, the term:

(A) "Debilitating terminal illness" means a disease that cannot be cured or adequately treated and that is reasonably expected to result in death within 12 months.

(B) "Entirely incapacitated" means an offender who:

§ 42-9-43. Information to be used by board in considering cases....., GA ST § 42-9-43

(i) Requires assistance in order to perform two or more necessary daily life functions or who is completely immobile; and

(ii) Has such limited physical or mental ability, strength, or capacity that he or she poses an extremely low risk of physical threat to others or to the community.

(C) 'Necessary daily life function' means eating, breathing, dressing, grooming, toileting, walking, or bathing.

(2) The board may issue a medical reprieve to an entirely incapacitated person suffering a progressively debilitating terminal illness in accordance with Article IV, Section II, Paragraph II of the Constitution.

(c) The board may also make such other investigation as it may deem necessary in order to be fully informed about the person.

(d) Before releasing any person on parole, the board may have the person appear before it and may personally examine him or her. Thereafter, upon consideration, the board shall make its findings and determine whether or not such person shall be granted a pardon, parole, or other relief within the power of the board; and the board shall determine the terms and conditions thereof. Notice of the determination shall be given to such person and to the correctional official having him or her in custody.

(e) If a person is granted a pardon or a parole, the correctional officials having the person in custody, upon notification thereof, shall inform him or her of the terms and conditions thereof and shall, in strict accordance therewith, release the person.

(f) The board shall send written notification of the parole decision to the victim or, if the victim is no longer living, to the family of the victim.

Credits

Laws 1943, p. 185, § 14; Laws 1986, p. 1596, § 4; Laws 2009, Act 55, § 2, eff. July 1, 2009; Laws 2013, Act 84, § 19, eff. Dec. 1, 2012.

Notes of Decisions (6)

Ga. Code Ann., § 42-9-43, GA ST § 42-9-43

Current through the end of the 2013 Regular Session.

§ 42-9-44. Terms of parole; imposition of rules; penalty for..., GA ST § 42-9-44

West's Code of Georgia Annotated

Title 42. Penal Institutions

Chapter 9. Pardons and Paroles (Refs & Annos)

Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-44

§ 42-9-44. Terms of parole; imposition of rules; penalty for violation; obtaining high school diploma or general educational development equivalency diploma (GED) as condition of parole

Currentness

(a) The board, upon placing a person on parole, shall specify in writing the terms and conditions thereof. A certified copy of the conditions shall be given to the parolee. Thereafter, a copy shall be sent to the clerk of the court in which the person was convicted. The board shall adopt general rules concerning the terms and conditions of parole and concerning what shall constitute a violation thereof and shall make special rules to govern particular cases. The rules, both general and special, may include, among other things, a requirement that the parolee shall not leave this state or any definite area in this state without the consent of the board; that the parolee shall contribute to the support of his or her dependents to the best of the parolee's ability; that the parolee shall make reparation or restitution for his or her crime; that the parolee shall abandon evil associates and ways; and that the parolee shall carry out the instructions of his or her parole supervisor, and, in general, so comport himself or herself as the parolee's supervisor shall determine. A violation of the terms of parole may render the parolee liable to arrest and a return to a penal institution to serve out the term for which the parolee was sentenced.

(b) Each parolee who does not have a high school diploma or a general educational development equivalency diploma (GED) shall be required as a condition of parole to obtain a high school diploma or general educational development equivalency diploma (GED) or to pursue a trade at a vocational or technical school. Any such parolee who demonstrates to the satisfaction of the board an existing ability or skill which does in fact actually furnish the parolee a reliable, regular, and sufficient income shall not be subject to this provision. Any parolee who is determined by the Department of Corrections or the board to be incapable of completing such requirements shall only be required to attempt to improve their basic educational skills. Failure of any parolee subject to this requirement to attend the necessary schools or courses or to make reasonable progress toward fulfillment of such requirement shall be grounds for revocation of parole. The board shall establish regulations regarding reasonable progress as required by this subsection. This subsection shall apply to paroles granted on or after July 1, 1995.

Credits

Laws 1943, p. 185, § 15; Laws 1995, p. 625, § 2.

Notes of Decisions (12)

Ga. Code Ann., § 42-9-44, GA ST § 42-9-44

Current through the end of the 2013 Regular Session.

§ 42-9-45. Power to adopt rules and regulations; eligibility for..., GA ST § 42-9-45

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Title 42. Penal Institutions

Chapter 9. Pardons and Paroles (Refs & Annos)

Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-45

§ 42-9-45. Power to adopt rules and regulations; eligibility for parole; completion of Alcohol or Drug Use Risk Reduction Program or Family Violence Counseling Program

Currentness

(a) The board may adopt and promulgate rules and regulations, not inconsistent with this chapter, touching all matters dealt with in this chapter, including, among others, the practice and procedure in matters pertaining to paroles, pardons, and remission of fines and forfeitures. The rules and regulations shall contain an eligibility requirement for parole which shall set forth the time when the automatic initial consideration for parole of inmates under the jurisdiction of the Department of Corrections shall take place and also the times at which periodic reconsideration thereafter shall take place. Such consideration shall be automatic, and no written or formal application shall be required.

(b) An inmate serving a misdemeanor sentence or misdemeanor sentences shall only be eligible for consideration for parole after the expiration of six months of his or her sentence or sentences or one-third of the time of his or her sentence or sentences, whichever is greater. Except as otherwise provided in Code Sections 17-10-6.1 and 17-10-7, an inmate serving a felony sentence or felony sentences shall only be eligible for consideration for parole after the expiration of nine months of his or her sentence or one-third of the time of the sentences, whichever is greater. Except as otherwise provided in Code Sections 17-10-6.1 and 17-10-7, inmates serving sentences aggregating 21 years or more shall become eligible for consideration for parole upon completion of the service of seven years.

(c) The board shall adopt rules and regulations governing the granting of other forms of clemency, which shall include pardons, reprieves, commutation of penalties, removal of disabilities imposed by law, and the remission of any part of a sentence, and shall prescribe the procedure to be followed in applying for them. Applications for the granting of such other forms of clemency and for exceptions to parole eligibility rules established by statute or promulgated by the board shall be made in such manner as the board shall direct by rules and regulations.

(d) All rules and regulations adopted pursuant to this Code section shall be adopted, established, promulgated, amended, repealed, filed, and published in accordance with the applicable provisions and procedure as set forth in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The courts shall take judicial notice of the rules and regulations.

(e) For the purposes of this Code section, the words "rules and regulations" shall have the same meaning as the word "rule," as defined in Code Section 50-13-2, except that the words "rules and regulations" shall not be construed to include the terms and conditions prescribed by the board to which a person paroled by the board may be subjected.

§ 42-9-45. Power to adopt rules and regulations; eligibility for..., GA ST § 42-9-45

(f) Except to correct a patent miscarriage of justice and not otherwise, no inmate serving a sentence imposed for any of the crimes listed in this subsection shall be granted release on parole until and unless said inmate has served on good behavior seven years of imprisonment or one-third of the prison term imposed by the sentencing court for the violent crime, whichever first occurs. No inmate serving a sentence for any crime listed in this subsection shall be released on parole for the purpose of regulating jail or prison populations. This subsection shall govern parole actions in sentences imposed for any of the following crimes: voluntary manslaughter, statutory rape, incest, cruelty to children, arson in the first degree, homicide by vehicle while under the influence of alcohol or as a habitual traffic violator, aggravated battery, aggravated assault, trafficking in drugs, and violations of Chapter 14 of Title 16, the “Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act.”

(g) No inmate serving a sentence for murder, armed robbery, kidnapping, rape, aggravated child molestation, aggravated sodomy, or aggravated sexual battery shall be released on parole for the purpose of regulating jail or prison populations.

(h) An inmate whose criminal offense or history indicates alcohol or drug involvement shall not be considered for parole until such inmate has successfully completed an Alcohol or Drug Use Risk Reduction Program offered by the Department of Corrections.

(i) An inmate who has committed an offense which has been identified to involve family violence as such term is defined in Code Section 19-13-1 shall not be released on parole until such inmate has successfully completed a Family Violence Counseling Program offered by the Department of Corrections.

Credits

Laws 1943, p. 185, § 23; Laws 1964, p. 487, § 1; Laws 1969, p. 948, § 1; Laws 1985, p. 283, § 1; Laws 1991, p. 94, § 42; Laws 1992, p. 3221, § 10; Laws 1994, p. 1959, § 15; Laws 1995, p. 625, § 3; Laws 1996, p. 1113, § 3.

Notes of Decisions (25)

Ga. Code Ann., § 42-9-45, GA ST § 42-9-45
Current through the end of the 2013 Regular Session.

§ 42-9-48. Arrest of parolee or conditional releasee violating..., GA ST § 42-9-48

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Chapter 9. Pardons and Paroles (Refs & Annos)

Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-48

§ 42-9-48. Arrest of parolee or conditional releasee violating terms of parole or release; notice to board

Currentness

(a) If any member of the board shall have reasonable ground to believe that any parolee or conditional releasee has lapsed into criminal ways or has violated the terms and conditions of his parole or conditional release in a material respect, the member may issue a warrant for the arrest of the parolee or conditional releasee.

(b) The warrant, if issued by a member or the board, shall be returned before the board and shall command that the alleged violator of parole or conditional release be brought before the board for a final hearing on revocation of parole or conditional release within a reasonable time after the preliminary hearing provided for in Code Section 42-9-50.

(c) All officers authorized to serve criminal process, all peace officers of this state, and all employees of the board whom the board specifically designates in writing shall be authorized to execute the warrant.

(d) Any parole supervisor, when he has reasonable ground to believe that a parolee or conditional releasee has violated the terms or conditions of his parole or conditional release in a material respect, shall notify the board or some member thereof; and proceedings shall thereupon be had as provided in this Code section.

Credits

Laws 1943, p. 185, § 16; Laws 1965, p. 478, § 1; Laws 1970, p. 187, § 1; Laws 1975, p. 786, § 1; Laws 1979, p. 1020, § 1.

Notes of Decisions (10)

Ga. Code Ann., § 42-9-48, GA ST § 42-9-48

Current through the end of the 2013 Regular Session.

§ 42-9-50. Preliminary hearing, GA ST § 42-9-50

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Chapter 9. Pardons and Paroles (Refs & Annos)

Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-50

§ 42-9-50. Preliminary hearing

Currentness

(a) Whenever a parolee or conditional releasee is arrested on a warrant issued by a member of the board for an alleged violation of parole or conditional release, an informal preliminary hearing in the nature of a court of inquiry shall be held at or near the place of the alleged violation. However, a preliminary hearing is not required if the parolee or conditional releasee is not under arrest on a warrant issued by the board, has absconded from supervision, has signed a waiver of a preliminary hearing, has admitted any alleged violation to any representative of the board in the presence of a third party who is not a representative of the board, or has been convicted of any crime in a federal court or in a court of this state or of another state.

(b) The proceeding shall commence within a reasonable time after the arrest of the parolee or conditional releasee. Its purpose shall be to determine whether there is probable cause or reasonable grounds to believe that the arrested parolee or conditional releasee has committed acts which would constitute a violation of his parole or conditional release.

(c) The preliminary hearing shall be conducted by a hearing officer designated by the board, who shall be some officer who is not directly involved in the case. It shall be the duty of the officer conducting the hearing to make a summary or digest, which may be in the form of a tape recording, of what transpires at the hearing in terms of the testimony and other evidence given in support of or against revocation. In addition, the officer shall state the reasons for his decision that probable cause for revocation does or does not exist and shall indicate the evidence relied upon.

(d) It shall be the responsibility of the officer selected to conduct the preliminary hearing to provide the alleged violator with written notice of the time and place of the proceeding, its purpose, and the violations which have been alleged. This notice shall allow a reasonable time for the alleged violator to prepare his case.

(e) The officer selected to conduct the preliminary hearing shall have the power to issue subpoenas to compel the attendance of witnesses resident within the county of the alleged violation after notice of 24 hours. The subpoenas shall be issued without discrimination between public and private parties. When a subpoena is disobeyed, any party may apply to the superior court of the county in which the hearing provided for by this Code section is held for an order requiring obedience. Failure to comply with the order shall be cause for punishment as for contempt of court. The manner of service of subpoenas and costs of securing the attendance of witnesses, including fees and mileage, shall be determined, computed, and assessed in the same manner as is prescribed by law for cases in the superior court.

(f) The officer selected to conduct the preliminary hearing shall also have power to issue subpoenas for the production of documents or other written evidence at the hearing provided for by this Code section; but upon written request made promptly

§ 42-9-50. Preliminary hearing, GA ST § 42-9-50

and before the hearing, the officer may quash or modify the subpoena if it is unreasonable or oppressive or may condition denial of the request upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the documents or other written evidence. Enforcement of the subpoenas may be sought in the same manner as is provided in subsection (e) of this Code section for subpoenas to compel the attendance of witnesses.

(g) At the hearing, the alleged violator may appear and speak in his own behalf, may present witnesses to testify in his behalf, and may bring letters, documents, or any other relevant information to the hearing officer. He shall also have the right to cross-examine those who have given adverse information at the preliminary hearing relating to the alleged violation, provided that the hearing officer may refuse to allow such questioning if he determines that the informant would be subjected to risk of harm if his identity were disclosed.

(h) Should the hearing officer determine that probable cause for revocation exists, he shall then determine whether the alleged violator should be incarcerated pending his final revocation hearing or whether he should be set free on his personal recognizance pending that hearing. If an alleged violator who is set free on his personal recognizance subsequently fails to appear at his final hearing, the board may summarily revoke his parole or conditional release.

(i) The decision of the hearing officer as to probable cause for revocation shall not be binding on the board but may be either ratified or overruled by majority vote of the board. In the event that the board overrules a determination of the hearing officer that probable cause did not exist, the board shall then determine whether the alleged violator should be incarcerated pending his final hearing or whether he should be set free on his personal recognizance pending that hearing. If an alleged violator who is set free on personal recognizance subsequently fails to appear at his final hearing, the board may summarily revoke his parole or conditional release. Where a hearing officer has determined, after finding probable cause, that the alleged violator should be set free on his personal recognizance, the board may overrule that decision and order the alleged violator to be incarcerated pending his final hearing.

Credits

Laws 1975, p. 786, § 2; Laws 1981, p. 812, § 1.

Notes of Decisions (2)

Ga. Code Ann., § 42-9-50, GA ST § 42-9-50

Current through the end of the 2013 Regular Session.

§ 42-9-51. Final hearing; finding of board; conviction of crime, GA ST § 42-9-51

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Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-51

§ 42-9-51. Final hearing; finding of board; conviction of crime

Currentness

(a) A parolee who has allegedly violated the terms of his parole or conditional release shall, except as otherwise provided in this subsection, have a right to a final hearing before the board, to be held within a reasonable time after the occurrence of one of the events listed in this subsection. No final hearing shall be required or permitted if the parolee or conditional releasee has been convicted of or entered any form of guilty plea or plea of nolo contendere in any federal or state court of record to any felony crime, or misdemeanor involving physical injury, committed by the parolee or conditional releasee during a term of parole or conditional release, and which new conviction results in imposition by the convicting court of a term of imprisonment, and, in such cases, the board shall revoke the entire unexpired term of parole or conditional release. In no case shall a final hearing be required if the parolee or conditional releasee has signed a waiver of final hearing. The final hearing, if any, shall be held within a reasonable time:

(1) After an arrest warrant has been issued by a member of the board and probable cause for revocation has been found by the preliminary hearing officer;

(2) After a majority of the board overrules a determination by the preliminary hearing officer that probable cause does not exist;

(3) After the board or two of its members are informed of an alleged violation and decide to consider the matter of revocation without issuing a warrant for the alleged violator's arrest; or

(4) After a determination has been made that no preliminary hearing is required under subsection (a) of Code Section 42-9-50.

(b) The purpose of the hearing shall be to determine whether the alleged violator has in fact committed any acts which would constitute a violation of the terms and conditions of his parole or conditional release and whether those acts are of such a nature as to warrant revocation of parole or conditional release.

(c) When a parolee or conditional releasee has been convicted of any crime, whether a felony or a misdemeanor, or has entered a plea of guilty or nolo contendere thereto in a court of record, his parole or conditional release may be revoked without a hearing before the board. Moreover, whenever it shall appear to the board that a parolee or conditional releasee either has absconded or has been convicted of another crime in a federal court or in a court of record of another state, the board may issue an order of temporary revocation of parole or conditional release, together with its warrant for such violator, which shall suspend the

§ 42-9-51. Final hearing; finding of board; conviction of crime, GA ST § 42-9-51

running of the parolee's or conditional releasee's time from the date of the temporary revocation of parole or conditional release to the date of the determination by the board as to whether the temporary revocation shall be made permanent. If the board determines that there has been no violation of the conditions of the parole or conditional release, then the parolee or the releasee shall be reinstated upon his original parole or conditional release without any loss of time and the order of temporary revocation of parole or conditional release and the warrant shall be withdrawn.

(d) In all cases in which there is a hearing before the board, the alleged violator shall be given written notice of the time and place of the hearing and of the claimed violations of parole or conditional release. In addition, this notice shall advise him of the following rights:

(1) His right to disclosure of evidence introduced against him; provided, however, this right shall not be construed to require the board to disclose to an alleged violator confidential information contained in its files which has no direct bearing on the matter of parole revocation;

(2) His opportunity to be heard in person and to present witnesses and documentary evidence;

(3) His right to confront and cross-examine adverse witnesses, unless a majority of the board determines that disclosure of a particular informant's identity would cause that informant or a member of his family to suffer a risk of harm; and

(4) His right to subpoena witnesses and documents through the board as provided in subsections (e) and (f) of this Code section.

The notice shall be served by delivering it to the alleged violator in person, by delivering it to a person 18 years or older at his last known place of residence, or by depositing it in the mail properly addressed to his last known place of residence.

(e) The board shall have the power to issue subpoenas to compel the attendance of witnesses at the hearing provided for by this Code section. The subpoenas shall be issued without discrimination between public and private parties. When a subpoena is disobeyed, any party may apply to the superior court of the county in which the hearing provided for by this Code section is held for an order requiring obedience. Failure to comply with the order shall be cause for punishment as for contempt of court. The manner of service of subpoenas and costs of securing the attendance of witnesses, including fees and mileage, shall be determined, computed, and assessed in the same manner as prescribed by law for cases in the superior court.

(f) The board shall have the power to issue subpoenas for the production of documents or other written evidence at the hearing provided for by this Code section, but upon written request made promptly and before the hearing the board may quash or modify the subpoena if it is unreasonable or oppressive or may condition denial of the request upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the documents or other written evidence. Enforcement of such subpoenas may be sought in the same manner as is provided in subsection (e) of this Code section for subpoenas to compel attendance of witnesses.

(g) Within a reasonable time after the hearing provided for by this Code section, the board shall enter an order (1) rescinding parole or conditional release and returning the parolee or conditional releasee to serve the sentence theretofore imposed upon

§ 42-9-51. Final hearing; finding of board; conviction of crime, GA ST § 42-9-51

him, with benefit of computing the time so served on parole or conditional release as a part of his sentence; or (2) reinstating the parole or conditional release or shall enter such other order as it may deem proper. The board shall issue a written statement which shall indicate its reasons for revoking or not reinstating parole or conditional release or for taking such other action as it deems appropriate and shall also indicate the evidence relied upon in determining the facts which form the basis for these reasons. The parolee or conditional releasee who is the subject of the board's decision shall be furnished with a copy of this written statement.

Credits

Laws 1943, p. 185, § 17; Laws 1955, p. 351, § 1; Laws 1964, p. 497, § 1; Laws 1965, p. 478, § 2; Laws 1975, p. 786, § 3; Laws 1981, p. 812, § 2; Laws 1992, p. 3221, § 11.

Notes of Decisions (23)

Ga. Code Ann., § 42-9-51, GA ST § 42-9-51

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§ 42-9-52. Time of discharge from parole. Granting privileges to,...., GA ST § 42-9-52

West's Code of Georgia Annotated

Title 42. Penal Institutions

Chapter 9. Pardons and Paroles (Refs & Annos)

Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-52

§ 42-9-52. Time of discharge from parole. Granting privileges to, and pardoning, parolee

Currentness

No person who has been placed on parole shall be discharged therefrom by the board prior to the expiration of the term for which he was sentenced or until he shall have been duly pardoned or otherwise released as provided in this Code section or as otherwise provided by law. The board may adopt rules and regulations, policies, and procedures for the granting of earned time to persons while serving their sentences on parole or other conditional release to the same extent and in the same amount as if such person were serving the sentence in custody. The board shall also be authorized to withhold or to forfeit, in whole or in part, any such earned-time allowance. The board may relieve a person on parole or other conditional release from making further reports and may permit the person to leave the state or county if satisfied that this is for the parolee's or conditional releasee's best interest and for the best interest of society. When a parolee or other conditional releasee has, in the opinion of the board, so conducted himself as to deserve a pardon or a commutation of sentence or the remission in whole or in part of any fine, forfeiture, or penalty, the board may grant such relief in cases within its power.

Credits

Laws 1943, p. 185, § 18; Laws 1965, p. 478, § 3; Laws 1980, p. 402, § 1.

Notes of Decisions (2)

Ga. Code Ann., § 42-9-52, GA ST § 42-9-52

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§ 42-9-54. Relief from disabilities; conditional pardons forbidden, GA ST § 42-9-54

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Chapter 9. Pardons and Paroles (Refs & Annos)

Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-54

§ 42-9-54. Relief from disabilities; conditional pardons forbidden

Currentness

(a) All pardons shall relieve those pardoned from civil and political disabilities imposed because of their convictions.

(b) No conditional pardons shall be issued.

Credits

Laws 1943, p. 185, §§ 20, 26.

Notes of Decisions (6)

Ga. Code Ann., § 42-9-54, GA ST § 42-9-54

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§ 42-9-56. No power of Governor to grant pardons and paroles, GA ST § 42-9-56

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Title 42. Penal Institutions

Chapter 9. Pardons and Paroles (Refs & Annos)

Article 2. Grants of Pardons, Paroles, and Other Relief (Refs & Annos)

Ga. Code Ann., § 42-9-56

§ 42-9-56. No power of Governor to grant pardons and paroles

Currentness

The Governor shall have no authority or power whatever over the granting of pardons or paroles.

Credits

Laws 1943, p. 185, § 21; Laws 1983, p. 500, § 7.

Ga. Code Ann., § 42-9-56, GA ST § 42-9-56

Current through the end of the 2013 Regular Session.

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West's Kansas Statutes Annotated
Chapter 21. Crimes and Punishments
Article 68. Revised Sentencing Guidelines

K.S.A. 21-6821
Formerly cited as K.S.A. 21-4722

21-6821. Good time and program credits; calculation; forfeiture; rules and regulations of secretary

Currentness

(a) The secretary of corrections is hereby authorized to adopt rules and regulations providing for a system of good time calculations. Such rules and regulations shall provide circumstances upon which an inmate may earn good time credits and for the forfeiture of earned credits. Such circumstances may include factors related to program and work participation and conduct and the inmate's willingness to examine and confront past behavioral patterns that resulted in the commission of the inmate's crimes.

(b) For purposes of determining release of an inmate, the following shall apply with regard to good time calculations:

(1) Good behavior by inmates is the expected norm and negative behavior will be punished; and

(2) the amount of good time which can be earned by an inmate and subtracted from any sentence is limited to:

(A) For a crime committed on or after July 1, 1993, an amount equal to 15% of the prison part of the sentence;

(B) for a nondrug severity level 7 through 10 crime committed on or after January 1, 2008, an amount equal to 20% of the prison part of the sentence; or

(C) for a drug severity level 3 or 4 crime committed on or after January 1, 2008, but prior to July 1, 2012, or a drug severity level 4 or 5 crime committed on or after July 1, 2012, an amount equal to 20% of the prison part of the sentence.

(c) Any time which is earned and subtracted from the prison part of the sentence of any inmate pursuant to good time calculation shall be added to such inmate's postrelease supervision term.

(d) An inmate shall not be awarded good time credits pursuant to this section for any review period established by the secretary of corrections in which a court finds that the inmate has done any of the following while in the custody of the secretary of corrections:

(1) Filed a false or malicious action or claim with the court;

(2) brought an action or claim with the court solely or primarily for delay or harassment;

(3) testified falsely or otherwise submitted false evidence or information to the court;

(4) attempted to create or obtain a false affidavit, testimony or evidence; or

(5) abused the discovery process in any judicial action or proceeding.

(e)(1) For purposes of determining release of an inmate who is serving only a sentence for a nondrug severity level 4 through 10 crime or a drug severity level 3 or 4 crime committed on or after January 1, 2008, but prior to July 1, 2012, or an inmate who is serving only a sentence for a nondrug severity level 4 through 10 crime or a drug severity level 4 or 5 crime committed on or after July 1, 2012, the secretary of corrections is hereby authorized to adopt rules and regulations regarding program credit calculations. Such rules and regulations shall provide circumstances upon which an inmate may earn program credits and for the forfeiture of earned credits and such circumstances may include factors substantially related to program participation and conduct. In addition to any good time credits earned and retained, the following shall apply with regard to program credit calculations:

(A) A system shall be developed whereby program credits may be earned by inmates for the successful completion of requirements for a general education diploma, a technical or vocational training program, a substance abuse treatment program or any other program designated by the secretary which has been shown to reduce offender's risk after release; and

(B) the amount of time which can be earned and retained by an inmate for the successful completion of programs and subtracted from any sentence is limited to not more than 60 days.

(2) Any time which is earned and subtracted from the prison part of the sentence of any inmate pursuant to program credit calculation shall be added to such inmate's postrelease supervision term, if applicable.

(3) When separate sentences of imprisonment for different crimes are imposed on a defendant on the same date, a defendant shall only be eligible for program credits if such crimes are a nondrug severity level 4 through 10, a drug severity level 3 or 4 committed prior to July 1, 2012, or a drug severity level 4 or 5 committed on or after July 1, 2012.

(4) Program credits shall not be earned by any offender successfully completing a sex offender treatment program.

(5) The secretary of corrections shall report to the Kansas sentencing commission and the Kansas reentry policy council the data on the program credit calculations.

21-6821. Good time and program credits; calculation; forfeiture;..., KS ST 21-6821

Credits

Laws 2010, ch. 136, § 302, eff. July 1, 2011; Laws 2011, ch. 30, § 83, eff. July 1, 2011; Laws 2012, ch. 150, § 37, eff. July 1, 2012.

Notes of Decisions (7)

K. S. A. 21-6821, KS ST 21-6821

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22-3712. Placement in diagnostic or treatment facility as condition..., KS ST 22-3712

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K.S.A. 22-3712

22-3712. Placement in diagnostic or treatment facility as condition of release

Currentness

As a condition of probation, parole or postrelease supervision, a probationer, parolee or person on postrelease supervision may be placed in a diagnostic, or treatment facility by order of the court or prisoner review board. Placement in a diagnostic or treatment facility shall not exceed 90 days or the maximum period of the prison sentence that could be imposed, but may be renewed for further ninety-day periods on certificates presented to the court by the director of such facility.

Credits

Laws 1970, ch. 129, § 22-3712; Laws 1972, ch. 317, § 85; Laws 1990, ch. 309, § 18; Laws 1992, ch. 239, § 269; Laws 1997, ch. 23, § 4; Laws 2012, ch. 16, § 13, eff. July 1, 2012.

K. S. A. 22-3712, KS ST 22-3712

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22-3713. Prisoner review board; hearings; personnel and accounting..., KS ST 22-3713

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K.S.A. 22-3713

22-3713. Prisoner review board; hearings; personnel and accounting services

Currentness

- (a) The prisoner review board may authorize one or more of its members to conduct hearings on behalf of the board.
- (b) The secretary of corrections shall provide the prisoner review board with necessary personnel and accounting services.

Credits

Laws 1970, ch. 129, § 22-3713; Laws 1972, ch. 317, § 86; Laws 1973, ch. 339, § 65; Laws 1990, ch. 309, § 19; Laws 1996, ch. 32, § 1; Laws 2012, ch. 16, § 14, eff. July 1, 2012.

Notes of Decisions (2)

K. S. A. 22-3713, KS ST 22-3713

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K.S.A. 22-3716

22-3716. Arrest for violating condition of probation, assignment to community corrections, suspension of sentence or nonprison sanction, procedure; time limitation on issuing warrant; limitations on serving sentence in department of corrections' facility or serving period of postrelease supervision, exceptions

Currentness

(a) At any time during probation, assignment to a community correctional services program, suspension of sentence or pursuant to subsection (d) for defendants who committed a crime prior to July 1, 1993, and at any time during which a defendant is serving a nonprison sanction for a crime committed on or after July 1, 1993, or pursuant to subsection (d), the court may issue a warrant for the arrest of a defendant for violation of any of the conditions of release or assignment, a notice to appear to answer to a charge of violation or a violation of the defendant's nonprison sanction. The notice shall be personally served upon the defendant. The warrant shall authorize all officers named in the warrant to return the defendant to the custody of the court or to any certified detention facility designated by the court. Any court services officer or community correctional services officer may arrest the defendant without a warrant or may deputize any other officer with power of arrest to do so by giving the officer a written or verbal statement setting forth that the defendant has, in the judgment of the court services officer or community correctional services officer, violated the conditions of the defendant's release or a nonprison sanction. A written statement delivered to the official in charge of a county jail or other place of detention shall be sufficient warrant for the detention of the defendant. After making an arrest, the court services officer or community correctional services officer shall present to the detaining authorities a similar statement of the circumstances of violation. Provisions regarding release on bail of persons charged with a crime shall be applicable to defendants arrested under these provisions.

(b) Upon arrest and detention pursuant to subsection (a), the court services officer or community correctional services officer shall immediately notify the court and shall submit in writing a report showing in what manner the defendant has violated the conditions of release or assignment or a nonprison sanction. Thereupon, or upon an arrest by warrant as provided in this section, the court shall cause the defendant to be brought before it without unnecessary delay for a hearing on the violation charged. The hearing shall be in open court and the state shall have the burden of establishing the violation. The defendant shall have the right to be represented by counsel and shall be informed by the judge that, if the defendant is financially unable to obtain counsel, an attorney will be appointed to represent the defendant. The defendant shall have the right to present the testimony of witnesses and other evidence on the defendant's behalf. Relevant written statements made under oath may be admitted and considered by the court along with other evidence presented at the hearing. Except as otherwise provided, if the violation is established, the court may continue or revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and may require the defendant to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence which might originally have been imposed. Except as otherwise provided, no offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section shall be required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections for such violation, unless such person has already at least one prior assignment to a community correctional services program related to the crime for which the original sentence was imposed, except these provisions shall not apply to offenders who violate a condition of release or assignment or a nonprison sanction by committing a new misdemeanor or felony offense. The provisions of this subsection shall not apply to adult felony offenders

22-3716. Arrest for violating condition of probation, assignment to..., KS ST 22-3716

as described in subsection (a)(3) of K.S.A. 75-5291, and amendments thereto. The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program. When a new felony is committed while the offender is on probation or assignment to a community correctional services program, the new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(c) A defendant who is on probation, assigned to a community correctional services program, under suspension of sentence or serving a nonprison sanction and for whose return a warrant has been issued by the court shall be considered a fugitive from justice if it is found that the warrant cannot be served. If it appears that the defendant has violated the provisions of the defendant's release or assignment or a nonprison sanction, the court shall determine whether the time from the issuing of the warrant to the date of the defendant's arrest, or any part of it, shall be counted as time served on probation, assignment to a community correctional services program, suspended sentence or pursuant to a nonprison sanction.

(d) The court shall have 30 days following the date probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction was to end to issue a warrant for the arrest or notice to appear for the defendant to answer a charge of a violation of the conditions of probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction.

(e) Notwithstanding the provisions of any other law to the contrary, an offender whose nonprison sanction is revoked and a term of imprisonment imposed pursuant to either the sentencing guidelines grid for nondrug or drug crimes shall not serve a period of postrelease supervision upon the completion of the prison portion of that sentence. The provisions of this subsection shall not apply to offenders sentenced to a nonprison sanction pursuant to a dispositional departure, whose offense falls within a border box of either the sentencing guidelines grid for nondrug or drug crimes, offenders sentenced for a "sexually violent crime" or a "sexually motivated crime" as defined by K.S.A. 22-3717, and amendments thereto, offenders sentenced pursuant to K.S.A. 21-6804, and amendments thereto, wherein the sentence is presumptive imprisonment but a nonprison sanction may be imposed without a departure or offenders whose nonprison sanction was revoked as a result of a conviction for a new misdemeanor or felony offense. The provisions of this subsection shall not apply to offenders who are serving or are to begin serving a sentence for any other felony offense that is not excluded from postrelease supervision by this subsection on the effective date of this subsection. The provisions of this subsection shall be applied retroactively. The department of corrections shall conduct a review of all persons who are in the custody of the department as a result of only a revocation of a nonprison sanction. On or before September 1, 2000, the department shall have discharged from postrelease supervision those offenders as required by this subsection.

(f) Offenders who have been sentenced pursuant to K.S.A. 21-6824, and amendments thereto, and who subsequently violate a condition of the drug and alcohol abuse treatment program shall be subject to an additional nonprison sanction for any such subsequent violation. Such nonprison sanctions shall include, but not be limited to, up to 60 days in a county jail, fines, community service, intensified treatment, house arrest and electronic monitoring.

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Credits

Laws 1970, ch. 129, § 22-3716; Laws 1972, ch. 317, § 89; Laws 1984, ch. 112, § 9; Laws 1986, ch. 123, § 24; Laws 1990, ch. 112, § 1; Laws 1992, ch. 239, § 301; Laws 1993, ch. 291, § 198; Laws 1994, ch. 291, § 65; Laws 2000, ch. 182, § 8; Laws 2002, ch. 177, § 1; Laws 2003, ch. 135, § 6; Laws 2008, ch. 183, § 8, eff. July 1, 2008; Laws 2009, ch. 143, § 11, eff. July 1, 2009; Laws 2011, ch. 30, § 135, eff. July 1, 2011.

Notes of Decisions (178)

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K.S.A. 22-3717

22-3717. Parole or postrelease supervision; eligibility; interviews, notices and hearings; rules and regulations; conditions of parole or postrelease supervision

Currentness

(a) Except as otherwise provided by this section; K.S.A. 21-4628, prior to its repeal; K.S.A. 21-4635 through 21-4638, prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642, prior to its repeal; K.S.A. 21-6617, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567, and amendments thereto; an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 21-6707, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b)(1) Except as provided by K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for the crime of capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated murder, committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(3) Except as provided by K.S.A. 21-4628, prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 21-6707, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(4) An inmate sentenced to imprisonment for a violation of subsection (a) of K.S.A. 21-3402, prior to its repeal, committed on or after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

(5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 21-6627, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

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(c)(1) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

(A) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608, prior to its repeal, or K.S.A. 21-6606, and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(B) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment.

(d)(1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, or persons subject to subparagraph (G), will not be eligible for parole, but will be released to a mandatory period of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 1 through 4 crimes, drug severity levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after July 1, 2012, must serve 36 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 21-6821, and amendments thereto, on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 4 crimes committed on or after July 1, 2012, must serve 24 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 21-6821, and amendments thereto, on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 7 through 10 crimes, drug severity level 4 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 5 crimes committed on or after July 1, 2012, must serve 12 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 21-6821, and amendments thereto, on postrelease supervision.

(D)(i) The sentencing judge shall impose the postrelease supervision period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless the judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated. In that event, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

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(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, prior to its repeal, or K.S.A. 21-6820, and amendments thereto.

(iii) In determining whether substantial and compelling reasons exist, the court shall consider:

(a) Written briefs or oral arguments submitted by either the defendant or the state;

(b) any evidence received during the proceeding;

(c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to subsection (e) of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 21-6813, and amendments thereto; and

(d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the prisoner review board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subparagraph (d)(1)(D), the court shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 21-6817, and amendments thereto.

(vi) Upon petition, the prisoner review board may provide for early discharge from the postrelease supervision period upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated shall be registered according to the offender registration act, K. S.A. 22-4901 through 22-4910, and amendments thereto.

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 21-5508, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The

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reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(G) Except as provided in subsection (u), persons convicted of a sexually violent crime committed on or after July 1, 2006, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(2) As used in this subsection, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 21-5506, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 21-5506, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 21-5504, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 21-5504, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 21-5508, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 21-5508, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 21-5505, and amendments thereto;

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(J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 21-5604, and amendments thereto; or

(K) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section.

(3) As used in this subsection, “sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the prisoner review board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-4724, prior to its repeal, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the prisoner review board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 21-4628, prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the prisoner review board.

(g) Subject to the provisions of this section, the prisoner review board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The prisoner review board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least one month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate

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convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the prisoner review board will review the inmate's proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on postrelease supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j)(1) Before ordering the parole of any inmate, the prisoner review board shall have the inmate appear either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to three years but any such deferral by the

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board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to 10 years but any such deferral shall require the board to state the basis for its findings.

(2) Inmates sentenced for a class A or class B felony who have not had a board hearing in the five years prior to July 1, 2010, shall have such inmates' cases reviewed by the board on or before July 1, 2012. Such review shall begin with the inmates with the oldest deferral date and progress to the most recent. Such review shall be done utilizing existing resources unless the board determines that such resources are insufficient. If the board determines that such resources are insufficient, then the provisions of this paragraph are subject to appropriations therefor.

(k)(1) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(2) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to search or seizure by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment.

(3) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to search or seizure by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity. Any law enforcement officer who conducts such a search shall submit a written report to the appropriate parole officer no later than the close of the next business day after such search. The written report shall include the facts leading to such search, the scope of such search and any findings resulting from such search.

(l) The prisoner review board shall promulgate rules and regulations in accordance with K.S.A. 77-415 et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

(m) Whenever the prisoner review board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

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(2) to the extent practicable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision make progress towards or successfully complete the equivalent of a secondary education if the inmate has not previously completed such educational equivalent and is capable of doing so;

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized not-for-profit or charitable or social service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. 22-4529, and amendments thereto, unless the board finds compelling circumstances which would render payment unworkable;

(5) unless it finds compelling circumstances which would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the prisoner review board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services;

(6) shall order that the parolee or person on postrelease supervision agree in writing to be subject to search or seizure by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment; and

(7) shall order that the parolee or person on postrelease supervision agree in writing to be subject to search or seizure by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity.

(n) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the prisoner review board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable.

(o) Whenever the prisoner review board grants the parole of an inmate, the board, within 14 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

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(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. 22-3725, and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions which result in a financial savings to the state.

(s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall be applied retroactively as provided in subsection (t).

(t) For offenders sentenced prior to May 25, 2000, who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section for offenders convicted of severity levels 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes and severity level 4 crimes on the sentencing guidelines grid for drug crimes on or before September 1, 2000; for offenders convicted of severity levels 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity levels 5 and 6 crimes on the sentencing guidelines grid for nondrug crimes and severity level 3 crimes on the sentencing guidelines grid for drug crimes on or before January 1, 2001.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the prisoner review board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

(v) Whenever the prisoner review board orders a person to be electronically monitored pursuant to this section, or the court orders a person to be electronically monitored pursuant to subsection (r) of K.S.A. 21-6604, and amendments thereto, the board shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

(w)(1) On and after July 1, 2012, for any inmate who is a sex offender, as defined in K.S.A. 22-4902, and amendments thereto, whenever the prisoner review board orders the parole of such inmate or establishes conditions for such inmate placed on postrelease supervision, such inmate shall agree in writing to not possess pornographic materials.

(A) As used in this subsection, "pornographic materials" means: Any obscene material or performance depicting sexual conduct, sexual contact or a sexual performance; and any visual depiction of sexually explicit conduct.

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(B) As used in this subsection, all other terms have the meanings provided by K.S.A. 21-5510, and amendments thereto.

(2) The provisions of this subsection shall be applied retroactively to every sex offender, as defined in K.S.A. 22-4902, and amendments thereto, who is on parole or postrelease supervision on July 1, 2012. The prisoner review board shall obtain the written agreement required by this subsection from such offenders as soon as practicable.

Credits

Laws 1970, ch. 129, § 22-3717; Laws 1972, ch. 317, § 90; Laws 1973, ch. 339, § 88; Laws 1974, ch. 403, § 10; Laws 1975, ch. 203, § 1; Laws 1976, ch. 168, § 2; Laws 1978, ch. 120, § 13; Laws 1979, ch. 94, § 2; Laws 1981, ch. 156, § 1; Laws 1982, ch. 137, § 3; Laws 1982, ch. 150, § 2; Laws 1983, ch. 116, § 1; Laws 1984, ch. 131, § 1; Laws 1985, ch. 111, § 2; Laws 1986, ch. 128, § 3; Laws 1986, ch. 123, § 25; Laws 1986, ch. 136, § 3; Laws 1987, ch. 118, § 1; Laws 1988, ch. 115, § 1; Laws 1989, ch. 103, § 1; Laws 1990, ch. 99, § 13; Laws 1990, ch. 113, § 2; Laws 1991, ch. 94, § 1; Laws 1992, ch. 239, § 270; Laws 1993, ch. 253, § 11; Laws 1993, ch. 291, § 281; Laws 1994, ch. 21, § 1; Laws 1994, ch. 341, § 13; Laws 1995, ch. 121, § 4; Laws 1996, ch. 158, § 8; Laws 1996, ch. 267, § 15; Laws 1997, ch. 23, § 5; Laws 1997, ch. 181, § 20; Laws 1998, ch. 186, § 3; Laws 1999, ch. 164, § 20; Laws 2000, ch. 182, § 9; Laws 2001, ch. 200, § 15; Laws 2002, ch. 163, § 5; Laws 2004, ch. 102, § 5; Laws 2006, ch. 212, § 19; Laws 2007, ch. 197, § 4, eff. July 1, 2007; Laws 2008, ch. 116, § 1, eff. July 1, 2008; Laws 2010, ch. 147, § 7, eff. July 1, 2010; Laws 2011, ch. 30, § 136, eff. July 1, 2011; Laws 2012, ch. 70, § 2, eff. July 1, 2012; Laws 2012, ch. 150, § 43, eff. July 1, 2012.

Editors' Notes

VALIDITY

<Subsection (d)(1)(G) of this section has been held unconstitutional as applied in the case of State v. Proctor, 280 P.3d 839, 2012 WL 2620525, (Kan.App. Jul 06, 2012).>

Notes of Decisions (280)

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22-3718. Conditional release; notice, KS ST 22-3718

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K.S.A. 22-3718

22-3718. Conditional release; notice

Currentness

Upon release, an inmate who has served the inmate's maximum term or terms, less such work and good behavior credits as have been earned, shall be subject to such written rules and conditions as the prisoner review board may impose, until the expiration of the maximum term or terms for which the inmate was sentenced or until the inmate is otherwise discharged. If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of release pursuant to this section, the board may set aside restitution as a condition of release payment of restitution, if the board finds compelling circumstances which would render a plan of restitution unworkable. If the court which sentenced an inmate specified reimbursement of all or part of the expenditures by the state board of indigents' defense services as a condition of release, the board may set aside such reimbursement, if the board finds compelling circumstances which would render a plan of reimbursement unworkable. Prior to the release of any inmate on parole, conditional release or expiration of sentence, if an inmate is released into the community under a program under the supervision of the secretary of corrections, the secretary shall give written notice of such release to any victim or victim's family as provided in K.S.A. 22-3727, and amendments thereto.

Credits

Laws 1970, ch. 129, § 22-3718; Laws 1972, ch. 317, § 91; Laws 1986, ch. 128, § 4; Laws 1989, ch. 103, § 2; Laws 1993, ch. 166, § 8; Laws 1995, ch. 257, § 4; Laws 1997, ch. 23, § 6; Laws 1997, ch. 181, § 21; Laws 2012, ch. 16, § 16, eff. July 1, 2012.

Notes of Decisions (13)

K. S. A. 22-3718, KS ST 22-3718

Current through 2012 regular session.

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22-3722. Service on parole, conditional release and postrelease..., KS ST 22-3722

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K.S.A. 22-3722

22-3722. Service on parole, conditional release and postrelease supervision; discharge; restoration of civil rights

Currentness

The period served on parole or conditional release shall be deemed service of the term of confinement, and, subject to the provisions contained in K.S.A. 75-5217, and amendments thereto, relating to an inmate who is a fugitive from or has fled from justice, the total time served may not exceed the maximum term or sentence. The period served on postrelease supervision shall vest in and be subject to the provisions contained in K.S.A. 75-5217, and amendments thereto, relating to an inmate who is a fugitive from or has fled from justice. The total time served shall not exceed the postrelease supervision period established at sentencing.

When an inmate on parole or conditional release has performed the obligations of the release for such time as shall satisfy the prisoner review board that final release is not incompatible with the best interest of society and the welfare of the individual, the board may make a final order of discharge and issue a certificate of discharge to the inmate but no such order of discharge shall be made in any case within a period of less than one year after the date of release except where the sentence expires earlier thereto. When an inmate has reached the end of the postrelease supervision period, the board shall issue a certificate of discharge to the releasee. Such discharge, and the discharge of an inmate who has served the inmate's term of imprisonment, shall have the effect of restoring all civil rights lost by operation of law upon commitment, and the certification of discharge shall so state. Nothing herein contained shall be held to impair the power of the governor to grant a pardon or commutation of sentence in any case.

Credits

Laws 1970, ch. 129, § 22-3722; Laws 1972, ch. 317, § 95; Laws 1973, ch. 339, § 68; Laws 1990, ch. 309, § 22; Laws 1992, ch. 239, § 271; Laws 2012, ch. 16, § 19, eff. July 1, 2012.

Notes of Decisions (20)

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22-3727. Secretary of corrections; prior to release, information to victims, KS ST 22-3727

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K.S.A. 22-3727

22-3727. Secretary of corrections; prior to release, information to victims

Currentness

(a) Prior to the release of any inmate on parole, conditional release, expiration of sentence or postrelease supervision, if an inmate is released into the community under a program under the supervision of the secretary of corrections, or after the escape of an inmate or death of an inmate while in the secretary of corrections' custody, the secretary of corrections shall give written notice of such release, escape or death to any victim of the inmate's crime who is alive and whose address is known to the secretary or, if the victim is deceased, to the victim's family if the family's address is known to the secretary. Such notice shall be required to be given to the victim or the victim's family only if the inmate was convicted of any crime in article 33, 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto. Failure to notify the victim or the victim's family as provided in this section shall not be a reason for postponement of parole, conditional release or other forms of release.

(b) As used in this section, "victim's family" means a spouse, surviving spouse, children, parents, legal guardian, siblings, stepparent or grandparents.

Credits

Laws 1993, ch. 166, § 7; Laws 2010, ch. 61, § 8, eff. July 1, 2010; Laws 2011, ch. 30, § 138, eff. July 1, 2011.

K. S. A. 22-3727, KS ST 22-3727

Current through 2012 regular session.

22-3727a. Notification to victims of the escape or death of certain..., KS ST 22-3727a

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K.S.A. 22-3727a

22-3727a. Notification to victims of the escape or death of certain committed defendants or inmates; when
Currentness

(a) The secretary of corrections shall, as soon as practicable, provide notification as provided in K.S.A. 22-3303, 22-3305, 22-3428, 22-3428a, 22-3430, 22-3431 and 22-3727, and amendments thereto, and upon the escape or death of a committed defendant or inmate while in the custody of the secretary of social and rehabilitation services, to any victim of the defendant or inmate's crime whose address is known to the secretary of corrections, and the victim's family, if so requested and the family's addresses are known to the secretary of corrections. Such notice shall be required to be given only if the defendant was charged with, or the inmate was convicted of, any crime in article 33, 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto.

(b) As used in this section, "victim's family" means a spouse, surviving spouse, children, parents, legal guardian, siblings, stepparent or grandparents.

Credits

Laws 2010, ch. 61, § 1, eff. July 1, 2010; Laws 2011, ch. 30, § 139, eff. July 1, 2011.

Editors' Notes

CHANGE OF NAME

<The department of social and rehabilitation services is renamed the Kansas department for children and families and the secretary of social and rehabilitation services is renamed the secretary for children and families, pursuant to Executive Reorganization Order No. 41, Laws 2012, ch. 185, § 2, eff. July 1, 2012, K.S.A. 39-1902.>

K. S. A. 22-3727a, KS ST 22-3727a
Current through 2012 regular session.

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K.S.A. 22-3728

22-3728. Functional incapacitation release; procedures; notice; conditions; supervision upon release

Currentness

(a)(1) Upon application of the secretary of corrections, the prisoner review board may grant release to any person deemed to be functionally incapacitated, upon such terms and conditions as prescribed in the order granting such release.

(2) The secretary of corrections shall adopt rules and regulations governing the prisoner review board's procedure for initiating, processing, reviewing and establishing criteria for review of applications filed on behalf of persons deemed to be functionally incapacitated. Such rules and regulations shall include criteria and guidelines for determining whether the functional incapacitation precludes the person from posing a threat to the public.

(3) Subject to the provisions of subsections (a)(4) and (a)(5), a functional incapacitation release shall not be granted until at least 30 days after written notice of the application has been given to: (A) The prosecuting attorney and the judge of the court in which the person was convicted; and (B) any victim of the person's crime or the victim's family. Notice of such application shall be given by the secretary of corrections to the victim who is alive and whose address is known to the secretary, or if the victim is deceased, to the victim's family if the family's address is known to the secretary. Subject to the provisions of subsection (a)(4), if there is no known address for the victim, if alive, or the victim's family, if deceased, the board shall not grant or deny such application until at least 30 days after notification is given by publication in the county of conviction. Publication costs shall be paid by the department of corrections.

(4) All applications for functional incapacitation release shall be referred to the board. The board shall examine each case and may approve such application and grant a release. An application for release shall not be approved unless the board determines that the person is functionally incapacitated and does not represent a future risk to public safety. The board shall determine whether a hearing is necessary on the application. The board may request additional information or evidence it deems necessary from a medical or mental health practitioner.

(5) The board shall establish any conditions related to the release of the person. The release shall be conditional, and be subject to revocation pursuant to K.S.A. 75-5217, and amendments thereto, if the person's functional incapacity significantly diminishes, if the person fails to comply with any condition of release, or if the board otherwise concludes that the person presents a threat or risk to public safety. The person shall remain on release supervision until the release is revoked, expiration of the maximum sentence, or discharged by the board. Subject to the provisions of subsection (f) of K.S.A. 75-5217, and amendments thereto, the person shall receive credit for the time during which the person is on functional incapacitation release supervision towards service of the prison and postrelease supervision obligations of determinate sentences or indeterminate sentences.

22-3728. Functional incapacitation release; procedures; notice;..., KS ST 22-3728

(6) The secretary of corrections shall cause the person to be supervised upon release, and shall have the authority to initiate revocation of the person at any time for the reasons indicated in subsection (a)(5).

(7) The decision of the board on the application or any revocation shall be final and not subject to review by any administrative agency or court.

(8) In determining whether a person is functionally incapacitated, the board shall consider the following:

(A) The person's current condition as confirmed by medical or mental health care providers, including whether the condition is terminal;

(B) the person's age and personal history;

(C) the person's criminal history;

(D) the person's length of sentence and time the person has served;

(E) the nature and circumstances of the current offense;

(F) the risk or threat to the community if released;

(G) whether an appropriate release plan has been established; and

(H) any other factors deemed relevant by the board.

(b) Nothing in this section shall be construed to limit or preclude submission of an application for pardon or commutation of sentence pursuant to K.S.A. 22-3701, and amendments thereto.

(c) Nothing in this section shall apply to the release of people with terminal medical conditions as described in K.S.A. 22-3729, and amendments thereto.

(d) This section does not apply to any person sentenced to imprisonment for an off-grid offense.

Credits

Laws 2002, ch. 57, § 1; Laws 2010, ch. 107, § 1, eff. July 1, 2010; Laws 2012, ch. 16, § 21, eff. July 1, 2012.

22-3728. Functional incapacitation release; procedures; notice;..., KS ST 22-3728

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K.S.A. 22-3729

22-3729. Terminal medical release; procedures; notice; conditions; revocation; supervision upon release

Currentness

(a)(1) Upon application of the secretary of corrections, the chairperson of the prisoner review board may grant release to any person deemed by a doctor licensed to practice medicine and surgery in Kansas to have a terminal medical condition likely to cause death within 30 days upon such terms and conditions as prescribed in the order granting such release.

(2) The secretary of corrections shall adopt rules and regulations governing the prisoner review board's procedure for initiating, processing, reviewing and establishing criteria for review of applications filed on behalf of persons deemed to have a terminal medical condition likely to cause death within 30 days. Such rules and regulations shall include criteria and guidelines for determining whether the terminal medical condition precludes the person from posing a threat to the public.

(3) All applications for a terminal medical condition release shall be referred to the chairperson of the board. The chairperson of the board shall examine each case and may approve such application and grant a release. An application for release shall not be approved unless the chairperson of the board determines that the person has been deemed by a doctor licensed to practice medicine and surgery in Kansas to have a terminal medical condition likely to cause death within 30 days and does not represent a future risk to public safety. The chairperson of the board may request additional information or evidence the chairperson of the board deems necessary from a doctor licensed to practice medicine and surgery in Kansas.

(4) The chairperson of the board shall establish any conditions related to the release of the person. The release shall be conditional, and be subject to revocation pursuant to K.S.A. 75-5217, and amendments thereto, if the person's illness or condition significantly improves, the person does not die within 30 days of release, if the person fails to comply with any condition of release, or if the board otherwise concludes that the person presents a threat or risk to public safety. The person shall remain on release supervision until the release is revoked, expiration of the maximum sentence or discharged by the board. Subject to the provisions of subsection (f) of K.S.A. 75-5217, and amendments thereto, the person shall receive credit for the time during which the person is on terminal medical condition release supervision towards service of the prison and postrelease supervision obligations of determinate sentences or indeterminate sentences.

(5) The secretary of corrections shall cause the person to be supervised upon release, and shall have the authority to initiate revocation of the person at any time for the reasons indicated in subsection (a)(4).

(6) The decision of the chairperson of the board on the application and the decision of the board regarding any revocation shall be final and not subject to review by any administrative agency or court.

22-3729. Terminal medical release; procedures; notice; conditions;..., KS ST 22-3729

(7) In determining whether a person meets the criteria to be released under this section, the chairperson of the board shall consider the following:

(A) The person's current condition as confirmed by a doctor licensed to practice medicine and surgery in Kansas, including whether the condition is terminal and likely to cause death within 30 days;

(B) the person's age and personal history;

(C) the person's criminal history;

(D) the person's length of sentence and time the person has served;

(E) the nature and circumstances of the current offense;

(F) the risk or threat to the community if released;

(G) whether an appropriate release plan has been established; and

(H) any other factors deemed relevant by the board member.

(b) Nothing in this section shall be construed to limit or preclude submission of an application for pardon or commutation of sentence pursuant to K.S.A. 22-3701, and amendments thereto.

(c) The secretary shall give notice of the granting of a terminal medical condition release to: (1) The prosecuting attorney and the judge of the court in which the person was convicted; and (2) any victim of the person's crime if alive or the victim's family if the victim is deceased, whose address is known by the secretary.

(d) This section does not apply to any person sentenced to imprisonment for an off-grid offense.

Credits

Laws 2010, ch. 107, § 2, eff. July 1, 2010; Laws 2012, ch. 16, § 22, eff. July 1, 2012.

K. S. A. 22-3729, KS ST 22-3729

Current through 2012 regular session.

44-6-114c Parole eligibility computation., KS ADC 44-6-114c

Kansas Administrative Regulations Currentness
Agency 44. Department of Corrections
Article 6. Good Time Credits and Sentence Computation

K.A.R. 44-6-114c

44-6-114c Parole eligibility computation.

(a) For concurrent and aggregated consecutive terms not involving class A felonies, parole eligibility shall be set at the minimum term less any award for good time credits. The minimum term, less good time credits awarded and retained, shall determine the parole eligibility date for concurrent and aggregated consecutive sentences for crimes committed before July 1, 1993, including sentences pursuant to K.S.A. 21-4618 and amendments thereto, but not including class A felonies.

(b) Concurrent class A felony sentences shall have a fixed parole eligibility date of 15 years, except as follows:

(1) For capital murder offenses committed on or after July 1, 1990 but before July 1, 1994, with a sentence imposed under former K.S.A. 21-4628, a parole eligibility date of 40 years shall be established.

(2) For capital murder offenses committed on or after July 1, 1994, but before July 1, 1999, if a death sentence is not imposed, then under K.S.A. 21-4635 and 21-4638, and amendments thereto, a parole eligibility date of 40 years shall be established.

(3) For capital murder offenses committed on or after July 1, 1999, if a death sentence is not imposed, then under K.S.A. 21-4635 and 21-4638, and amendments thereto, a parole eligibility date of 50 years shall be established.

(c) Parole eligibility for consecutive sentences that include one or more class A felonies shall be determined by the following:

(1) Computing the parole eligibility on the aggregate minimum terms for crimes that are not class A felonies; and

(2) adding an additional 15 years for each class A felony or, in the case of an offender whose class A felony was committed before July 1, 1994, and who was sentenced pursuant to the provisions of former K.S.A. 21-4628, an additional 40 years. A class A felony sentence shall be served first with the 15-year or 40-year parole eligibility period, as appropriate, added to the sentence begins date, to determine the parole eligibility date on the class A felony sentence. An additional 15 or 40 years, as appropriate, shall be added for each additional consecutive class A felony sentence. Good time credits shall not be applied to class A felony sentences. Good time credits shall be applied to non-class A felony sentences only after service of the fixed parole eligibility requirements for the class A felonies.

(d)(1) Except for a violation of K.S.A. 21-3402(a) and amendments thereto committed on or after July 1, 1996, but before July 1, 1999, parole eligibility for off-grid crimes shall be computed as follows:

44-6-114c Parole eligibility computation., KS ADC 44-6-114c

(A) For off-grid crimes committed on or after July 1, 1993, but before July 1, 1994, parole eligibility shall be computed in the same manner as for class A felonies.

(B) For off-grid crimes committed on or after July 1, 1994, but before July 1, 1999, parole eligibility shall be computed in the same manner as for class A felonies except that the fixed parole eligibility date shall be at 15, 25, or 40 years, as specified by the court.

(C) For off-grid crimes committed on or after July 1, 1999, parole eligibility shall be computed in the same manner as for class A felonies except that the fixed parole eligibility date shall be at 20, 25, or 50 years, as specified by the court.

(2) For violations of K.S.A. 21-3402(a) committed on or after July 1, 1996, but before July 1, 1999, a fixed parole eligibility date of 10 years shall be established.

(3) Good time credits shall not be applied to that portion of a sentence controlled by a fixed parole eligibility date and shall be applied to sentencing grid crime sentences pursuant to K.S.A. 21-4722 and amendments thereto only after service of the fixed parole eligibility requirements for off-grid crimes.

Credits

(Authorized by K.S.A. 75-5210, 75-5251; implementing K.S.A. 2001 Supp. 22-3717, K.S.A. 75-5210, 75-5251; effective Nov. 12, 1990; amended Sept. 30, 1991; amended Sept. 6, 2002.)

Current through Volume 32, No. 26 June 27, 2013

K.A.R. 44-6-114c, KS ADC 44-6-114c

Kansas Administrative Regulations Currentness
Agency 44. Department of Corrections
Article 6. Good Time Credits and Sentence Computation

K.A.R. 44-6-114e

44-6-114e. Guidelines release date.

- (a) Except for off-grid crimes, the prison portion of sentences for crimes committed on or after July 1, 1993 but before April 20, 1995, crimes at non-drug severity levels 7 through 10 committed on or after January 1, 2008, crimes at drug grid severity level 3 or 4 committed on or after January 1, 2008 but before July 1, 2012, and crimes at drug grid severity level 4 or 5 committed on or after July 1, 2012, may be reduced by no more than 20% through awarded and retained good time credits.
- (b) Except for off-grid crimes, the prison portion of sentences for all crimes committed on or after April 20, 1995 but before January 1, 2008, crimes at non-drug grid severity levels 1 through 6 and drug grid severity levels 1 and 2 committed on or after January 1, 2008, and crimes at drug severity level 3 committed on or after July 1, 2012, may be reduced by no more than 15% through awarded and retained good time credits. Partial days shall be rounded to the next whole number, but over the length of the sentence no more than 15% of the imprisonment portion of the sentence may be awarded as good time.
- (c) Concurrent and consecutive sentences for off-grid crimes committed on or after July 1, 1993 shall not be subject to reduction through application of good time credits.
- (d) For determinate sentences that are concurrent or consecutive with indeterminate sentences, good time may be awarded on the indeterminate sentence term as described in these regulations and applicable law.
- (e) Good time credits awarded and retained on the prison portion of a determinate sentence shall be added to the period of postrelease supervision applicable to the offender's sentence.
- (f) The following charts shall establish the good time credit rate for a 20% reduction of the prison portion of a determinate sentence.

(1) Total good time credits available for the length of sentence imposed.

(2) Except as provided in subsection (h), allocation of good time credits available during the service of sentence.

**TOTAL GOOD TIME AVAILABLE (20% RATE) OFFENSES
COMMITTED ON OR AFTER JULY 1,1993 THROUGH APRIL 19, 1995**

Length of Sentence

Possible Good Time Earned

Time To Serve [All GT Kept]

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44-6-114e. Guidelines release date., KS ADC 44-6-114e

[Months]	Years	Months	Days	Years	Months	Days
5	0	1	0	0	4	0
6	0	1	6	0	4	24
7	0	1	12	0	5	18
8	0	1	18	0	6	12
9	0	1	24	0	7	6
10	0	2	0	0	8	0
11	0	2	6	0	8	24
12	0	2	12	0	9	18
13	0	2	18	0	10	12
14	0	2	24	0	11	6
15	0	3	0	1	0	0
16	0	3	6	1	0	24
17	0	3	12	1	1	18
18	0	3	18	1	2	12
19	0	3	24	1	3	6
20	0	4	0	1	4	0
21	0	4	6	1	4	24
22	0	4	12	1	5	18
23	0	4	18	1	6	12
24	0	4	24	1	7	6
25	0	5	0	1	8	0
26	0	5	6	1	8	24
27	0	5	12	1	9	18
28	0	5	18	1	10	12
29	0	5	24	1	11	6
30	0	6	0	2	0	0

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44-6-114e. Guidelines release date., KS ADC 44-6-114e

31	0	6	6	2	0	24
32	0	6	12	2	1	18
33	0	6	18	2	2	12
34	0	6	24	2	3	6
35	0	7	0	2	4	0
36	0	7	6	2	4	24
37	0	7	12	2	5	18
38	0	7	18	2	6	12
39	0	7	24	2	7	6
40	0	8	0	2	8	0
41	0	8	6	2	8	24
42	0	8	12	2	9	18
43	0	8	18	2	10	12
44	0	8	24	2	11	6
45	0	9	0	3	0	0
46	0	9	6	3	0	24
47	0	9	12	3	1	18
48	0	9	18	3	2	12
49	0	9	24	3	3	6
50	0	10	0	3	4	0
51	0	10	6	3	4	24
52	0	10	12	3	5	18
53	0	10	18	3	6	12
54	0	10	24	3	7	6
55	0	11	0	3	8	0
56	0	11	6	3	8	24
57	0	11	12	3	9	18
58	0	11	18	3	10	12

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44-6-114e. Guidelines release date., KS ADC 44-6-114e

59	0	11	24	3	11	6
60	1	0	0	4	0	0
61	1	0	6	4	0	24
62	1	0	12	4	1	18
63	1	0	18	4	2	12
64	1	0	24	4	3	6
65	1	1	0	4	4	0
66	1	1	6	4	4	24
67	1	1	12	4	5	18
68	1	1	18	4	6	12
69	1	1	24	4	7	6
70	1	2	0	4	8	0
71	1	2	6	4	8	24
72	1	2	12	4	9	18
73	1	2	18	4	10	12
74	1	2	24	4	11	6
75	1	3	0	5	0	0
76	1	3	6	5	0	24
77	1	3	12	5	1	18
78	1	3	18	5	2	12
79	1	3	24	5	3	6
80	1	4	0	5	4	0
81	1	4	6	5	4	24
82	1	4	12	5	5	18
83	1	4	18	5	6	12
84	1	4	24	5	7	6
85	1	5	0	5	8	0

44-6-114e. Guidelines release date., KS ADC 44-6-114e

86	1	5	6	5	8	24
87	1	5	12	5	9	18
88	1	5	18	5	10	12
89	1	5	24	5	11	6
90	1	6	0	6	0	0
91	1	6	6	6	0	24
92	1	6	12	6	1	18
93	1	6	18	6	2	12
94	1	6	24	6	3	6
95	1	7	0	6	4	0
96	1	7	6	6	4	24
97	1	7	12	6	5	18
98	1	7	18	6	6	12
99	1	7	24	6	7	6
100	1	8	0	6	8	0

**ALLOCATION OF GOOD TIME CREDITS AVAILABLE DURING THE SERVICE OF SENTENCE-20%
RATE OFFENSES COMMITTED ON OR AFTER JULY 1, 1993 THROUGH APRIL 19, 1995**

<i>MONTHS SERVED</i>	<i>YEARS</i>	<i>TIME EARNED MONTHS</i>	<i>DAYS</i>
1			08
2			15
3			23
4		1	00
5	0		08
6		1	15
7		1	23
8		2	00
9		2	08

44-6-114e. Guidelines release date., KS ADC 44-6-114e

10	2	15
11	2	23
12	3	00
13	3	08
14	3	15
15	3	23
16	4	00
17	4	08
18	4	15
19	4	23
20	5	00
21	5	08
22	5	15
23	5	23
24	6	00
25	6	08
26	6	15
27	6	23
28	7	00
29	7	08
30	7	15
31	7	23
32	8	00
33	8	08
34	8	15
35	8	23
36	9	00
37	9	08

44-6-114e. Guidelines release date., KS ADC 44-6-114e

38		9	15
39		9	23
40		10	00
41		10	08
42		10	15
43		10	23
44		11	00
45		11	08
46		11	15
47		11	23
48	1	00	00
49	1	00	08
50	1	00	15
51	1	00	23
52	1	1	00
53	1	1	08
54	1	1	15
55	1	1	23
56	1	2	00
57	1	2	08
58	1	2	15
59	1	2	23
60	1	3	00
61	1	3	08
62	1	3	15
63	1	3	23
64	1	4	00

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44-6-114e. Guidelines release date., KS ADC 44-6-114e

65	1	4	08
66	1	4	15
67	1	4	23
68	1	5	00
69	1	5	08
70	1	5	15
71	1	5	23
72	1	6	00
73	1	6	08
74	1	6	15
75	1	6	23
76	1	7	00
77	1	7	08
78	1	7	15
79	1	7	23
80	1	8	00
81	1	8	08
82	1	8	15
83	1	8	23
84	1	9	00
85	1	9	08
86	1	9	15
87	1	9	23
88	1	10	00
89	1	10	08
90	1	10	15
91	1	10	23
92	1	11	00

44-6-114e. Guidelines release date., KS ADC 44-6-114e

93	1	11	08
94	1	11	15
95	1	11	23
96	2	00	00
97	2	00	08
98	2	00	15
99	2	00	23
100	2	01	00

(g) The following charts shall establish the good time credit rate for a 15% reduction of the prison portion of a determinate sentence.

(1) Total good time credits available for the length of sentence imposed.

(2) Except as provided in subsection (h), allocation of good time credits available during the service of sentence.

TOTAL GOOD TIME AVAILABLE (15% RATE) OFFENSES COMMITTED ON OR AFTER APRIL 20, 1995

Length of Sentence [Months]	Possible Good Time Earned			Time To Serve [All GT Kept]		
	Years	Months	Days	Years	Months	Days
5	0	0	23	0	4	7
6	0	0	27	0	5	3
7	0	1	2	0	5	28
8	0	1	6	0	6	24
9	0	1	11	0	7	19
10	0	1	15	0	8	15
11	0	1	20	0	9	10
12	0	1	24	0	10	6
13	0	1	29	0	11	1
14	0	2	3	0	11	27

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44-6-114e. Guidelines release date., KS ADC 44-6-114e

15	0	2	8	0	12	22
16	0	2	12	0	13	18
17	0	2	17	0	14	13
18	0	2	21	0	15	9
19	0	2	26	0	16	4
20	0	3	0	0	17	0
21	0	3	5	0	17	25
22	0	3	9	0	18	21
23	0	3	14	0	19	16
24	0	3	18	0	20	12
25	0	3	23	0	21	7
26	0	3	27	0	22	3
27	0	4	2	0	22	28
28	0	4	6	0	23	24
29	0	4	11	0	24	19
30	0	4	15	0	25	15
31	0	4	20	0	26	10
32	0	4	24	0	27	6
33	0	4	29	0	28	1
34	0	5	3	0	28	27
35	0	5	8	0	29	22
36	0	5	12	0	30	18
37	0	5	17	0	31	13
38	0	5	21	0	32	9
39	0	5	26	0	33	4
40	0	6	0	0	34	0
41	0	6	5	0	34	25
42	0	6	9	0	35	21

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44-6-114e. Guidelines release date., KS ADC 44-6-114e

43	0	6	14	0	36	16
44	0	6	18	0	37	12
45	0	6	23	0	38	7
46	0	6	27	0	39	3
47	0	7	2	0	39	28
48	0	7	6	0	40	24
49	0	7	11	0	41	19
50	0	7	15	0	42	15
51	0	7	20	0	43	10
52	0	7	24	0	44	6
53	0	7	29	0	45	1
54	0	8	3	0	45	27
55	0	8	8	0	46	22
56	0	8	12	0	47	18
57	0	8	17	0	48	13
58	0	8	21	0	49	9
59	0	8	26	0	50	4
60	0	9	0	0	51	0
61	0	9	5	0	51	25
62	0	9	9	0	52	21
63	0	9	14	0	53	16
64	0	9	18	0	54	12
65	0	9	23	0	55	7
66	0	9	27	0	56	3
67	0	10	2	0	56	28
68	0	10	6	0	57	24
69	0	10	11	0	58	19

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44-6-114e. Guidelines release date., KS ADC 44-6-114e

70	0	10	15	0	59	15
71	0	10	20	0	60	10
72	0	10	24	0	61	6
73	0	10	29	0	62	1
74	0	11	3	0	62	27
75	0	11	8	0	63	22
76	0	11	12	0	64	18
77	0	11	17	0	65	13
78	0	11	21	0	66	9
79	0	11	26	0	67	4
80	1	0	0	0	68	0
81	1	0	5	0	68	25
82	1	0	9	0	69	21
83	1	0	14	0	70	16
84	1	0	18	0	71	12
85	1	0	23	0	72	7
86	1	0	27	0	73	3
87	1	1	2	0	73	28
88	1	1	6	0	74	24
89	1	1	11	0	75	19
90	1	1	15	0	76	15
91	1	1	20	0	77	10
92	1	1	24	0	78	6
93	1	1	29	0	79	1
94	1	2	3	0	79	27
95	1	2	8	0	80	22
96	1	2	12	0	81	18
97	1	2	17	0	82	13

44-6-114e. Guidelines release date., KS ADC 44-6-114e

98	1	2	21	0	83	9
99	1	2	26	0	84	4
100	1	3	0	0	85	0

**ALLOCATION OF GOOD TIME CREDITS AVAILABLE DURING THE SERVICE OF
SENTENCE-15% RATE OFFENSES COMMITTED ON OR AFTER APRIL 20, 1995**

<i>MONTHS SERVED</i>	<i>YEARS</i>	<i>TIME EARNED MONTHS</i>	<i>DAYS</i>
1			5
2			11
3			16
4			21
5			26
6			02
7		1	07
8		1	12
9		1	18
10		1	23
11		1	28
12		2	03
13		2	09
14		2	14
15		2	19
16		2	25
17		3	00
18		3	05
19		3	10
20		3	16
21		3	21

44-6-114e. Guidelines release date., KS ADC 44-6-114e

22	3	26
23	4	02
24	4	07
25	4	12
26	4	18
27	4	23
28	4	25
29	5	03
30	5	09
31	5	14
32	5	19
33	5	25
34	6	00
35	6	05
36	6	10
37	6	16
38	6	21
39	6	26
40	7	02
41	7	07
42	7	12
43	7	17
44	7	23
45	7	28
46	8	03
47	8	09
48	8	14

44-6-114e. Guidelines release date., KS ADC 44-6-114e

49		8	19
50		8	25
51		9	00
52		9	05
53		9	10
54		9	16
55		9	21
56		9	26
57		10	02
58		10	07
59		10	12
60		10	17
61		10	23
62		10	28
63		11	03
64		11	09
65		11	14
66		11	19
67		11	24
68		12	00
69		12	05
70		12	10
71		12	16
72		12	21
73		12	26
74	1	01	01
75	1	01	07
76	1	01	12

44-6-114e. Guidelines release date., KS ADC 44-6-114e

77	1	01	17
78	1	01	23
79	1	01	28
80	1	02	03
81	1	02	08
82	1	02	14
83	1	02	19
84	1	02	24
85	1	03	00
86	1	03	05
87	1	03	10
88	1	03	16
89	1	03	21
90	1	03	26
91	1	04	01
92	1	04	06
93	1	04	12
94	1	04	17
95	1	04	23
96	1	04	28
97	1	05	03
98	1	05	08
99	1	05	14
100	1	05	19

(h) The charts in subsections (f) and (g) shall be used to compute the total pool of good time credits available on composite sentences for crimes committed on or after January 1, 2008, except that good time credit shall be allocated over the period of time equal to the inmate's composite sentence term less a number that is the sum of the total pool of available good time credits and four months.

44-6-114e. Guidelines release date., KS ADC 44-6-114e

Credits

(Authorized by and implementing K.S.A. 2011 Supp. 21-6821, as amended by L. 2012, Ch. 150, §37, K.S.A. 2011 Supp. 75-5210, K.S.A. 2011 Supp. 75-5251; effective Sept. 6, 2002; amended Aug. 8, 2008; amended Feb. 1, 2013.)

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K.A.R. 44-6-114e, KS ADC 44-6-114e

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45-400-1 General provisions., KS ADC 45-400-1

Kansas Administrative Regulations Currentness
Agency 45. Kansas Parole Board
Article 400. Release to Supervision

K.A.R. 45-400-1

45-400-1 General provisions.

(a) Following each parole hearing, the parole board's findings and recommendations shall be prepared in writing. These findings and recommendations shall be used to prepare a final action notice. Appropriate department of corrections personnel shall be provided with copies of the final action notice. The final action notice shall not be divulged to any other party until notice of the board's action has been sent to the inmate.

(b) The release condition or conditions established by the board, if any, shall not be modified or waived except by order of the board.

(c) If the board needs additional information after the parole hearing concerning the inmate or the inmate's parole plan, the decision on the inmate's parole hearing may be delayed for a reasonable length of time so the necessary information can be obtained.

(d) Each inmate who is on postrelease supervision or parole shall remain in the legal custody of the secretary of corrections and subject to orders of the secretary.

Credits

(Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

Current through Volume 32, No. 26 June 27, 2013

K.A.R. 45-400-1, KS ADC 45-400-1

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Kansas Administrative Regulations Currentness
Agency 45. Kansas Parole Board
Article 400. Release to Supervision

K.A.R. 45-400-3

45-400-3 Release.

(a) Release dates.

(1) Any inmate who has been granted parole and has been assigned to a specific parole office may receive a release date when placement arrangements are completed and approved.

(2) A specific release date may be designated by the board in order to comply with statutory parole eligibility or for any other special cause as determined on a case-by-case basis. Requests for advance release may be considered by the board for valid reasons, subject to investigation and confirmation by proper authorities.

(3) If an inmate's release date falls on a Saturday or Sunday, or on a holiday observed by the department of corrections, the inmate may be released on the last workday before the computed release date.

(b) Interstate compact release. Each inmate who has been granted parole for out-of-state supervision under an interstate compact agreement shall remain in confinement until the receiving state has entered its report with the compact administrator of the secretary, who shall refer it to the board for final determination and authorization of release. If the interstate compact agreement is disapproved, the decision to parole the inmate under the compact agreement shall be deemed void. A notice shall then be issued by the board advising the inmate that the interstate compact agreement has been disapproved and the inmate's parole suitability will be reconsidered at a scheduled parole hearing.

(c) Changes in parole plan. Each inmate who is on continued status and who elects to change the parole plan shall present this information to the unit team, which shall forward it to the board for its approval and advice.

(d) Release to detainer.

(1) Each inmate who has been granted parole to a detainer only shall remain in confinement until sufficient arrangements have been made to determine when the detaining authority will assume custody.

(2) Unless otherwise ordered by the board, a decision to parole an inmate to a detainer only shall be deemed void if the detainer is thereafter cancelled. A notice to the inmate shall be issued by the board stating that the detainer has been cancelled and the inmate's parole suitability will be reconsidered at a scheduled parole hearing.

45-400-3 Release., KS ADC 45-400-3

Credits

(Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

Current through Volume 32, No. 26 June 27, 2013

K.A.R. 45-400-3, KS ADC 45-400-3

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Kansas Administrative Regulations Currentness
Agency 45. Kansas Parole Board
Article 400. Release to Supervision

K.A.R. 45-400-4

45-400-4 Deferred release.

(a) The release of any inmate who has been granted parole may be deferred or the parole may be rescinded on the basis of any one or more of the following factors:

(1) Department of corrections staff finds that there is probable cause to believe that the inmate committed a facility infraction before being released.

(2) The parole plan does not provide for sufficient supervision or does not adequately provide for public safety or for the successful integration of the inmate.

(3) Information that was not available at the hearing indicates that the inmate cannot reasonably lead a law-abiding life.

(b) If the board so orders, the inmate shall not be released until the facility's fact-finding or disciplinary process is completed and the board is provided copies of the findings and recommendations. The report may contain a recommendation to the board concerning the inmate's parole status.

(c) If probable cause is found to believe that an inmate committed a facility infraction before being released, the board's decision to reconsider the inmate's parole suitability may also take into account the following factors:

(1) The date of the alleged infraction;

(2) the nature of the alleged violation charged and its penalty classification; and

(3) the facility's report containing recommendations concerning the inmate's parole status.

(d) If the board is considering whether or not to rescind a decision to grant an inmate's parole, defer the inmate's established release date, or both, the inmate shall be provided with the following by the board:

(1) A special hearing before the board or one or more of its members;

45-400-4 Deferred release., KS ADC 45-400-4

(2) written notice, at least 24 hours before the hearing, of the purpose of the hearing and the grounds upon which the board is considering the proposed action;

(3) an opportunity for each of the following:

(A) To appear;

(B) to respond to the allegations which are the basis for the board's proposed action.

(e) Following the special hearing, a written statement of the board's order, including the reasons for its determination, shall be issued by the board.

Credits

(Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

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45-700-2 Review and consideration of application for release., KS ADC 45-700-2

Kansas Administrative Regulations Currentness

Agency 45. Kansas Parole Board

Article 700. Release of Functionally Incapacitated Inmates

K.A.R. 45-700-2

45-700-2 Review and consideration of application for release.

(a) On receipt of the secretary's application for release of a functionally incapacitated inmate, a member of the board shall review the application and, with assistance from DOC staff, shall ensure that the following steps are taken:

(1) The written notification of the application provided by the secretary to each prosecuting attorney and the judge of each court in which the inmate was convicted shall include confidential copies of each medical or mental health report documenting the incapacitating condition. The confidentiality of these reports shall be maintained.

(2) The written notification of the application provided by the secretary to each victim or, if any victim is deceased, to one or more members of the victim's family with known addresses shall not include any of the confidential medical or mental health reports documenting the incapacitating condition. However, a general description of the inmate's incapacity shall be included in the written notification.

(b)(1) At the discretion of the board member reviewing the application, the final decision on the application may be entered with or without a formal hearing after considering all available information, including the following:

(A) The documentation required by subsection (a) of K.A.R. 45-700-1;

(B) any comments received from any prosecuting attorney, judge, crime victim, or member of the victim's family; and

(C) the factors identified in paragraph (a)(8) of L. 2002, Ch. 57, Sec. 1, and amendments thereto, and the following additional factors:

(i) The inmate's age and medical condition;

(ii) the health care needs of the inmate;

(iii) the inmate's custody classification and level of risk of violence; and

(iv) the inmate's effective capacity to cause physical harm.

45-700-2 Review and consideration of application for release., KS ADC 45-700-2

An inmate's need for long-term care may be considered in reaching a determination that an inmate has a functional incapacitation, but shall not be determinative in itself.

(2) If a hearing is scheduled, additional information or evidence may be requested from any of the medical or mental health providers who prepared reports for the application, or from any other person or persons having relevant information or knowledge.

(c) If the board finds that the inmate is functionally incapacitated and does not represent a risk to public safety, the release of the inmate may be ordered by the board under the terms of the approved release plan and any additional terms and conditions of release deemed necessary by the board, subject to the following voting requirements:

(1) The statutory requirements for voting to parole inmates sentenced for a class A or class B felony or for off-grid crimes committed on or after July 1, 1993; and

(2) a vote to release the inmate by a majority of the members of the board under either of the following circumstances:

(A) The inmate is serving a sentence for a severity level 1, 2, or 3 felony on the sentencing guidelines grid for non-drug crimes.

(B) A formal hearing regarding the application for release, with the inmate present, has not been held.

Credits

(Authorized by and implementing L. 2002, Ch. 57, Sec. 1; effective, T-45-7-26-02, July 26, 2002; effective Nov. 22, 2002.)

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K.A.R. 45-700-2, KS ADC 45-700-2

West's Kansas Statutes Annotated

Chapter 75. State Departments; Public Officers and Employees

Article 52. Department of Corrections

Secretary of Corrections

K.S.A. 75-5217

75-5217. Violation of conditions of release; notice to appear or arrest,
procedure; detention; hearing and order of board, rules and regulations

Currentness

(a) At any time during release on parole, conditional release or postrelease supervision, the secretary of corrections may issue a warrant for the arrest of a released inmate for violation of any of the conditions of release, or a notice to appear to answer to a charge of violation. Such notice shall be served personally upon the released inmate. The warrant shall authorize any law enforcement officer to arrest and deliver the released inmate to a place as provided by subsection (g). Any parole officer may arrest such released inmate without a warrant, or may deputize any other officer with power of arrest to do so by giving such officer a written or verbal arrest and detain order setting forth that the released inmate, in the judgment of the parole officer, has violated the conditions of the inmate's release. A written arrest and detain order delivered to the official in charge of the institution or place to which the released inmate is brought for detention shall be sufficient warrant for detaining the inmate. After making an arrest the parole officer shall present to the detaining authorities a similar arrest and detain order and statement of the circumstances of violation. Pending a hearing, as provided in this section, upon any charge of violation the released inmate shall remain incarcerated in the institution or place to which the inmate is taken for detention.

(b) Upon such arrest and detention, the parole officer shall notify the secretary of corrections, or the secretary's designee, within five days and shall submit in writing a report showing in what manner the released inmate had violated the conditions of release. After such notification is given to the secretary of corrections, or upon an arrest by warrant as herein provided, and the finding of probable cause pursuant to procedures established by the secretary of a violation of the released inmate's conditions of release, the secretary or the secretary's designee may cause the released inmate to be brought before the prisoner review board, its designee or designees, for a hearing on the violation charged, under such rules and regulations as the board may adopt, or may dismiss the charges that the released inmate has violated the conditions of release and order the released inmate to remain on parole, conditional release or post release supervision. It is within the discretion of the board whether such hearing requires the released inmate to appear personally before the board when such inmate's violation results from a conviction for a new felony or misdemeanor. An offender under determinative sentencing whose violation does not result from a conviction of a new felony or misdemeanor may waive the right to a final revocation hearing before the board under such conditions and terms as may be prescribed by rules and regulations promulgated by the secretary of corrections. Relevant written statements made under oath shall be admitted and considered by the board, its designee or designees, along with other evidence presented at the hearing. If the violation is established to the satisfaction of the board, the board may continue or revoke the parole or conditional release, or enter such other order as the board may see fit. The revocation of release of inmates who are on a specified period of postrelease supervision shall be for a six-month period of confinement from the date of the revocation hearing before the board or the effective date of waiver of such hearing by the offender pursuant to rules and regulations promulgated by the board, if the violation does not result from a conviction for a new felony or misdemeanor. Such period of confinement may be reduced by not more than three months based on the inmate's conduct, work and program participation during the incarceration period. The reduction in the incarceration period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

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(c) If the violation results from a conviction for a new felony, upon revocation, the inmate shall serve the entire remaining balance of the period of postrelease supervision even if the new conviction did not result in the imposition of a new term of imprisonment.

(d) If the violation results from a conviction for a new misdemeanor, upon revocation, the inmate shall serve a period of confinement, to be determined by the prisoner review board, which shall not exceed the remaining balance of the period of postrelease supervision.

(e) In the event the released inmate reaches conditional release date as provided by K.S.A. 22-3718, and amendments thereto, after a finding of probable cause, pursuant to procedures established by the secretary of corrections of a violation of the released inmate's conditions of release, but prior to a hearing before the prisoner review board, the secretary of corrections shall be authorized to detain the inmate until the hearing by the board. The secretary shall then enforce the order issued by the board.

(f) If the secretary of corrections issues a warrant for the arrest of a released inmate for violation of any of the conditions of release and the released inmate is subsequently arrested in the state of Kansas, either pursuant to the warrant issued by the secretary of corrections or for any other reason, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the secretary's warrant to the date of the released inmate's arrest.

If a released inmate for whom a warrant has been issued by the secretary of corrections for violation of the conditions of release is subsequently arrested in another state, and the released inmate has been authorized as a condition of such inmate's release to reside in or travel to the state in which the released inmate was arrested, and the released inmate has not absconded from supervision, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the warrant to the date of the released inmate's arrest. If the released inmate for whom a warrant has been issued by the secretary of corrections for violation of the conditions of release is subsequently arrested in another state for reasons other than the secretary's warrant and the released inmate does not have authorization to be in the other state or if authorized to be in the other state has been charged by the secretary with having absconded from supervision, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the warrant by the secretary to the date the released inmate is first available to be returned to the state of Kansas. If the released inmate for whom a warrant has been issued by the secretary of corrections for violation of a condition of release is subsequently arrested in another state pursuant only to the secretary's warrant, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the secretary's warrant to the date of the released inmate's arrest, regardless of whether the released inmate's presence in the other state was authorized or the released inmate had absconded from supervision.

The secretary may issue a warrant for the arrest of a released inmate for violation of any of the conditions of release and may direct that all reasonable means to serve the warrant and detain such released inmate be employed including, but not limited to, notifying the federal bureau of investigation of such violation and issuance of warrant and requesting from the federal bureau of investigation any pertinent information it may possess concerning the whereabouts of the released inmate.

(g) Law enforcement officers shall execute warrants issued by the secretary of corrections, and shall deliver the inmate named in the warrant to the jail used by the county where the inmate is arrested unless some other place is designated by the secretary, in the same manner as for the execution of any arrest warrant.

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(h) For the purposes of this section, an inmate or released inmate is an individual under the supervision of the secretary of corrections, including, but not limited to, an individual on parole, conditional release, postrelease supervision, probation granted by another state or an individual supervised under any interstate compact in accordance with the provisions of the uniform act for out-of-state parolee supervision, K.S.A. 22-4101 *et seq.*, and amendments thereto.

Credits

Laws 1973, ch. 339, § 23; Laws 1977, ch. 306, § 1; Laws 1978, ch. 120, § 18; Laws 1981, ch. 350, § 3; Laws 1987, ch. 350, § 1; Laws 1991, ch. 264, § 1; Laws 1992, ch. 239, § 289; Laws 1994, ch. 291, § 82; Laws 1995, ch. 121, § 5; Laws 1996, ch. 267, § 16; Laws 1998, ch. 186, § 4; Laws 1999, ch. 54, § 1; Laws 1999, ch. 164, § 35; Laws 2000, ch. 35, § 1; Laws 2007, ch. 48, § 1, eff. July 1, 2007; Laws 2008, ch. 183, § 11, eff. July 1, 2008; Laws 2012, ch. 16, § 36, eff. July 1, 2012.

Editors' Notes

VALIDITY

<Subsection (c) of this section has been held unconstitutional as applied in the case of State v. Proctor, 280 P.3d 839, 2012 WL 2620525, (Kan.App. Jul 06, 2012).>

Notes of Decisions (39)

K. S. A. 75-5217, KS ST 75-5217

Current through 2012 regular session.

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Baldwin's Kentucky Revised Statutes Annotated
Title XVII. Economic Security and Public Welfare
Chapter 197. Penitentiaries (Refs & Annos)

KRS § 197.045

197.045 Credit on sentence for prior confinement, educational accomplishment, good behavior, or meritorious service; requirement of completion of sex offender treatment program for eligible sexual offenders; forfeiture of credit for certain dismissals of inmates' civil actions

Effective: July 12, 2012

Currentness

(1) Any person convicted and sentenced to a state penal institution:

(a) Shall receive a credit on his or her sentence for:

1. Prior confinement as specified in KRS 532.120;
2. Successfully receiving a general equivalency diploma or a high school diploma, a two (2) or four (4) year college degree, a two (2) year or four (4) year certification in applied sciences, a technical education diploma as provided and defined by the department, or a civics education program that requires passing a final exam, in the amount of ninety (90) days per diploma, degree, or certification received; and
3. Successfully completing a drug treatment program or other program as defined by the department that requires participation for a minimum of six (6) months, in the amount of ninety (90) days for each program completed; and

(b) May receive a credit on his or her sentence for:

1. Good behavior in an amount not exceeding ten (10) days for each month served, to be determined by the department from the conduct of the prisoner;
2. Performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs, awarded at the discretion of the commissioner in an amount not to exceed seven (7) days per month; and
3. Acts of exceptional service during times of emergency, awarded at the discretion of the commissioner in an amount not to exceed seven (7) days per month.

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- (2) Except for a sentencing credit awarded for prior confinement, the department may forfeit any sentencing credit awarded under subsection (1) of this section previously earned by the prisoner or deny the prisoner the right to earn future sentencing credit in any amount if during the term of imprisonment, a prisoner commits any offense or violates the rules of the institution.
- (3) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the sentencing credit computation or in computing dates of expiration of sentence.
- (4) Until successful completion of the sex offender treatment program, an eligible sexual offender may earn sentencing credit. However, the sentencing credit shall not be credited to the eligible sexual offender's sentence. Upon the successful completion of the sex offender treatment program, as determined by the program director, the offender shall be eligible for all sentencing credit earned but not otherwise forfeited under administrative regulations promulgated by the Department of Corrections. After successful completion of the sex offender treatment program, an eligible sexual offender may continue to earn sentencing credit in the manner provided by administrative regulations promulgated by the Department of Corrections. Any eligible sexual offender, as defined in KRS 197.410, who has not successfully completed the sex offender treatment program as determined by the program director shall not be entitled to the benefit of any credit on his or her sentence. A sexual offender who does not complete the sex offender treatment program for any reason shall serve his or her entire sentence without benefit of sentencing credit, parole, or other form of early release. The provisions of this section shall not apply to any sexual offender convicted before July 15, 1998, or to any sexual offender with an intellectual disability.
- (5) (a) The Department of Corrections shall, by administrative regulation, specify the length of forfeiture of sentencing credit and the ability to earn sentencing credit in the future for those inmates who have civil actions dismissed because the court found the action to be malicious, harassing, or factually frivolous.
- (b) Penalties set by administrative regulation pursuant to this subsection shall be as uniform as practicable throughout all institutions operated by, under contract to, or under the control of the department and shall specify a specific number of days or months of sentencing credit forfeited as well as any prohibition imposed on the future earning of sentencing credit.

Credits

HISTORY: 2012 c 146, § 27, eff. 7-12-12; 2011 c 2, § 36, eff. 6-8-11; 2010 c 107, § 3, eff. 7-15-10; 2006 c 182, § 22, eff. 7-12-06; 2000 c 345, § 3, eff. 7-14-00; 1998 c 606, § 24, eff. 7-15-98; 1996 c 118, § 6, c 145, § 6, eff. 7-15-96; 1992 c 445, § 7, c 211, § 42, eff. 7-14-92; 1990 c 497, § 12; 1982 c 344, § 23; 1974 c 146, § 1; 1970 c 90, § 1; 1962 c 109, § 1; 1956 c 102

Notes of Decisions (36)

KRS § 197.045, KY ST § 197.045

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

439.330 Duties of board, KY ST § 439.330

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.330

439.330 Duties of board

Effective: June 8, 2011
Currentness

- (1) The board shall:
- (a) Study the case histories of persons eligible for parole, and deliberate on that record;
 - (b) Conduct reviews and hearings on the desirability of granting parole;
 - (c) Impose upon the parolee or conditional releasee such conditions as it sees fit;
 - (d) Order the granting of parole;
 - (e) Issue warrants for persons charged with violations of parole and postincarceration supervision and conduct hearings on such charges, subject to the provisions of KRS 439.341, 532.043, and 532.400;
 - (f) Determine the period of supervision for parolees, which period may be subject to extension or reduction after recommendation of the cabinet is received and considered; and
 - (g) Grant final discharge to parolees.
- (2) The board shall adopt an official seal of which the courts shall take judicial notice.
- (3) The orders of the board shall not be reviewable except as to compliance with the terms of KRS 439.250 to 439.560.
- (4) The board shall keep a record of its acts, an electronic record of its meetings, a written record of the votes of individual members, and the reasons for denying parole to inmates. These records shall be public records in accordance with KRS 61.870 to 61.884. The board shall notify each institution of its decisions relating to the persons who are or have been confined therein, and shall submit to the Governor a report with statistical and other data of its work at the close of each fiscal year.

439.330 Duties of board, KY ST § 439.330

Credits

HISTORY: 2011 c 2, § 101, eff. 6-8-11; 2011 c 2, § 87, eff. 3-3-11; 2005 c 129, § 3, eff. 3-18-05; 1994 c 179, § 4, eff. 4-4-94; 1982 c 344, § 43, eff. 7-15-82; 1980 c 208, § 2; 1978 c 259, § 1; 1956 c 101, § 9

Legislative Research Commission Note (6-8-11): This section was amended by 2011 Ky. Acts ch. 2, secs. 87 and 101, which do not appear to be in conflict and have been codified together.

Notes of Decisions (8)

KRS § 439.330, KY ST § 439.330

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

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439.331 Risk and needs assessment of criminal risk factors of..., KY ST § 439.331

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.331

439.331 Risk and needs assessment of criminal risk factors of parole-eligible inmates

Effective: June 8, 2011
Currentness

The department shall:

- (1) Administer a validated risk and needs assessment to assess the criminal risk factors of all inmates who are eligible for parole, or a reassessment of a previously administered risk and needs assessment, before the case is considered by the board;
- (2) Provide the results of the most recent risk and needs assessment to the board before an inmate appears before the board; and
- (3) Incorporate information from an inmate's criminal risk and needs assessment into the development of his or her case plan.

Credits

HISTORY: 2011 c 2, § 30, eff. 6-8-11

KRS § 439.331, KY ST § 439.331

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

439.335 Scientific means of personality analysis to be used to..., KY ST § 439.335

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.335

439.335 Scientific means of personality analysis to be used to
establish level, intensity, terms, and conditions of supervision

Effective: July 12, 2012
Currentness

- (1) In considering the granting of parole and the terms of parole, the parole board shall use the results from an inmate's validated risk and needs assessment and any other scientific means for personality analysis that may hereafter be developed.
- (2) The department shall use the results from an inmate's validated risk and needs assessment and any other scientific means for personality analysis that may hereafter be developed to define the level or intensity of supervision for parole, and to establish any terms or conditions of supervision imposed by the department in accordance with the administrative regulations adopted by the department pursuant to KRS 439.470 or as otherwise authorized by law. The terms and intensity of supervision shall be based on an individual's level of risk to public safety, criminal risk factors, and the need for treatment and other interventions.

Credits

HISTORY: 2012 c 156, § 13, eff. 7-12-12; 2011 c 2, § 31, eff. 6-8-11; 1998 c 606, § 167, eff. 7-15-98; 1966 c 143, § 1, eff. 6-16-66

KRS § 439.335, KY ST § 439.335

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

439.340 Parole of prisoners confined in adult penal or..., KY ST § 439.340

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.340

439.340 Parole of prisoners confined in adult penal or correctional institutions

Effective: June 8, 2011

Currentness

- (1) The board may release on parole persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his or her admission to an adult state penal or correctional institution or county jail if he or she is a sentenced felon, and at such intervals thereafter as it may determine, the Department of Corrections shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. The information shall include the results of his or her most recent risk and needs assessment, his or her criminal record, his or her conduct, employment, and the reports of physical and mental examinations that have been made. The Department of Corrections shall furnish the circumstances of his or her offense, the results of his or her most recent risk and needs assessment, and his or her previous social history to the board. The Department of Corrections shall prepare a report on any information it obtains. It shall be the duty of the Department of Corrections to supplement this report with any material the board may request and submit the report to the board.
- (2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner, including the results of his or her most recent risk and needs assessment, and shall have him or her appear before it for interview and hearing. The board in its discretion may hold interviews and hearings for prisoners convicted of Class C felonies not included within the definition of "violent offender" in KRS 439.3401 and Class D felonies. The board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his or her proper employment or for his or her maintenance and care, and when the board believes he or she is able and willing to fulfill the obligations of a law abiding citizen. Notwithstanding any statute to the contrary, including KRS 440.330, when a prisoner is otherwise eligible for parole and the board has recommended parole for that prisoner for the reasons set forth in this subsection, the board may grant parole to any prisoner wanted as a fugitive by any other jurisdiction, and the prisoner shall be released to the detainer from that jurisdiction. Such parole shall not constitute a relinquishment of jurisdiction over the prisoner, and the board in all cases expressly reserves the right to return the prisoner to confinement in a correctional institution of the Commonwealth if the prisoner violates the terms of his or her parole.
- (3) (a) A nonviolent offender convicted of a Class D felony with an aggregate sentence of one (1) to five (5) years who is confined to a state penal institution or county jail shall have his or her case reviewed by the Parole Board after serving fifteen percent (15%) or two (2) months of the original sentence, whichever is longer.
- (b) Except as provided in this section, the board shall adopt administrative regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings and all other matters that come before it, or

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conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria and risk and needs assessment information; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with other factors involved that would relate to the inmate's needs and the safety of the public.

- (4) The board shall insure that all sentenced felons who have longer than ninety (90) days to serve in state penal institutions, halfway houses, and county jails are considered for parole not less than sixty (60) days prior to their parole eligibility date, and the Department of Corrections shall provide the necessary assistance and information to the board in order for it to conduct timely parole reviews.
- (5) In addition to or in conjunction with each hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than forty-five (45) nor more than ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he or she is imprisoned, and all identified victims of the crimes or the next of kin of any victim who is deceased. Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt at the Commonwealth attorney's business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt by the Commonwealth's attorney, who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or their next of kin shall be by mail from the Parole Board to their last known address as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. Notice to the victim or the next of kin of subsequent considerations for parole after the initial consideration shall not be sent if the victim or the next of kin gives notice to the board that he or she no longer wants to receive such notices. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.
- (6) Persons receiving notice as provided for in subsection (5) of this section may submit comments, in person or in writing, to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all comments prior to making its parole decision, if they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all comments in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner. In addition to officers listed in subsection (5) of this section, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor may attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, if they have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of their intention to attend the hearing. The board shall receive and consider all comments, shall make a record of them which it shall retain in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the Parole Board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.

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- (7) Victims of Class D felonies may submit comments in person or in writing to the board upon all issues relating to the parole of a prisoner.
- (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of hearing for reasons of personal safety, in which event the hearing shall be closed. The time, date, and location of closed hearings shall not be disclosed to the public.
- (9) Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing rights of persons to contact and communicate with the Parole Board or any of its members, agents, or employees.
- (10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its members, agents, or employees or by a Commonwealth's attorney or any of his or her agents or employees to comply with any of the provisions of subsections (5), (6), and (8) of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner, or any other person.
- (11) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he or she has successfully completed the Sexual Offender Treatment Program.
- (12) Any prisoner who is granted parole after completion of the Sexual Offender Treatment Program shall be required, as a condition of his or her parole, to participate in regular treatment in a mental health program approved or operated by the Department of Corrections.
- (13) When the board grants parole contingent upon completion of a program, the commissioner, or his or her designee, shall determine the most appropriate placement in a program operated by the department or a residential or nonresidential program within the community approved by the department. If the department releases a parolee to a nonresidential program, the department shall release the parolee only if he or she will have appropriate community housing pursuant to KRS 439.3408.
- (14) If the parole board does not grant parole to a prisoner, the maximum deferment for a prisoner convicted of a non-violent, non-sexual Class C or Class D felony shall be twenty-four (24) months. For all other prisoners who are eligible for parole:
- (a) No parole deferment greater than five (5) years shall be ordered unless approved by a majority vote of the full board; and
- (b) No deferment shall exceed ten (10) years, except for life sentences.
- (15) When an order for parole is issued, it shall recite the conditions thereof.

Credits

HISTORY: 2011 c 2, § 32, eff. 6-8-11; 2010 c 107, § 5, eff. 7-15-10

439.340 Parole of prisoners confined in adult penal or..., KY ST § 439.340

Legislative Research Commission Note (7-15-10): 2008 Ky. Acts ch. 107, sec. 12, provides that “The intent of the General Assembly in repealing and reenacting KRS 439.320, 439.340, and 532.200 in Sections 4, 5, and 10 of this Act is to affirm the amendments made to these sections in 2008 Ky. Acts ch. 158. The specific textual provisions of Sections 4, 5, and 10 of this Act which reflect amendments made to those sections by 2008 Ky. Acts ch. 158 shall be deemed effective as of April 24, 2008, and those provisions are hereby made expressly retroactive to that date, with the remainder of the text from those sections being unaffected by the provisions of this section.” This statute is affected by that language.

Notes of Decisions (38)

KRS § 439.340, KY ST § 439.340

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

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439.341 Preliminary revocation hearings of probation, parole, and..., KY ST § 439.341

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.341

439.341 Preliminary revocation hearings of probation, parole, and postincarceration supervision violators

Effective: March 3, 2011
Currentness

Preliminary revocation hearings of probation, parole, and postincarceration supervision violators shall be conducted by hearing officers. These hearing officers shall be attorneys, appointed by the board and admitted to practice in Kentucky, who shall perform the aforementioned duties and any others assigned by the board.

Credits

HISTORY: 2011 c 2, § 88, eff. 3-3-11; 1980 c 208, § 3, eff. 7-15-80; 1978 c 259, § 3

Notes of Decisions (1)

KRS § 439.341, KY ST § 439.341

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

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439.342 Retention of prisoner on parole, KY ST § 439.342

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.342

439.342 Retention of prisoner on parole

Currentness

The board may retain any prisoner on parole for a period of at least one (1) year.

Credits

HISTORY: 1962 c 82, § 1, eff. 6-14-62

Notes of Decisions (1)

KRS § 439.342, KY ST § 439.342

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

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439.344 Effect of parole time on sentence; exceptions, KY ST § 439.344

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.344

439.344 Effect of parole time on sentence; exceptions

Effective: April 12, 2010
Currentness

The period of time spent on parole shall count as a part of the prisoner's sentence, except when a parolee is:

- (1) Returned to prison as a parole violator for a new felony conviction;
- (2) Returned to prison as a parole violator after charges have been filed or an indictment has been returned for a felony offense committed while on parole and the prisoner is subsequently convicted of that offense;
- (3) Returned to prison as a parole violator and is subsequently convicted of a felony offense committed while on parole;
- (4) Returned to prison as a parole violator for absconding from parole supervision, except that the time spent on parole prior to absconding shall count as part of the prisoner's sentence;
- (5) Returned to prison as a parole violator and it is subsequently determined that he or she owes restitution pursuant to KRS 439.563 and has an arrearage on that restitution. Any credit withheld pursuant to this subsection shall be reinstated when the arrearage is paid in full;
- (6) Classified as a violent offender pursuant to KRS 439.3401; or
- (7) A registered sex offender pursuant to KRS 17.500 to 17.580.

Credits

HISTORY: 2010 c 107, § 6, eff. 4-12-10; 2009 c 57, § 2, eff. 6-25-09; 1962 c 82, § 2, eff. 6-14-62

Notes of Decisions (11)

KRS § 439.344, KY ST § 439.344

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

439.344 Effect of parole time on sentence; exceptions, KY ST § 439.344

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439.345 Compliance credits for parolees; administrative regulations, KY ST § 439.345

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.345

439.345 Compliance credits for parolees; administrative regulations

Effective: June 8, 2011

Currentness

- (1) A supervised individual on parole shall receive compliance credits to be applied toward the individual's sentence, if the paroled individual does all of the following:
- (a) Fulfills the terms of his or her case plan;
 - (b) Has no new arrests; and
 - (c) Makes scheduled monthly payments for restitution.
- (2) The department shall promulgate administrative regulations for the awarding of earned compliance credits to a supervised individual who is on parole.

Credits

HISTORY: 2011 c 2, § 55, eff. 6-8-11

KRS § 439.345, KY ST § 439.345

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

439.348 Paroled prisoner under supervision of department; cessation, KY ST § 439.348

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.348

439.348 Paroled prisoner under supervision of department; cessation

Currentness

Paroled prisoners shall be under the supervision of the department and subject to its direction for the duration of parole. Supervision of the parolee by the department shall cease at the time of recommitment of the prisoner to prison as a parole violator, or at the time a final discharge from parole is granted to the parolee by the board.

Credits

HISTORY: 1992 c 211, § 109, eff. 7-14-92; 1982 c 344, § 46; 1962 c 82, § 4

Notes of Decisions (4)

KRS § 439.348, KY ST § 439.348

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

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439.354 Final discharge of paroled prisoner; conditions, KY ST § 439.354

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.354

439.354 Final discharge of paroled prisoner; conditions

Effective: June 25, 2009
Currentness

- (1) Except as provided in subsection (2) of this section, when any paroled prisoner has performed the obligations of his or her parole during his or her period of active parole supervision the board may, at the termination of such period to be determined by the board, issue a final discharge from parole to the prisoner. Unless ordered earlier by the board, a final discharge shall be issued when the prisoner has been out of prison on parole a sufficient period of time to have been eligible for discharge from prison by minimum expiration of sentence had he or she not been paroled, provided before this date he or she had not absconded from parole supervision or that a warrant for parole violation had not been issued by the board.
- (2) When any paroled prisoner classified as a violent offender pursuant to KRS 439.3401, or registered as a sex offender pursuant to KRS 17.500 to 17.580, has performed the obligations of his or her parole, the board shall issue a final discharge from parole to the prisoner when the prisoner has been out of prison on parole a sufficient period of time to have been eligible for discharge from prison by maximum expiration of sentence had he or she not been paroled, provided before this date he or she had not absconded from parole supervision or that a warrant for parole violation had not been issued by the board.

Credits

HISTORY: 2009 c 57, § 3, eff. 6-25-09; 1962 c 82, § 6, eff. 6-14-62

Notes of Decisions (6)

KRS § 439.354, KY ST § 439.354

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

439.358 Final discharge provisions; application, KY ST § 439.358

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.358

439.358 Final discharge provisions; application

Currentness

The provisions of granting final discharges from parole, and the release from being again confined on the same sentence in the penitentiary following the granting of such discharge or following the restoration of the parolee's civil rights, as set out in KRS 439.342 to 439.358, shall be followed in all cases of those persons confined or paroled before, on, or committed after June 14, 1962.

Credits

HISTORY: 1962 c 82, § 8, eff. 6-14-62

Notes of Decisions (1)

KRS § 439.358, KY ST § 439.358

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

439.3401 Parole for violent offenders; applicability of section to..., KY ST § 439.3401

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.3401

439.3401 Parole for violent offenders; applicability of section to victim of
domestic violence or abuse; time of offense; prohibition against award of credit

Effective: June 8, 2011
Currentness

- (1) As used in this section, “violent offender” means any person who has been convicted of or pled guilty to the commission of:
- (a) A capital offense;
 - (b) A Class A felony;
 - (c) A Class B felony involving the death of the victim or serious physical injury to a victim;
 - (d) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;
 - (e) Use of a minor in a sexual performance as described in KRS 531.310;
 - (f) Promoting a sexual performance by a minor as described in KRS 531.320;
 - (g) Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);
 - (h) Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;
 - (i) Criminal abuse in the first degree as described in KRS 508.100;
 - (j) Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;
 - (k) Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or

439.3401 Parole for violent offenders; applicability of section to..., KY ST § 439.3401

(1) Robbery in the first degree.

The court shall designate in its judgment if the victim suffered death or serious physical injury.

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on probation or parole until he has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.

(3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony who is a violent offender shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.

(4) A violent offender shall not be awarded any credit on his sentence authorized by KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.

(5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

(6) This section shall apply only to those persons who commit offenses after July 15, 1998.

(7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.

(8) The provisions of subsection (1) of this section extending the definition of “violent offender” to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

Credits

HISTORY: 2011 c 2, § 99, eff. 6-8-11; 2007 c 19, § 11, eff. 6-26-07; 2006 c 182, § 27, eff. 7-12-06; 2002 c 120, § 2, eff. 7-15-02; 2000 c 401, § 3, eff. 7-14-00; 1998 c 606, § 77, eff. 7-15-98; 1992 c 173, § 4, eff. 7-14-92; 1991 1st ex s, c 3, § 1; 1986 c 358, § 1

Notes of Decisions (89)

KRS § 439.3401, KY ST § 439.3401

439.3401 Parole for violent offenders; applicability of section to..., KY ST § 439.3401

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

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439.3403 Reconsideration of parole of inmate given deferment..., KY ST § 439.3403

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.3403

439.3403 Reconsideration of parole of inmate given deferment
or serve-out longer than sixty months; exceptions; hearings

Effective: June 8, 2011
Currentness

- (1) Except as provided in subsection (2) of this section, the board shall reconsider the parole of any prisoner as of June 8, 2011, who was given a deferment or serve-out of longer than sixty (60) months at the prisoner's most recent parole hearing.
- (2) No reconsideration shall be required under this section for any prisoner who has received a deferment or serve-out of longer than sixty (60) months if:
 - (a) The deferment or serve-out was approved by a majority vote of the full board; or
 - (b) The prisoner stands convicted of a criminal offense currently defined as a violent offense in KRS 439.3401 or as a sex crime in KRS 17.500, regardless of the date the crime was committed or the date of conviction.
- (3) The board shall schedule parole hearings for prisoners eligible for reconsideration of parole under this section according to the following schedule:
 - (a) For a prisoner who has served less than sixty (60) months of his or her sentence as of June 8, 2011, the board shall schedule and conduct a parole hearing during the month the prisoner has served sixty (60) months of his or her sentence; and
 - (b) For a prisoner who has served more than sixty (60) months of his or her sentence as of June 8, 2011, the board shall schedule and conduct a parole hearing within twelve (12) months of June 8, 2011.
- (4) The department shall provide all necessary assistance and information to the board in accordance with KRS 439.340 in order for the board to conduct timely hearings under subsection (1) of this section.
- (5) Parole hearings required under subsection (1) of this section shall be conducted in accordance with and subject to the provisions of KRS 439.250 to 439.560, including but not limited to the requirements relating to notification of victims, the authority of the board to conduct hearings by panels of the board, and the requirement to keep records relating to the hearings.

439.3403 Reconsideration of parole of inmate given deferment..., KY ST § 439.3403

Credits

HISTORY: 2011 c 2, § 33, eff. 6-8-11

KRS § 439.3403, KY ST § 439.3403

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

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Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.3405

439.3405 Parole of prisoners with documented terminal medical conditions; hearing

Effective: June 8, 2011

Currentness

- (1) Notwithstanding any statute eliminating parole or establishing minimum time for parole eligibility for a certain class or status of offender, including KRS 439.340(11), 439.3401, 532.080(7), and 533.060, the board, with the written consent of a majority of the full board, may review the case of any prisoner and release that prisoner on parole despite any elimination of or minimum time for parole eligibility, when the prisoner has a documented terminal medical condition likely to result in death within one (1) year or severe chronic lung disease, end-stage heart disease, severe neuro-muscular disease such as multiple sclerosis; or has severely limited mobility as a result of stroke, disease, or trauma; or is dependent on external life support systems and would not pose a threat to society if paroled.
- (2) Medical information considered under this section shall be limited to the medical findings supplied by Department of Corrections medical staff. The medical staff shall provide in writing the prisoner's diagnosis and prognosis in support of the conclusion that the prisoner suffers from a terminal medical condition likely to result in death within one (1) year or because of the conditions set forth in subsection (1) of this section he or she is substantially dependent on others for the activities of daily living.
- (3) The medical information prepared by the Department of Corrections medical staff under this section shall be forwarded to the medical director of the Department of Corrections who shall submit that information and a recommendation for or against parole review under this section to the commissioner of the Department of Corrections or his or her designee. With the approval of the commissioner of the Department of Corrections, a request for parole review under this section, along with the medical information and medical director's recommendation, shall be submitted to the board.
- (4) Medical information presented under this section shall be considered along with other information relevant to a decision regarding the granting of parole and shall not constitute the only reason for granting parole.
- (5) Notwithstanding KRS 439.340(5), in addition to or in conjunction with each review conducted under subsection (1) of this section for any prisoner convicted of a Class A or B felony, or of a Class C felony involving violence or a sexual offense and prior to the granting of parole to any such prisoner, the Parole Board shall conduct a hearing of which the following persons shall receive not less than fifteen (15) nor more than thirty (30) days' notice:
 - (a) The Commonwealth's attorney, who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he or she is imprisoned; and

439.3405 Parole of prisoners with documented terminal medical..., KY ST § 439.3405

(b) All identified victims of the crimes or the next of kin of any victim who is deceased.

Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means, at the discretion of the board, and shall be in a manner that ensures receipt at the Commonwealth attorney's business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made by mail, fax, or electronic means, at the discretion of the board, to their last known address or telephone number as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. Notice to the victim or the next of kin of subsequent considerations for parole after the initial consideration shall not be sent if the victim or the next of kin gives notice to the board that he or she no longer wants to receive such notices. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

Credits

HISTORY: 2011 c 2, § 28, eff. 6-8-11; 2007 c 128, § 1, eff. 6-26-07; 1998 c 606, § 78, eff. 7-15-98; 1994 c 179, § 5, eff. 4-4-94

KRS § 439.3405, KY ST § 439.3405

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

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439.3406 Mandatory reentry supervision for inmate not granted..., KY ST § 439.3406

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.3406

439.3406 Mandatory reentry supervision for inmate not granted discretionary parole six months prior to expiration of sentence; exceptions; terms of supervision; no credit for time absconding; report

Effective: July 12, 2012
Currentness

- (1) The board shall order mandatory reentry supervision for an inmate who has not been granted discretionary parole six (6) months prior to the inmate's minimum expiration of sentence.
- (2) The provisions of subsection (1) of this section shall not apply to an inmate who:
 - (a) Is not eligible for parole by statute;
 - (b) Has been convicted of a capital offense or a Class A felony;
 - (c) Has a maximum or close security classification as defined by administrative regulations promulgated by the department;
 - (d) Has been sentenced to two (2) years or less of incarceration;
 - (e) Is subject to the provisions of KRS 532.043; or
 - (f) Has six (6) months or less to be served after his or her sentencing by a court or recommitment to prison for a violation of probation, shock probation, parole, or conditional discharge.
- (3) An inmate granted mandatory reentry supervision pursuant to this section may be returned by the board to prison for violation of the conditions of supervision and shall not again be eligible for mandatory reentry supervision during the same period of incarceration.
- (4) An inmate released to mandatory reentry supervision shall be considered to be released on parole.
- (5) Mandatory reentry supervision is not a commutation of sentence or any other form of clemency.

439.3406 Mandatory reentry supervision for inmate not granted..., KY ST § 439.3406

- (6) No hearing shall be required for the board to order an inmate to mandatory reentry supervision pursuant to subsection (1) of this section. Terms of supervision for inmates released on mandatory reentry supervision shall be established as follows:
- (a) The board shall adopt administrative regulations establishing general conditions applicable to each inmate ordered to mandatory reentry supervision pursuant to subsection (1) of this section. If an inmate is ordered to mandatory reentry supervision, the board's order shall set forth the general conditions and shall require the inmate to comply with the general conditions and any requirements imposed by the department in accordance with this section;
 - (b) Upon intake of an inmate ordered to mandatory reentry supervision by the board, the department shall use the results of the risk and needs assessment administered pursuant to KRS 439.3104(1) to establish appropriate terms and conditions of supervision, taking into consideration the level of risk to public safety, criminal risk factors, and the need for treatment and other interventions. The terms and conditions imposed by the department under this paragraph shall not conflict with the general conditions adopted by the board pursuant to paragraph (a) of this subsection; and
 - (c) The powers and duties assigned to the commissioner in relation to probation or parole under KRS 439.470 shall be assigned to the commissioner in relation to mandatory reentry supervision.
- (7) Subject to subsection (3) of this section, the period of mandatory reentry supervision shall conclude upon completion of the individual's minimum expiration of sentence.
- (8) If the board issues a warrant for the arrest of an inmate for absconding from supervision during the mandatory reentry supervision period, and the inmate is subsequently returned to prison as a violator of conditions of supervision for absconding, the inmate shall not receive credit toward the remainder of his or her sentence for the time spent absconding.
- (9) The department shall report the results of the mandatory reentry supervision program to the Interim Joint Committee on Judiciary by February 1, 2015.

Credits

HISTORY: 2012 c 156, § 14, eff. 7-12-12; 2011 c 2, § 34, eff. 1-1-12

KRS § 439.3406, KY ST § 439.3406

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.3407

439.3407 Conditional parole of state inmates to be served
in local facility; administrative regulations; work release

Effective: June 8, 2011
Currentness

- (1) The department may promulgate administrative regulations to implement conditional parole of state inmates incarcerated in state corrections institutions or local correctional facilities or county jails to place those individuals closer to their communities prior to release. A parolee placed on conditional parole shall serve that term in a local correctional facility or county jail in a county in which the fiscal court has agreed to house parolees if beds are available in the local correctional facility or county jail.
- (2) The department may authorize parolees on conditional parole to be placed on work release. If a person placed in a county jail on conditional parole under subsection (1) of this section is granted work release, he or she shall pay the work release fees required by law to the jailer. The amount of work release fees paid by a parolee shall be deducted from the amount which the Department of Corrections shall pay for the placement of that parolee.
- (3) Local correctional facilities or county jails housing parolees under subsection (1) of this section shall have the same rights and obligations as county jails housing felons pursuant to KRS 532.100.
- (4) Administrative regulations promulgated pursuant to subsection (1) of this section relating to eligibility of an individual for conditional parole shall take into consideration, at a minimum, the following information about the individual:
 - (a) The offense for which the individual was convicted and his or her rehabilitation efforts while incarcerated;
 - (b) The security classification while incarcerated in the state correctional institution;
 - (c) Conduct while incarcerated in the state correctional institution;
 - (d) Ability to find employment in the community; and
 - (e) The availability of additional applicable education, treatment or intervention, and training for employment in the local correctional facility or county jail, if needed by the individual.

439.3407 Conditional parole of state inmates to be served in..., KY ST § 439.3407

Credits

HISTORY: 2011 c 2, § 39, eff. 6-8-11

KRS § 439.3407, KY ST § 439.3407

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

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439.3408 Department to approve any acceptable housing for parolees, KY ST § 439.3408

Baldwin's Kentucky Revised Statutes Annotated
Title XL. Crimes and Punishments
Chapter 439. Probation and Parole (Refs & Annos)

KRS § 439.3408

439.3408 Department to approve any acceptable housing for parolees

Effective: June 8, 2011

Currentness

When considering appropriate housing options for a person considered for parole or a person who is being paroled, the department shall approve any form of acceptable housing, including but not limited to apartments, shelters for homeless or other persons, county jails or restricted custody facilities that a county approves for parolees, educational institutions with dormitories if the parolee is enrolled or accepted for enrollment at an educational institution, halfway houses, residential treatment or other programs in which the parolee is enrolled or accepted for enrollment, and other forms of transitional housing meeting the requirements of applicable statutes.

Credits

HISTORY: 2011 c 2, § 41, eff. 6-8-11

KRS § 439.3408, KY ST § 439.3408

Current through the end of 2012 Regular Session and the 2012 First Extraordinary Session.

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La. R.S. 15:571.3

This document is current through the 2012 Regular Session. Annotations are current through May 16, 2013.

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> [TITLE 15.](#) > [CHAPTER 4.](#) > [PART 4.](#)

§ 15:571.3. Diminution of sentence for good behavior

A.

- (1) Every prisoner in a parish prison convicted of an offense and sentenced to imprisonment without hard labor, except a prisoner convicted a second time of a crime of violence as defined by [R.S. 14:2\(B\)](#), may earn a diminution of sentence, to be known as "good time", by good behavior and performance of work or self-improvement activities, or both. The amount of diminution of sentence allowed under this Paragraph shall be at the rate of thirty days for every thirty days in actual custody, except for a prisoner convicted a first time of a crime of violence, as defined in [R.S. 14:2\(B\)](#), who shall earn diminution of sentence at the rate of three days for every seventeen days in actual custody held on the imposed sentence, including, in either case, time spent in custody with good behavior prior to sentencing for the particular sentence imposed as authorized by [Code of Criminal Procedure Article 880](#).
- (2) The sheriff of the parish in which the conviction was had shall have the sole authority to determine when good time has been earned in accordance with the sheriff's regulations and the provisions of this Section.
- (3) In the event that the prisoner is confined in a parish or multiparish correctional facility not operated by the sheriff, the superintendent of the correctional facility shall have the sole power to determine when good time has been earned or when diminution of sentence may be allowed in accordance with the provisions of this Section.

- B.** (1) (a) Unless otherwise prohibited, every inmate in the custody of the department who has been convicted of a felony, except an inmate convicted a second time of a crime of violence as defined by [R.S. 14:2\(B\)](#), and sentenced to imprisonment for a stated number of years or months, may earn, in lieu of incentive wages, a diminution of sentence by good behavior and performance of work or self-improvement activities, or both, to be known as "good time". Those inmates serving life sentences will be credited with good time earned which will be applied toward diminution of their sentences at such time as the life sentences might be commuted to a specific number of years. The secretary shall establish regulations for awarding and recording of good time and shall determine when good time has been earned toward diminution of sentence. The amount of diminution of sentence allowed under the provisions of this Section shall be at the rate of one and one half-day for every one day in actual custody served on the imposed sentence, including time spent in custody with good behavior prior to sentencing for the particular sentence imposed as authorized by the provisions of [Code of Criminal Procedure Article 880](#).
- (b) The provisions of Subparagraph (a) of this Paragraph shall be applicable to persons convicted of offenses on or after January 1, 1992 and who are not serving a sentence for the following offenses:
- (i) A sex offense as defined in [R.S. 15:541](#).
 - (ii) A crime of violence as defined in [R.S. 14:2\(B\)](#).

- (iii) Any offense which would constitute a crime of violence as defined in [R.S. 14:2\(B\)](#) or a sex offense as defined in [R.S. 15:541](#), regardless of the date of conviction.
- (2) An inmate convicted a first time of a crime of violence as defined in [R.S. 14:2\(B\)](#), shall earn diminution of sentence at a rate of three days for every seventeen days in actual custody held on the imposed sentence, including time spent in custody with good behavior prior to sentencing for the particular sentence imposed as authorized by [Code of Criminal Procedure Article 880](#).
- (3) A person shall not be eligible for diminution of sentence for good behavior if he has been convicted of or pled guilty to, or where adjudication has been deferred or withheld for, a violation of any one of the following offenses:
- (a) Rape ([R.S. 14:41](#)).
 - (b) Aggravated rape ([R.S. 14:42](#)).
 - (c) Forcible rape ([R.S. 14:42.1](#)).
 - (d) Simple rape ([R.S. 14:43](#)).
 - (e) Sexual battery ([R.S. 14:43.1](#)).
 - (f) Second degree sexual battery ([R.S. 14:43.2](#)).
 - (g) Oral sexual battery ([R.S. 14:43.3](#)).
 - (h) Intentional exposure to AIDS virus ([R.S. 14:43.5](#)).
 - (i) Incest ([R.S. 14:78](#)).
 - (j) Aggravated incest ([R.S. 14:78.1](#)).
 - (k) Felony carnal knowledge of a juvenile ([R.S. 14:80](#)).
 - (l) Indecent behavior with juveniles ([R.S. 14:81](#)).
 - (m) Pornography involving juvenile ([R.S. 14:81.1](#)).
 - (n) Molestation of a juvenile or a person with a physical or mental disability ([R.S. 14:81.2](#)).
 - (o) Computer-aided solicitation of a minor ([R.S. 14:81.3](#)).
 - (p) Crime against nature ([R.S. 14:89\(A\)](#)).
 - (q) Aggravated crime against nature ([R.S. 14:89.1](#)).
 - (r) Sexual battery of the infirm ([R.S. 14:93.5](#)).
- (4) Diminution of sentence shall not be allowed an inmate in the custody of the Department of Public Safety and Corrections if the inmate has been convicted one or more times under the laws of this state, any other state, or the federal government of any one or more of the following crimes or attempts to commit any of the following crimes:
- (a) Felony carnal knowledge of a juvenile.
 - (b) Indecent behavior with juveniles.
 - (c) Molestation of a juvenile or a person with a physical or mental disability.

- (d) Incest.
 - (e) Aggravated incest.
- C. Diminution of sentence shall not be allowed an inmate in the custody of the Department of Public Safety and Corrections if any of the following apply:
- (1) The inmate has been sentenced as an habitual offender under the Habitual Offender Law as set forth in [R.S. 15:529.1](#).
 - (2) The trial court, in its discretion, prohibits the earning of such diminution of sentence for any person convicted of a violation of [R.S. 14:40.2](#).
- D. Diminution of sentence shall not be allowed an inmate in the custody of the Department of Public Safety and Corrections if the instant offense is a second offense crime of violence as defined by [R.S. 14:2\(B\)](#).
- E. Notwithstanding any other provision of law to the contrary, any offender in the custody of the Department of Public Safety and Corrections who has been sentenced as an habitual offender pursuant to the provisions of [R.S. 15:529.1](#) may earn additional good time for participation in certified treatment and rehabilitation programs as provided for in [R.S. 15:828\(B\)](#), unless the offender was convicted of a sex offense as defined by [R.S. 15:541](#) or a crime of violence as defined by [R.S. 14:2\(B\)](#).

History

Amended by Acts 1991, No. 138, § 1, eff. Jan. 1, 1992; Acts 1992, No. 1011, § 1; Acts 1994, 3rd Ex. Sess., No. 110, § 1; Acts 1994, 3rd Ex. Sess., No. 149, § 1; Acts 1994, 3rd Ex. Sess., No. 150, § 1; Acts 1995, No. 946, § 3; Acts 1995, No. 1099, § 1, eff. Jan. 1, 1997; Acts 1997, No. 832, § 1, eff. Aug. 15, 1997; Acts 1999, No. 223, § 1, eff. Aug. 15, 1999; Acts 1999, No. 963, § 2, eff. Aug. 15, 1999; Acts 2001, No. 809, § 1, eff. June 26, 2001; Acts 2003, No. 636, § 1, eff. Aug. 15, 2003; Acts 2006, No. 174, § 1, eff. Aug. 15, 2006; Acts 2006, No. 220, § 1, eff. Aug. 15, 2006; Acts 2006, No. 572, § 1, eff. Aug. 15, 2006; [Acts 2008, No. 30](#), § 1, eff. Aug. 15, 2008; [Acts 2010, No. 649](#), § 1, eff. Oct. 15, 2010; [Acts 2011, No. 186](#), § 2, eff. Aug. 15, 2011; [Acts 2012, No. 110](#), § 1, eff. Aug. 1, 2012; [Acts 2012, No. 181](#), § 1, eff. Aug. 1, 2012.

LOUISIANA STATUTES ANNOTATED

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La. R.S. 15:571.4

This document is current through the 2012 Regular Session. Annotations are current through May 16, 2013.

[Louisiana Statutes, Annotated by LexisNexis\(TM\)](#) > [LOUISIANA REVISED STATUTES](#)
> [TITLE 15.](#) > [CHAPTER 4.](#) > [PART 4.](#)

§ 15:571.4. Forfeiture of diminution of sentence

- A.** Determination shall be made by the secretary as to whether good time or credits toward the reduction of the projected good time parole supervision date has been earned by inmates in the department's custody. Good time, or credits toward the reduction of the projected good time parole supervision date, which has been earned by inmates in the custody of the Department of Public Safety and Corrections, hereinafter referred to as the "department", shall not be forfeited except as provided in Subsection D of this Section.
- B.**
- (1) An inmate who is sentenced to the custody of the Department of Public Safety and Corrections and who commits a simple or aggravated escape, as defined in [R.S. 14:110](#), from any correctional facility, work-release facility or from the lawful custody of any law enforcement officer or officer of the department, or, in the case of an inmate serving a sentence and participating in a work-release program authorized by law, fails to report to or return from his planned employment or other activity under the program, may forfeit all good time and credits toward the reduction of the projected good time parole supervision date earned on that portion of his sentence served prior to his escape.
 - (2) An inmate who has been returned to the custody of the department because of a violation of the terms of parole granted by the Board of Parole shall forfeit all good time earned or credits toward the reduction of the projected good time parole supervision date on that portion of the sentence served prior to the granting of parole.
 - (3) An inmate who is sentenced to the custody of the department and who commits a battery on an employee of the Department of Public Safety and Corrections or any police officer as defined in [R.S. 14:34.2](#) may forfeit good time earned or credits toward the reduction of the projected good time parole supervision date on that portion of the sentence served prior to committing the battery of such person, up to a maximum of one hundred eighty days.
 - (4) In all other cases, forfeiture of good time or credits toward the reduction of the projected good time parole supervision date may include up to a maximum of one hundred eighty days.
- C.** The secretary may promulgate rules and regulations regarding the restoration of previously forfeited good time for disciplinary violations or credits toward the reduction of the projected good time parole supervision date. In order to be eligible for restoration of good time or credits toward the reduction of the projected good time parole supervision date which has been previously forfeited, the inmate shall not have been found guilty of any disciplinary violation for a consecutive twenty-four month period. Restoration of previously forfeited good time or credits toward the reduction of the projected good time parole supervision date shall not exceed five hundred forty days.
- D.** The department shall adopt rules to govern the imposition of the forfeiture of good time or credits toward the reduction of the projected good time parole supervision date for the

causes enumerated in Subsection B of this Section and the restoration of good time or credits toward the reduction of the projected good time parole supervision date under the conditions enumerated in Subsection C of this Section. The rules shall be adopted in accordance with the Administrative Procedure Act. The rules shall provide that an inmate has the right to a hearing on any charges which are punishable by the forfeiture of good time or credits toward the reduction of the projected good time parole supervision date and that the inmate may waive that right. The rules shall be consistent with and shall implement the provisions of the constitutional, statutory, and jurisprudential requirements which govern the forfeiture of good time or credits toward the reduction of the projected good time parole supervision date.

History

Amended by Acts 1991, No. 138, § 1, eff. Jan. 1, 1992; Acts 1992, No. 689, § 1; Acts 1992, No. 1011, § 1; Acts 1993, No. 78, § 1; Acts 1993, No. 854, § 1; Acts 1995, No. 980, § 1; Acts 1997, No. 820, § 1, eff. Aug. 15, 1997; Acts 2000, 1st Ex. Sess., No. 68, § 1, eff. June 6, 2000; Acts 2004, No. 43, § 1, eff. Aug. 15, 2004; [Acts 2009, No. 17](#), § 1, eff. Aug. 15, 2009; [Acts 2011, No. 186](#), § 3, eff. Aug. 15, 2011.

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La. R.S. 15:571.7

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> [TITLE 15.](#) > [CHAPTER 4.](#) > [PART 4.](#)

§ 15:571.7. Supervision upon release from parish prison after diminution of sentence for good behavior; conditions of release; revocation

- A. When a prisoner who has been sentenced to a parish prison in Orleans Parish is released because of diminution of sentence pursuant to this Part, he shall be released as if released on parole.
- B. A prisoner released in accordance with Subsection A herein shall be supervised by the sheriff, the keeper of the parish prison if not the sheriff, or, in Orleans Parish, the criminal sheriff of Orleans Parish. Such supervision shall be for the remainder of the original full term of the prisoner's sentence and shall be performed in the same manner and to the same extent as supervision of a prisoner committed to the Department of Public Safety and Corrections who is released on parole.
- C. The supervisor may make rules for the conduct of a prisoner while he is on release and may also require, either at the time of release or at any time while on release, that the prisoner conform to any of the following conditions:
 - (1) Residence in a community rehabilitation center.
 - (2) Restitution to a victim of the crime for which release is being sought, if such victim has suffered a direct pecuniary loss as a result of the crime. The supervisor shall take into account the prisoner's ability to pay and shall not revoke release based upon this condition unless the prisoner has willfully failed to comply.
 - (3) Community service work, as determined by the supervisor.
 - (4) Payment into a victim compensation fund, if such fund is established, in a manner and amount specified by law.
 - (5) Obtaining gainful employment.
 - (6) Continuing education or vocational training.
 - (7) Participation in a substance abuse treatment facility program or other counselling program.
 - (8) Any other condition which may presently be applied under [R.S. 15:574.4\(H\)](#) and (L) to a prisoner committed to the Department of Public Safety and Corrections who is released on parole.
- D. A prisoner released in accordance with this Section shall be subject to having the release revoked for violation of the release conditions. The supervisor shall establish rules and regulations governing the revocation of release.
- E. Upon revocation of release, the prisoner shall be recommitted to the parish prison and shall serve the remaining full term of his sentence.

History

La. R.S. 15:571.7

Added by Acts 1982, No. 574, § 1; Amended by Acts 1989, No. 194, § 2; Acts 1991, No. 289, § 7; [Acts 2011, 1st Ex. Sess., No. 18, § 1, eff. June 12, 2011.](#)

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La. R.S. 15:571.13

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> [TITLE 15.](#) > [CHAPTER 4.](#) > [PART 4.](#)

§ 15:571.13. Supervised release of parish prisoners; rules of conduct; revocation

- A. When a prisoner who has been sentenced to a parish prison is released pursuant to this Part, he may be released as if on parole.
- B. A prisoner released in accordance with Subsection A herein shall be supervised by the sheriff, the keeper of the parish prison if not the sheriff, or, in Orleans Parish, the criminal sheriff of Orleans Parish. Such supervision shall be for the remainder of the original full term of the prisoner's sentence and shall be performed in the same manner and to the same extent as supervision of a prisoner committed to the Department of Public Safety and Corrections who is released on parole.
- C. The supervisor may make rules for the conduct of a prisoner while he is on release and may also require, either at the time of release or at any time while on release, that the prisoner conform to the following conditions:
 - (1) Residence in a community rehabilitation or work release center.
 - (2) Restitution to a victim of the crime for which release is being sought, if such victim has suffered a direct pecuniary loss as a result of the crime.
 - (3) Community service work, as determined by the supervisor.
 - (4) Payment into a victim compensation or service fund.
 - (5) Obtaining gainful employment.
 - (6) Continuing education or vocational training.
 - (7) Participation in a substance abuse treatment facility program or other counselling program.
 - (8) Defraying the cost, or any portion thereof, of his supervision by making payments to the supervisor in a sum and manner to be determined by the supervisor, based on his ability to pay.
 - (9) Any other condition which may be applied under [R.S. 15:574.4\(H\)](#) to a prisoner committed to the Department of Public Safety and Corrections who is released on parole.
- D. A prisoner released in accordance with this Section shall be subject to having the release revoked for violation of the release conditions. The supervisor shall establish rules and regulations governing the revocation of release.
- E. Upon revocation of release, the prisoner shall be recommitted to the parish prison in order to serve the full term of his sentence.

History

Acts 1985, No. 712, § 1.

La. R.S. 15:571.13

LOUISIANA STATUTES ANNOTATED

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La. R.S. 15:574.4

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[Louisiana Statutes, Annotated by LexisNexis\(TM\)](#) > [LOUISIANA REVISED STATUTES](#) > [TITLE 15.](#) > [CHAPTER 5.](#) > [PART 2.](#) > [\(1\) COMMITTEE ON PAROLE AND RULES OF PAROLE](#)

§ 15:574.4. Parole; eligibility

- A.** (1) (a) Unless eligible at an earlier date and except as provided for in Subparagraph (b) of this Paragraph and Subsection B of this Section, a person, otherwise eligible for parole, convicted of a first felony offense shall be eligible for parole consideration upon serving thirty-three and one-third percent of the sentence imposed. Upon conviction of a second felony offense, such person shall be eligible for parole consideration upon serving fifty percent of the sentence imposed. A person convicted of a third or subsequent felony offense shall not be eligible for parole.
- (b)**
- (i)** Notwithstanding the provisions of Subparagraph (a) of this Paragraph, a person, otherwise eligible for parole, convicted of a first felony offense shall be eligible for parole consideration upon serving twenty-five percent of the sentence imposed. The provisions of this Subparagraph shall not apply to any person who has been convicted of a crime of violence as defined in [R.S. 14:2\(B\)](#), has been convicted of a sex offense as defined in [R.S. 15:541](#), has been sentenced as a habitual offender pursuant to [R.S. 15:529.1](#), or is otherwise ineligible for parole.
 - (ii)** Notwithstanding the provisions of Subparagraph (a) of this Paragraph, a person, otherwise eligible for parole, convicted of a second felony offense shall be eligible for parole consideration upon serving thirty-three and one-third percent of the sentence imposed. The provisions of this Item shall not apply to any person who has been convicted of a crime of violence as defined in [R.S. 14:2\(B\)](#), has been convicted of a sex offense as defined in [R.S. 15:541](#), has been sentenced as a habitual offender pursuant to [R.S. 15:529.1](#), or is otherwise ineligible for parole.
 - (iii)** Any person eligible for parole pursuant to the provisions of this Subparagraph shall not be eligible for parole pursuant to the provisions of Subparagraph (a) of this Paragraph.
 - (iv)** Nothing in this Subparagraph shall prevent a person from reapplying for parole as provided by rules adopted in accordance with the Administrative Procedure Act.
- (2)** Notwithstanding the provisions of Paragraph (1) of this Subsection or any other law to the contrary, unless eligible for parole at an earlier date, a person committed to the Department of Public Safety and Corrections for a term or terms of imprisonment with or without benefit of parole for thirty years or more shall be eligible for parole consideration upon serving at least twenty years of the term or terms of imprisonment in actual custody and upon reaching the age of forty-five. This provision shall not apply to a person serving a life sentence unless the sentence has been commuted to a fixed term of years. The provisions of this Paragraph shall not apply to any person who has been convicted under the provisions of [R.S. 14:64](#).

- (3) Notwithstanding the provisions of Paragraph (A)(1) or (2) of this Section or any other provision of law to the contrary, unless eligible for parole at an earlier date, a person committed to the Department of Public Safety and Corrections serving a life sentence for the production, manufacturing, distribution, or dispensing or possessing with intent to produce, manufacture, or distribute heroin shall be eligible for parole consideration upon serving at least fifteen years of imprisonment in actual custody.
- (4) Notwithstanding any other provision of law to the contrary, unless eligible for parole at an earlier date, a person committed to the Department of Public Safety and Corrections for a term or terms of imprisonment with or without benefit of parole who has served at least ten years of the term or terms of imprisonment in actual custody shall be eligible for parole consideration upon reaching the age of sixty years if all of the following conditions are met:
 - (a) The offender has not been convicted of a crime of violence as defined in [R.S. 14:2\(B\)](#) or a sex offense as defined in [R.S. 15:541](#), or convicted of an offense which would constitute a crime of violence as defined in [R.S. 14:2\(B\)](#) or a sex offense as defined in [R.S. 15:541](#), regardless of the date of conviction.
 - (b) The offender has not committed any disciplinary offenses in twelve consecutive months prior to the parole eligibility date.
 - (c) The offender has completed the mandatory minimum of one hundred hours of prerelease programming in accordance with the provisions of [R.S. 15:827.1](#) if such programming is available at the facility where the offender is incarcerated.
 - (d) The offender has completed substance abuse treatment as applicable.
 - (e) The offender has obtained a GED credential, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability. If the offender is deemed incapable of obtaining a GED credential, the offender shall complete at least one of the following: a literacy program, an adult basic education program, or a job-skills training program.
 - (f) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.

B.

- (1) No person shall be eligible for parole consideration who has been convicted of armed robbery and denied parole eligibility under the provisions of [R.S. 14:64](#). Except as provided in Paragraph (2) of this Subsection, and except as provided in Subsection D of this Section, no prisoner serving a life sentence shall be eligible for parole consideration until his life sentence has been commuted to a fixed term of years. No prisoner sentenced as a serial sexual offender shall be eligible for parole. No prisoner may be paroled while there is pending against him any indictment or information for any crime suspected of having been committed by him while a prisoner. Notwithstanding any other provisions of law to the contrary, a person convicted of a crime of violence and not otherwise ineligible for parole shall serve at least eighty-five percent of the sentence imposed, before being eligible for parole. The victim or victim's family shall

be notified whenever the offender is to be released provided that the victim or victim's family has completed a Louisiana victim notice and registration form as provided in [R.S. 46:1841](#) et seq., or has otherwise provided contact information and has indicated to the Department of Public Safety and Corrections, Crime Victims Services Bureau, that they desire such notification.

- (2) Notwithstanding any provision of law to the contrary, any person serving a life sentence, with or without the benefit of parole, who has not been convicted of a crime of violence as defined by [R.S. 14:2\(B\)](#), a sex offense as defined by [R.S. 15:541](#), or an offense, regardless of the date of conviction, which would constitute a crime of violence as defined by [R.S. 14:2\(B\)](#) or a sex offense as defined by [R.S. 15:541](#), shall be eligible for parole consideration as follows:
- (a) If the person was at least eighteen years of age and under the age of twenty-five years at the time he was sentenced to life imprisonment, he shall be eligible for parole consideration if all of the following conditions have been met:
- (i) The person has served at least twenty-five years of the sentence imposed.
 - (ii) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.
 - (iii) The person has not committed any disciplinary offenses in the twelve consecutive months prior to the parole eligibility date.
 - (iv) The person has completed the mandatory minimum of one hundred hours of pre-release programming in accordance with the provisions of [R.S. 15:827.1](#), if such programming is available.
 - (v) The person has completed substance abuse treatment, if applicable and such treatment is available.
 - (vi) The person has obtained a GED credential, unless the prisoner has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability or because such programming is not available. If the prisoner is deemed incapable of obtaining a GED credential, the person shall complete at least one of the following: a literacy program, an adult basic education program, or a job skills training program.
- (b) If the person was at least twenty-five years of age and under the age of thirty-five years at the time he was sentenced to life imprisonment, he shall be eligible for parole consideration if all of the following conditions have been met:
- (i) The person has served at least twenty years of the sentence imposed.
 - (ii) The person has obtained a low risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.
 - (iii) The person has not committed any disciplinary offenses in the twelve consecutive months prior to the parole eligibility date.
 - (iv) The person has completed the mandatory minimum of one hundred hours of pre-release programming in accordance with the provisions of [R.S. 15:827.1](#), if such programming is available.

- (v) The person has completed substance abuse treatment, if applicable and such treatment is available.
 - (vi) The person has obtained a GED credential, unless the prisoner has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability or because such programming is not available. If the prisoner is deemed incapable of obtaining a GED credential, the person shall complete at least one of the following: a literacy program, an adult basic education program, or a job skills training program.
- (c) If the person was at least thirty-five years of age and under the age of fifty years at the time he was sentenced to life imprisonment, he shall be eligible for parole consideration if all of the following conditions have been met:
- (i) The person has served at least fifteen years of the sentence imposed.
 - (ii) The person has obtained a low risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.
 - (iii) The person has not committed any disciplinary offenses in the twelve consecutive months prior to the parole eligibility date.
 - (iv) The person has completed the mandatory minimum of one hundred hours of pre-release programming in accordance with the provisions of [R.S. 15:827.1](#), if such programming is available.
 - (v) The person has completed substance abuse treatment, if applicable and such treatment is available.
 - (vi) The person has obtained a GED credential, unless the prisoner has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability or because such programming is not available. If the prisoner is deemed incapable of obtaining a GED credential, the person shall complete at least one of the following: a literacy program, an adult basic education program, or a job skills training program.
- (d) If the person was at least fifty years of age at the time he was sentenced to life imprisonment, he shall be eligible for parole consideration if all of the following conditions have been met:
- (i) The person has served at least ten years of the sentence imposed.
 - (ii) The person has obtained a low risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.
 - (iii) The person has not committed any disciplinary offenses in the twelve consecutive months prior to the parole eligibility date.
 - (iv) The person has completed the mandatory minimum of one hundred hours of pre-release programming in accordance with the provisions of [R.S. 15:827.1](#), if such programming is available.
 - (v) The person has completed substance abuse treatment if applicable and such treatment is available.

- (vi) The person has obtained a GED credential, unless the prisoner has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability or because such programming is not available. If the prisoner is deemed incapable of obtaining a GED credential, the person shall complete at least one of the following: a literacy program, an adult basic education program, or a job skills training program.

C.

- (1) At such intervals as it determines, the board or a member thereof shall consider all pertinent information with respect to each prisoner eligible for parole, including the nature and circumstances of the prisoner's offense, his prison records, the presentence investigation report, any recommendations of the chief probation and parole officer, and any information and reports of data supplied by the staff. A parole hearing shall be held if, after such consideration, the board determines that a parole hearing is appropriate or if such hearing is requested in writing by its staff.
- (2) (a) In cases where the offender has been convicted of, or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of a violation of a sex offense as defined in [R.S. 15:541](#) and parole is permitted by law and the offender is otherwise eligible, the board shall consider reports, assessments, and clinical information, as available, including any testing and recommendations by mental health professionals, as to all of the following:
 - (i) Whether the offender has successfully completed the sex offender program.
 - (ii) Whether, in the expert's opinion, there is a likelihood that the offender will or will not repeat the criminal conduct and that the offender will or will not be a danger to society.
- (b) The board shall render its decision ordering or denying the release of the prisoner on parole only after considering this clinical evidence where such clinical evidence is available.

- D.** (1) Notwithstanding any provision of law to the contrary, any person serving a sentence of life imprisonment who was under the age of eighteen years at the time of the commission of the offense, except for a person serving a life sentence for a conviction of first degree murder ([R.S. 14:30](#)) or second degree murder ([R.S. 14:30.1](#)), shall be eligible for parole consideration pursuant to the provisions of this Subsection if all of the following conditions have been met:

- (a) The offender has served thirty years of the sentence imposed.
- (b) The offender has not committed any disciplinary offenses in the twelve consecutive months prior to the parole eligibility date.
- (c) The offender has completed the mandatory minimum of one hundred hours of pre-release programming in accordance with [R.S. 15:827.1](#).
- (d) The offender has completed substance abuse treatment as applicable.
- (e) The offender has obtained a GED certification, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED certification due to a learning disability. If the offender is deemed incapable of obtaining a GED certification, the offender shall complete at least one of the following:

- (i) A literacy program.
 - (ii) An adult basic education program.
 - (iii) A job skills training program.
 - (f) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.
 - (g) The offender has completed a reentry program to be determined by the Department of Public Safety and Corrections.
 - (h) If the offender was convicted of aggravated rape, he shall be designated a sex offender and upon release shall comply with all sex offender registration and notification provisions as required by law.
- (2) For each offender eligible for parole consideration pursuant to the provisions of this Subsection, the board shall meet in a three-member panel and each member of the panel shall be provided with and shall consider a written evaluation of the offender by a person who has expertise in adolescent brain development and behavior and any other relevant evidence pertaining to the offender.
 - (3) The panel shall render specific findings of fact in support of its decision.

History

Amended by Acts Acts 1994, 3rd Ex. Sess., No. 58, § 1, eff. July 7, 1994; Acts 1995, No. 605, § 2, eff. June 18, 1995; Acts 1995, No. 1099, § 1, eff. Jan. 1, 1997; Acts 1995, No. 1290, § 2; Acts 1995, No. 1303, § 1; Acts 1997, No. 134, § 2, eff. Aug. 15, 1997; Acts 1997, No. 137, § 2, eff. Aug. 15, 1997; Acts 1997, No. 820, § 1, eff. Aug. 15, 1997; Acts 1997, No. 870, § 1, eff. Aug. 15, 1997; Acts 1997, No. 1148, § 2, eff. July 14, 1997; Acts 1997, No. 1396, § 1, eff. July 15, 1997; Acts 1999, No. 119, § 1, eff. Aug. 15, 1999; Acts 1999, No. 359, § 1, eff. Aug. 15, 1999; Acts 1999, No. 923, § 1, eff. Aug. 15, 1999; Acts 1999, No. 1150, § 1, eff. Aug. 15, 1999; Acts 1999, No. 1209, § 1, eff. Aug. 15, 1999; Acts 2001, No. 253, § 1, eff. Aug. 15, 2001; Acts 2001, No. 611, § 1, eff. Aug. 15, 2001; Acts 2001, No. 1206, § 1, eff. Aug. 15, 2001; Acts 2003, No. 587, § 1, eff. Aug. 15, 2003; Acts 2003, No. 868, § 1, eff. Aug. 15, 2003; Acts 2005, No. 337, § 1, eff. Aug. 15, 2005; Acts 2006, No. 26, § 1, eff. Aug. 15, 2006; Acts 2006, No. 59, § 1, eff. Aug. 15, 2006; Acts 2006, No. 68, § 1, eff. Aug. 15, 2006; [Acts 2008, No. 266](#), § 2, eff. Aug. 15, 2008; [Acts 2008, No. 337](#), § 1, eff. Aug. 15, 2008; [Acts 2008, No. 624](#), § 1, eff. Aug. 15, 2008; [Acts 2009, No. 362](#), § 1, eff. Aug. 15, 2009; [Acts 2009, No. 533](#), § 2, eff. Aug. 15, 2009; [Acts 2010, No. 241](#), § 1, eff. Aug. 15, 2010; [Acts 2011, No. 253](#), § 1, eff. Aug. 15, 2011; [Acts 2011, No. 285](#), § 1, eff. Aug. 15, 2011; [Acts 2012, No. 159](#), § 1, eff. Aug. 1, 2012; [Acts 2012, No. 401](#), § 1, eff. Aug. 1, 2012; [Acts 2012, No. 466](#), § 1, eff. Aug. 1, 2012.

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La. R.S. 15:574.4.1

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§ 15:574.4.1. Parole consideration and hearings

A.

- (1) The parole hearings shall be conducted in a formal manner in accordance with the rules formulated by the board and with the provisions of this Part. Before the parole of any prisoner is ordered, such prisoner shall appear before and be interviewed by the board, except those incarcerated in parish prisons or parish correctional centers, in which case one board member may conduct the interview. The board may order a reconsideration of the case or a rehearing at any time.
- (2) The crime victim or the victim's family, a victim advocacy group, and the district attorney or his representatives, may appear before the Board of Parole by means of telephone communication from the office of the local district attorney.

B. The board shall render its decision ordering or denying the release of the prisoner on parole within thirty days after the hearing. A parole shall be ordered only for the best interest of society, not as an award of clemency, and upon determination by the board that there is reasonable probability that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen so that he can be released without detriment to the community or to himself.

C. All paroles shall issue upon order of the board and each order of parole shall recite the conditions thereof; provided, however, that before any prisoner is released on parole he shall be provided with a certificate of parole that enumerates the conditions of parole. These conditions shall be explained to the prisoner and the prisoner shall agree in writing to such conditions.

D. The release date of the prisoner shall be fixed by the board, but such date shall not be later than six months after the parole hearing or the most recent reconsideration of the prisoner's case.

History

[Acts 2010, No. 241](#), § 1, *eff. Aug. 15, 2010*.

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La. R.S. 15:574.4.2

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<p>§ 15:574.4.2. Decisions of committee on parole; nature, order, and conditions of parole; rules of conduct; infectious disease testing</p>

A.

- (1) The committee on parole may make rules for the conduct of persons heretofore or hereafter granted parole. When a prisoner is released on parole, the committee shall require as a condition of his parole that he refrain from engaging in criminal conduct.
- (2) The committee may also require, either at the time of his release on parole or at any time while he remains on parole, that he conform to any of the following conditions of parole which are deemed appropriate to the circumstances of the particular case:
 - (a) Report, no later than forty-eight hours after being placed on parole, to the division of probation and parole office of the Department of Public Safety and Corrections which is listed on the certificate of parole.
 - (b) Reside at the address listed on the certificate of parole. Obtain written permission from the probation and parole officer prior to moving from this address or written permission prior to leaving the state of Louisiana.
 - (c) Submit a monthly report by the fifth day of every month until supervision is completed and report when ordered to do so by the probation and parole officer.
 - (d) Not engage in any criminal activity, nor associate with people who are known to be involved in criminal activity. Avoid bars and casinos and refrain from the use of illegal drugs or alcohol.
 - (e) Pay supervision fees in an amount set by the Department of Public Safety and Corrections as provided by law. Payments are due on the first day of each month.
 - (f) Be employed at a lawful occupation. Employment shall be approved by the probation and parole officer. If employment is terminated, immediately report this to the probation and parole officer.
 - (g) Truthfully and promptly answer all questions as directed by the probation and parole officer.
 - (h) Submit to available medical, mental health or substance abuse exams, treatment, or both when ordered to do so by the probation and parole officer. Submit to drug and alcohol screens at personal expense.
 - (i) Agree to visits at residence or place of employment by the probation and parole officer at any time. Further agrees to searches of person, property, residence, or vehicle, when reasonable suspicion exists that criminal activity has been engaged in while on parole.
 - (j) Not possess or be in control of any firearms or dangerous weapons.

- (k) Waive extradition to the state of Louisiana from any jurisdiction in or outside of the United States and agree not to contest any effort by any jurisdiction for return to the state of Louisiana.
- (3) For those persons who have been convicted of a "sex offense" as defined in [R.S. 15:541](#), agree to searches of his person, his property, his place of residence, his vehicle, or his personal effects, or any or all of them, at any time, by a law enforcement officer, duly commissioned in the parish or municipality where the sex offender resides or is domiciled, designated by his agency to supervise sex offenders, with or without a warrant of arrest or with or without a search warrant, when the officer has reasonable suspicion to believe that the person who is on parole is engaged in or has been engaged in criminal activity for which the person has not been charged or arrested while on parole.
- (4) No offender, who is the parent, stepparent, or has legal custody and physical custody of the child who is the victim, shall be released on parole unless the victim has received psychological counseling prior to the offender's release if the offender is returning to the residence or community in which the child resides. Such psychological counseling shall include an attempt by the health care provider to ease the psychological impact upon the child of the notice required by the provisions of [R.S. 15:574.4.3](#), including assisting the child in coping with potential insensitive comments and actions by the child's neighbors and peers. The cost of such counseling shall be paid by the offender.
- (5) If parole is revoked for any reason, all good time earned or any additional credits earned or which could have been earned on that portion of the sentence served prior to the granting of parole shall be forfeited, and the parolee shall serve the remainder of the sentence as of the date of release on parole.
- B.** At the time these written conditions are given, the committee shall notify the parolee that:
- (1) If he is arrested while on parole, the committee has the authority to place a detainer against him which will in effect prevent him from making bail pending any new charges against him; and
- (2) Should his parole be revoked for any reason, good time earned prior to parole and good time that would have been earned if parole had not been granted will be forfeited, as required by [R.S. 15:571.4](#).
- C.**
- (1) When a victim of the crime for which parole is being considered has suffered a direct pecuniary loss other than damage to or loss of property, the parole committee may impose as a condition of parole that restitutions to the victim be made. When such a condition is imposed, the committee shall take into account the defendant's ability to pay and shall not revoke parole based upon this condition unless the parolee has willfully failed to comply. When the victim's loss consists of damage to or loss of property, the committee shall impose as a condition of parole payment of restitution, either in a lump sum or in monthly installments based on the earning capacity and assets of the defendant. If the victim was paid for such property loss or damage with monies from the Crime Victims Reparations Fund, the committee shall order the parolee to make such payments as reimbursement to the fund in the same amount as was paid from the fund to the victim. This condition of parole shall continue until such time as the res-

titution is paid or the parolee is discharged from parole in accordance with [R.S. 15:574.6](#).

- (2) Nothing herein shall affect a victim's civil remedy except that funds actually received shall be credited to any civil judgment arising out of the same offense.
- D.** If the prisoner has not paid and is liable for any costs of court or costs of the prosecution or proceeding in which he was convicted or any fine imposed as a part of his sentence, the committee on parole shall require as a condition of parole the payment of such costs or fine, either in a lump sum or according to a schedule of payments established by the committee and based upon the prisoner's ability to pay.
- E.** Before the committee on parole places a person on parole, the committee shall determine if he has a high school diploma or its equivalent and, if he does not, the committee shall condition parole upon the parolee's enrolling in and attending an adult education or reading program until he obtains a GED credential, or until he completes such educational programs required by the committee, and has attained a sixth grade reading level, or until his term of parole expires, whichever occurs first. All costs shall be paid by the parolee. If the committee finds that there are no adult education or reading programs in the parish in which the parolee is domiciled, the parolee is unable to afford such a program, or attendance would create an undue hardship on the parolee, the committee may suspend this condition of parole. The provisions of this Subsection shall not apply to those parolees who are mentally, physically, or by reason of age, infirmity, dyslexia, or other such learning disorders, unable to participate.
- F.** The collection of the supervision fee imposed pursuant to Subparagraph (A)(2)(o) of this Section shall be suspended upon the transfer of an offender to another state for parole supervision in that state, pursuant to the interstate compact for out-of-state parolee supervision as provided in [R.S. 15:574.31](#) et seq.
- G.**
- (1) Before placing a person on parole, the committee on parole shall require that person to submit to a test designed to determine whether he is infected with a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS and viral hepatitis.
 - (2) The procedure or test shall be performed by a qualified physician or other qualified person who shall notify the parolee of the test results.
 - (3) If the person tested under the provisions of this Subsection tests positive for a sexually transmitted disease, AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS and viral hepatitis, he shall be referred to the appropriate health care and support services. If the person tested positive, the granting of the parole shall be conditioned upon the person seeking advice and counseling from the appropriate health care and support services. Failure to seek or follow that advice shall result in the revocation of that person's parole.
 - (4) The costs associated with this testing shall be paid by the person tested.
 - (5) The provisions of this Subsection shall not apply to inmates released because of diminution of sentence under [R.S. 15:571.3](#).

[Acts 2009, No. 299](#), § 2, eff. July 1, 2009; [Acts 2010, No. 241](#), §§ 1, 2, eff. Aug. 15, 2010; [Acts 2011, No. 219](#), § 2, eff. Aug. 15, 2011; [Acts 2012, No. 241](#), § 1, eff. Aug. 1, 2012.

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La. R.S. 15:574.4.3

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§ 15:574.4.3. Parole requirements for certain sex offenders

A.

- (1) Before having a parole hearing for any offender who has been convicted of a violation of a sex offense as defined in [R.S. 15:541](#), when the law permits parole consideration for that offense, and when according to law an offender convicted of one of those offenses is otherwise eligible for parole, the committee shall give written notice of the date and time of the parole hearing at least three days prior to the hearing to the victim or the victim's parent or guardian, unless the victim, parent, or guardian has advised the committee on parole in writing that such notification is not desired.
- (2) The victim or the victim's parent or guardian who desires to do so shall be given a reasonable opportunity to attend the hearing and to be heard.

B. If a person who is otherwise eligible for intensive parole supervision pursuant to [R.S. 15:574.4.4](#), has been convicted of one of the sexual offenses enumerated in this Section and the intensive parole supervision is applicable to any of those enumerated crimes, then the provisions of this Section shall apply.

C. If a person, who is otherwise eligible for diminution of sentence for good behavior pursuant to [R.S. 15:571.3](#), has been convicted of one of the sexual offenses enumerated in this Section and the diminution of sentence for good behavior is applicable to any of those enumerated crimes, then the provisions of this Section shall apply.

D.

- (1) In cases where the offender has been convicted of or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of a violation of a sex offense as defined in [R.S. 15:541](#), including criminal sexual offenders under the supervision and legal authority of the Department of Public Safety and Corrections pursuant to the terms and conditions of the Interstate Compact for Adult Offender Supervision provided for in [R.S. 15:574.31](#) through 574.44, and parole is permitted by law and the offender is otherwise eligible, and when the committee releases an offender on parole, the committee shall order the offender to register as a sex offender and provide notification in accordance with the provisions of [R.S. 15:540](#) et seq.
- (2) The committee shall mail notice within three days after it makes a decision to release a sexual offender, as enumerated and pursuant to the circumstances in this Paragraph, on parole. The notice shall contain the address where the defendant will reside, a statement that the offender will be released on parole, and the date he will be released and shall be mailed to the victim or the victim's parent or guardian if the victim or a relative was not present at the parole hearing of the offender, and the notice shall be sent to their last known address by registered or certified letter, unless the victim or relative has signed a written waiver of notification.

E.

- (1) In cases where parole is permitted by law and the offender is otherwise eligible, the committee on Parole shall not grant parole to any sex offender either by an order of the committee on Parole or office of adult services pursuant to [R.S. 15:571.3](#) until the Department of Public Safety and Corrections, division of probation and parole, has assessed and approved the suitability of the residence plan of such offender. In approving the residence plan of the offender, the department shall consider the likelihood that the offender will be able to comply with all of the conditions of his parole.
- (2) For purposes of this Section, "sex offender" shall mean any offender who has been convicted of, or where adjudication has been deferred or withheld for, the perpetration or attempted perpetration of a violation of a sex offense as defined in [R.S. 15:541](#).

F.

- (1) In cases where the offender has been convicted of or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of a sex offense as defined in [R.S. 15:541](#) and the victim of that offense is a minor, the committee may, if the department has the equipment and appropriately trained personnel, as an additional condition of parole, authorize the use of truth verification examinations to determine if the offender has violated a condition of parole. If ordered by the committee as a condition of parole, the Department of Public Safety and Corrections, division of probation and parole, is hereby authorized to administer a truth verification examination pursuant to the committee's order and the provisions of this Subsection.
- (2) Any examination conducted pursuant to the provisions of this Subsection shall be subsequent to an allegation that the offender has violated a condition of parole or at the discretion of the parole officer who has reason to believe that the offender has violated a condition of parole.
- (3) The truth verification examination shall be conducted by a trained certified polygraphist or voice stress examiner.
- (4) The results of the truth verification examination may be considered in determining the level of supervision and treatment needed by the offender and in the determination of the parole officer as to whether the offender has violated a condition of parole; however, such results shall not be used by the committee as the basis for a finding that a violation of a condition of parole has occurred.
- (5) The sexual offender may request a second truth verification examination to be conducted by a trained and certified polygraphist or voice stress examiner of his choice. The cost of the second examination shall be borne by the offender.
- (6) For purposes of this Subsection:
 - (a) "Polygraph examination" shall mean an examination conducted with the use of an instrument or apparatus for simultaneously recording cardiovascular pressure, pulse and respiration, and variations in electrical resistance of the skin.
 - (b) "Truth verification examination" shall include a polygraph examination or a voice stress analysis.
 - (c) "Voice stress analysis" shall mean an examination conducted with the use of an instrument or apparatus which records psychophysiological stress responses that are present in a human voice when a person suffers psychological stress in response to a stimulus.

History

[Acts 2010, No. 241](#), § 1, eff. Aug. 15, 2010; [Acts 2012, No. 705](#), § 1, eff. Aug. 1, 2012.

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La. R.S. 15:574.4.4

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§ 15:574.4.4. Parole; intensive parole supervision; eligibility

- A. Notwithstanding the provisions of [R.S. 15:574.4\(A\)\(1\)](#), a person, otherwise eligible for parole, convicted of a nonviolent first felony offense and committed to the Department of Public Safety and Corrections, or of a nonviolent second felony offense and committed to the Department of Public Safety and Corrections, may be eligible for intensive parole supervision upon successful completion of intensive incarceration. In addition, any person convicted of a first or second offense for possession of amphetamine or methamphetamine or cocaine or oxycodone or methadone or of a first offense for distribution, dispensing, or possession with intent to produce, manufacture, distribute, or dispense amphetamine or methamphetamine or cocaine or oxycodone or methadone, in violation of [R.S. 40:967\(B\)\(1\)](#) or [R.S. 40:967\(B\)\(4\)\(b\)](#) when the amount of amphetamine or methamphetamine or cocaine or oxycodone or methadone involved was twenty-eight grams or less, may be eligible to participate in the intensive incarceration program. Notwithstanding the provisions of [R.S. 40:967\(B\)\(4\)\(b\)](#), a person otherwise eligible for participation in the intensive incarceration program may be eligible for intensive parole supervision upon successful completion of intensive incarceration. The intensive incarceration and intensive parole supervision program shall be established and administered by the department. The offender may be considered for participation in the program if all of the following conditions are met:
- (1) The offender is sentenced to be committed to the Department of Public Safety and Corrections to serve ten years or less.
 - (2) The department, through the division of probation and parole within the office of adult services, recommends to the sentencing court that the offender is particularly likely to respond affirmatively to participation in the program.
 - (3) The court at sentencing recommends that the offender be considered for participation in the program.
 - (4) The secretary of the department, or his designee, finds, after an evaluation, that the offender is particularly likely to respond affirmatively to participation in the program.
 - (5) The offender voluntarily enrolls in the program after having been advised by the department of the rules and regulations governing participation in the program.
 - (6) The court sentences an offender in the drug division probation program pursuant to [R.S. 13:5304](#).
- B. Notwithstanding the provisions of [R.S. 15:574.4\(A\)\(1\)](#), an offender who is otherwise eligible for intensive incarceration and intensive parole supervision, but who has not been recommended for participation in the intensive incarceration and intensive parole supervision program by the division of probation and parole or the sentencing judge, as provided for in Paragraphs (A)(2) and (3) of this Section, may additionally be placed in the intensive incarceration and intensive parole supervision program if all of the following conditions are met:

- (1) The staff at the adult reception and diagnostic center, after a thorough evaluation, determines that the offender is suitable and appropriate for participation.
- (2) The warden at the adult reception and diagnostic center concurs with the staff recommendation.
- (3) The warden of the facility where the offender would be placed concurs with the recommendation of the staff and warden of the adult reception and diagnostic center.
- (4) The offender meets other conditions of participation as set forth in Paragraphs (A)(1), (4), and (5) of this Section.

C.

- (1) Notwithstanding the provisions of [R.S. 15:574.4\(A\)\(1\)](#), a person, otherwise eligible for parole, convicted of a first felony offense and committed to the Department of Public Safety and Corrections, or of a second felony offense and committed to the Department of Public Safety and Corrections, may be eligible for intensive parole supervision upon successful completion of intensive incarceration. The intensive incarceration and intensive parole supervision program shall be established and administered by the department.
- (2) The court may sentence an offender directly to the program if the court commits the offender to the Department of Public Safety and Corrections to serve ten years or less.

D. For purposes of this Section, a "first offender" shall not have been convicted previously of another felony as provided in [R.S. 15:572\(C\)](#) and shall not have been granted an automatic pardon as provided in [R.S. 15:572\(B\)](#).

E. The duration of intensive incarceration shall not be less than one hundred eighty calendar days.

F. The participating offender shall be evaluated by the program staff on a continual basis throughout the entire period of intensive incarceration. The evaluation shall include the offender's performance while incarcerated, the likelihood of successful adjustment on parole, and other factors deemed relevant by the Board of Parole or the program staff. The evaluation shall provide the basis for the recommendations by the department to the Board of Parole upon the offender's completion of intensive incarceration. Violation of any institutional or program rules or regulations may subject the participant to removal from the program by the department.

G.

- (1) If an offender is denied entry into the intensive incarceration program for physical or mental health reasons or for failure to meet the department's suitability criteria, the department shall notify the sentencing court, and based upon the court's order, shall either return the offender to court for resentencing in accordance with the provisions of the [Code of Criminal Procedure Article 881.1](#) or return the offender to a prison to serve the remainder of his sentence as provided by law.
- (2) If an offender enters the intensive incarceration program and is subsequently removed for physical or mental health reasons or for failure to meet the department's suitability criteria, the department shall notify the sentencing court and, based upon the court's order, shall either return the offender to court for resentencing in accordance with the provisions of [Code of Criminal Procedure Article 881.1](#) or return the offender to a prison to serve the remainder of his sentence as provided by law. If an offender enters

the intensive incarceration program and is removed for violating any institutional or program rules or regulations, the offender shall be assigned to the general population to serve the remainder of his sentence as provided by law.

- H.** When an offender completes intensive incarceration, the Board of Parole shall review the case of the offender and recommend either that the offender be released on intensive parole supervision or that the offender serve the remainder of his sentence as provided by law. When the offender is released to intensive parole supervision by the board, the board shall require the offender to comply with the following conditions of intensive parole supervision in addition to any other conditions of parole ordered by the board:
- (1) Be subject to multiple monthly visits with his supervising officers without prior notice.
 - (2) Abide by any curfew set by his supervising officers.
 - (3) Perform at least one hundred hours of unpaid community service work during the period of intensive parole supervision and, if unemployed, perform additional hours as instructed by his supervising officers.
 - (4) Refrain from using or possessing any controlled dangerous substance or alcoholic beverage and submit, at his own expense, to screening, evaluation, and treatment for controlled dangerous substance or alcohol abuse as directed by his supervising officers.
 - (5) Pay any costs as ordered by the sentencing court or Board of Parole.
- I.** In cases in which the Board of Parole determines that there is victim opposition to parole, that the offender has a questionable disciplinary record, or that other extraordinary circumstances exist, the board may conduct a hearing to consider intensive parole supervision for the offender having successfully completed intensive incarceration, which shall be public and conducted in the same manner as parole hearings as otherwise provided in this Part. Otherwise the decision shall be made upon the approval or disapproval of a majority of the members of the board without necessity of a hearing, after a review of all available information on the offender, including the pre-parole report prepared by the department.
- J.** In cases in which the court sentences a defendant in the drug division probation program for a technical violation of probation, the offender shall return to active supervised probation with the drug division probation program for a period as ordered by the court, subject to any additional conditions imposed by the court.
- K.** Notwithstanding the provisions of [R.S. 15:574.4\(A\)\(1\)](#), a person otherwise eligible for parole who is convicted of a nonviolent first felony offense may be committed to the Department of Public Safety and Corrections pursuant to the provisions of [Code of Criminal Procedure Article 895\(B\)\(3\)](#) to serve a sentence of not more than six months without diminution of sentence in the intensive incarceration program pursuant to the provisions of this Section.

History

[Acts 2008, No. 266](#), § 2, eff. Aug. 15, 2008; [Acts 2009, No. 168](#), § 2, eff. Aug. 15, 2009; [Acts 2009, No. 182](#), § 2, eff. Aug. 15, 2009; Redesignated from [R.S. 15:574.4.1](#) by [Acts 2010, No. 241](#), § 2, eff. Aug. 15, 2010.

La. R.S. 15:574.4.4

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La. R.S. 15:574.6

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§ 15:574.6. Parole term; automatic discharge

The parole term, when the board orders a prisoner released on parole, shall be for the remainder of the prisoner's sentence, without any diminution of sentence for good behavior. When the parolee has completed his full parole term, he shall be discharged from parole by the Department of Public Safety and Corrections without order by the board, provided that:

- (1) No warrant has been issued by the board for the arrest of the parolee.
- (2) No detainer has been issued by the parole officer for the detention of the parolee pending revocation proceedings.
- (3) No indictment or bill of information is pending for any felony the parolee is suspected to have committed while on parole.

History

Acts 1968, No. 191, § 1; Acts 1991, No. 117, § 1.

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§ 15:574.7. Custody and supervision of parolees; modification or suspension of supervision; violation of conditions of parole; sanctions; alternative conditions; administrative sanctions

- A.** Each parolee shall remain in the legal custody of the Department of Public Safety and Corrections, corrections services, and shall be subject to the orders and supervision of the board. At the direction of the board, the chief probation and parole officer shall be responsible for the investigation and supervision of all parolees. The board may modify or suspend such supervision upon a determination that a parolee who had conducted himself in accordance with the conditions of his parole no longer needs the guidance and supervision originally imposed.
- B.** (1) At the time a defendant is released on parole, the Board of Parole may make a determination as to whether a defendant is eligible for the imposition of administrative sanctions as provided for in this Section. If authorized to do so by the board, each time a parolee violates a condition of parole, a parole officer may use administrative sanctions to address a technical violation committed by a parolee when all of the following occur:
- (a) The parolee, after receiving written notification of his right to a hearing before a court and right to counsel, provides a written waiver of a parole violation hearing.
 - (b) The parolee admits to the violation or affirmatively chooses not to contest the violation alleged in the parole violation report.
 - (c) The parolee consents to the imposition of administrative sanctions by the Department of Public Safety and Corrections.
- (2) The department shall promulgate rules to implement the provisions of this Subsection to establish the following:
- (a) A system of structured, administrative sanctions which shall be imposed for technical violations of parole and which shall take into consideration the following factors:
 - (i) The severity of the violation behavior.
 - (ii) The prior violation history.
 - (iii) The severity of the underlying criminal conviction.
 - (iv) The criminal history of the parolee.
 - (v) Any special circumstances, characteristics, or resources of the parolee.
 - (vi) Protection of the community.
 - (vii) Deterrence.
 - (viii) The availability of appropriate local sanctions, including but not limited to jail, treatment, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day reporting centers, or other local sanctions.

- (b) Procedures to provide a parolee with written notice of the right to a parole violation hearing to determine whether the parolee violated the conditions of parole alleged in the violation report and the right to be represented by counsel at state expense at that hearing if financially eligible.
 - (c) Procedures for a parolee to provide written waiver of the right to a parole violation hearing, to admit to the violation or affirmatively choose not to contest the violation alleged in the parole violation report, and to consent to the imposition of administrative sanctions by the department.
 - (d) The level and type of sanctions that may be imposed by parole officers and other supervisory personnel.
 - (e) The level and type of violation behavior that warrants a recommendation to the board that parole be revoked.
 - (f) Procedures notifying the parolee and the Board of Parole of a violation admitted by the parolee and the administrative sanctions imposed.
 - (g) Such other policies and procedures as are necessary to implement the provisions of this Subsection and to provide adequate parole supervision.
- (3) If the administrative sanction imposed pursuant to the provisions of this Subsection is jail confinement, the confinement shall not exceed ten days per violation and shall not exceed a total of sixty days per year.
- (4) For purposes of this Subsection, "technical violation" means any violation of a condition of parole as defined in [R.S. 15:574.9\(G\)\(2\)](#).
- C. (1) If the chief probation and parole officer, upon recommendation by a parole officer, has reasonable cause to believe that a parolee has violated the conditions of parole, he shall notify the board, and shall cause the appropriate parole officer to submit the parolee's record to the board. After consideration of the record submitted, and after such further investigation as it may deem necessary, the board may order:
- (a) The issuance of a reprimand and warning to the parolee.
 - (b) That the parolee be required to conform to one or more additional conditions of parole which may be imposed in accordance with [R.S. 15:574.4](#).
 - (c) That the parolee be arrested, and upon arrest be given a prerevocation hearing within a reasonable time, at or reasonably near the place of the alleged parole violation or arrest, to determine whether there is probable cause to detain the parolee pending orders of the parole board.
- (2) Upon receiving a summary of the prerevocation proceeding, the board may order the following:
- (a) The parolee's return to the physical custody of the Department of Public Safety and Corrections, corrections services, to await a hearing to determine whether his parole should be revoked.
 - (b) As an alternative to revocation, that the parolee, as a condition of parole, be committed to a community rehabilitation center or a substance abuse treatment program operated by, or under contract with, the department, for a period of time not to exceed six months, without benefit of good time, provided that such commitment does not extend the period of parole beyond the full parole term. Upon written request of the department that the offender be removed for

violations of the rules or regulations of the community rehabilitation center or substance abuse program, the board shall order that the parole be revoked, with credit for time served in the community rehabilitation center.

History

Added by Acts 1968, No. 191, § 1; Amended by Acts 1974, No. 120, § 1; Acts 1988, No. 380, § 1; Acts 1992, No. 301, § 1; [Acts 2010, No. 861](#), § 7, *eff. Aug. 15, 2010*; [Acts 2011, No. 104](#), § 1, *eff. Aug. 15, 2011*.

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La. R.S. 15:574.8

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§ 15:574.8. Parole officers; powers of arrest; summary arrest and detention of parolees

- A. Parole officers shall be deemed to be peace officers and shall have the same powers with respect to criminal matters and the enforcement of the law relating thereto as sheriffs, constables, and police officers have in their respective jurisdictions. They have all the immunities and matters of defense now available or hereafter made available to sheriffs, constables, and police officers in any suit brought against them in consequence of acts done in the course of their employment.
- B. If a parole officer has reasonable cause to believe that a parolee has violated or is attempting to violate a condition of his parole and that an emergency exists, so that awaiting action by the board under [R.S. 15:574.7](#) would create an undue risk to the public or to the parolee, such parole officer may arrest the parolee without a warrant or may authorize any peace officer to do so. The authorization may be in writing or oral, but if not written, shall be subsequently confirmed by a written statement. The written authorization or subsequent confirmation shall set forth that, in the judgment of the parole officer, the person to be arrested has violated or was attempting to violate a condition of his parole. The parolee arrested hereunder, if detained, shall be held in a local jail, state prison, or other detention facility, pending action by the board. Immediately after such arrest and detention, the parole officer concerned shall notify the chief probation and parole officer and submit a written report of the reason for the arrest. After consideration of the written report, the chief probation and parole officer shall, with all practicable speed, make a preliminary determination, and shall either order the parolee's release from detention or proceed promptly in accordance with [R.S. 15:574.7](#).

History

Added by Acts 1952, No. 162, § 7; Amended by Acts 1956, No. 66, § 1; Acts 1968, No. 191, § 1; Acts 2001, No. 608, § 1, eff. Aug. 15, 2001; [Acts 2010, No. 924](#), § 2, eff. July 2, 2010.

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§ 15:574.9. Revocation of parole for violation of condition; board panels; return to custody hearing; duration of reimprisonment and reparole after revocation; credit for time served; revocation for a technical violation

- A. When a parolee has been returned to the physical custody of the Department of Public Safety and Corrections, office of corrections services, the board shall hold a hearing to determine whether his parole should be revoked, unless said hearing is expressly waived in writing by the parolee. A waiver shall constitute an admission of the findings of the pre-revocation proceeding and result in immediate revocation. If the revocation hearing is not waived, the parolee shall be permitted to consult with and be advised and represented by his own legal counsel or legal counsel appointed under the provisions of [R.S. 15:179](#). At the hearing the parolee may admit, deny, or explain the violation charged, and he may present proof, including affidavits and other evidence, in support of his contentions. Upon request of the parolee, the parole board may postpone the rendering of its decision for a specified reasonable time pending receipt of further information necessary to a final determination.
- B. The board may order revocation of parole upon a determination that:
- (1) The parolee has failed, without a satisfactory excuse, to comply with a condition of his parole; and
 - (2) The violation of condition involves the commission of another felony, or misconduct including a substantial risk that the parolee will commit another felony, or misconduct indicating that the parolee is unwilling to comply with proper conditions of parole.
- C. Other than for conviction of a felony committed while on parole, action revoking a parolee's parole and recommitting him for violation of the condition of parole must be initiated before the expiration of his parole term. When a warrant for arrest is issued by the Board of Parole or a detainer is issued by the parole officer, the running of the period of parole shall cease as of the time the warrant or detainer is issued. A parolee under supervision in this state or another state, who has absented himself from the supervising jurisdiction, or from his place of residence, without proof of permission for such absence, shall be deemed a fugitive from justice and shall be returned to the physical custody of the Department of Public Safety and Corrections for a revocation hearing by the Board of Parole, without necessity of a prerevocation or probable cause hearing, at or near the place of the arrest or violation. No credit shall be applied toward completing the full parole term for the period of time the parolee was a fugitive from justice.
- D. Parole revocation shall require two votes of a three-member panel of parole board members or, if the number of members present exceeds a three-member panel, a majority vote of those members present and voting, and the order of revocation shall be reduced to writing and preserved.
- E. When the parole of a parolee has been revoked by the board for violation of the conditions of parole, the parolee shall be returned to the physical custody of the Department of

Public Safety and Corrections, corrections services, and serve the remainder of his sentence as of the date of his release on parole, and any credit for time served for good behavior while on parole. The parolee shall be given credit for time served prior to the revocation hearing for time served in actual custody while being held for a parole violation in a local detention facility, state institution, or out-of-state institution pursuant to [Code of Criminal Procedure Article 880](#).

- F.** Any such prisoner whose parole has been revoked may be considered by the board for reparole in accordance with the provisions of this Part.
- G.** (1) (a) Except as provided in Subparagraph (b) of this Paragraph, any offender who has been released on parole and whose parole supervision is being revoked under the provisions of this Subsection for his first technical violation of the conditions of parole as determined by the Board of Parole, shall be required to serve not more than ninety days without diminution of sentence or credit for time served prior to the revocation for a technical violation. The term of the revocation for the technical violation shall begin on the date the Board of Parole orders the revocation. Upon completion of the imposed technical revocation sentence, the offender shall return to active parole supervision for the remainder of the original term of supervision. The provisions of this Subsection shall apply only to an offender's first revocation for a technical violation.
- (b) The provisions of Subparagraph (a) of this Paragraph shall not apply to the following offenders:
- (i) Any offender released on parole for the conviction of a crime of violence as defined in [R.S. 14:2\(B\)](#).
 - (ii) Any offender released on parole for the conviction of a sex offense as defined in [R.S. 15:541](#).
 - (iii) Any offender released on parole who is subject to the sex offender registration and notification requirements of [R.S. 15:541](#) et seq.
- (2) A "technical violation", as used in this Subsection, means any violation except it shall not include any of the following:
- (a) Being arrested, charged, or convicted of any of the following:
 - (i) A felony.
 - (ii) Repealed by [Acts 2010, No. 510](#), § 1, effective August 15, 2010.
 - (iii) Any intentional misdemeanor directly affecting the person.
 - (iv) At the discretion of the Board of Parole, any attempt to commit any intentional misdemeanor directly affecting the person.
 - (v) At the discretion of the Board of Parole, any attempt to commit any other misdemeanor.
 - (b) Being in possession of a firearm or other prohibited weapon.
 - (c) Failing to appear at any court hearing.
 - (d) Absconding from the jurisdiction of the Board of Parole.

Added by Acts 1968, No. 191, § 1; Amended by Acts 1974, No. 106, § 1; Acts 1974, No. 198, § 1; Acts 1974, No. 203, § 1; Acts 1985, No. 196, § 1, eff. July 6, 1985; Acts 1985, No. 930, § 2, eff. July 23, 1985; Acts 1988, No. 380, § 1; Acts 1990, No. 330, § 1; Acts 1991, No. 116, § 1; Acts 1991, No. 118, § 1; Acts 1995, No. 1011, § 1; Acts 2001, No. 608, § 1, eff. Aug. 15, 2001; Acts 2006, No. 113, § 2, eff. Aug. 15, 2006; [Acts 2007, No. 402](#), § 2, eff. Aug. 15, 2007; [Acts 2008, No. 220](#), § 6, eff. June 14, 2008; [Acts 2010, No. 510](#), § 1, eff. Aug. 15, 2010; [Acts 2010, No. 520](#), § 1, eff. Aug. 15, 2010; [Acts 2010, No. 792](#), § 1, eff. Aug. 15, 2010; [Acts 2011, No. 186](#), § 3, eff. Aug. 15, 2011.

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La. R.S. 15:574.10

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§ 15:574.10. Conviction of a felony while on parole

When a person is convicted in this state of a felony committed while on parole or is convicted under the laws of any other state or of the United States or any foreign government or country of an offense committed while on parole, and which if committed in this state would be a felony, his parole shall be deemed revoked as of the date of the commission of the felony or such offense under the laws of the other jurisdiction. His parole officer shall inform the sentencing judge of the fact that the convicted defendant is a parole violator. The term for which the defendant shall be imprisoned as a parole violator shall be the same as that provided in cases of revocation of parole for violation of the conditions of parole. The new sentence of imprisonment shall be served consecutively to the term of imprisonment for violation of parole unless a concurrent term of imprisonment is directed by the court. An appeal by the defendant on the new conviction or sentence shall not suspend the revocation provisions of this Section, unless the defendant has been admitted to post-conviction bail on the new sentence of imprisonment. In the event of a successful appeal of the new conviction or sentence, the state shall be liable for any loss of income sustained by the defendant due to such revocation of parole.

History

Acts 1968, No. 191, § 1; Acts 1987, No. 95, § 1; Acts 1993, No. 104, § 1; [Acts 2008, No. 144, § 1, eff. Aug. 15, 2008.](#)

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§ 15:574.11. Finality of board determinations; venue; jurisdiction and procedure; preemptive period; service of process

- A. Parole is an administrative device for the rehabilitation of prisoners under supervised freedom from actual restraint, and the granting, conditions, or revocation of parole rest in the discretion of the Board of Parole. No prisoner or parolee shall have a right of appeal from a decision of the board regarding release or deferment of release on parole, the imposition or modification of authorized conditions of parole, the termination or restoration of parole supervision or discharge from parole before the end of the parole period, or the revocation or reconsideration of revocation of parole, except for the denial of a revocation hearing under [R.S. 15:574.9](#).
- B. Venue in any action in which an individual committed to the Department of Public Safety and Corrections contests any action of the board shall be in the parish of East Baton Rouge. Venue in a suit contesting the actions of the board shall be controlled by this Part and [R.S. 15:571.15](#) and not the Code of Criminal Procedure, Title XXXI-A, Post Conviction Relief, or Title IX, Habeas Corpus, regardless of the captioned pleadings stating the contrary.
- C. The district court shall have appellate jurisdiction over pleadings alleging a violation of [R.S. 15:574.9](#). The review shall be conducted by the court without a jury and shall be confined to the revocation record. Within thirty days after service of the petition, or within further time allowed by the court, the Board of Parole shall transmit to the reviewing court the original or a certified copy of the entire revocation record of the proceeding under review. The review shall be limited to the issues presented in the petition for review. The discovery provisions under the Code of Civil Procedure applicable to ordinary suits shall not apply in a suit for judicial review under this Subsection. The court may affirm the revocation decision of the Board of Parole or reverse and remand the case for further revocation proceedings. An aggrieved party may appeal a final judgment of the district court to the appropriate court of appeal.
- D. Petitions for review that allege a denial of a revocation hearing under the provisions of [R.S. 15:574.9](#) shall be subject to a preemptive period of ninety days after the date of revocation by the Board of Parole. When revocation is based upon the conviction of a new felony while on parole, the ninety-day preemptive period shall commence on the date of final judgment of the new felony. Petitions for review filed after this preemptive period shall be dismissed with prejudice. Service of process of petitions for review shall be made upon the chairman of the Board of Parole or his designee. The only proper party defendant in an action under this Section shall be the Board of Parole.

History

Acts 1968, No. 191, § 1; Acts 1990, No. 670, § 1; Acts 2005, No. 460, § 1, eff. Aug. 15, 2005;

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[Acts 2010, No. 138](#), § 1, eff. Aug. 15, 2010.

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> [TITLE 15.](#) > [CHAPTER 5.](#) > [PART 2.](#) > [\(4\) MEDICAL PAROLE](#)

§ 15:574.20. Medical parole program; eligibility; revocation

A.

(1) Notwithstanding the provisions of this Part or any other law to the contrary, any person sentenced to the custody of the Department of Public Safety and Corrections may, upon referral by the department, be considered for medical parole by the Board of Parole. Medical parole consideration shall be in addition to any other parole for which an inmate may be eligible, but shall not be available to any inmate who is awaiting execution or who has a contagious disease.

(2) Medical parole shall not be available to any inmate serving time for the violation of [R.S. 14:30](#), first degree murder; or [R.S. 14:30.1](#), second degree murder.

B. The Board of Parole shall establish the medical parole program to be administered by the Department of Public Safety and Corrections. An inmate eligible for consideration for release under the program shall be any person who, because of an existing medical or physical condition, is determined by the department to be within one of the following designations:

(1) "Permanently incapacitated inmate" which shall mean any person who, by reason of an existing physical or medical condition, is so permanently and irreversibly physically incapacitated that he does not constitute a danger to himself or to society; or

(2) "Terminally ill inmate" which shall mean any person who, because of an existing medical condition, is irreversibly terminally ill, and who by reason of the condition does not constitute a danger to himself or to society.

C. The authority to grant medical parole shall rest solely with the Board of Parole, and the board shall establish additional conditions of the parole in accordance with the provisions of this Subpart. The Department of Public Safety and Corrections shall identify those inmates who may be eligible for medical parole based upon available medical information. In considering an inmate for medical parole, the board may require that additional medical evidence be produced or that additional medical examinations be conducted.

D. The parole term of an inmate released on medical parole shall be for the remainder of the inmate's sentence, without diminution of sentence for good behavior. Supervision of the parolee shall consist of periodic medical evaluations at intervals to be determined by the board at the time of release.

E. If it is discovered through the supervision of the medical parolee that his condition has improved such that he would not then be eligible for medical parole under the provisions of this Subpart, the board may order that the person be returned to the custody of the Department of Public Safety and Corrections to await a hearing to determine whether his parole shall be revoked. Any person whose medical parole is revoked due to an improvement in his condition shall resume serving the balance of his sentence with credit given for the duration of the medical parole. If the person's medical parole is revoked due to an improvement in his condition, and he would be otherwise eligible for parole, he may then be con-

sidered for parole under the provisions of [R.S. 15:574.4](#). Medical parole may also be revoked for violation of any condition of the parole as established by the Board of Parole.

- F.** The Board of Parole shall promulgate such rules as are necessary to effectuate this Subpart, including rules relative to the conduct of medical parole hearings, and the conditions of medical parole release.

History

Acts 1990, No. 563, § 1; Acts 1993, No. 938, § 1.

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La. R.S. 15:571.5

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§ 15:571.5. Supervision upon release after diminution of sentence for good behavior; conditions of release; revocation

- A. When a prisoner committed to the Department of Public Safety and Corrections is released because of diminution of sentence pursuant to this Part, he shall be released as if released on parole.
- B.
- (1) Before any prisoner is released on parole upon diminution of sentence, he shall be issued a certificate of parole that enumerates the conditions of parole. These conditions shall be explained to the prisoner and the prisoner shall agree in writing to such conditions prior to his release on parole.
 - (2) The person released because of diminution of sentence pursuant to this Part shall be supervised in the same manner and to the same extent as if he were released on parole. The supervision shall be for the remainder of the original full term of sentence. If a person released because of diminution of sentence pursuant to this Part violates a condition imposed by the parole board, the board shall proceed in the same manner as it would to revoke parole to determine if the release upon diminution of sentence should be revoked.
- C. If such person's parole is revoked by the parole board for violation of the terms of parole, the person shall be recommitted to the department for the remainder of the original full term, subject to credit for time served for good behavior while on parole.

History

Added by Acts 1981, No. 762, § 1, eff. July 1, 1982; Amended by Acts 1991, No. 138, § 1, eff. Jan. 1, 1992; Acts 1992, No. 690, § 1; Acts 1992, No. 962, § 2; [Acts 2010, No. 792](#), § 1, eff. Aug. 15, 2010; [Acts 2011, No. 186](#), § 3, eff. Aug. 15, 2011.

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§ 15:571.7. Supervision upon release from parish prison after diminution of sentence for good behavior; conditions of release; revocation

- A. When a prisoner who has been sentenced to a parish prison in Orleans Parish is released because of diminution of sentence pursuant to this Part, he shall be released as if released on parole.
- B. A prisoner released in accordance with Subsection A herein shall be supervised by the sheriff, the keeper of the parish prison if not the sheriff, or, in Orleans Parish, the criminal sheriff of Orleans Parish. Such supervision shall be for the remainder of the original full term of the prisoner's sentence and shall be performed in the same manner and to the same extent as supervision of a prisoner committed to the Department of Public Safety and Corrections who is released on parole.
- C. The supervisor may make rules for the conduct of a prisoner while he is on release and may also require, either at the time of release or at any time while on release, that the prisoner conform to any of the following conditions:
 - (1) Residence in a community rehabilitation center.
 - (2) Restitution to a victim of the crime for which release is being sought, if such victim has suffered a direct pecuniary loss as a result of the crime. The supervisor shall take into account the prisoner's ability to pay and shall not revoke release based upon this condition unless the prisoner has willfully failed to comply.
 - (3) Community service work, as determined by the supervisor.
 - (4) Payment into a victim compensation fund, if such fund is established, in a manner and amount specified by law.
 - (5) Obtaining gainful employment.
 - (6) Continuing education or vocational training.
 - (7) Participation in a substance abuse treatment facility program or other counselling program.
 - (8) Any other condition which may presently be applied under [R.S. 15:574.4\(H\)](#) and (L) to a prisoner committed to the Department of Public Safety and Corrections who is released on parole.
- D. A prisoner released in accordance with this Section shall be subject to having the release revoked for violation of the release conditions. The supervisor shall establish rules and regulations governing the revocation of release.
- E. Upon revocation of release, the prisoner shall be recommitted to the parish prison and shall serve the remaining full term of his sentence.

History

La. R.S. 15:571.7

Added by Acts 1982, No. 574, § 1; Amended by Acts 1989, No. 194, § 2; Acts 1991, No. 289, § 7; [Acts 2011, 1st Ex. Sess., No. 18, § 1, eff. June 12, 2011.](#)

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§ 15:571.13. Supervised release of parish prisoners; rules of conduct; revocation

- A. When a prisoner who has been sentenced to a parish prison is released pursuant to this Part, he may be released as if on parole.
- B. A prisoner released in accordance with Subsection A herein shall be supervised by the sheriff, the keeper of the parish prison if not the sheriff, or, in Orleans Parish, the criminal sheriff of Orleans Parish. Such supervision shall be for the remainder of the original full term of the prisoner's sentence and shall be performed in the same manner and to the same extent as supervision of a prisoner committed to the Department of Public Safety and Corrections who is released on parole.
- C. The supervisor may make rules for the conduct of a prisoner while he is on release and may also require, either at the time of release or at any time while on release, that the prisoner conform to the following conditions:
 - (1) Residence in a community rehabilitation or work release center.
 - (2) Restitution to a victim of the crime for which release is being sought, if such victim has suffered a direct pecuniary loss as a result of the crime.
 - (3) Community service work, as determined by the supervisor.
 - (4) Payment into a victim compensation or service fund.
 - (5) Obtaining gainful employment.
 - (6) Continuing education or vocational training.
 - (7) Participation in a substance abuse treatment facility program or other counselling program.
 - (8) Defraying the cost, or any portion thereof, of his supervision by making payments to the supervisor in a sum and manner to be determined by the supervisor, based on his ability to pay.
 - (9) Any other condition which may be applied under [R.S. 15:574.4\(H\)](#) to a prisoner committed to the Department of Public Safety and Corrections who is released on parole.
- D. A prisoner released in accordance with this Section shall be subject to having the release revoked for violation of the release conditions. The supervisor shall establish rules and regulations governing the revocation of release.
- E. Upon revocation of release, the prisoner shall be recommitted to the parish prison in order to serve the full term of his sentence.

History

Acts 1985, No. 712, § 1.

La. R.S. 15:571.13

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§ 15:574.4.1. Parole consideration and hearings

A.

- (1) The parole hearings shall be conducted in a formal manner in accordance with the rules formulated by the board and with the provisions of this Part. Before the parole of any prisoner is ordered, such prisoner shall appear before and be interviewed by the board, except those incarcerated in parish prisons or parish correctional centers, in which case one board member may conduct the interview. The board may order a reconsideration of the case or a rehearing at any time.
- (2) The crime victim or the victim's family, a victim advocacy group, and the district attorney or his representatives, may appear before the Board of Parole by means of telephone communication from the office of the local district attorney.

B. The board shall render its decision ordering or denying the release of the prisoner on parole within thirty days after the hearing. A parole shall be ordered only for the best interest of society, not as an award of clemency, and upon determination by the board that there is reasonable probability that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen so that he can be released without detriment to the community or to himself.

C. All paroles shall issue upon order of the board and each order of parole shall recite the conditions thereof; provided, however, that before any prisoner is released on parole he shall be provided with a certificate of parole that enumerates the conditions of parole. These conditions shall be explained to the prisoner and the prisoner shall agree in writing to such conditions.

D. The release date of the prisoner shall be fixed by the board, but such date shall not be later than six months after the parole hearing or the most recent reconsideration of the prisoner's case.

History

[Acts 2010, No. 241](#), § 1, eff. Aug. 15, 2010.

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<p>§ 15:574.4.2. Decisions of committee on parole; nature, order, and conditions of parole; rules of conduct; infectious disease testing</p>

A.

- (1) The committee on parole may make rules for the conduct of persons heretofore or hereafter granted parole. When a prisoner is released on parole, the committee shall require as a condition of his parole that he refrain from engaging in criminal conduct.
- (2) The committee may also require, either at the time of his release on parole or at any time while he remains on parole, that he conform to any of the following conditions of parole which are deemed appropriate to the circumstances of the particular case:
 - (a) Report, no later than forty-eight hours after being placed on parole, to the division of probation and parole office of the Department of Public Safety and Corrections which is listed on the certificate of parole.
 - (b) Reside at the address listed on the certificate of parole. Obtain written permission from the probation and parole officer prior to moving from this address or written permission prior to leaving the state of Louisiana.
 - (c) Submit a monthly report by the fifth day of every month until supervision is completed and report when ordered to do so by the probation and parole officer.
 - (d) Not engage in any criminal activity, nor associate with people who are known to be involved in criminal activity. Avoid bars and casinos and refrain from the use of illegal drugs or alcohol.
 - (e) Pay supervision fees in an amount set by the Department of Public Safety and Corrections as provided by law. Payments are due on the first day of each month.
 - (f) Be employed at a lawful occupation. Employment shall be approved by the probation and parole officer. If employment is terminated, immediately report this to the probation and parole officer.
 - (g) Truthfully and promptly answer all questions as directed by the probation and parole officer.
 - (h) Submit to available medical, mental health or substance abuse exams, treatment, or both when ordered to do so by the probation and parole officer. Submit to drug and alcohol screens at personal expense.
 - (i) Agree to visits at residence or place of employment by the probation and parole officer at any time. Further agrees to searches of person, property, residence, or vehicle, when reasonable suspicion exists that criminal activity has been engaged in while on parole.
 - (j) Not possess or be in control of any firearms or dangerous weapons.

- (k) Waive extradition to the state of Louisiana from any jurisdiction in or outside of the United States and agree not to contest any effort by any jurisdiction for return to the state of Louisiana.
- (3) For those persons who have been convicted of a "sex offense" as defined in [R.S. 15:541](#), agree to searches of his person, his property, his place of residence, his vehicle, or his personal effects, or any or all of them, at any time, by a law enforcement officer, duly commissioned in the parish or municipality where the sex offender resides or is domiciled, designated by his agency to supervise sex offenders, with or without a warrant of arrest or with or without a search warrant, when the officer has reasonable suspicion to believe that the person who is on parole is engaged in or has been engaged in criminal activity for which the person has not been charged or arrested while on parole.
 - (4) No offender, who is the parent, stepparent, or has legal custody and physical custody of the child who is the victim, shall be released on parole unless the victim has received psychological counseling prior to the offender's release if the offender is returning to the residence or community in which the child resides. Such psychological counseling shall include an attempt by the health care provider to ease the psychological impact upon the child of the notice required by the provisions of [R.S. 15:574.4.3](#), including assisting the child in coping with potential insensitive comments and actions by the child's neighbors and peers. The cost of such counseling shall be paid by the offender.
 - (5) If parole is revoked for any reason, all good time earned or any additional credits earned or which could have been earned on that portion of the sentence served prior to the granting of parole shall be forfeited, and the parolee shall serve the remainder of the sentence as of the date of release on parole.
- B.** At the time these written conditions are given, the committee shall notify the parolee that:
- (1) If he is arrested while on parole, the committee has the authority to place a detainer against him which will in effect prevent him from making bail pending any new charges against him; and
 - (2) Should his parole be revoked for any reason, good time earned prior to parole and good time that would have been earned if parole had not been granted will be forfeited, as required by [R.S. 15:571.4](#).
- C.**
- (1) When a victim of the crime for which parole is being considered has suffered a direct pecuniary loss other than damage to or loss of property, the parole committee may impose as a condition of parole that restitutions to the victim be made. When such a condition is imposed, the committee shall take into account the defendant's ability to pay and shall not revoke parole based upon this condition unless the parolee has willfully failed to comply. When the victim's loss consists of damage to or loss of property, the committee shall impose as a condition of parole payment of restitution, either in a lump sum or in monthly installments based on the earning capacity and assets of the defendant. If the victim was paid for such property loss or damage with monies from the Crime Victims Reparations Fund, the committee shall order the parolee to make such payments as reimbursement to the fund in the same amount as was paid from the fund to the victim. This condition of parole shall continue until such time as the res-

titution is paid or the parolee is discharged from parole in accordance with [R.S. 15:574.6](#).

- (2) Nothing herein shall affect a victim's civil remedy except that funds actually received shall be credited to any civil judgment arising out of the same offense.
- D.** If the prisoner has not paid and is liable for any costs of court or costs of the prosecution or proceeding in which he was convicted or any fine imposed as a part of his sentence, the committee on parole shall require as a condition of parole the payment of such costs or fine, either in a lump sum or according to a schedule of payments established by the committee and based upon the prisoner's ability to pay.
- E.** Before the committee on parole places a person on parole, the committee shall determine if he has a high school diploma or its equivalent and, if he does not, the committee shall condition parole upon the parolee's enrolling in and attending an adult education or reading program until he obtains a GED credential, or until he completes such educational programs required by the committee, and has attained a sixth grade reading level, or until his term of parole expires, whichever occurs first. All costs shall be paid by the parolee. If the committee finds that there are no adult education or reading programs in the parish in which the parolee is domiciled, the parolee is unable to afford such a program, or attendance would create an undue hardship on the parolee, the committee may suspend this condition of parole. The provisions of this Subsection shall not apply to those parolees who are mentally, physically, or by reason of age, infirmity, dyslexia, or other such learning disorders, unable to participate.
- F.** The collection of the supervision fee imposed pursuant to Subparagraph (A)(2)(o) of this Section shall be suspended upon the transfer of an offender to another state for parole supervision in that state, pursuant to the interstate compact for out-of-state parolee supervision as provided in [R.S. 15:574.31](#) et seq.
- G.**
- (1) Before placing a person on parole, the committee on parole shall require that person to submit to a test designed to determine whether he is infected with a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS and viral hepatitis.
- (2) The procedure or test shall be performed by a qualified physician or other qualified person who shall notify the parolee of the test results.
- (3) If the person tested under the provisions of this Subsection tests positive for a sexually transmitted disease, AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS and viral hepatitis, he shall be referred to the appropriate health care and support services. If the person tested positive, the granting of the parole shall be conditioned upon the person seeking advice and counseling from the appropriate health care and support services. Failure to seek or follow that advice shall result in the revocation of that person's parole.
- (4) The costs associated with this testing shall be paid by the person tested.
- (5) The provisions of this Subsection shall not apply to inmates released because of diminution of sentence under [R.S. 15:571.3](#).

[Acts 2009, No. 299](#), § 2, eff. July 1, 2009; [Acts 2010, No. 241](#), §§ 1, 2, eff. Aug. 15, 2010; [Acts 2011, No. 219](#), § 2, eff. Aug. 15, 2011; [Acts 2012, No. 241](#), § 1, eff. Aug. 1, 2012.

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La. R.S. 15:574.4.3

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§ 15:574.4.3. Parole requirements for certain sex offenders

A.

- (1) Before having a parole hearing for any offender who has been convicted of a violation of a sex offense as defined in [R.S. 15:541](#), when the law permits parole consideration for that offense, and when according to law an offender convicted of one of those offenses is otherwise eligible for parole, the committee shall give written notice of the date and time of the parole hearing at least three days prior to the hearing to the victim or the victim's parent or guardian, unless the victim, parent, or guardian has advised the committee on parole in writing that such notification is not desired.
- (2) The victim or the victim's parent or guardian who desires to do so shall be given a reasonable opportunity to attend the hearing and to be heard.

B. If a person who is otherwise eligible for intensive parole supervision pursuant to [R.S. 15:574.4.4](#), has been convicted of one of the sexual offenses enumerated in this Section and the intensive parole supervision is applicable to any of those enumerated crimes, then the provisions of this Section shall apply.

C. If a person, who is otherwise eligible for diminution of sentence for good behavior pursuant to [R.S. 15:571.3](#), has been convicted of one of the sexual offenses enumerated in this Section and the diminution of sentence for good behavior is applicable to any of those enumerated crimes, then the provisions of this Section shall apply.

D.

- (1) In cases where the offender has been convicted of or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of a violation of a sex offense as defined in [R.S. 15:541](#), including criminal sexual offenders under the supervision and legal authority of the Department of Public Safety and Corrections pursuant to the terms and conditions of the Interstate Compact for Adult Offender Supervision provided for in [R.S. 15:574.31](#) through 574.44, and parole is permitted by law and the offender is otherwise eligible, and when the committee releases an offender on parole, the committee shall order the offender to register as a sex offender and provide notification in accordance with the provisions of [R.S. 15:540](#) et seq.
- (2) The committee shall mail notice within three days after it makes a decision to release a sexual offender, as enumerated and pursuant to the circumstances in this Paragraph, on parole. The notice shall contain the address where the defendant will reside, a statement that the offender will be released on parole, and the date he will be released and shall be mailed to the victim or the victim's parent or guardian if the victim or a relative was not present at the parole hearing of the offender, and the notice shall be sent to their last known address by registered or certified letter, unless the victim or relative has signed a written waiver of notification.

E.

- (1) In cases where parole is permitted by law and the offender is otherwise eligible, the committee on Parole shall not grant parole to any sex offender either by an order of the committee on Parole or office of adult services pursuant to [R.S. 15:571.3](#) until the Department of Public Safety and Corrections, division of probation and parole, has assessed and approved the suitability of the residence plan of such offender. In approving the residence plan of the offender, the department shall consider the likelihood that the offender will be able to comply with all of the conditions of his parole.
- (2) For purposes of this Section, "sex offender" shall mean any offender who has been convicted of, or where adjudication has been deferred or withheld for, the perpetration or attempted perpetration of a violation of a sex offense as defined in [R.S. 15:541](#).

F.

- (1) In cases where the offender has been convicted of or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of a sex offense as defined in [R.S. 15:541](#) and the victim of that offense is a minor, the committee may, if the department has the equipment and appropriately trained personnel, as an additional condition of parole, authorize the use of truth verification examinations to determine if the offender has violated a condition of parole. If ordered by the committee as a condition of parole, the Department of Public Safety and Corrections, division of probation and parole, is hereby authorized to administer a truth verification examination pursuant to the committee's order and the provisions of this Subsection.
- (2) Any examination conducted pursuant to the provisions of this Subsection shall be subsequent to an allegation that the offender has violated a condition of parole or at the discretion of the parole officer who has reason to believe that the offender has violated a condition of parole.
- (3) The truth verification examination shall be conducted by a trained certified polygraphist or voice stress examiner.
- (4) The results of the truth verification examination may be considered in determining the level of supervision and treatment needed by the offender and in the determination of the parole officer as to whether the offender has violated a condition of parole; however, such results shall not be used by the committee as the basis for a finding that a violation of a condition of parole has occurred.
- (5) The sexual offender may request a second truth verification examination to be conducted by a trained and certified polygraphist or voice stress examiner of his choice. The cost of the second examination shall be borne by the offender.
- (6) For purposes of this Subsection:
 - (a) "Polygraph examination" shall mean an examination conducted with the use of an instrument or apparatus for simultaneously recording cardiovascular pressure, pulse and respiration, and variations in electrical resistance of the skin.
 - (b) "Truth verification examination" shall include a polygraph examination or a voice stress analysis.
 - (c) "Voice stress analysis" shall mean an examination conducted with the use of an instrument or apparatus which records psychophysiological stress responses that are present in a human voice when a person suffers psychological stress in response to a stimulus.

History

[Acts 2010, No. 241](#), § 1, eff. Aug. 15, 2010; [Acts 2012, No. 705](#), § 1, eff. Aug. 1, 2012.

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La. R.S. 15:574.4.4

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§ 15:574.4.4. Parole; intensive parole supervision; eligibility

- A. Notwithstanding the provisions of [R.S. 15:574.4\(A\)\(1\)](#), a person, otherwise eligible for parole, convicted of a nonviolent first felony offense and committed to the Department of Public Safety and Corrections, or of a nonviolent second felony offense and committed to the Department of Public Safety and Corrections, may be eligible for intensive parole supervision upon successful completion of intensive incarceration. In addition, any person convicted of a first or second offense for possession of amphetamine or methamphetamine or cocaine or oxycodone or methadone or of a first offense for distribution, dispensing, or possession with intent to produce, manufacture, distribute, or dispense amphetamine or methamphetamine or cocaine or oxycodone or methadone, in violation of [R.S. 40:967\(B\)\(1\)](#) or [R.S. 40:967\(B\)\(4\)\(b\)](#) when the amount of amphetamine or methamphetamine or cocaine or oxycodone or methadone involved was twenty-eight grams or less, may be eligible to participate in the intensive incarceration program. Notwithstanding the provisions of [R.S. 40:967\(B\)\(4\)\(b\)](#), a person otherwise eligible for participation in the intensive incarceration program may be eligible for intensive parole supervision upon successful completion of intensive incarceration. The intensive incarceration and intensive parole supervision program shall be established and administered by the department. The offender may be considered for participation in the program if all of the following conditions are met:
- (1) The offender is sentenced to be committed to the Department of Public Safety and Corrections to serve ten years or less.
 - (2) The department, through the division of probation and parole within the office of adult services, recommends to the sentencing court that the offender is particularly likely to respond affirmatively to participation in the program.
 - (3) The court at sentencing recommends that the offender be considered for participation in the program.
 - (4) The secretary of the department, or his designee, finds, after an evaluation, that the offender is particularly likely to respond affirmatively to participation in the program.
 - (5) The offender voluntarily enrolls in the program after having been advised by the department of the rules and regulations governing participation in the program.
 - (6) The court sentences an offender in the drug division probation program pursuant to [R.S. 13:5304](#).
- B. Notwithstanding the provisions of [R.S. 15:574.4\(A\)\(1\)](#), an offender who is otherwise eligible for intensive incarceration and intensive parole supervision, but who has not been recommended for participation in the intensive incarceration and intensive parole supervision program by the division of probation and parole or the sentencing judge, as provided for in Paragraphs (A)(2) and (3) of this Section, may additionally be placed in the intensive incarceration and intensive parole supervision program if all of the following conditions are met:

- (1) The staff at the adult reception and diagnostic center, after a thorough evaluation, determines that the offender is suitable and appropriate for participation.
- (2) The warden at the adult reception and diagnostic center concurs with the staff recommendation.
- (3) The warden of the facility where the offender would be placed concurs with the recommendation of the staff and warden of the adult reception and diagnostic center.
- (4) The offender meets other conditions of participation as set forth in Paragraphs (A)(1), (4), and (5) of this Section.

C.

- (1) Notwithstanding the provisions of [R.S. 15:574.4\(A\)\(1\)](#), a person, otherwise eligible for parole, convicted of a first felony offense and committed to the Department of Public Safety and Corrections, or of a second felony offense and committed to the Department of Public Safety and Corrections, may be eligible for intensive parole supervision upon successful completion of intensive incarceration. The intensive incarceration and intensive parole supervision program shall be established and administered by the department.
- (2) The court may sentence an offender directly to the program if the court commits the offender to the Department of Public Safety and Corrections to serve ten years or less.

D. For purposes of this Section, a "first offender" shall not have been convicted previously of another felony as provided in [R.S. 15:572\(C\)](#) and shall not have been granted an automatic pardon as provided in [R.S. 15:572\(B\)](#).

E. The duration of intensive incarceration shall not be less than one hundred eighty calendar days.

F. The participating offender shall be evaluated by the program staff on a continual basis throughout the entire period of intensive incarceration. The evaluation shall include the offender's performance while incarcerated, the likelihood of successful adjustment on parole, and other factors deemed relevant by the Board of Parole or the program staff. The evaluation shall provide the basis for the recommendations by the department to the Board of Parole upon the offender's completion of intensive incarceration. Violation of any institutional or program rules or regulations may subject the participant to removal from the program by the department.

G.

- (1) If an offender is denied entry into the intensive incarceration program for physical or mental health reasons or for failure to meet the department's suitability criteria, the department shall notify the sentencing court, and based upon the court's order, shall either return the offender to court for resentencing in accordance with the provisions of the [Code of Criminal Procedure Article 881.1](#) or return the offender to a prison to serve the remainder of his sentence as provided by law.
- (2) If an offender enters the intensive incarceration program and is subsequently removed for physical or mental health reasons or for failure to meet the department's suitability criteria, the department shall notify the sentencing court and, based upon the court's order, shall either return the offender to court for resentencing in accordance with the provisions of [Code of Criminal Procedure Article 881.1](#) or return the offender to a prison to serve the remainder of his sentence as provided by law. If an offender enters

the intensive incarceration program and is removed for violating any institutional or program rules or regulations, the offender shall be assigned to the general population to serve the remainder of his sentence as provided by law.

- H.** When an offender completes intensive incarceration, the Board of Parole shall review the case of the offender and recommend either that the offender be released on intensive parole supervision or that the offender serve the remainder of his sentence as provided by law. When the offender is released to intensive parole supervision by the board, the board shall require the offender to comply with the following conditions of intensive parole supervision in addition to any other conditions of parole ordered by the board:
- (1) Be subject to multiple monthly visits with his supervising officers without prior notice.
 - (2) Abide by any curfew set by his supervising officers.
 - (3) Perform at least one hundred hours of unpaid community service work during the period of intensive parole supervision and, if unemployed, perform additional hours as instructed by his supervising officers.
 - (4) Refrain from using or possessing any controlled dangerous substance or alcoholic beverage and submit, at his own expense, to screening, evaluation, and treatment for controlled dangerous substance or alcohol abuse as directed by his supervising officers.
 - (5) Pay any costs as ordered by the sentencing court or Board of Parole.
- I.** In cases in which the Board of Parole determines that there is victim opposition to parole, that the offender has a questionable disciplinary record, or that other extraordinary circumstances exist, the board may conduct a hearing to consider intensive parole supervision for the offender having successfully completed intensive incarceration, which shall be public and conducted in the same manner as parole hearings as otherwise provided in this Part. Otherwise the decision shall be made upon the approval or disapproval of a majority of the members of the board without necessity of a hearing, after a review of all available information on the offender, including the pre-parole report prepared by the department.
- J.** In cases in which the court sentences a defendant in the drug division probation program for a technical violation of probation, the offender shall return to active supervised probation with the drug division probation program for a period as ordered by the court, subject to any additional conditions imposed by the court.
- K.** Notwithstanding the provisions of [R.S. 15:574.4\(A\)\(1\)](#), a person otherwise eligible for parole who is convicted of a nonviolent first felony offense may be committed to the Department of Public Safety and Corrections pursuant to the provisions of [Code of Criminal Procedure Article 895\(B\)\(3\)](#) to serve a sentence of not more than six months without diminution of sentence in the intensive incarceration program pursuant to the provisions of this Section.

History

[Acts 2008, No. 266](#), § 2, eff. Aug. 15, 2008; [Acts 2009, No. 168](#), § 2, eff. Aug. 15, 2009; [Acts 2009, No. 182](#), § 2, eff. Aug. 15, 2009; Redesignated from [R.S. 15:574.4.1](#) by [Acts 2010, No. 241](#), § 2, eff. Aug. 15, 2010.

La. R.S. 15:574.4.4

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§ 15:574.4. Parole; eligibility

- A.** (1) (a) Unless eligible at an earlier date and except as provided for in Subparagraph (b) of this Paragraph and Subsection B of this Section, a person, otherwise eligible for parole, convicted of a first felony offense shall be eligible for parole consideration upon serving thirty-three and one-third percent of the sentence imposed. Upon conviction of a second felony offense, such person shall be eligible for parole consideration upon serving fifty percent of the sentence imposed. A person convicted of a third or subsequent felony offense shall not be eligible for parole.
- (b)**
- (i)** Notwithstanding the provisions of Subparagraph (a) of this Paragraph, a person, otherwise eligible for parole, convicted of a first felony offense shall be eligible for parole consideration upon serving twenty-five percent of the sentence imposed. The provisions of this Subparagraph shall not apply to any person who has been convicted of a crime of violence as defined in [R.S. 14:2\(B\)](#), has been convicted of a sex offense as defined in [R.S. 15:541](#), has been sentenced as a habitual offender pursuant to [R.S. 15:529.1](#), or is otherwise ineligible for parole.
 - (ii)** Notwithstanding the provisions of Subparagraph (a) of this Paragraph, a person, otherwise eligible for parole, convicted of a second felony offense shall be eligible for parole consideration upon serving thirty-three and one-third percent of the sentence imposed. The provisions of this Item shall not apply to any person who has been convicted of a crime of violence as defined in [R.S. 14:2\(B\)](#), has been convicted of a sex offense as defined in [R.S. 15:541](#), has been sentenced as a habitual offender pursuant to [R.S. 15:529.1](#), or is otherwise ineligible for parole.
 - (iii)** Any person eligible for parole pursuant to the provisions of this Subparagraph shall not be eligible for parole pursuant to the provisions of Subparagraph (a) of this Paragraph.
 - (iv)** Nothing in this Subparagraph shall prevent a person from reapplying for parole as provided by rules adopted in accordance with the Administrative Procedure Act.
- (2)** Notwithstanding the provisions of Paragraph (1) of this Subsection or any other law to the contrary, unless eligible for parole at an earlier date, a person committed to the Department of Public Safety and Corrections for a term or terms of imprisonment with or without benefit of parole for thirty years or more shall be eligible for parole consideration upon serving at least twenty years of the term or terms of imprisonment in actual custody and upon reaching the age of forty-five. This provision shall not apply to a person serving a life sentence unless the sentence has been commuted to a fixed term of years. The provisions of this Paragraph shall not apply to any person who has been convicted under the provisions of [R.S. 14:64](#).

- (3) Notwithstanding the provisions of Paragraph (A)(1) or (2) of this Section or any other provision of law to the contrary, unless eligible for parole at an earlier date, a person committed to the Department of Public Safety and Corrections serving a life sentence for the production, manufacturing, distribution, or dispensing or possessing with intent to produce, manufacture, or distribute heroin shall be eligible for parole consideration upon serving at least fifteen years of imprisonment in actual custody.
- (4) Notwithstanding any other provision of law to the contrary, unless eligible for parole at an earlier date, a person committed to the Department of Public Safety and Corrections for a term or terms of imprisonment with or without benefit of parole who has served at least ten years of the term or terms of imprisonment in actual custody shall be eligible for parole consideration upon reaching the age of sixty years if all of the following conditions are met:
 - (a) The offender has not been convicted of a crime of violence as defined in [R.S. 14:2\(B\)](#) or a sex offense as defined in [R.S. 15:541](#), or convicted of an offense which would constitute a crime of violence as defined in [R.S. 14:2\(B\)](#) or a sex offense as defined in [R.S. 15:541](#), regardless of the date of conviction.
 - (b) The offender has not committed any disciplinary offenses in twelve consecutive months prior to the parole eligibility date.
 - (c) The offender has completed the mandatory minimum of one hundred hours of prerelease programming in accordance with the provisions of [R.S. 15:827.1](#) if such programming is available at the facility where the offender is incarcerated.
 - (d) The offender has completed substance abuse treatment as applicable.
 - (e) The offender has obtained a GED credential, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability. If the offender is deemed incapable of obtaining a GED credential, the offender shall complete at least one of the following: a literacy program, an adult basic education program, or a job-skills training program.
 - (f) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.

B.

- (1) No person shall be eligible for parole consideration who has been convicted of armed robbery and denied parole eligibility under the provisions of [R.S. 14:64](#). Except as provided in Paragraph (2) of this Subsection, and except as provided in Subsection D of this Section, no prisoner serving a life sentence shall be eligible for parole consideration until his life sentence has been commuted to a fixed term of years. No prisoner sentenced as a serial sexual offender shall be eligible for parole. No prisoner may be paroled while there is pending against him any indictment or information for any crime suspected of having been committed by him while a prisoner. Notwithstanding any other provisions of law to the contrary, a person convicted of a crime of violence and not otherwise ineligible for parole shall serve at least eighty-five percent of the sentence imposed, before being eligible for parole. The victim or victim's family shall

be notified whenever the offender is to be released provided that the victim or victim's family has completed a Louisiana victim notice and registration form as provided in [R.S. 46:1841](#) et seq., or has otherwise provided contact information and has indicated to the Department of Public Safety and Corrections, Crime Victims Services Bureau, that they desire such notification.

- (2) Notwithstanding any provision of law to the contrary, any person serving a life sentence, with or without the benefit of parole, who has not been convicted of a crime of violence as defined by [R.S. 14:2\(B\)](#), a sex offense as defined by [R.S. 15:541](#), or an offense, regardless of the date of conviction, which would constitute a crime of violence as defined by [R.S. 14:2\(B\)](#) or a sex offense as defined by [R.S. 15:541](#), shall be eligible for parole consideration as follows:
- (a) If the person was at least eighteen years of age and under the age of twenty-five years at the time he was sentenced to life imprisonment, he shall be eligible for parole consideration if all of the following conditions have been met:
- (i) The person has served at least twenty-five years of the sentence imposed.
 - (ii) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.
 - (iii) The person has not committed any disciplinary offenses in the twelve consecutive months prior to the parole eligibility date.
 - (iv) The person has completed the mandatory minimum of one hundred hours of pre-release programming in accordance with the provisions of [R.S. 15:827.1](#), if such programming is available.
 - (v) The person has completed substance abuse treatment, if applicable and such treatment is available.
 - (vi) The person has obtained a GED credential, unless the prisoner has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability or because such programming is not available. If the prisoner is deemed incapable of obtaining a GED credential, the person shall complete at least one of the following: a literacy program, an adult basic education program, or a job skills training program.
- (b) If the person was at least twenty-five years of age and under the age of thirty-five years at the time he was sentenced to life imprisonment, he shall be eligible for parole consideration if all of the following conditions have been met:
- (i) The person has served at least twenty years of the sentence imposed.
 - (ii) The person has obtained a low risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.
 - (iii) The person has not committed any disciplinary offenses in the twelve consecutive months prior to the parole eligibility date.
 - (iv) The person has completed the mandatory minimum of one hundred hours of pre-release programming in accordance with the provisions of [R.S. 15:827.1](#), if such programming is available.

- (v) The person has completed substance abuse treatment, if applicable and such treatment is available.
 - (vi) The person has obtained a GED credential, unless the prisoner has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability or because such programming is not available. If the prisoner is deemed incapable of obtaining a GED credential, the person shall complete at least one of the following: a literacy program, an adult basic education program, or a job skills training program.
- (c) If the person was at least thirty-five years of age and under the age of fifty years at the time he was sentenced to life imprisonment, he shall be eligible for parole consideration if all of the following conditions have been met:
- (i) The person has served at least fifteen years of the sentence imposed.
 - (ii) The person has obtained a low risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.
 - (iii) The person has not committed any disciplinary offenses in the twelve consecutive months prior to the parole eligibility date.
 - (iv) The person has completed the mandatory minimum of one hundred hours of pre-release programming in accordance with the provisions of [R.S. 15:827.1](#), if such programming is available.
 - (v) The person has completed substance abuse treatment, if applicable and such treatment is available.
 - (vi) The person has obtained a GED credential, unless the prisoner has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability or because such programming is not available. If the prisoner is deemed incapable of obtaining a GED credential, the person shall complete at least one of the following: a literacy program, an adult basic education program, or a job skills training program.
- (d) If the person was at least fifty years of age at the time he was sentenced to life imprisonment, he shall be eligible for parole consideration if all of the following conditions have been met:
- (i) The person has served at least ten years of the sentence imposed.
 - (ii) The person has obtained a low risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.
 - (iii) The person has not committed any disciplinary offenses in the twelve consecutive months prior to the parole eligibility date.
 - (iv) The person has completed the mandatory minimum of one hundred hours of pre-release programming in accordance with the provisions of [R.S. 15:827.1](#), if such programming is available.
 - (v) The person has completed substance abuse treatment if applicable and such treatment is available.

- (vi) The person has obtained a GED credential, unless the prisoner has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability or because such programming is not available. If the prisoner is deemed incapable of obtaining a GED credential, the person shall complete at least one of the following: a literacy program, an adult basic education program, or a job skills training program.

C.

- (1) At such intervals as it determines, the board or a member thereof shall consider all pertinent information with respect to each prisoner eligible for parole, including the nature and circumstances of the prisoner's offense, his prison records, the presentence investigation report, any recommendations of the chief probation and parole officer, and any information and reports of data supplied by the staff. A parole hearing shall be held if, after such consideration, the board determines that a parole hearing is appropriate or if such hearing is requested in writing by its staff.
- (2) (a) In cases where the offender has been convicted of, or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of a violation of a sex offense as defined in [R.S. 15:541](#) and parole is permitted by law and the offender is otherwise eligible, the board shall consider reports, assessments, and clinical information, as available, including any testing and recommendations by mental health professionals, as to all of the following:
 - (i) Whether the offender has successfully completed the sex offender program.
 - (ii) Whether, in the expert's opinion, there is a likelihood that the offender will or will not repeat the criminal conduct and that the offender will or will not be a danger to society.
- (b) The board shall render its decision ordering or denying the release of the prisoner on parole only after considering this clinical evidence where such clinical evidence is available.

- D.** (1) Notwithstanding any provision of law to the contrary, any person serving a sentence of life imprisonment who was under the age of eighteen years at the time of the commission of the offense, except for a person serving a life sentence for a conviction of first degree murder ([R.S. 14:30](#)) or second degree murder ([R.S. 14:30.1](#)), shall be eligible for parole consideration pursuant to the provisions of this Subsection if all of the following conditions have been met:

- (a) The offender has served thirty years of the sentence imposed.
- (b) The offender has not committed any disciplinary offenses in the twelve consecutive months prior to the parole eligibility date.
- (c) The offender has completed the mandatory minimum of one hundred hours of pre-release programming in accordance with [R.S. 15:827.1](#).
- (d) The offender has completed substance abuse treatment as applicable.
- (e) The offender has obtained a GED certification, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED certification due to a learning disability. If the offender is deemed incapable of obtaining a GED certification, the offender shall complete at least one of the following:

- (i) A literacy program.
 - (ii) An adult basic education program.
 - (iii) A job skills training program.
 - (f) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.
 - (g) The offender has completed a reentry program to be determined by the Department of Public Safety and Corrections.
 - (h) If the offender was convicted of aggravated rape, he shall be designated a sex offender and upon release shall comply with all sex offender registration and notification provisions as required by law.
- (2) For each offender eligible for parole consideration pursuant to the provisions of this Subsection, the board shall meet in a three-member panel and each member of the panel shall be provided with and shall consider a written evaluation of the offender by a person who has expertise in adolescent brain development and behavior and any other relevant evidence pertaining to the offender.
- (3) The panel shall render specific findings of fact in support of its decision.

History

Amended by Acts Acts 1994, 3rd Ex. Sess., No. 58, § 1, eff. July 7, 1994; Acts 1995, No. 605, § 2, eff. June 18, 1995; Acts 1995, No. 1099, § 1, eff. Jan. 1, 1997; Acts 1995, No. 1290, § 2; Acts 1995, No. 1303, § 1; Acts 1997, No. 134, § 2, eff. Aug. 15, 1997; Acts 1997, No. 137, § 2, eff. Aug. 15, 1997; Acts 1997, No. 820, § 1, eff. Aug. 15, 1997; Acts 1997, No. 870, § 1, eff. Aug. 15, 1997; Acts 1997, No. 1148, § 2, eff. July 14, 1997; Acts 1997, No. 1396, § 1, eff. July 15, 1997; Acts 1999, No. 119, § 1, eff. Aug. 15, 1999; Acts 1999, No. 359, § 1, eff. Aug. 15, 1999; Acts 1999, No. 923, § 1, eff. Aug. 15, 1999; Acts 1999, No. 1150, § 1, eff. Aug. 15, 1999; Acts 1999, No. 1209, § 1, eff. Aug. 15, 1999; Acts 2001, No. 253, § 1, eff. Aug. 15, 2001; Acts 2001, No. 611, § 1, eff. Aug. 15, 2001; Acts 2001, No. 1206, § 1, eff. Aug. 15, 2001; Acts 2003, No. 587, § 1, eff. Aug. 15, 2003; Acts 2003, No. 868, § 1, eff. Aug. 15, 2003; Acts 2005, No. 337, § 1, eff. Aug. 15, 2005; Acts 2006, No. 26, § 1, eff. Aug. 15, 2006; Acts 2006, No. 59, § 1, eff. Aug. 15, 2006; Acts 2006, No. 68, § 1, eff. Aug. 15, 2006; [Acts 2008, No. 266](#), § 2, eff. Aug. 15, 2008; [Acts 2008, No. 337](#), § 1, eff. Aug. 15, 2008; [Acts 2008, No. 624](#), § 1, eff. Aug. 15, 2008; [Acts 2009, No. 362](#), § 1, eff. Aug. 15, 2009; [Acts 2009, No. 533](#), § 2, eff. Aug. 15, 2009; [Acts 2010, No. 241](#), § 1, eff. Aug. 15, 2010; [Acts 2011, No. 253](#), § 1, eff. Aug. 15, 2011; [Acts 2011, No. 285](#), § 1, eff. Aug. 15, 2011; [Acts 2012, No. 159](#), § 1, eff. Aug. 1, 2012; [Acts 2012, No. 401](#), § 1, eff. Aug. 1, 2012; [Acts 2012, No. 466](#), § 1, eff. Aug. 1, 2012.

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La. R.S. 15:574.6

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§ 15:574.6. Parole term; automatic discharge

The parole term, when the board orders a prisoner released on parole, shall be for the remainder of the prisoner's sentence, without any diminution of sentence for good behavior. When the parolee has completed his full parole term, he shall be discharged from parole by the Department of Public Safety and Corrections without order by the board, provided that:

- (1) No warrant has been issued by the board for the arrest of the parolee.
- (2) No detainer has been issued by the parole officer for the detention of the parolee pending revocation proceedings.
- (3) No indictment or bill of information is pending for any felony the parolee is suspected to have committed while on parole.

History

Acts 1968, No. 191, § 1; Acts 1991, No. 117, § 1.

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§ 15:574.7. Custody and supervision of parolees; modification or suspension of supervision; violation of conditions of parole; sanctions; alternative conditions; administrative sanctions

- A.** Each parolee shall remain in the legal custody of the Department of Public Safety and Corrections, corrections services, and shall be subject to the orders and supervision of the board. At the direction of the board, the chief probation and parole officer shall be responsible for the investigation and supervision of all parolees. The board may modify or suspend such supervision upon a determination that a parolee who had conducted himself in accordance with the conditions of his parole no longer needs the guidance and supervision originally imposed.
- B.** (1) At the time a defendant is released on parole, the Board of Parole may make a determination as to whether a defendant is eligible for the imposition of administrative sanctions as provided for in this Section. If authorized to do so by the board, each time a parolee violates a condition of parole, a parole officer may use administrative sanctions to address a technical violation committed by a parolee when all of the following occur:
- (a) The parolee, after receiving written notification of his right to a hearing before a court and right to counsel, provides a written waiver of a parole violation hearing.
 - (b) The parolee admits to the violation or affirmatively chooses not to contest the violation alleged in the parole violation report.
 - (c) The parolee consents to the imposition of administrative sanctions by the Department of Public Safety and Corrections.
- (2) The department shall promulgate rules to implement the provisions of this Subsection to establish the following:
- (a) A system of structured, administrative sanctions which shall be imposed for technical violations of parole and which shall take into consideration the following factors:
 - (i) The severity of the violation behavior.
 - (ii) The prior violation history.
 - (iii) The severity of the underlying criminal conviction.
 - (iv) The criminal history of the parolee.
 - (v) Any special circumstances, characteristics, or resources of the parolee.
 - (vi) Protection of the community.
 - (vii) Deterrence.
 - (viii) The availability of appropriate local sanctions, including but not limited to jail, treatment, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day reporting centers, or other local sanctions.

- (b) Procedures to provide a parolee with written notice of the right to a parole violation hearing to determine whether the parolee violated the conditions of parole alleged in the violation report and the right to be represented by counsel at state expense at that hearing if financially eligible.
 - (c) Procedures for a parolee to provide written waiver of the right to a parole violation hearing, to admit to the violation or affirmatively choose not to contest the violation alleged in the parole violation report, and to consent to the imposition of administrative sanctions by the department.
 - (d) The level and type of sanctions that may be imposed by parole officers and other supervisory personnel.
 - (e) The level and type of violation behavior that warrants a recommendation to the board that parole be revoked.
 - (f) Procedures notifying the parolee and the Board of Parole of a violation admitted by the parolee and the administrative sanctions imposed.
 - (g) Such other policies and procedures as are necessary to implement the provisions of this Subsection and to provide adequate parole supervision.
- (3) If the administrative sanction imposed pursuant to the provisions of this Subsection is jail confinement, the confinement shall not exceed ten days per violation and shall not exceed a total of sixty days per year.
- (4) For purposes of this Subsection, "technical violation" means any violation of a condition of parole as defined in [R.S. 15:574.9\(G\)\(2\)](#).
- C. (1) If the chief probation and parole officer, upon recommendation by a parole officer, has reasonable cause to believe that a parolee has violated the conditions of parole, he shall notify the board, and shall cause the appropriate parole officer to submit the parolee's record to the board. After consideration of the record submitted, and after such further investigation as it may deem necessary, the board may order:
- (a) The issuance of a reprimand and warning to the parolee.
 - (b) That the parolee be required to conform to one or more additional conditions of parole which may be imposed in accordance with [R.S. 15:574.4](#).
 - (c) That the parolee be arrested, and upon arrest be given a prerevocation hearing within a reasonable time, at or reasonably near the place of the alleged parole violation or arrest, to determine whether there is probable cause to detain the parolee pending orders of the parole board.
- (2) Upon receiving a summary of the prerevocation proceeding, the board may order the following:
- (a) The parolee's return to the physical custody of the Department of Public Safety and Corrections, corrections services, to await a hearing to determine whether his parole should be revoked.
 - (b) As an alternative to revocation, that the parolee, as a condition of parole, be committed to a community rehabilitation center or a substance abuse treatment program operated by, or under contract with, the department, for a period of time not to exceed six months, without benefit of good time, provided that such commitment does not extend the period of parole beyond the full parole term. Upon written request of the department that the offender be removed for

violations of the rules or regulations of the community rehabilitation center or substance abuse program, the board shall order that the parole be revoked, with credit for time served in the community rehabilitation center.

History

Added by Acts 1968, No. 191, § 1; Amended by Acts 1974, No. 120, § 1; Acts 1988, No. 380, § 1; Acts 1992, No. 301, § 1; [Acts 2010, No. 861](#), § 7, *eff. Aug. 15, 2010*; [Acts 2011, No. 104](#), § 1, *eff. Aug. 15, 2011*.

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La. R.S. 15:574.8

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§ 15:574.8. Parole officers; powers of arrest; summary arrest and detention of parolees

- A. Parole officers shall be deemed to be peace officers and shall have the same powers with respect to criminal matters and the enforcement of the law relating thereto as sheriffs, constables, and police officers have in their respective jurisdictions. They have all the immunities and matters of defense now available or hereafter made available to sheriffs, constables, and police officers in any suit brought against them in consequence of acts done in the course of their employment.
- B. If a parole officer has reasonable cause to believe that a parolee has violated or is attempting to violate a condition of his parole and that an emergency exists, so that awaiting action by the board under [R.S. 15:574.7](#) would create an undue risk to the public or to the parolee, such parole officer may arrest the parolee without a warrant or may authorize any peace officer to do so. The authorization may be in writing or oral, but if not written, shall be subsequently confirmed by a written statement. The written authorization or subsequent confirmation shall set forth that, in the judgment of the parole officer, the person to be arrested has violated or was attempting to violate a condition of his parole. The parolee arrested hereunder, if detained, shall be held in a local jail, state prison, or other detention facility, pending action by the board. Immediately after such arrest and detention, the parole officer concerned shall notify the chief probation and parole officer and submit a written report of the reason for the arrest. After consideration of the written report, the chief probation and parole officer shall, with all practicable speed, make a preliminary determination, and shall either order the parolee's release from detention or proceed promptly in accordance with [R.S. 15:574.7](#).

History

Added by Acts 1952, No. 162, § 7; Amended by Acts 1956, No. 66, § 1; Acts 1968, No. 191, § 1; Acts 2001, No. 608, § 1, eff. Aug. 15, 2001; [Acts 2010, No. 924](#), § 2, eff. July 2, 2010.

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La. R.S. 15:574.9

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§ 15:574.9. Revocation of parole for violation of condition; board panels; return to custody hearing; duration of reimprisonment and reparole after revocation; credit for time served; revocation for a technical violation

- A. When a parolee has been returned to the physical custody of the Department of Public Safety and Corrections, office of corrections services, the board shall hold a hearing to determine whether his parole should be revoked, unless said hearing is expressly waived in writing by the parolee. A waiver shall constitute an admission of the findings of the pre-revocation proceeding and result in immediate revocation. If the revocation hearing is not waived, the parolee shall be permitted to consult with and be advised and represented by his own legal counsel or legal counsel appointed under the provisions of [R.S. 15:179](#). At the hearing the parolee may admit, deny, or explain the violation charged, and he may present proof, including affidavits and other evidence, in support of his contentions. Upon request of the parolee, the parole board may postpone the rendering of its decision for a specified reasonable time pending receipt of further information necessary to a final determination.
- B. The board may order revocation of parole upon a determination that:
- (1) The parolee has failed, without a satisfactory excuse, to comply with a condition of his parole; and
 - (2) The violation of condition involves the commission of another felony, or misconduct including a substantial risk that the parolee will commit another felony, or misconduct indicating that the parolee is unwilling to comply with proper conditions of parole.
- C. Other than for conviction of a felony committed while on parole, action revoking a parolee's parole and recommitting him for violation of the condition of parole must be initiated before the expiration of his parole term. When a warrant for arrest is issued by the Board of Parole or a detainer is issued by the parole officer, the running of the period of parole shall cease as of the time the warrant or detainer is issued. A parolee under supervision in this state or another state, who has absented himself from the supervising jurisdiction, or from his place of residence, without proof of permission for such absence, shall be deemed a fugitive from justice and shall be returned to the physical custody of the Department of Public Safety and Corrections for a revocation hearing by the Board of Parole, without necessity of a prerevocation or probable cause hearing, at or near the place of the arrest or violation. No credit shall be applied toward completing the full parole term for the period of time the parolee was a fugitive from justice.
- D. Parole revocation shall require two votes of a three-member panel of parole board members or, if the number of members present exceeds a three-member panel, a majority vote of those members present and voting, and the order of revocation shall be reduced to writing and preserved.
- E. When the parole of a parolee has been revoked by the board for violation of the conditions of parole, the parolee shall be returned to the physical custody of the Department of

Public Safety and Corrections, corrections services, and serve the remainder of his sentence as of the date of his release on parole, and any credit for time served for good behavior while on parole. The parolee shall be given credit for time served prior to the revocation hearing for time served in actual custody while being held for a parole violation in a local detention facility, state institution, or out-of-state institution pursuant to [Code of Criminal Procedure Article 880](#).

- F.** Any such prisoner whose parole has been revoked may be considered by the board for reparole in accordance with the provisions of this Part.
- G.** (1) (a) Except as provided in Subparagraph (b) of this Paragraph, any offender who has been released on parole and whose parole supervision is being revoked under the provisions of this Subsection for his first technical violation of the conditions of parole as determined by the Board of Parole, shall be required to serve not more than ninety days without diminution of sentence or credit for time served prior to the revocation for a technical violation. The term of the revocation for the technical violation shall begin on the date the Board of Parole orders the revocation. Upon completion of the imposed technical revocation sentence, the offender shall return to active parole supervision for the remainder of the original term of supervision. The provisions of this Subsection shall apply only to an offender's first revocation for a technical violation.
- (b) The provisions of Subparagraph (a) of this Paragraph shall not apply to the following offenders:
- (i) Any offender released on parole for the conviction of a crime of violence as defined in [R.S. 14:2\(B\)](#).
 - (ii) Any offender released on parole for the conviction of a sex offense as defined in [R.S. 15:541](#).
 - (iii) Any offender released on parole who is subject to the sex offender registration and notification requirements of [R.S. 15:541](#) et seq.
- (2) A "technical violation", as used in this Subsection, means any violation except it shall not include any of the following:
- (a) Being arrested, charged, or convicted of any of the following:
 - (i) A felony.
 - (ii) Repealed by [Acts 2010, No. 510](#), § 1, effective August 15, 2010.
 - (iii) Any intentional misdemeanor directly affecting the person.
 - (iv) At the discretion of the Board of Parole, any attempt to commit any intentional misdemeanor directly affecting the person.
 - (v) At the discretion of the Board of Parole, any attempt to commit any other misdemeanor.
 - (b) Being in possession of a firearm or other prohibited weapon.
 - (c) Failing to appear at any court hearing.
 - (d) Absconding from the jurisdiction of the Board of Parole.

Added by Acts 1968, No. 191, § 1; Amended by Acts 1974, No. 106, § 1; Acts 1974, No. 198, § 1; Acts 1974, No. 203, § 1; Acts 1985, No. 196, § 1, eff. July 6, 1985; Acts 1985, No. 930, § 2, eff. July 23, 1985; Acts 1988, No. 380, § 1; Acts 1990, No. 330, § 1; Acts 1991, No. 116, § 1; Acts 1991, No. 118, § 1; Acts 1995, No. 1011, § 1; Acts 2001, No. 608, § 1, eff. Aug. 15, 2001; Acts 2006, No. 113, § 2, eff. Aug. 15, 2006; [Acts 2007, No. 402](#), § 2, eff. Aug. 15, 2007; [Acts 2008, No. 220](#), § 6, eff. June 14, 2008; [Acts 2010, No. 510](#), § 1, eff. Aug. 15, 2010; [Acts 2010, No. 520](#), § 1, eff. Aug. 15, 2010; [Acts 2010, No. 792](#), § 1, eff. Aug. 15, 2010; [Acts 2011, No. 186](#), § 3, eff. Aug. 15, 2011.

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§ 15:574.10. Conviction of a felony while on parole

When a person is convicted in this state of a felony committed while on parole or is convicted under the laws of any other state or of the United States or any foreign government or country of an offense committed while on parole, and which if committed in this state would be a felony, his parole shall be deemed revoked as of the date of the commission of the felony or such offense under the laws of the other jurisdiction. His parole officer shall inform the sentencing judge of the fact that the convicted defendant is a parole violator. The term for which the defendant shall be imprisoned as a parole violator shall be the same as that provided in cases of revocation of parole for violation of the conditions of parole. The new sentence of imprisonment shall be served consecutively to the term of imprisonment for violation of parole unless a concurrent term of imprisonment is directed by the court. An appeal by the defendant on the new conviction or sentence shall not suspend the revocation provisions of this Section, unless the defendant has been admitted to post-conviction bail on the new sentence of imprisonment. In the event of a successful appeal of the new conviction or sentence, the state shall be liable for any loss of income sustained by the defendant due to such revocation of parole.

History

Acts 1968, No. 191, § 1; Acts 1987, No. 95, § 1; Acts 1993, No. 104, § 1; [Acts 2008, No. 144, § 1, eff. Aug. 15, 2008.](#)

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§ 15:574.11. Finality of board determinations; venue; jurisdiction and procedure; preemptive period; service of process

- A. Parole is an administrative device for the rehabilitation of prisoners under supervised freedom from actual restraint, and the granting, conditions, or revocation of parole rest in the discretion of the Board of Parole. No prisoner or parolee shall have a right of appeal from a decision of the board regarding release or deferment of release on parole, the imposition or modification of authorized conditions of parole, the termination or restoration of parole supervision or discharge from parole before the end of the parole period, or the revocation or reconsideration of revocation of parole, except for the denial of a revocation hearing under [R.S. 15:574.9](#).
- B. Venue in any action in which an individual committed to the Department of Public Safety and Corrections contests any action of the board shall be in the parish of East Baton Rouge. Venue in a suit contesting the actions of the board shall be controlled by this Part and [R.S. 15:571.15](#) and not the Code of Criminal Procedure, Title XXXI-A, Post Conviction Relief, or Title IX, Habeas Corpus, regardless of the captioned pleadings stating the contrary.
- C. The district court shall have appellate jurisdiction over pleadings alleging a violation of [R.S. 15:574.9](#). The review shall be conducted by the court without a jury and shall be confined to the revocation record. Within thirty days after service of the petition, or within further time allowed by the court, the Board of Parole shall transmit to the reviewing court the original or a certified copy of the entire revocation record of the proceeding under review. The review shall be limited to the issues presented in the petition for review. The discovery provisions under the Code of Civil Procedure applicable to ordinary suits shall not apply in a suit for judicial review under this Subsection. The court may affirm the revocation decision of the Board of Parole or reverse and remand the case for further revocation proceedings. An aggrieved party may appeal a final judgment of the district court to the appropriate court of appeal.
- D. Petitions for review that allege a denial of a revocation hearing under the provisions of [R.S. 15:574.9](#) shall be subject to a preemptive period of ninety days after the date of revocation by the Board of Parole. When revocation is based upon the conviction of a new felony while on parole, the ninety-day preemptive period shall commence on the date of final judgment of the new felony. Petitions for review filed after this preemptive period shall be dismissed with prejudice. Service of process of petitions for review shall be made upon the chairman of the Board of Parole or his designee. The only proper party defendant in an action under this Section shall be the Board of Parole.

History

Acts 1968, No. 191, § 1; Acts 1990, No. 670, § 1; Acts 2005, No. 460, § 1, eff. Aug. 15, 2005;

La. R.S. 15:574.11

[Acts 2010, No. 138](#), § 1, eff. Aug. 15, 2010.

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> [TITLE 15.](#) > [CHAPTER 5.](#) > [PART 2.](#) > [\(4\) MEDICAL PAROLE](#)

§ 15:574.20. Medical parole program; eligibility; revocation

A.

(1) Notwithstanding the provisions of this Part or any other law to the contrary, any person sentenced to the custody of the Department of Public Safety and Corrections may, upon referral by the department, be considered for medical parole by the Board of Parole. Medical parole consideration shall be in addition to any other parole for which an inmate may be eligible, but shall not be available to any inmate who is awaiting execution or who has a contagious disease.

(2) Medical parole shall not be available to any inmate serving time for the violation of [R.S. 14:30](#), first degree murder; or [R.S. 14:30.1](#), second degree murder.

B. The Board of Parole shall establish the medical parole program to be administered by the Department of Public Safety and Corrections. An inmate eligible for consideration for release under the program shall be any person who, because of an existing medical or physical condition, is determined by the department to be within one of the following designations:

(1) "Permanently incapacitated inmate" which shall mean any person who, by reason of an existing physical or medical condition, is so permanently and irreversibly physically incapacitated that he does not constitute a danger to himself or to society; or

(2) "Terminally ill inmate" which shall mean any person who, because of an existing medical condition, is irreversibly terminally ill, and who by reason of the condition does not constitute a danger to himself or to society.

C. The authority to grant medical parole shall rest solely with the Board of Parole, and the board shall establish additional conditions of the parole in accordance with the provisions of this Subpart. The Department of Public Safety and Corrections shall identify those inmates who may be eligible for medical parole based upon available medical information. In considering an inmate for medical parole, the board may require that additional medical evidence be produced or that additional medical examinations be conducted.

D. The parole term of an inmate released on medical parole shall be for the remainder of the inmate's sentence, without diminution of sentence for good behavior. Supervision of the parolee shall consist of periodic medical evaluations at intervals to be determined by the board at the time of release.

E. If it is discovered through the supervision of the medical parolee that his condition has improved such that he would not then be eligible for medical parole under the provisions of this Subpart, the board may order that the person be returned to the custody of the Department of Public Safety and Corrections to await a hearing to determine whether his parole shall be revoked. Any person whose medical parole is revoked due to an improvement in his condition shall resume serving the balance of his sentence with credit given for the duration of the medical parole. If the person's medical parole is revoked due to an improvement in his condition, and he would be otherwise eligible for parole, he may then be con-

sidered for parole under the provisions of [R.S. 15:574.4](#). Medical parole may also be revoked for violation of any condition of the parole as established by the Board of Parole.

- F.** The Board of Parole shall promulgate such rules as are necessary to effectuate this Subpart, including rules relative to the conduct of medical parole hearings, and the conditions of medical parole release.

History

Acts 1990, No. 563, § 1; Acts 1993, No. 938, § 1.

LOUISIANA STATUTES ANNOTATED

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West's Annotated Mississippi Code
Title 47. Prisons and Prisoners; Probation and Parole
Chapter 5. Correctional System
Offenders

Miss. Code Ann. § 47-5-138

§ 47-5-138. Earned time allowance program; earned-release supervision

Currentness

(1) The department may promulgate rules and regulations to carry out an earned time allowance program based on the good conduct and performance of an inmate. An inmate is eligible to receive an earned time allowance of one-half ($\frac{1}{2}$) of the period of confinement imposed by the court except those inmates excluded by law. When an inmate is committed to the custody of the department, the department shall determine a conditional earned time release date by subtracting the earned time allowance from an inmate's term of sentence. This subsection does not apply to any sentence imposed after June 30, 1995.

(2) An inmate may forfeit all or part of his earned time allowance for a serious violation of rules. No forfeiture of the earned time allowance shall be effective except upon approval of the commissioner or his designee, and forfeited earned time may not be restored.

(3)(a) For the purposes of this subsection, "final order" means an order of a state or federal court that dismisses a lawsuit brought by an inmate while the inmate was in the custody of the Department of Corrections as frivolous, malicious or for failure to state a claim upon which relief could be granted.

(b) On receipt of a final order, the department shall forfeit:

(i) Sixty (60) days of an inmate's accrued earned time if the department has received one (1) final order as defined herein;

(ii) One hundred twenty (120) days of an inmate's accrued earned time if the department has received two (2) final orders as defined herein;

(iii) One hundred eighty (180) days of an inmate's accrued earned time if the department has received three (3) or more final orders as defined herein.

(c) The department may not restore earned time forfeited under this subsection.

(4) An inmate who meets the good conduct and performance requirements of the earned time allowance program may be released on his conditional earned time release date.

§ 47-5-138. Earned time allowance program; earned-release..., MS ST § 47-5-138

(5) For any sentence imposed after June 30, 1995, an inmate may receive an earned time allowance of four and one-half (4½) days for each thirty (30) days served if the department determines that the inmate has complied with the good conduct and performance requirements of the earned time allowance program. The earned time allowance under this subsection shall not exceed fifteen percent (15%) of an inmate's term of sentence; however, beginning July 1, 2006, no person under the age of twenty-one (21) who has committed a nonviolent offense, and who is under the jurisdiction of the Department of Corrections, shall be subject to the fifteen percent (15%) limitation for earned time allowances as described in this subsection (5).

(6) Any inmate, who is released before the expiration of his term of sentence under this section, shall be placed under earned-release supervision until the expiration of the term of sentence. The inmate shall retain inmate status and remain under the jurisdiction of the department. The period of earned-release supervision shall be conducted in the same manner as a period of supervised parole. The department shall develop rules, terms and conditions for the earned-release supervision program. The commissioner shall designate the appropriate hearing officer within the department to conduct revocation hearings for inmates violating the conditions of earned-release supervision.

(7) If the earned-release supervision is revoked, the inmate shall serve the remainder of the sentence, but the time the inmate served on earned-release supervision before revocation, shall be applied to reduce his sentence.

Credits

Laws 1977, Ch. 479, § 6; Laws 1981, Ch. 465, § 73; Laws 1984, Ch. 386, § 1; Laws 1984, Ch. 471, § 65; Laws 1985, Ch. 531, § 2; Laws 1986, Ch. 413, § 65; Laws 1992, Ch. 520, § 1; Laws 1993, Ch. 403, § 1; Laws 1995, Ch. 596, § 4; Laws 1996, Ch. 350, § 1; Laws 1996, Ch. 418, § 1; Laws 1998, Ch. 402, § 1, eff. from and after passage (approved March 16, 1998). Amended by Laws 2001, Ch. 393, § 5, eff. July 1, 2001; Laws 2005, Ch. 471, § 9, eff. July 1, 2005; Laws 2012, Ch. 486, § 1, eff. from and after passage (approved April 26, 2012).

Editors' Notes

LAW REVIEW AND JOURNAL COMMENTARIES

The role of the defense attorney in mitigating the nonviolent youthful offender and locating the appropriate alternative sentence. Gilliam, 19 Miss.C.L.Rev. 361 (1999).

LIBRARY REFERENCES

Prisons 243.
Westlaw Topic No. 310.
C.J.S. Prisons and Rights of Prisoners §§ 142 to 144, 147 to 151.

RESEARCH REFERENCES

ALR Library

95 ALR 2nd 1265, Withdrawal, Forfeiture, Modification, or Denial of Good-Time Allowance to Prisoner.

Encyclopedias

§ 47-5-138. Earned time allowance program; earned-release..., MS ST § 47-5-138

Encyclopedia of Mississippi Law § 56:3, Grounds for Post-Conviction Relief.
Encyclopedia of Mississippi Law § 56:28, Claim of Ineffective Assistance of Counsel.
Encyclopedia of Mississippi Law § 56:34, Appeals, Stay of Judgment and Bail.

Notes of Decisions (51)

Miss. Code Ann. § 47-5-138, MS ST § 47-5-138

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

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§ 47-5-139. Earned time allowance; eligibility; forfeiture, MS ST § 47-5-139

West's Annotated Mississippi Code
Title 47. Prisons and Prisoners; Probation and Parole
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Miss. Code Ann. § 47-5-139

§ 47-5-139. Earned time allowance; eligibility; forfeiture

Currentness

(1) An inmate shall not be eligible for the earned time allowance if:

(a) The inmate was sentenced to life imprisonment; but an inmate, except an inmate sentenced to life imprisonment for capital murder, who has reached the age of sixty-five (65) or older and who has served at least fifteen (15) years may petition the sentencing court for conditional release;

(b) The inmate was convicted as a habitual offender under Sections 99-19-81 through 99-19-87;

(c) The inmate has forfeited his earned time allowance by order of the commissioner;

(d) The inmate was convicted of a sex crime; or

(e) The inmate has not served the mandatory time required for parole eligibility for a conviction of robbery or attempted robbery with a deadly weapon.

(2) An offender under two (2) or more consecutive sentences shall be allowed commutation based upon the total term of the sentences.

(3) All earned time shall be forfeited by the inmate in the event of escape and/or aiding and abetting an escape. The commissioner may restore all or part of the earned time if the escapee returns to the institution voluntarily, without expense to the state, and without act of violence while a fugitive from the facility.

(4) Any officer or employee who shall willfully violate the provisions of this section and be convicted therefor shall be removed from office or employment.

Credits

Laws 1964, Ch. 378, § 24; Laws 1971, Ch. 524, § 12; Laws 1973, Ch. 357, § 1; Laws 1974, Ch. 539, § 29; Laws 1975, Ch. 485, §§ 2, 5; Laws 1976, Ch. 389, § 1; Laws 1976, Ch. 440, § 67; Laws 1977, Ch. 479, § 3; Laws 1981, Ch. 465, § 74; Laws

§ 47-5-139. Earned time allowance; eligibility; forfeiture, MS ST § 47-5-139

1981, Ch. 502, § 10; Laws 1982, Ch. 431, § 2; Laws 1984, Ch. 471, § 66; Laws 1986, Ch. 413, § 66; Laws 1992, Ch. 520, § 2; Laws 1994, 1st Ex. Sess., Ch. 25, § 6; Laws 1995, Ch. 596, § 5, eff. June 30, 1995.

Editors' Notes

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Westlaw Topic No. 310.

C.J.S. Prisons and Rights of Prisoners §§ 142 to 144, 147 to 151.

RESEARCH REFERENCES

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10 ALR 4th 8, Adequacy of Defense Counsel's Representation of Criminal Client Regarding Guilty Pleas.

95 ALR 2nd 1265, Withdrawal, Forfeiture, Modification, or Denial of Good-Time Allowance to Prisoner.

Encyclopedias

Encyclopedia of Mississippi Law § 19:49, Right to Due Process of Law.

Encyclopedia of Mississippi Law § 23:47, Punishment.

Encyclopedia of Mississippi Law § 23:96, Punishment.

Encyclopedia of Mississippi Law § 56:31, Evidentiary Hearings and Summary Judgment in the Trial Court.

Notes of Decisions (43)

Miss. Code Ann. § 47-5-139, MS ST § 47-5-139

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

§ 47-5-140. Handbooks regarding earned time; copies to offenders, MS ST § 47-5-140

West's Annotated Mississippi Code
Title 47. Prisons and Prisoners; Probation and Parole
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Miss. Code Ann. § 47-5-140

§ 47-5-140. Handbooks regarding earned time; copies to offenders

Currentness

Each county attorney, district attorney, each member of the Parole Board and circuit judge shall be provided a copy of a handbook prepared by the commissioner which shall include a copy of Section 47-5-138 and Section 47-5-139, and shall clearly show how such sections would apply to an offender sentenced to terms of various lengths. Each offender shall be provided a copy of the handbook upon arrival at the correctional system and have it explained to him as a part of his initial orientation.

Credits

Laws 1975, Ch. 485, § 4; Laws 1976, Ch. 440, § 68; Laws 1981, Ch. 465, § 75; Laws 1984, Ch. 471, § 67; Laws 1986, Ch. 413, § 67; Laws 1992, Ch. 520, § 3, eff. from and after passage (approved May 14, 1992).

Editors' Notes

LIBRARY REFERENCES

Prisons 243, 328.

Westlaw Topic No. 310.

C.J.S. Prisons and Rights of Prisoners §§ 14, 17, 19 to 20, 22, 26, 142 to 144, 147 to 151.

Miss. Code Ann. § 47-5-140, MS ST § 47-5-140

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

§ 47-5-142. Operation of meritorious earned time incentives, MS ST § 47-5-142

West's Annotated Mississippi Code
Title 47. Prisons and Prisoners; Probation and Parole
Chapter 5. Correctional System
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Miss. Code Ann. § 47-5-142

§ 47-5-142. Operation of meritorious earned time incentives

Currentness

- (1) In order to provide incentive for offenders to achieve positive and worthwhile accomplishments for their personal benefit or the benefit of others, and in addition to any other administrative reductions of the length of an offender's sentence, any offender shall be eligible, subject to the provisions of this section, to receive meritorious earned time as distinguished from earned time for good conduct and performance.
- (2) Subject to approval by the commissioner of the terms and conditions of the program or project, meritorious earned time may be awarded for the following: (a) successful completion of educational or instructional programs; (b) satisfactory participation in work projects; and (c) satisfactory participation in any special incentive program.
- (3) The programs and activities through which meritorious earned time may be received shall be published in writing and posted in conspicuous places at all facilities of the department and such publication shall be made available to all offenders in the custody of the department.
- (4) The commissioner shall make a determination of the number of days of reduction of sentence which may be awarded an offender as meritorious earned time for participation in approved programs or projects; the number of days shall be determined by the commissioner on the basis of each particular program or project.
- (5) No offender shall be awarded any meritorious earned time while assigned to the maximum security facilities for disciplinary purposes.
- (6) All meritorious earned time shall be forfeited by the offender in the event of escape and/or aiding and abetting an escape.
- (7) Any officer or employee of the department who shall willfully violate the provisions of this section and be convicted therefor shall be removed from office or employment.
- (8) An offender may forfeit all or any part of his meritorious earned time allowance for just cause upon the written order of the commissioner or his designee. Any meritorious earned time allowance forfeited under this section shall not be restored nor shall it be re-earned by the offender.

§ 47-5-142. Operation of meritorious earned time incentives, MS ST § 47-5-142

Credits

Laws 1985, Ch. 531, § 1; Laws 1992, Ch. 520, § 4, eff. from and after passage (approved May 14, 1992). Amended by Laws 2009, Ch. 316, § 1, eff. from and after passage (approved March 9, 2009).

Editors' Notes

LIBRARY REFERENCES

Prisons 243.

Westlaw Topic No. 310.

C.J.S. Prisons and Rights of Prisoners §§ 142 to 144, 147 to 151.

Notes of Decisions (7)

Miss. Code Ann. § 47-5-142, MS ST § 47-5-142

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

§ 47-7-3. Parole eligibility; earned time; tentative hearing date;..., MS ST § 47-7-3

West's Annotated Mississippi Code
Title 47. Prisons and Prisoners; Probation and Parole
Chapter 7. Probation and Parole
Probation and Parole Law

Miss. Code Ann. § 47-7-3

§ 47-7-3. Parole eligibility; earned time; tentative hearing date; program priority

Currentness

(1) Every prisoner who has been convicted of any offense against the State of Mississippi, and is confined in the execution of a judgment of such conviction in the Mississippi Department of Corrections for a definite term or terms of one (1) year or over, or for the term of his or her natural life, whose record of conduct shows that such prisoner has observed the rules of the department, and who has served not less than one-fourth ($\frac{1}{4}$) of the total of such term or terms for which such prisoner was sentenced, or, if sentenced to serve a term or terms of thirty (30) years or more, or, if sentenced for the term of the natural life of such prisoner, has served not less than ten (10) years of such life sentence, may be released on parole as hereinafter provided, except that:

(a) No prisoner convicted as a confirmed and habitual criminal under the provisions of Sections 99-19-81 through 99-19-87 shall be eligible for parole;

(b) Any person who shall have been convicted of a sex crime shall not be released on parole except for a person under the age of nineteen (19) who has been convicted under Section 97-3-67;

(c) No one shall be eligible for parole until he shall have served one (1) year of his sentence, unless such person has accrued any meritorious earned time allowances, in which case he shall be eligible for parole if he has served (i) nine (9) months of his sentence or sentences, when his sentence or sentences is two (2) years or less; (ii) ten (10) months of his sentence or sentences when his sentence or sentences is more than two (2) years but no more than five (5) years; and (iii) one (1) year of his sentence or sentences when his sentence or sentences is more than five (5) years;

(d)(i) No person shall be eligible for parole who shall, on or after January 1, 1977, be convicted of robbery or attempted robbery through the display of a firearm until he shall have served ten (10) years if sentenced to a term or terms of more than ten (10) years or if sentenced for the term of the natural life of such person. If such person is sentenced to a term or terms of ten (10) years or less, then such person shall not be eligible for parole. The provisions of this paragraph (d) shall also apply to any person who shall commit robbery or attempted robbery on or after July 1, 1982, through the display of a deadly weapon. This paragraph (d)(i) shall not apply to persons convicted after September 30, 1994;

(ii) No person shall be eligible for parole who shall, on or after October 1, 1994, be convicted of robbery, attempted robbery or carjacking as provided in Section 97-3-115 et seq., through the display of a firearm or drive-by shooting as provided in Section 97-3-109. The provisions of this paragraph (d)(ii) shall also apply to any person who shall commit robbery, attempted robbery, carjacking or a drive-by shooting on or after October 1, 1994, through the display of a deadly weapon;

§ 47-7-3. Parole eligibility; earned time; tentative hearing date;..., MS ST § 47-7-3

(e) No person shall be eligible for parole who, on or after July 1, 1994, is charged, tried, convicted and sentenced to life imprisonment without eligibility for parole under the provisions of Section 99-19-101;

(f) No person shall be eligible for parole who is charged, tried, convicted and sentenced to life imprisonment under the provisions of Section 99-19-101;

(g) Notwithstanding the provisions of subsection (1)(c), a person who is convicted of aggravated domestic violence shall not be eligible for parole until he shall have served one (1) year of his sentence;

(h) No person shall be eligible for parole who is convicted or whose suspended sentence is revoked after June 30, 1995, except that an offender convicted of only nonviolent crimes after June 30, 1995, may be eligible for parole if the offender meets the requirements in subsection (1) and this paragraph. In addition to other requirements, if an offender is convicted of a drug or driving under the influence felony, the offender must complete a drug and alcohol rehabilitation program prior to parole or the offender may be required to complete a post-release drug and alcohol program as a condition of parole. For purposes of this paragraph, "nonviolent crime" means a felony other than homicide, robbery, manslaughter, sex crimes, arson, burglary of an occupied dwelling, aggravated assault, kidnapping, felonious abuse of vulnerable adults, felonies with enhanced penalties, the sale or manufacture of a controlled substance under the Uniform Controlled Substances Law, felony child abuse, or exploitation or any crime under Section 97-5-33 or Section 97-5-39(2) or 97-5-39(1)(b), 97-5-39(1)(c) or a violation of Section 63-11-30(5). An offender convicted of a violation under Section 41-29-139(a), not exceeding the amounts specified under Section 41-29-139(b), may be eligible for parole. In addition, an offender incarcerated for committing the crime of possession of a controlled substance under the Uniform Controlled Substances Law after July 1, 1995, shall be eligible for parole.

(2) Notwithstanding any other provision of law, an inmate shall not be eligible to receive earned time, good time or any other administrative reduction of time which shall reduce the time necessary to be served for parole eligibility as provided in subsection (1) of this section; however, this subsection shall not apply to the advancement of parole eligibility dates pursuant to the Prison Overcrowding Emergency Powers Act. Moreover, meritorious earned time allowances may be used to reduce the time necessary to be served for parole eligibility as provided in paragraph (c) of subsection (1) of this section.

(3) The State Parole Board shall, by rules and regulations, establish a method of determining a tentative parole hearing date for each eligible offender taken into the custody of the Department of Corrections. The tentative parole hearing date shall be determined within ninety (90) days after the department has assumed custody of the offender. Such tentative parole hearing date shall be calculated by a formula taking into account the offender's age upon first commitment, number of prior incarcerations, prior probation or parole failures, the severity and the violence of the offense committed, employment history, whether the offender served in the United States Armed Forces and has an honorable discharge, and other criteria which in the opinion of the board tend to validly and reliably predict the length of incarceration necessary before the offender can be successfully paroled.

(4) Any inmate within twenty-four (24) months of his parole eligibility date and who meets the criteria established by the classification board shall receive priority for placement in any educational development and job training programs. Any inmate refusing to participate in an educational development or job training program may be ineligible for parole.

§ 47-7-3. Parole eligibility; earned time; tentative hearing date;..., MS ST § 47-7-3

Credits

Laws 1944, Ch. 334, § 2; Laws 1946, Ch. 486, § 2; Laws 1950, Ch. 524, § 4; Laws 1958, Ch. 233, § 2; Laws 1964, Ch. 366, § 1; Laws 1976, Ch. 440, § 79; Laws 1976, Ch. 470, § 5; Laws 1980, Ch. 511, § 1; Laws 1981, Ch. 465, § 92; Laws 1982, Ch. 431, § 1; Laws 1984, Ch. 471, § 102; Laws 1985, Ch. 499, § 16; Laws 1985, Ch. 531, § 3; Laws 1986, Ch. 413, § 102; Laws 1986, Ch. 435, § 1; Laws 1989, 1st Ex. Sess., Ch. 3, § 4; Laws 1993, Ch. 443, § 1; Laws 1994, Ch. 566, § 2; Laws 1994, 1st Ex. Sess., Ch. 25, § 5; Laws 1995, Ch. 575, § 2; Laws 1995, Ch. 596, § 3, eff. June 30, 1995. Amended by Laws 2001, Ch. 393, § 11, eff. July 1, 2001; Laws 2002, Ch. 413, § 1, eff. from and after passage (approved March 19, 2002); Laws 2004, Ch. 407, § 1, eff. from and after passage (approved April 22, 2004); Laws 2004, Ch. 520, § 1, eff. July 1, 2004; Laws 2004, Ch. 569, § 1, eff. from and after passage (approved May 13, 2004); Laws 2005, Ch. 503, § 1, eff. from and after passage (approved April 20, 2005); Laws 2008, Ch. 438, § 1, eff. from and after passage (approved April 7, 2008); Laws 2010, Ch. 536, § 4, eff. July 1, 2010.

Editors' Notes

LAW REVIEW AND JOURNAL COMMENTARIES

A probationary revocation hearing is not a criminal prosecution--*Williams v. State*, 409 So.2d 1331 (Miss. 1982). Note, 3 Miss.C.L.Rev. 227 (1982).

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Pardon and Parole 48.1, 57, 64.1.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 48 to 57, 59.

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31 ALR 6th 49, Adequacy of Defense Counsel's Representation of Criminal Client Regarding Guilty Pleas--Probation, Parole, or Pardon Possibilities.

Encyclopedias

Encyclopedia of Mississippi Law § 19:46, Right to be Free from Ex Post Facto Laws.
Encyclopedia of Mississippi Law § 23:47, Punishment.
Encyclopedia of Mississippi Law § 23:52, Punishment.
Encyclopedia of Mississippi Law § 23:82, Punishment.
Encyclopedia of Mississippi Law § 23:94, Elements--Deadly Weapon.
Encyclopedia of Mississippi Law § 23:96, Punishment.
Encyclopedia of Mississippi Law § 27:16, in General--Voir Dire in Capital Cases--Voir Dire Responses or Questions of Jurors.
Encyclopedia of Mississippi Law § 27:51, Sentence Phase Arguments.
Encyclopedia of Mississippi Law § 27:56, Sentencing Options.
Encyclopedia of Mississippi Law § 27:57, Jury Deliberations.
Encyclopedia of Mississippi Law Criminal Procedure § 8, Pleas.

Notes of Decisions (119)

§ 47-7-3. Parole eligibility; earned time; tentative hearing date;..., MS ST § 47-7-3

Miss. Code Ann. § 47-7-3, MS ST § 47-7-3

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

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§ 47-7-4. Conditional medical release; nonviolent terminally ill offenders, MS ST § 47-7-4

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Chapter 7. Probation and Parole
Probation and Parole Law

Miss. Code Ann. § 47-7-4

§ 47-7-4. Conditional medical release; nonviolent terminally ill offenders

Currentness

The commissioner and the medical director of the department may place an offender who has served not less than one (1) year of his or her sentence, except an offender convicted of a sex crime, on conditional medical release. However, a nonviolent offender who is bedridden may be placed on conditional medical release regardless of the time served on his or her sentence. Upon the release of a nonviolent offender who is bedridden, the state shall not be responsible or liable for any medical costs that may be incurred if such costs are acquired after the offender is no longer incarcerated due to his or her placement on conditional medical release. The commissioner shall not place an offender on conditional medical release unless the medical director of the department certifies to the commissioner that (a) the offender is suffering from a significant permanent physical medical condition with no possibility of recovery; (b) that his or her further incarceration will serve no rehabilitative purposes; and (c) that the state would incur unreasonable expenses as a result of his or her continued incarceration. Any offender placed on conditional medical release shall be supervised by the Division of Community Corrections of the department for the remainder of his or her sentence. An offender's conditional medical release may be revoked and the offender returned and placed in actual custody of the department if the offender violates an order or condition of his or her conditional medical release. An offender who is no longer bedridden shall be returned and placed in the actual custody of the department.

Credits

Added by Laws 2004, Ch. 426, § 1, eff. July 1, 2004. Amended by Laws 2008, Ch. 365, § 1, eff. from and after passage (approved March 31, 2008); Laws 2012, Ch. 545, § 1, eff. from and after passage (approved May 22, 2012).

Editors' Notes

LIBRARY REFERENCES

Prisons  248.
Westlaw Topic No. 310.
C.J.S. Prisons and Rights of Prisoners § 152.

Miss. Code Ann. § 47-7-4, MS ST § 47-7-4

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

§ 47-7-17. Consideration; notice; factors considered; rules, MS ST § 47-7-17

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Probation and Parole Law

Miss. Code Ann. § 47-7-17

§ 47-7-17. Consideration; notice; factors considered; rules

Currentness

Within one (1) year after his admission and at such intervals thereafter as it may determine, the board shall secure and consider all pertinent information regarding each offender, except any under sentence of death or otherwise ineligible for parole, including the circumstances of his offense, his previous social history, his previous criminal record, including any records of law enforcement agencies or of a youth court regarding that offender's juvenile criminal history, his conduct, employment and attitude while in the custody of the department, and the reports of such physical and mental examinations as have been made. The board shall furnish at least three (3) months' written notice to each such offender of the date on which he is eligible for parole.

Before ruling on the application for parole of any offender, the board may have the offender appear before it and interview him. The hearing shall be held two (2) months prior to the month of eligibility in order for the department to address any special conditions required by the board. No application for parole of a person convicted of a capital offense shall be considered by the board unless and until notice of the filing of such application shall have been published at least once a week for two (2) weeks in a newspaper published in or having general circulation in the county in which the crime was committed. The board shall also give notice of the filing of the application for parole to the victim of the offense for which the prisoner is incarcerated and being considered for parole or, in case the offense be homicide, a designee of the immediate family of the victim, provided the victim or designated family member has furnished in writing a current address to the board for such purpose. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. An offender shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Within forty-eight (48) hours prior to the release of an offender on parole, the Director of Records of the department shall give the written notice which is required pursuant to Section 47-5-177. Every offender while on parole shall remain in the legal custody of the department from which he was released and shall be amenable to the orders of the board. The board, upon rejecting the application for parole of any offender, shall within thirty (30) days following such rejection furnish that offender in general terms the reasons therefor in writing. Upon determination by the board that an offender is eligible for release by parole, notice shall also be given by the board to the victim of the offense or the victim's family member, as indicated above, regarding the date when the offender's release shall occur, provided a current address of the victim or the victim's family member has been furnished in writing to the board for such purpose.

Failure to provide notice to the victim or the victim's family member of the filing of the application for parole or of any decision made by the board regarding parole shall not constitute grounds for vacating an otherwise lawful parole determination nor shall it create any right or liability, civilly or criminally, against the board or any member thereof.

A letter of protest against granting an offender parole shall not be treated as the conclusive and only reason for not granting parole.

§ 47-7-17. Consideration; notice; factors considered; rules, MS ST § 47-7-17

The board may adopt such other rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of offenders for parole, the conduct of parole hearings, or conditions to be imposed upon parolees, including a condition that the parolee submit, as provided in Section 47-5-601 to any type of breath, saliva or urine chemical analysis test, the purpose of which is to detect the possible presence of alcohol or a substance prohibited or controlled by any law of the State of Mississippi or the United States. The board shall have the authority to adopt rules permitting certain offenders to be placed on unsupervised parole. However, in no case shall an offender be placed on unsupervised parole before he has served a minimum of three (3) years of supervised parole.

Credits

Laws 1950, Ch. 524, § 9; Laws 1972, Ch. 335, § 1; Laws 1976, Ch. 440, § 8; Laws 1981, Ch. 382, § 1; Laws 1981, Ch. 465, § 98; Laws 1983, Ch. 375, § 2; Laws 1983, Ch. 435, § 4; Laws 1984, Ch. 471, § 108; Laws 1985, Ch. 444, § 2; Laws 1986, Ch. 413, § 108; Laws 1986, Ch. 422, § 3; Laws 1986, Ch. 424, § 1; Laws 1989, 1st Ex. Sess., Ch. 3, § 7; Laws 1990, Ch. 399, § 2; Laws 1994, 1st Ex. Sess., Ch. 25, § 3, eff. from and after passage (approved August 23, 1994).

Editors' Notes

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Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 48 to 51.

RESEARCH REFERENCES

Encyclopedias

Encyclopedia of Mississippi Law § 19:49, Right to Due Process of Law.
Encyclopedia of Mississippi Law § 37:29, State Agency Immunity for Performance of Their Authorized Duties.
Encyclopedia of Mississippi Law Criminal Procedure § 8, Pleas.

Notes of Decisions (32)

Miss. Code Ann. § 47-7-17, MS ST § 47-7-17

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

§ 47-7-25. Supplies provided parolee on release, MS ST § 47-7-25

West's Annotated Mississippi Code
Title 47. Prisons and Prisoners; Probation and Parole
Chapter 7. Probation and Parole
Probation and Parole Law

Miss. Code Ann. § 47-7-25

§ 47-7-25. Supplies provided parolee on release

Currentness

When an offender is placed on parole he shall receive, if needed, from the state, civilian clothing and transportation to the place in which he is to reside. At the discretion of the board the offender may be advanced such sum for his temporary maintenance as the board may allow. The aforesaid gratuities are to be furnished by the commissioner of corrections who is authorized to charge the actual cost of same in his account as commissioner of corrections.

Credits

Laws 1944, Ch. 334, § 13; Laws 1950, Ch. 524, § 12; Laws 1976, Ch. 440, § 85; Laws 1981, Ch. 465, § 102; Laws 1984, Ch. 471, § 112; Laws 1986, Ch. 413, § 112, eff. from and after passage (approved March 28, 1986).

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole  41.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole § 42.

Miss. Code Ann. § 47-7-25, MS ST § 47-7-25

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

§ 47-7-27. Procedure for parole revocation, MS ST § 47-7-27

West's Annotated Mississippi Code
Title 47. Prisons and Prisoners; Probation and Parole
Chapter 7. Probation and Parole
Probation and Parole Law

Miss. Code Ann. § 47-7-27

§ 47-7-27. Procedure for parole revocation

Currentness

(1) The board may, at any time and upon a showing of probable violation of parole, issue a warrant for the return of any paroled offender to the custody of the department. The warrant shall authorize all persons named therein to return the paroled offender to actual custody of the department from which he was paroled. Pending a hearing upon any charge of parole violation, the offender shall remain incarcerated in any place of detention designated by the department.

(2) Any field supervisor may arrest an offender without a warrant or may deputize any other person with power of arrest by giving him a written statement setting forth that the offender has, in the judgment of that field supervisor, violated the conditions of his parole or earned-release supervision. The written statement delivered with the offender by the arresting officer to the official in charge of the department facility from which the offender was released or other place of detention designated by the department shall be sufficient warrant for the detention of the offender.

(3) The field supervisor, after making an arrest, shall present to the detaining authorities a similar statement of the circumstances of violation. The field supervisor shall at once notify the board or department of the arrest and detention of the offender and shall submit a written report showing in what manner the offender has violated the conditions of parole or earned-release supervision. An offender for whose return a warrant has been issued by the board shall, after the issuance of the warrant, be deemed a fugitive from justice.

(4) The right of the State of Mississippi to extradite persons and return fugitives from justice, from other states to this state, shall not be impaired by this chapter and shall remain in full force and effect. An offender convicted of a felony committed while on parole, whether in the State of Mississippi or another state, shall immediately have his parole revoked upon presentment of a certified copy of the commitment order to the board. If an offender is on parole and the offender is convicted of a felony for a crime committed prior to the offender being placed on parole, whether in the State of Mississippi or another state, the offender may have his parole revoked upon presentment of a certified copy of the commitment order to the board.

(5) At the next meeting of the board after the issuance of a warrant for the return of an offender, if the offender has been taken into custody, he shall be given an opportunity to appeal to the board in writing or in person why his parole should not be revoked. The board may then, or at any time in its discretion, terminate the parole or modify the terms and conditions thereof. If the board revokes parole, the offender shall serve the remainder of the sentence originally imposed, but the time served on parole before revocation shall be credited toward the offender's sentence. The board may grant the offender a second parole. If a second parole shall not be granted, then the offender shall serve the remainder of the sentence originally imposed, but the time served on parole before revocation shall be credited toward the offender's sentence.

§ 47-7-27. Procedure for parole revocation, MS ST § 47-7-27

(6) The chairman and each member of the board and the designated parole revocation hearing officer may, in the discharge of their duties, administer oaths, summon and examine witnesses, and take other steps as may be necessary to ascertain the truth of any matter about which they have the right to inquire.

Credits

Laws 1944, Ch. 334, § 11; Laws 1950, Ch. 524, § 14; Laws 1956, Ch. 262, § 6; Laws 1976, Ch. 440, § 86; Laws 1981, Ch. 465, § 103; Laws 1984, Ch. 471, § 113; Laws 1986, Ch. 357, § 1; Laws 1986, Ch. 413, § 113; Laws 1989, Ch. 306, § 1; Laws 1995, Ch. 596, § 7, eff. June 30, 1995. Amended by Laws 2010, Ch. 470, § 1, eff. July 1, 2010; Laws 2012, Ch. 488, § 1, eff. from and after passage (approved April 26, 2012).

Editors' Notes

LAW REVIEW AND JOURNAL COMMENTARIES

A probationary revocation hearing is not a criminal prosecution--*Williams v. State*, 409 So.2d 1331 (Miss. 1982). Note, 3 Miss.C.L.Rev. 227 (1982).

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Pardon and Parole 64.1, 77.

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C.J.S. Pardon and Parole §§ 59, 66, 69 to 87.

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63 ALR, Federal 328, Authority of United States Parole Commission to Credit Time Spent on Parole ("Street Time") Toward Sentence to be Served After Revocation of Parole.

Encyclopedias

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Encyclopedia of Mississippi Law Criminal Procedure § 2, Arrest.

Notes of Decisions (43)

Miss. Code Ann. § 47-7-27, MS ST § 47-7-27

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

§ 47-7-29. Effect of felony of parolee or earned-release prisoner..., MS ST § 47-7-29

West's Annotated Mississippi Code
Title 47. Prisons and Prisoners; Probation and Parole
Chapter 7. Probation and Parole
Probation and Parole Law

Miss. Code Ann. § 47-7-29

§ 47-7-29. Effect of felony of parolee or earned-release prisoner sentence

Currentness

Any prisoner who commits a felony while at large upon parole or earned-release supervision and who is convicted and sentenced therefor shall be required to serve such sentence after the original sentence has been completed.

Credits

Laws 1950, Ch. 524, § 15; Laws 1981, Ch. 465, § 104; Laws 1984, Ch. 471, § 114; Laws 1986, Ch. 413, § 114; Laws 1995, Ch. 596, § 8, eff. June 30, 1995.

Editors' Notes

LIBRARY REFERENCES

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Westlaw Topic No. 284.
C.J.S. Pardon and Parole § 89.

RESEARCH REFERENCES

Encyclopedias

Encyclopedia of Mississippi Law § 27:56, Sentencing Options.

Notes of Decisions (3)

Miss. Code Ann. § 47-7-29, MS ST § 47-7-29

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

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West's Annotated Mississippi Code
Title 47. Prisons and Prisoners; Probation and Parole
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Miss. Code Ann. § 47-7-33

§ 47-7-33. Probation; notice to Department of Corrections; support payments

Currentness

(1) When it appears to the satisfaction of any circuit court or county court in the State of Mississippi; having original jurisdiction over criminal actions, or to the judge thereof, that the ends of justice and the best interest of the public, as well as the defendant, will be served thereby, such court, in termtime or in vacation, shall have the power, after conviction or a plea of guilty, except in a case where a death sentence or life imprisonment is the maximum penalty which may be imposed or where the defendant has been convicted of a felony on a previous occasion in any court or courts of the United States and of any state or territories thereof, to suspend the imposition or execution of sentence, and place the defendant on probation as herein provided, except that the court shall not suspend the execution of a sentence of imprisonment after the defendant shall have begun to serve such sentence. In placing any defendant on probation, the court, or judge, shall direct that such defendant be under the supervision of the Department of Corrections.

(2) When any circuit or county court places an offender on probation, the court shall give notice to the Mississippi Department of Corrections within fifteen (15) days of the court's decision to place the offender on probation. Notice shall be delivered to the central office of the Mississippi Department of Corrections and to the regional office of the department which will be providing supervision to the offender on probation.

(3) When any circuit court or county court places a person on probation in accordance with the provisions of this section and that person is ordered to make any payments to his family, if any member of his family whom he is ordered to support is receiving public assistance through the State Department of Public Welfare, the court shall order him to make such payments to the county welfare officer of the county rendering public assistance to his family, for the sole use and benefit of said family.

Credits

Laws 1956, Ch. 262, § 10; Laws 1958, Ch. 242, § 1; Laws 1976, Ch. 440, § 88; Laws 1981, Ch. 465, § 106; Laws 1984, Ch. 471, § 116; Laws 1986, Ch. 413, § 116, eff. from and after passage (approved March 28, 1986). Amended by Laws 2000, Ch. 622, § 2, eff. July 1, 2000.

Editors' Notes

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Westlaw Topic No. 350H.
C.J.S. Criminal Law §§ 2144 to 2145, 2147.

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- 70 ALR 6th 1, Judicial Expunction of Criminal Record of Convicted Adult Under Statute-Expunction Under Statutes Addressing “First Offenders” and “Innocent Persons,” Where Conviction was for Minor Drug or Other Offense, Where...
23 ALR 4th 883, Propriety of Increased Sentence Following Revocation of Probation.
22 ALR 4th 755, Power of Court to Revoke Probation for Acts Committed After Imposition of Sentence But Prior to Commencement of Probation Term.
33 ALR 3rd 335, Comment Note.--Length of Sentence as Violation of Constitutional Provisions Prohibiting Cruel and Unusual Punishment.
55 ALR 3rd 812, Review for Excessiveness of Sentence in Narcotics Case.

Encyclopedias

- Encyclopedia of Mississippi Law § 56:4, Limitations and Exceptions.
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Encyclopedia of Mississippi Law § 56:20, Three Year Statute of Limitation.
Encyclopedia of Mississippi Law § 56:21, Prohibition of Successive Petitions.

Notes of Decisions (83)

Miss. Code Ann. § 47-7-33, MS ST § 47-7-33

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

§ 47-7-34. Post-release supervision; imposition by court;..., MS ST § 47-7-34

West's Annotated Mississippi Code
Title 47. Prisons and Prisoners; Probation and Parole
Chapter 7. Probation and Parole
Probation and Parole Law

Miss. Code Ann. § 47-7-34

§ 47-7-34. Post-release supervision; imposition by court; restrictions; termination

Currentness

(1) When a court imposes a sentence upon a conviction for any felony committed after June 30, 1995, the court, in addition to any other punishment imposed if the other punishment includes a term of incarceration in a state or local correctional facility, may impose a term of post-release supervision. However, the total number of years of incarceration plus the total number of years of post-release supervision shall not exceed the maximum sentence authorized to be imposed by law for the felony committed. The defendant shall be placed under post-release supervision upon release from the term of incarceration. The period of supervision shall be established by the court.

(2) The period of post-release supervision shall be conducted in the same manner as a like period of supervised probation, including a requirement that the defendant shall abide by any terms and conditions as the court may establish. Failure to successfully abide by the terms and conditions shall be grounds to terminate the period of post-release supervision and to recommit the defendant to the correctional facility from which he was previously released. Procedures for termination and recommitment shall be conducted in the same manner as procedures for the revocation of probation and imposition of a suspended sentence.

(3) Post-release supervision programs shall be operated through the probation and parole unit of the Division of Community Corrections of the department. The maximum amount of time that the Mississippi Department of Corrections may supervise an offender on the post-release supervision program is five (5) years.

Credits

Laws 1995, Ch. 596, § 9, eff. June 30, 1995. Amended by Laws 2000, Ch. 622, § 4, eff. July 1, 2000; Laws 2002, Ch. 624, § 6, eff. July 1, 2002.

Editors' Notes

LIBRARY REFERENCES

Sentencing and Punishment 1800, 2002, 2009.
Westlaw Topic No. 350H.
C.J.S. Criminal Law §§ 2144, 2158 to 2159, 2162.

RESEARCH REFERENCES

§ 47-7-34. Post-release supervision; imposition by court;..., MS ST § 47-7-34

ALR Library

23 ALR 4th 883, Propriety of Increased Sentence Following Revocation of Probation.
55 ALR 3rd 812, Review for Excessiveness of Sentence in Narcotics Case.

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Encyclopedia of Mississippi Law § 56:3, Grounds for Post-Conviction Relief.
Encyclopedia of Mississippi Law § 23:33, Punishment.
Encyclopedia of Mississippi Law § 23:60, Punishment.
Encyclopedia of Mississippi Law § 23:67, Aggravated Assault--Punishment.
Encyclopedia of Mississippi Law § 23:82, Punishment.
Encyclopedia of Mississippi Law § 30:20, Penalties.
Encyclopedia of Mississippi Law § 56:22, Waiver.
Encyclopedia of Mississippi Law § 23:178, Punishment.
Encyclopedia of Mississippi Law § 23:280, Punishment.

Notes of Decisions (61)

Miss. Code Ann. § 47-7-34, MS ST § 47-7-34

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

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West's Annotated Mississippi Code
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Miss. Code Ann. § 47-7-35

§ 47-7-35. Permissible conditions of probation or post-release supervision; Sex Offender Registry check

Currentness

(1) The courts referred to in Section 47-7-33 or 47-7-34 shall determine the terms and conditions of probation or post-release supervision and may alter or modify, at any time during the period of probation or post-release supervision, the conditions and may include among them the following or any other:

That the offender shall:

- (a) Commit no offense against the laws of this or any other state of the United States, or of any federal, territorial or tribal jurisdiction of the United States;
- (b) Avoid injurious or vicious habits;
- (c) Avoid persons or places of disreputable or harmful character;
- (d) Report to the probation and parole officer as directed;
- (e) Permit the probation and parole officer to visit him at home or elsewhere;
- (f) Work faithfully at suitable employment so far as possible;
- (g) Remain within a specified area;
- (h) Pay his fine in one (1) or several sums;
- (i) Support his dependents;

§ 47-7-35. Permissible conditions of probation or post-release..., MS ST § 47-7-35

(j) Submit, as provided in Section 47-5-601, to any type of breath, saliva or urine chemical analysis test, the purpose of which is to detect the possible presence of alcohol or a substance prohibited or controlled by any law of the State of Mississippi or the United States;

(k) Register as a sex offender if so required under Title 45, Chapter 33.

(2) When any court places a defendant on misdemeanor probation, the court must cause to be conducted a search of the probationer's name or other identifying information against the registration information regarding sex offenders maintained under Title 45, Chapter 33. The search may be conducted using the Internet site maintained by the Department of Public Safety Sex Offender Registry.

Credits

Laws 1956, Ch. 262, § 11; Laws 1981, Ch. 465, § 107; Laws 1983, Ch. 435, § 6; Laws 1984, Ch. 471, § 117; Laws 1986, Ch. 413, § 117; Laws 1995, Ch. 596, § 10, eff. June 30, 1995. Amended by Laws 2006, Ch. 566, § 5, eff. July 1, 2006; Laws 2007, Ch. 392, § 14, eff. July 1, 2007; Laws 2011, Ch. 359, § 13, eff. July 1, 2011.

Editors' Notes

LAW REVIEW AND JOURNAL COMMENTARIES

Computer searches of probationers--Diminished privacies, "special needs" & "whilst quiet pedophiles"--Plugging the Fourth Amendment into the "virtual home visit". Harrold. 75 Miss.L.J. 273. (Winter 2006).

Should shielding children from Internet pornography and protecting Free Speech be mutually exclusive? *Ashcroft v. American Civil Liberties Union*. Gates. 25 Miss. C. L. Rev. 117 (Fall, 2005)

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Sentencing and Punishment 1964.

Westlaw Topic Nos. 257A, 350H.

C.J.S. Criminal Law § 2152.

C.J.S. Mental Health §§ 290 to 291, 299.

RESEARCH REFERENCES

ALR Library

22 ALR 4th 755, Power of Court to Revoke Probation for Acts Committed After Imposition of Sentence But Prior to Commencement of Probation Term.

70 ALR 100, Validity and Effect of Sentence of Banishment, or Suspension of Sentence or Probation on Condition of Leaving State or Locality.

Notes of Decisions (20)

Miss. Code Ann. § 47-7-35, MS ST § 47-7-35

§ 47-7-35. Permissible conditions of probation or post-release..., MS ST § 47-7-35

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

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§ 47-7-37. Probation and post-release supervision violations;..., MS ST § 47-7-37

West's Annotated Mississippi Code
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Miss. Code Ann. § 47-7-37

§ 47-7-37. Probation and post-release supervision violations; release with or without bail; procedure; duration

Currentness

The period of probation shall be fixed by the court, and may at any time be extended or terminated by the court, or judge in vacation. Such period with any extension thereof shall not exceed five (5) years, except that in cases of desertion and/or failure to support minor children, the period of probation may be fixed and/or extended by the court for so long as the duty to support such minor children exists.

At any time during the period of probation the court, or judge in vacation, may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the probationer to be arrested. Any probation and parole officer may arrest a probationer without a warrant, or may deputize any other officer with power of arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the probation and parole officer, violated the conditions of probation. Such written statement delivered with the probationer by the arresting officer to the official in charge of a county jail or other place of detention shall be sufficient warrant for the detention of the probationer.

If a probationer or offender is subject to registration as a sex offender, the court must make a finding that the probationer or offender is not a danger to the public prior to release with or without bail. In determining the danger posed by the release of the offender or probationer, the court may consider the nature and circumstances of the violation and any new offenses charged; the offender or probationer's past and present conduct, including convictions of crimes and any record of arrests without conviction for crimes involving violence or sex crimes; any other evidence of allegations of unlawful sexual conduct or the use of violence by the offender or probationer; the offender or probationer's family ties, length of residence in the community, employment history and mental condition; the offender or probationer's history and conduct during the probation or other supervised release and any other previous supervisions, including disciplinary records of previous incarcerations; the likelihood that the offender or probationer will engage again in a criminal course of conduct; the weight of the evidence against the offender or probationer; and any other facts the court considers relevant.

The probation and parole officer after making an arrest shall present to the detaining authorities a similar statement of the circumstances of violation. The probation and parole officer shall at once notify the court of the arrest and detention of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation. Thereupon, or upon an arrest by warrant as herein provided, the court, in termtime or vacation, shall cause the probationer to be brought before it and may continue or revoke all or any part of the probation or the suspension of sentence, and may cause the sentence imposed to be executed or may impose any part of the sentence which might have been imposed at the time of conviction.

If the probationer is arrested in a circuit court district in the State of Mississippi other than that in which he was convicted, the probation and parole officer, upon the written request of the sentencing judge, shall furnish to the circuit court or the county court of the county in which the arrest is made, or to the judge of such court, a report concerning the probationer, and such court or the judge in vacation shall have authority, after a hearing, to continue or revoke all or any part of probation or all or any part

§ 47-7-37. Probation and post-release supervision violations;..., MS ST § 47-7-37

of the suspension of sentence, and may in case of revocation proceed to deal with the case as if there had been no probation. In such case, the clerk of the court in which the order of revocation is issued shall forward a transcript of such order to the clerk of the court of original jurisdiction, and the clerk of that court shall proceed as if the order of revocation had been issued by the court of original jurisdiction. Upon the revocation of probation or suspension of sentence of any offender, such offender shall be placed in the legal custody of the State Department of Corrections and shall be subject to the requirements thereof.

Any probationer who removes himself from the State of Mississippi without permission of the court placing him on probation, or the court to which jurisdiction has been transferred, shall be deemed and considered a fugitive from justice and shall be subject to extradition as now provided by law. No part of the time that one is on probation shall be considered as any part of the time that he shall be sentenced to serve.

The arresting officer, except when a probation and parole officer, shall be allowed the same fees as now provided by law for arrest on warrant, and such fees shall be taxed against the probationer and paid as now provided by law.

The arrest, revocation and recommitment procedures of this section also apply to persons who are serving a period of post-release supervision imposed by the court.

Credits

Laws 1956, Ch. 262, § 12; Laws 1962, Ch. 331, § 1; Laws 1981, Ch. 465, § 108; Laws 1984, Ch. 471, § 118; Laws 1986, Ch. 413, § 118; Laws 1990, Ch. 331, § 1; Laws 1992, Ch. 395, § 1; Laws 1995, Ch. 596, § 11, eff. June 30, 1995; Laws 2006, Ch. 566, § 6, eff. July 1, 2006.

Editors' Notes

LAW REVIEW AND JOURNAL COMMENTARIES

Computer searches of probationers--Diminished privacies, "special needs" & "whilst quiet pedophiles"--Plugging the Fourth Amendment into the "virtual home visit". Harrold. 75 Miss.L.J. 273. (Winter 2006).

Should shielding children from Internet pornography and protecting Free Speech be mutually exclusive? *Ashcroft v. American Civil Liberties Union*. Gates. 25 Miss. C. L. Rev. 117 (Fall, 2005)

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Sentencing and Punishment 2003, 2009, 2012.

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C.J.S. Criminal Law § 2162.

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13 ALR 4th 1240, Power of Court, After Expiration of Probation Term, to Revoke or Modify Probation for Violations Committed During the Probation Term.

23 ALR 4th 883, Propriety of Increased Sentence Following Revocation of Probation.

22 ALR 4th 755, Power of Court to Revoke Probation for Acts Committed After Imposition of Sentence But Prior to Commencement of Probation Term.

44 ALR 3rd 306, Right to Assistance of Counsel at Proceedings to Revoke Probation.

§ 47-7-37. Probation and post-release supervision violations;..., MS ST § 47-7-37

99 ALR 3rd 781, Right of Defendant Sentenced After Revocation of Probation to Credit for Jail Time Served as Condition of Probation.

Encyclopedias

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Encyclopedia of Mississippi Law § 19:83, Right to be Free from Double Jeopardy.

Encyclopedia of Mississippi Law § 23:82, Punishment.

Encyclopedia of Mississippi Law § 41:40, Mississippi Code Provisions Authorizing Arrest.

Encyclopedia of Mississippi Law § 56:17, Judicial Examination of Motions and Records by the Trial Court.

Encyclopedia of Mississippi Law § 23:286, Double Jeopardy.

Encyclopedia of Mississippi Law Criminal Procedure § 2, Arrest.

Notes of Decisions (157)

Miss. Code Ann. § 47-7-37, MS ST § 47-7-37

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

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§ 47-7-39. Transfer of probation; residency change, MS ST § 47-7-39

West's Annotated Mississippi Code
Title 47. Prisons and Prisoners; Probation and Parole
Chapter 7. Probation and Parole
Probation and Parole Law

Miss. Code Ann. § 47-7-39

§ 47-7-39. Transfer of probation; residency change

Currentness

If, for good and sufficient reasons, a probationer desires to change his residence within or without the state, such transfer may be effected by application to his field supervisor which transfer shall be subject to the court's consent and subject to such regulations as the court, or judge, may require.

Credits

Laws 1956, Ch. 262, § 13; Laws 1976, Ch. 440, § 89; Laws 1981, Ch. 465, § 109; Laws 1984, Ch. 471, § 119; Laws 1986, Ch. 413, § 119, eff. from and after passage (approved March 28, 1986).

Editors' Notes

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Westlaw Topic No. 350H.

Miss. Code Ann. § 47-7-39, MS ST § 47-7-39

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

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§ 47-7-41. Discharge from probation; restoring rights, MS ST § 47-7-41

West's Annotated Mississippi Code
Title 47. Prisons and Prisoners; Probation and Parole
Chapter 7. Probation and Parole
Probation and Parole Law

Miss. Code Ann. § 47-7-41

§ 47-7-41. Discharge from probation; restoring rights

Currentness

When a probationer shall be discharged from probation by the court of original jurisdiction, the field supervisor, upon receiving a written request from the probationer, shall forward a written report of the record of the probationer to the Division of Community Corrections of the department, which shall present a copy of this report to the Governor. The Governor may, in his discretion, at any time thereafter by appropriate executive order restore any civil rights lost by the probationer by virtue of his conviction or plea of guilty in the court of original jurisdiction.

Credits

Laws 1956, Ch. 262, § 14; Laws 1976, Ch. 440, § 90; Laws 1981, Ch. 465, § 110; Laws 1984, Ch. 471, § 120; Laws 1986, Ch. 413, § 120; Laws 1992, Ch. 511, § 1, eff. from and after passage (approved May 14, 1992). Amended by Laws 2002, Ch. 624, § 7, eff. July 1, 2002.

Editors' Notes

LIBRARY REFERENCES

Convicts 22.
Sentencing and Punishment 1953.
Westlaw Topic Nos. 98, 350H.
C.J.S. Convicts § 7.
C.J.S. Criminal Law § 2155.

RESEARCH REFERENCES

ALR Library

10 ALR 6th 31, Validity, Construction, and Application of State Criminal Disenfranchisement Provisions.

Notes of Decisions (4)

Miss. Code Ann. § 47-7-41, MS ST § 47-7-41

The statutes and Constitution are current through general laws from the 2013 Regular Session. Titles 17, 23, 31, 37, 73, and 75 are current through general laws from the 2012 Regular Session. These Titles will be updated once notes from the revisor meeting are received and information is applied.

§ 47-7-41. Discharge from probation; restoring rights, MS ST § 47-7-41

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Vernon's Annotated Missouri Statutes

Title XIII. Correctional and Penal Institutions

Chapter 217. Department of Corrections (Refs & Annos)

Probation and Parole Board, Powers and Duties (Refs & Annos)

V.A.M.S. 217.690

217.690. Board may order release or parole, when--personal hearing--fee--standards--rules--
minimum term for eligibility for parole, how calculated--first degree murder, eligibility for
hearing--hearing procedure--notice--education requirements, exceptions--rulemaking authority

Currentness

1. When in its opinion there is reasonable probability that an offender of a correctional center can be released without detriment to the community or to himself, the board may in its discretion release or parole such person except as otherwise prohibited by law. All paroles shall issue upon order of the board, duly adopted.
2. Before ordering the parole of any offender, the board shall have the offender appear before a hearing panel and shall conduct a personal interview with him, unless waived by the offender. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. An offender shall be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every offender while on parole shall remain in the legal custody of the department but shall be subject to the orders of the board.
3. The board has discretionary authority to require the payment of a fee, not to exceed sixty dollars per month, from every offender placed under board supervision on probation, parole, or conditional release, to waive all or part of any fee, to sanction offenders for willful nonpayment of fees, and to contract with a private entity for fee collections services. All fees collected shall be deposited in the inmate fund established in section 217.430. Fees collected may be used to pay the costs of contracted collections services. The fees collected may otherwise be used to provide community corrections and intervention services for offenders. Such services include substance abuse assessment and treatment, mental health assessment and treatment, electronic monitoring services, residential facilities services, employment placement services, and other offender community corrections or intervention services designated by the board to assist offenders to successfully complete probation, parole, or conditional release. The board shall adopt rules not inconsistent with law, in accordance with section 217.040, with respect to sanctioning offenders and with respect to establishing, waiving, collecting, and using fees.
4. The board shall adopt rules not inconsistent with law, in accordance with section 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall recite the conditions of such parole.
5. When considering parole for an offender with consecutive sentences, the minimum term for eligibility for parole shall be calculated by adding the minimum terms for parole eligibility for each of the consecutive sentences, except the minimum term for parole eligibility shall not exceed the minimum term for parole eligibility for an ordinary life sentence.

217.690. Board may order release or parole, when--personal..., MO ST 217.690

6. Any offender under a sentence for first degree murder who has been denied release on parole after a parole hearing shall not be eligible for another parole hearing until at least three years from the month of the parole denial; however, this subsection shall not prevent a release pursuant to subsection 4 of section 558.011.

7. Parole hearings shall, at a minimum, contain the following procedures:

(1) The victim or person representing the victim who attends a hearing may be accompanied by one other person;

(2) The victim or person representing the victim who attends a hearing shall have the option of giving testimony in the presence of the inmate or to the hearing panel without the inmate being present;

(3) The victim or person representing the victim may call or write the parole board rather than attend the hearing;

(4) The victim or person representing the victim may have a personal meeting with a board member at the board's central office;

(5) The judge, prosecuting attorney or circuit attorney and a representative of the local law enforcement agency investigating the crime shall be allowed to attend the hearing or provide information to the hearing panel in regard to the parole consideration; and

(6) The board shall evaluate information listed in the juvenile sex offender registry pursuant to section 211.425, provided the offender is between the ages of seventeen and twenty-one, as it impacts the safety of the community.

8. The board shall notify any person of the results of a parole eligibility hearing if the person indicates to the board a desire to be notified.

9. The board may, at its discretion, require any offender seeking parole to meet certain conditions during the term of that parole so long as said conditions are not illegal or impossible for the offender to perform. These conditions may include an amount of restitution to the state for the cost of that offender's incarceration.

10. Nothing contained in this section shall be construed to require the release of an offender on parole nor to reduce the sentence of an offender heretofore committed.

11. Beginning January 1, 2001, the board shall not order a parole unless the offender has obtained a high school diploma or its equivalent, or unless the board is satisfied that the offender, while committed to the custody of the department, has made an honest good-faith effort to obtain a high school diploma or its equivalent; provided that the director may waive this requirement by certifying in writing to the board that the offender has actively participated in mandatory education programs or is academically unable to obtain a high school diploma or its equivalent.

217.690. Board may order release or parole, when--personal..., MO ST 217.690

12. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

Credits

(L.1982, H.B. No. 1196, § A(§ 123). Amended by L.1986, S.B. No. 450, § A, eff. March 17, 1986; L.1987, S.B. No. 261, § A; L.1989, H.B. Nos. 128, 79, & 166, § A; L.1989, H.B. No. 408, § A; L.1990, H.B. No. 974, § A; L.1992, S.B. No. 638, § A; L.1995, H.B. No. 424, § A; L.2002, S.B. Nos. 969, 673 & 855, § A; L.2005, H.B. No. 700, § A.)

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole 41 to 93.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 42 to 93.

RESEARCH REFERENCES

ALR Library

61 ALR, Federal 135, United States Parole Commission Guidelines for Federal Prisoners.
95 ALR 2nd 1265, Withdrawal, Forfeiture, Modification, or Denial of Good-Time Allowance to Prisoner.
70 ALR 1511, When Sentences Imposed by Same Court Run Concurrently or Consecutively; and Definiteness of Direction With Respect Thereto.
167 ALR 845, Effect, as to Prior Offenses, of Amendment Increasing Punishment for Crime.

Treatises and Practice Aids

19 MO Practice Series § 26:9, Eligibility for Parole.
19 MO Practice Series § 24:14, Satisfaction of Sentence of Imprisonment.
27 MO Practice Series § 12.8, Petition for Parole Eligibility Hearing.
28 MO Practice Series § 37:5, Parole.

Notes of Decisions (69)

V. A. M. S. 217.690, MO ST 217.690

Statutes are current with emergency legislation approved through July 1, 2013, of the 2013 First Regular Session of the 97th General Assembly. Constitution is current through the November 6, 2012 General Election.

Vernon's Annotated Missouri Statutes

Title XIII. Correctional and Penal Institutions

Chapter 217. Department of Corrections (Refs & Annos)

Probation and Parole Board, Powers and Duties (Refs & Annos)

V.A.M.S. 217.695

217.695. Release from custody under supervision of probation
and parole, registration with law enforcement officials required

Currentness

1. As used in this section, the following terms mean:

(1) “**Chief law enforcement official**”, the county sheriff, chief of police or other public official responsible for enforcement of criminal laws within a county or city not within a county;

(2) “**County**” includes a city not within a county;

(3) “**Offender**”, a person in the custody of the department or under the supervision of the board.

2. Each offender to be released from custody of the department who will be under the supervision of the board, except an offender transferred to another state pursuant to the interstate corrections compact, shall shortly before release be required to: complete a registration form indicating his intended address upon release, employer, parent's address, and such other information as may be required; submit to photographs; submit to fingerprints; or undergo other identification procedures including but not limited to hair samples or other identification indicia. All data and indicia of identification shall be compiled in duplicate, with one set to be retained by the department, and one set for the chief law enforcement official of the county of intended residence.

3. Any offender subject to the provisions of this section who changes his county of residence shall, in addition to notifying the board of probation and parole, notify and register with the chief law enforcement official of the county of residence within seven days after he changes his residence to that county.

4. Failure by an offender to register with the chief law enforcement official upon a change in the county of his residence shall be cause for revocation of the parole of the person except for good cause shown.

5. The department, the board, and the chief law enforcement official shall cause the information collected on the initial registration and any subsequent changes in residence or registration to be recorded with the highway patrol criminal information system.

217.695. Release from custody under supervision of probation and..., MO ST 217.695

6. The director of the department of public safety shall design and distribute the registration forms required by this section and shall provide any administrative assistance needed to facilitate the provisions of this section.

Credits

(L.1986, S.B. No. 450, § A(§ 21), eff. March 17, 1986. Amended by L.1989, H.B. No. 408, § A; L.1995, H.B. No. 424, § A.)

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole  68.

Westlaw Topic No. 284.

C.J.S. Pardon and Parole § 62.

V. A. M. S. 217.695, MO ST 217.695

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217.703. Earned compliance credits awarded, when, MO ST 217.703

Vernon's Annotated Missouri Statutes

Title XIII. Correctional and Penal Institutions

Chapter 217. Department of Corrections (Refs & Annos)

Probation and Parole Board, Powers and Duties (Refs & Annos)

V.A.M.S. 217.703

217.703. Earned compliance credits awarded, when

Effective: August 28, 2012

Currentness

1. The division of probation and parole shall award earned compliance credits to any offender who is:

(1) Not subject to lifetime supervision under sections 217.735 and 559.106 or otherwise found to be ineligible to earn credits by a court pursuant to subsection 2 of this section;

(2) On probation, parole, or conditional release for an offense listed in chapter 195 or for a class C or D felony, excluding the offenses of aggravated stalking, sexual assault, deviate sexual assault, assault in the second degree under subdivision (2) of subsection 1 of section 565.060, sexual misconduct involving a child, endangering the welfare of a child in the first degree under subdivision (2) of subsection 1 of section 568.045, incest, invasion of privacy, and abuse of a child;

(3) Supervised by the board; and

(4) In compliance with the conditions of supervision imposed by the sentencing court or board.

2. If an offender was placed on probation, parole, or conditional release for an offense of:

(1) Involuntary manslaughter in the first degree;

(2) Involuntary manslaughter in the second degree;

(3) Assault in the second degree except under subdivision (2) of subsection 1 of section 565.060;

(4) Domestic assault in the second degree;

(5) Assault of a law enforcement officer in the second degree;

217.703. Earned compliance credits awarded, when, MO ST 217.703

(6) Statutory rape in the second degree;

(7) Statutory sodomy in the second degree;

(8) Endangering the welfare of a child in the first degree under subdivision (1) of subsection 1 of section 568.045; or

(9) Any case in which the defendant is found guilty of a felony offense under chapter 571,

the sentencing court may, upon its own motion or a motion of the prosecuting or circuit attorney, make a finding that the offender is ineligible to earn compliance credits because the nature and circumstances of the offense or the history and character of the offender indicate that a longer term of probation, parole, or conditional release is necessary for the protection of the public or the guidance of the offender. The motion may be made any time prior to the first month in which the person may earn compliance credits under this section. The offender's ability to earn credits shall be suspended until the court or board makes its finding. If the court or board finds that the offender is eligible for earned compliance credits, the credits shall begin to accrue on the first day of the next calendar month following the issuance of the decision.

3. Earned compliance credits shall reduce the term of probation, parole, or conditional release by thirty days for each full calendar month of compliance with the terms of supervision. Credits shall begin to accrue for eligible offenders after the first full calendar month of supervision or on October 1, 2012, if the offender began a term of probation, parole, or conditional release before September 1, 2012.

4. For the purposes of this section, the term **"compliance"** shall mean the absence of an initial violation report submitted by a probation or parole officer during a calendar month, or a motion to revoke or motion to suspend filed by a prosecuting or circuit attorney, against the offender.

5. Credits shall not accrue during any calendar month in which a violation report has been submitted or a motion to revoke or motion to suspend has been filed, and shall be suspended pending the outcome of a hearing, if a hearing is held. If no hearing is held or the court or board finds that the violation did not occur, then the offender shall be deemed to be in compliance and shall begin earning credits on the first day of the next calendar month following the month in which the report was submitted or the motion was filed. All earned credits shall be rescinded if the court or board revokes the probation or parole or the court places the offender in a department program under subsection 4 of section 559.036. Earned credits shall continue to be suspended for a period of time during which the court or board has suspended the term of probation, parole, or release, and shall begin to accrue on the first day of the next calendar month following the lifting of the suspension.

6. Offenders who are deemed by the division to be absconders shall not earn credits. For purposes of this subsection, **"absconder"** shall mean an offender under supervision who has left such offender's place of residency without the permission of the offender's supervising officer for the purpose of avoiding supervision. An offender shall no longer be deemed an absconder when such offender is available for active supervision.

217.703. Earned compliance credits awarded, when, MO ST 217.703

7. Notwithstanding subsection 2 of section 217.730 to the contrary, once the combination of time served in custody, if applicable, time served on probation, parole, or conditional release, and earned compliance credits satisfy the total term of probation, parole, or conditional release, the board or sentencing court shall order final discharge of the offender, so long as the offender has completed at least two years of his or her probation or parole, which shall include any time served in custody under section 217.718 and sections 559.036 and 559.115.

8. The award or rescission of any credits earned under this section shall not be subject to appeal or any motion for post-conviction relief.

9. At least twice a year, the division shall calculate the number of months the offender has remaining on his or her term of probation, parole, or conditional release, taking into consideration any earned compliance credits, and notify the offender of the length of the remaining term.

10. No less than sixty days before the date of final discharge, the division shall notify the sentencing court, the board, and, for probation cases, the circuit or prosecuting attorney of the impending discharge. If the sentencing court, the board, or the circuit or prosecuting attorney upon receiving such notice does not take any action under subsection 5 of this section, the offender shall be discharged under subsection 7 of this section.

Credits

(L.2012, H.B. No. 1525, § A.)

V. A. M. S. 217.703, MO ST 217.703

Statutes are current with emergency legislation approved through July 1, 2013, of the 2013 First Regular Session of the 97th General Assembly. Constitution is current through the November 6, 2012 General Election.

Vernon's Annotated Missouri Statutes

Title XIII. Correctional and Penal Institutions

Chapter 217. Department of Corrections (Refs & Annos)

Probation and Parole Board, Powers and Duties (Refs & Annos)

V.A.M.S. 217.718

217.718. Alternative to revocation proceedings, period of detention, requirements

Effective: August 28, 2012

Currentness

1. As an alternative to the revocation proceedings provided under sections 217.720, 217.722, and 559.036, and if the court has not otherwise required detention to be a condition of probation under section 559.026, a probation or parole officer may order an offender to submit to a period of detention in the county jail, or other appropriate institution, upon a determination by a probation or parole officer that the offender has violated a condition of continued probation or parole.
2. The period of detention may not exceed forty-eight hours the first time it is imposed against an offender during a term of probation or parole. Subsequent periods may exceed forty-eight hours, but the total number of hours an offender spends in detention under this section shall not exceed three hundred¹ sixty in any calendar year.
3. The officer shall present the offender with a written report detailing in what manner the offender has violated the conditions of parole, probation, or conditional release and advise the offender of the right to a hearing before the court or board prior to the period of detention. The division shall file a copy of the violation report with the sentencing court or board after the imposition of the period of detention and within a reasonable period of time that is consistent with existing division procedures.
4. Any offender detained under this section in a county of the first class or second class or in any city with a population of five hundred thousand or more and detained as herein provided shall be subject to all the provisions of section 221.170, even though the offender was not convicted and sentenced to a jail or workhouse.
5. If parole, probation, or conditional release is revoked and a term of imprisonment is served by reason thereof, the time spent in a jail, half-way house, honor center, workhouse, or other institution as a detention condition of parole, probation, or conditional release shall be credited against the prison or jail term served for the offense in connection with which the detention was imposed.
6. The division shall reimburse the county jail or other institution for the costs of detention under this section at a rate determined by the department of corrections, which shall be at least thirty dollars per day per offender and subject to appropriation of funds by the general assembly. Prior to ordering the offender to submit to the period of detention under subsection 1 of this section, the probation and parole officer shall certify to the county jail or institution that the division has sufficient funds to provide reimbursement for the costs of the period of detention. A jail or other institution may refuse to detain an offender under this section if funds are not available to provide reimbursement or if there is inadequate space in the facility for the offender.

217.718. Alternative to revocation proceedings, period of detention,...., MO ST 217.718

7. Upon successful completion of the period of detention under this section, the court or board may not revoke the term of parole, probation, or conditional release or impose additional periods of detention for the same incident unless new or additional information is discovered that was unknown to the division when the period of detention was imposed and indicates that the offender was involved in the commission of a crime. If the offender fails to complete the period of detention or new or additional information is discovered that the incident involved a crime, the offender may be arrested under sections 217.720 and 217.722.

Credits

(L.2012, H.B. No. 1525, § A.)

Footnotes

1 **Revisor's note:** Word "and" appears here in original rolls.

V. A. M. S. 217.718, MO ST 217.718

Statutes are current with emergency legislation approved through July 1, 2013, of the 2013 First Regular Session of the 97th General Assembly. Constitution is current through the November 6, 2012 General Election.

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217.720. Arrest of person paroled or on conditional..., MO ST 217.720

Vernon's Annotated Missouri Statutes

Title XIII. Correctional and Penal Institutions

Chapter 217. Department of Corrections (Refs & Annos)

Probation and Parole Board, Powers and Duties (Refs & Annos)

V.A.M.S. 217.720

217.720. Arrest of person paroled or on conditional release--report--procedure--
revocation of parole or release--effect of sentence--arrest of parolee from another state

Currentness

1. At any time during release on parole or conditional release the board may issue a warrant for the arrest of a released offender for violation of any of the conditions of parole or conditional release. The warrant shall authorize any law enforcement officer to return the offender to the actual custody of the correctional center from which the offender was released, or to any other suitable facility designated by the board. If any parole or probation officer has probable cause to believe that such offender has violated a condition of parole or conditional release, the probation or parole officer may issue a warrant for the arrest of the offender. The probation or parole officer may effect the arrest or may deputize any officer with the power of arrest to do so by giving the officer a copy of the warrant which shall outline the circumstances of the alleged violation and contain the statement that the offender has, in the judgment of the probation or parole officer, violated conditions of parole or conditional release. The warrant delivered with the offender by the arresting officer to the official in charge of any facility designated by the board to which the offender is brought shall be sufficient legal authority for detaining the offender. After the arrest the parole or probation officer shall present to the detaining authorities a similar statement of the circumstances of violation. Pending hearing as hereinafter provided, upon any charge of violation, the offender shall remain in custody or incarcerated without consideration of bail.

2. If the offender is arrested under the authority granted in subsection 1 of this section, the offender shall have the right to a preliminary hearing on the violation charged unless the offender waives such hearing. Upon such arrest and detention, the parole or probation officer shall immediately notify the board and shall submit in writing a report showing in what manner the offender has violated the conditions of his parole or conditional release. The board shall order the offender discharged from such facility, require as a condition of parole or conditional release the placement of the offender in a treatment center operated by the department of corrections, or shall cause the offender to be brought before it for a hearing on the violation charged, under such rules and regulations as the board may adopt. If the violation is established and found, the board may continue or revoke the parole or conditional release, or enter such other order as it may see fit. If no violation is established and found, then the parole or conditional release shall continue. If at any time during release on parole or conditional release the offender is arrested for a crime which later leads to conviction, and sentence is then served outside the Missouri department of corrections, the board shall determine what part, if any, of the time from the date of arrest until completion of the sentence imposed is counted as time served under the sentence from which the offender was paroled or conditionally released.

3. An offender for whose return a warrant has been issued by the board shall, if it is found that the warrant cannot be served, be deemed to be a fugitive from justice or to have fled from justice. If it shall appear that the offender has violated the provisions and conditions of his parole or conditional release, the board shall determine whether the time from the issuing date of the warrant to the date of his arrest on the warrant, or continuance on parole or conditional release shall be counted as time served under the sentence. In all other cases, time served on parole or conditional release shall be counted as time served under the sentence.

217.720. Arrest of person paroled or on conditional..., MO ST 217.720

4. At any time during parole or probation, the board may issue a warrant for the arrest of any person from another jurisdiction, the visitation and supervision of whom the board has undertaken pursuant to the provisions of the interstate compact for the supervision of parolees and probationers authorized in section 217.810, for violation of any of the conditions of release, or a notice to appear to answer a charge of violation. The notice shall be served personally upon the person. The warrant shall authorize any law enforcement officer to return the offender to any suitable detention facility designated by the board. Any parole or probation officer may arrest such person without a warrant, or may deputize any other officer with power of arrest to do so by issuing a written statement setting forth that the defendant has, in the judgment of the parole or probation officer, violated the conditions of his release. The written statement delivered with the person by the arresting officer to the official in charge of the detention facility to which the person is brought shall be sufficient legal authority for detaining him. After making an arrest the parole or probation officer shall present to the detaining authorities a similar statement of the circumstances of violation.

Credits

(L.1982, H.B. No. 1196, § A(§ 129). Amended by L.1989, H.B. No. 408, § A; L.1990, H.B. No. 974, § A; L.1994, S.B. No. 763, § A.)

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole ↪80.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 71 to 74.

RESEARCH REFERENCES

Treatises and Practice Aids

19 MO Practice Series § 24:14, Satisfaction of Sentence of Imprisonment.
19 MO Practice Series § 26:11, Revocation of Parole.
27 MO Practice Series § 12.9, Notice of Parole Revocation Hearing.

Notes of Decisions (17)

V. A. M. S. 217.720, MO ST 217.720

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217.725. Board may parole prisoner held on warrant, MO ST 217.725

Vernon's Annotated Missouri Statutes

Title XIII. Correctional and Penal Institutions

Chapter 217. Department of Corrections (Refs & Annos)

Probation and Parole Board, Powers and Duties (Refs & Annos)

V.A.M.S. 217.725

217.725. Board may parole prisoner held on warrant

Currentness

When a court or other authority has issued a warrant against a person, the board may release him on parole to answer the warrant of such court or authority.

Credits

(L.1982, H.B. No. 1196, § A(§ 130).)

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole ☞55.1.

Westlaw Topic No. 284.

C.J.S. Pardon and Parole §§ 45 to 47.

V. A. M. S. 217.725, MO ST 217.725

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217.735. Lifetime supervision required for certain..., MO ST 217.735

Vernon's Annotated Missouri Statutes

Title XIII. Correctional and Penal Institutions

Chapter 217. Department of Corrections (Refs & Annos)

Probation and Parole Board, Powers and Duties (Refs & Annos)

V.A.M.S. 217.735

217.735. Lifetime supervision required for certain offenders--electronic
monitoring--termination at age sixty-five permitted, when--rulemaking authority

Currentness

1. Notwithstanding any other provision of law to the contrary, the board shall supervise an offender for the duration of his or her natural life when the offender has pleaded guilty to or been found guilty of an offense under section 566.030, 566.032, 566.060, or 566.062, based on an act committed on or after August 28, 2006, or the offender has pleaded guilty to or has been found guilty of an offense under section 566.067, 566.083, 566.100, 566.151, 566.212, 566.213, 568.020, 568.080, or 568.090, based on an act committed on or after August 28, 2006, against a victim who was less than fourteen years old and the offender is a prior sex offender as defined in subsection 2 of this section.

2. For the purpose of this section, a prior sex offender is a person who has previously pleaded guilty to or been found guilty of an offense contained in chapter 566, or violating section 568.020, when the person had sexual intercourse or deviate sexual intercourse with the victim, or violating subdivision (2) of subsection 1 of section 568.045.

3. Subsection 1 of this section applies to offenders who have been granted probation, and to offenders who have been released on parole, conditional release, or upon serving their full sentence without early release. Supervision of an offender who was released after serving his or her full sentence will be considered as supervision on parole.

4. A mandatory condition of lifetime supervision of an offender under this section is that the offender be electronically monitored. Electronic monitoring shall be based on a global positioning system or other technology that identifies and records the offender's location at all times.

5. In appropriate cases as determined by a risk assessment, the board may terminate the supervision of an offender who is being supervised under this section when the offender is sixty-five years of age or older.

6. In accordance with section 217.040, the board may adopt rules relating to supervision and electronic monitoring of offenders under this section.

Credits

(L.2005, H.B. No. 972, § A; L.2005, H.B. No. 353, § A. Amended by L.2006, H.B. Nos. 1698, 1236, 995, 1362 & 1290, § A, eff. June 5, 2006.)

217.735. Lifetime supervision required for certain..., MO ST 217.735

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole 🗝️68.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole § 62.

RESEARCH REFERENCES

Treatises and Practice Aids

28 MO Practice Series § 37:8, Special Statutory Provisions.
32 MO Practice Series § 24.5, Enhancement of Punishment.
32 MO Practice Series § 25.4, Enhancement of Punishment.
32 MO Practice Series § 56.12, Sex Offenders.

Notes of Decisions (4)

V. A. M. S. 217.735, MO ST 217.735

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§ 558.011 R.S.Mo.

CURRENT WITH ACTS SIGNED INTO LAW THROUGH MARCH 29, 2013 FROM THE 97TH GENERAL ASSEMBLY, 1ST REGULAR SESSION, 2013 MOST CURRENT ANNOTATION MAY 28, 2013.

[Revised Statutes of Missouri](#) > [TITLE 38.](#) > [CHAPTER 558.](#)

§ 558.011. Sentence of imprisonment, terms -- conditional release

1. The authorized terms of imprisonment, including both prison and conditional release terms, are:
 - (1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;
 - (2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;
 - (3) For a class C felony, a term of years not to exceed seven years;
 - (4) For a class D felony, a term of years not to exceed four years;
 - (5) For a class A misdemeanor, a term not to exceed one year;
 - (6) For a class B misdemeanor, a term not to exceed six months;
 - (7) For a class C misdemeanor, a term not to exceed fifteen days.
2. In cases of class C and D felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class C or D felony, it shall commit the person to the custody of the department of corrections for a term of years not less than two years and not exceeding the maximum authorized terms provided in subdivisions (3) and (4) of subsection 1 of this section.
3.
 - (1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the person to the custody of the department of corrections for the term imposed under [section 557.036](#), or until released under procedures established elsewhere by law.
 - (2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the person to the county jail or other authorized penal institution for the term of his or her sentence or until released under procedure established elsewhere by law.
4. (1) A sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in [section 556.061](#), and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under [section 557.036](#) shall be:
 - (a) One-third for terms of nine years or less;
 - (b) Three years for terms between nine and fifteen years;

- (c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the board of probation and parole pursuant to subsection 5 of this section.
- (2) "Conditional release" means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the state board of probation and parole. The conditions of release shall include avoidance by the offender of any other crime, federal or state, and other conditions that the board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.
5. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the board of probation and parole. The director of any division of the department of corrections except the board of probation and parole may file with the board of probation and parole a petition to extend the conditional release date when an offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the board of probation and parole shall convene a hearing on the petition. The offender shall be present and may call witnesses in his or her behalf and cross-examine witnesses appearing against the offender. The hearing shall be conducted as provided in [section 217.670](#). If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the board and for the board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a board decision has not been reached, the offender shall be released conditionally. The decision of the board shall be final.

History

L. 1977 S.B. 60, A.L. 1979 S.B. 234, A.L. 1982 H.B. 1196, A.L. 1984 S.B. 611, A.L. 1990 H.B. 974, A.L. 1994 S.B. 763, A.L. 2003 S.B. 5

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§ 558.018 R.S.Mo.

CURRENT WITH ACTS SIGNED INTO LAW THROUGH MARCH 29, 2013 FROM THE 97TH GENERAL ASSEMBLY, 1ST REGULAR SESSION, 2013 MOST CURRENT ANNOTATION MAY 28, 2013.

[Revised Statutes of Missouri](#) > [TITLE 38.](#) > [CHAPTER 558.](#)

§ 558.018. Persistent sexual offender, predatory sexual offender, defined, extension of term, when, minimum term

1. The court shall sentence a person who has pleaded guilty to or has been found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this subsection to an extended term of imprisonment if it finds the defendant is a persistent sexual offender.
2. A "persistent sexual offender" is one who has previously pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this subsection.
3. The term of imprisonment for one found to be a persistent sexual offender shall be imprisonment for life without eligibility for probation or parole. Subsection 4 of [section 558.019](#) shall not apply to any person imprisoned under this subsection, and "imprisonment for life" shall mean imprisonment for the duration of the person's natural life.
4. The court shall sentence a person who has pleaded guilty to or has been found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes or child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony to an extended term of imprisonment as provided for in this section if it finds the defendant is a predatory sexual offender.
5. For purposes of this section, a "predatory sexual offender" is a person who:
 - (1) Has previously pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes or child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony; or
 - (2) Has previously committed an act which would constitute an offense listed in subsection 4 of this section, whether or not the act resulted in a conviction; or
 - (3) Has committed an act or acts against more than one victim which would constitute an offense or offenses listed in subsection 4 of this section, whether or not the defendant was charged with an additional offense or offenses as a result of such act or acts.
6. A person found to be a predatory sexual offender shall be imprisoned for life with eligibility for parole, however subsection 4 of [section 558.019](#) shall not apply to persons found to be predatory sexual offenders for the purposes of determining the minimum prison term or the length of sentence as defined or used in such subsection. Notwithstanding any other provision of law, in no event shall a person found to be a predatory sexual offender receive a final discharge from parole.

7. Notwithstanding any other provision of law, the court shall set the minimum time required to be served before a predatory sexual offender is eligible for parole, conditional release or other early release by the department of corrections. The minimum time to be served by a person found to be a predatory sexual offender who:
- (1) Has previously pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree or an attempt to commit any of the preceding crimes shall be any number of years but not less than thirty years;
 - (2) Has previously pleaded guilty to or has been found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony and pleads guilty to or is found guilty of attempting to commit or committing forcible rape, statutory rape in the first degree, forcible sodomy or statutory sodomy in the first degree shall be any number of years but not less than fifteen years;
 - (3) Has previously pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony shall be any number of years but not less than fifteen years;
 - (4) Has previously pleaded guilty to or has been found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony, and pleads guilty to or is found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony shall be any number of years but not less than fifteen years;
 - (5) Is found to be a predatory sexual offender pursuant to subdivision (2) or (3) of subsection 5 of this section shall be any number of years within the range to which the person could have been sentenced pursuant to the applicable law if the person was not found to be a predatory sexual offender.
8. Notwithstanding any provision of law to the contrary, the department of corrections, or any division thereof, may not furlough an individual found to be and sentenced as a persistent sexual offender or a predatory sexual offender.

History

L. 1980 H.B. 1138, et al., A.L. 1990 H.B. 974, A.L. 1994 S.B. 693, A.L. 1996 H.B. 974, A.L. 2006 H.B. 1698, et al.

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§ 558.019 R.S.Mo.

CURRENT WITH ACTS SIGNED INTO LAW THROUGH MARCH 29, 2013 FROM THE 97TH GENERAL ASSEMBLY, 1ST REGULAR SESSION, 2013 MOST CURRENT ANNOTATION MAY 28, 2013.

[Revised Statutes of Missouri](#) > [TITLE 38.](#) > [CHAPTER 558.](#) > [JUSTICE](#)

§ 558.019. Prior felony convictions, minimum prison terms -- prison commitment defined -- dangerous felony, minimum term prison term, how calculated -- sentencing commission created, members, duties -- recommended sentences, distribution -- report -- expenses -- cooperation with commission -- restorative justice methods -- restitution fund

1. This section shall not be construed to affect the powers of the governor under [article IV, section 7, of the Missouri Constitution](#). This statute shall not affect those provisions of [section 565.020](#), [section 558.018](#) or [section 571.015](#), which set minimum terms of sentences, or the provisions of [section 559.115](#), relating to probation.
2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes of felonies except those set forth in chapter 195, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of an offender after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include commitment to a regimented discipline program established pursuant to [section 217.378](#). Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found guilty of a felony other than a dangerous felony as defined in [section 556.061](#) and is committed to the department of corrections shall be required to serve the following minimum prison terms:
 - (1) If the offender has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age, and has served at least thirty percent of the sentence imposed, whichever occurs first;
 - (2) If the offender has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;
 - (3) If the offender has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be eighty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.
3. Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found guilty of a dangerous felony as defined in [section 556.061](#) and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.
4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

- (1) A sentence of life shall be calculated to be thirty years;
 - (2) Any sentence either alone or in the aggregate with other consecutive sentences for crimes committed at or near the same time which is over seventy-five years shall be calculated to be seventy-five years.
5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections.
- 6.
- (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members shall be appointed to a four-year term. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.
 - (2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for offenders convicted of the same or similar crimes and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.
 - (3) The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.
 - (4) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.
 - (5) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.
 - (6) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

7. Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.
8. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:
 - (1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the offender's actions;
 - (2) Offender treatment programs;
 - (3) Mandatory community service;
 - (4) Work release programs in local facilities; and
 - (5) Community-based residential and nonresidential programs.
9. The provisions of this section shall apply only to offenses occurring on or after August 28, 2003.
10. Pursuant to subdivision (1) of subsection 8 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to [section 50.565](#). Such contribution shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of [section 50.565](#).
11. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a defendant to make payment.
12. A defendant who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.
13. Nothing in this section shall be construed to allow the sentencing advisory commission to issue recommended sentences in specific cases pending in the courts of this state.

History

L. 1986 H.B. 1098 § 1, A.L. 1988 H.B. 1340 & 1348, A.L. 1989 S.B. 215 & 58, A.L. 1990 H.B. 974, A.L. 1993 H.B. 562, A.L. 1994 S.B. 763, A.L. 1998 H.B. 1508 merged with S.B. 766, A.L. 2003 S.B. 5, A.L. 2004 H.B. 1055, A.L. 2005 H.B. 353, A.L. [2012 S.B. 628](#), § A, *eff. Aug. 28, 2012*

§ 558.031 R.S.Mo.

CURRENT WITH ACTS SIGNED INTO LAW THROUGH MARCH 29, 2013 FROM THE 97TH GENERAL ASSEMBLY, 1ST REGULAR SESSION, 2013 MOST CURRENT ANNOTATION MAY 28, 2013.

[Revised Statutes of Missouri](#) > [TITLE 38.](#) > [CHAPTER 558.](#) > [JUSTICE](#)

§ 558.031. Calculation of terms of imprisonment--credit for jail time awaiting trial

1. A sentence of imprisonment shall commence when a person convicted of a crime in this state is received into the custody of the department of corrections or other place of confinement where the offender is sentenced. Such person shall receive credit toward the service of a sentence of imprisonment for all time in prison, jail or custody after the offense occurred and before the commencement of the sentence, when the time in custody was related to that offense, except:
 - (1) Such credit shall only be applied once when sentences are consecutive;
 - (2) Such credit shall only be applied if the person convicted was in custody in the state of Missouri, unless such custody was compelled exclusively by the state of Missouri's action; and
 - (3) As provided in [section 559.100](#).
2. The officer required by law to deliver a person convicted of a crime in this state to the department of corrections shall endorse upon the papers required by [section 217.305](#) both the dates the offender was in custody and the period of time to be credited toward the service of the sentence of imprisonment, except as endorsed by such officer.
3. If a person convicted of a crime escapes from custody, such escape shall interrupt the sentence. The interruption shall continue until such person is returned to the correctional center where the sentence was being served, or in the case of a person committed to the custody of the department of corrections, to any correctional center operated by the department of corrections. An escape shall also interrupt the jail time credit to be applied to a sentence which had not commenced when the escape occurred.
4. If a sentence of imprisonment is vacated and a new sentence imposed upon the offender for that offense, all time served under the vacated sentence shall be credited against the new sentence, unless the time has already been credited to another sentence as provided in subsection 1 of this section.
5. If a person released from imprisonment on parole or serving a conditional release term violates any of the conditions of his parole or release, he may be treated as a parole violator. If the board of probation and parole revokes the parole or conditional release, the paroled person shall serve the remainder of the prison term and conditional release term, as an additional prison term, and the conditionally released person shall serve the remainder of the conditional release term as a prison term, unless released on parole.

History

L. 1977 S.B. 60, A.L. 1990 H.B. 974, A.L. 1995 H.B. 424

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§ 558.041 R.S.Mo.

CURRENT WITH ACTS SIGNED INTO LAW THROUGH MARCH 29, 2013 FROM THE 97TH GENERAL ASSEMBLY, 1ST REGULAR SESSION, 2013 MOST CURRENT ANNOTATION MAY 28, 2013.

[Revised Statutes of Missouri](#) > [TITLE 38.](#) > [CHAPTER 558.](#) > [JUSTICE](#)

§ 558.041. "Good time" credit, exceptions--rules, procedure

1. Any offender committed to the department of corrections, except those persons committed pursuant to subsection 6 of [section 558.016](#), or subsection 3 of [section 558.018](#), may receive additional credit in terms of days spent in confinement upon recommendation for such credit by the offender's institutional superintendent when the offender meets the requirements for such credit as provided in subsections 3 and 4 of this section. Good time credit may be rescinded by the director or his designee pursuant to the divisional policy issued pursuant to subsection 3 of this section.
2. Any credit extended to an offender shall only apply to the sentence which the offender is currently serving.
3. The director of the department of corrections shall issue a policy for awarding credit. The policy may reward an inmate who has served his sentence in an orderly and peaceable manner and has taken advantage of the rehabilitation programs available to him. Any violation of institutional rules or the laws of this state may result in the loss of all or a portion of any credit earned by the inmate pursuant to this section.
4. The department shall cause the policy to be published in the code of state regulations.
5. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024](#).

History

L. 1983 H.B. 671 § 1, A.L. 1986 S.B. 618 & 562, A.L. 1990 H.B. 974, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3

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§ 558.046 R.S.Mo.

CURRENT WITH ACTS SIGNED INTO LAW THROUGH MARCH 29, 2013 FROM THE 97TH GENERAL ASSEMBLY, 1ST REGULAR SESSION, 2013 MOST CURRENT ANNOTATION MAY 28, 2013.

[Revised Statutes of Missouri](#) > [TITLE 38.](#) > [CHAPTER 558.](#) > [JUSTICE](#)

§ 558.046. Reduction of term of sentence, conditions

The sentencing court may, upon petition, reduce any term of sentence or probation pronounced by the court or a term of conditional release or parole pronounced by the state board of probation and parole if the court determines that:

- (1) The convicted person was:
 - (a) Convicted of a crime that did not involve violence or the threat of violence; and
 - (b) Convicted of a crime that involved alcohol or illegal drugs; and
- (2) Since the commission of such crime, the convicted person has successfully completed a detoxification and rehabilitation program; and
- (3) The convicted person is not:
 - (a) A prior offender, a persistent offender, a dangerous offender or a persistent misdemeanor offender as defined by [section 558.016](#); or
 - (b) A persistent sexual offender as defined in [section 558.018](#); or
 - (c) A prior offender, a persistent offender or a class X offender as defined in [section 558.019](#).

History

L. 1993 S.B. 167

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N.C. Gen. Stat. § 15A-1340.13

Statutes current through the 2012 Regular Session Annotations Current through March 29, 2013

[General Statutes of North Carolina](#) > [CHAPTER 15A.](#) > [SUBCHAPTER 13](#) > [ARTICLE 81B.](#) > [PART 2.](#)

§ 15A-1340.13. Procedure and incidents of sentence of imprisonment for felonies

- (a) **Application to Felonies Only.** -- This Part applies to sentences imposed for felony convictions.
- (b) **Procedure Generally; Requirements of Judgment; Kinds of Sentences.** -- Before imposing a sentence, the court shall determine the prior record level for the offender pursuant to [G.S. 15A-1340.14](#). The sentence shall contain a sentence disposition specified for the class of offense and prior record level, and its minimum term of imprisonment shall be within the range specified for the class of offense and prior record level, unless applicable statutes require or authorize another minimum sentence of imprisonment. The kinds of sentence dispositions are active punishment, intermediate punishment, and community punishment.
- (c) **Minimum and Maximum Term.** -- The judgment of the court shall contain a minimum term of imprisonment that is consistent with the class of offense for which the sentence is being imposed and with the prior record level for the offender. The maximum term of imprisonment applicable to each minimum term of imprisonment is, unless otherwise provided, as specified in [G.S. 15A-1340.17](#). The maximum term shall be specified in the judgment of the court.
- (d) **Service of Minimum Required; Earned Time Authorization.** -- An offender sentenced to an active punishment shall serve the minimum term imposed, except as provided in [G.S. 15A-1340.18](#). The maximum term may be reduced to, but not below, the minimum term by earned time credits awarded to an offender by the Division of Adult Correction of the Department of Public Safety or the custodian of the local confinement facility, pursuant to rules adopted in accordance with law.
- (e) **Deviation from Sentence Ranges for Aggravation and Mitigation; No Sentence Dispositional Deviation Allowed.** -- The court may deviate from the presumptive range of minimum sentences of imprisonment specified for a class of offense and prior record level if it finds, pursuant to [G.S. 15A-1340.16](#), that aggravating or mitigating circumstances support such a deviation. The amount of the deviation is in the court's discretion, subject to the limits specified in the class of offense and prior record level for mitigated and aggravated punishment. Deviations for aggravated or mitigated punishment are allowed only in the ranges of minimum and maximum sentences of imprisonment, and not in the sentence dispositions specified for the class of offense and prior record level, unless a statute specifically authorizes a sentence dispositional deviation.
- (f) **Suspension of Sentence.** -- Unless otherwise provided, the court shall not suspend the sentence of imprisonment if the class of offense and prior record level do not permit community or intermediate punishment as a sentence disposition. The court shall suspend the sentence of imprisonment if the class of offense and prior record level require community or intermediate punishment as a sentence disposition. The court may suspend the sentence of imprisonment if the class of offense and prior record level authorize, but do not require, active punishment as a sentence disposition.

(g) **Dispositional Deviation for Extraordinary Mitigation.** -- Except as provided in subsection (h) of this section, the court may impose an intermediate punishment for a class of offense and prior record level that requires the imposition of an active punishment if it finds in writing all of the following:

- (1) That extraordinary mitigating factors of a kind significantly greater than in the normal case are present.
- (2) Those factors substantially outweigh any factors in aggravation.
- (3) It would be a manifest injustice to impose an active punishment in the case.

The court shall consider evidence of extraordinary mitigating factors, but the decision to find any such factors, or to impose an intermediate punishment is in the discretion of the court. The extraordinary mitigating factors which the court finds shall be specified in its judgment.

(h) **Exceptions When Extraordinary Mitigation Shall Not Be Used.** -- The court shall not impose an intermediate sanction pursuant to subsection (g) of this section if:

- (1) The offense is a Class A or Class B1 felony;
- (2) The offense is a drug trafficking offense under [G.S. 90-95\(h\)](#) or a drug trafficking conspiracy offense under [G.S. 90-95\(i\)](#); or
- (3) The defendant has five or more points as determined by [G.S. 15A-1340.14](#).

History

1993, c. 538, s. 1; 1994, Ex. Sess., c. 14, ss. 18, 18.1, 19; c. 22, s. 9; c. 24, s. 14(b); 1995, c. 375, s. 1; [2011-145, s. 19.1\(h\)](#); [2011-192, s. 5\(d\)](#).

General Statutes of North Carolina

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N.C. Gen. Stat. § 15A-1340.17

Statutes current through the 2012 Regular Session Annotations Current through March 29, 2013

[General Statutes of North Carolina](#) > [CHAPTER 15A.](#) > [SUBCHAPTER 13](#) > [ARTICLE 81B.](#) > [PART 2.](#)

§ 15A-1340.17. Punishment limits for each class of offense and prior record level

- (a) **Offense Classification; Default Classifications.** -- The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a felony for which there is no classification, it is a Class I felony.
- (b) **Fines.** -- Any judgment that includes a sentence of imprisonment may also include a fine. If a community punishment is authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.
- (c) **Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described.** -- The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:
 - (1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.
 - (2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to [G.S. 15A-1340.16](#) that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.
 - (3) A mitigated range of minimum durations if the court finds pursuant to [G.S. 15A-1340.16](#) that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.
 - (4) An aggravated range of minimum durations if the court finds pursuant to [G.S. 15A-1340.16](#) that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

I	II	III	IV	V	VI	
0-1 Pt	2-5 Pts	6-9 Pts	10-13 Pts	14-17 Pts	18+ Pts	
A	A	A	A	A	A	DISPOSITION
240-300	276-345	317-397	365-456	Life Imprisonment Without Parole	Aggravated	

B1	192-240	221-276	254-317	292-365	336-420	386-483	PRESUMPTIVE
	144-192	166-221	190-254	219-292	252-336	290-386	Mitigated
	A	A	A	A	A	A	DISPOSITION
B2	157-196	180-225	207-258	238-297	273-342	314-393	Aggravated
	125-157	144-180	165-207	190-238	219-273	251-314	PRESUMPTIVE
	94-125	108-144	124-165	143-190	164-219	189-251	Mitigated
C	A	A	A	A	A	A	DISPOSITION
	73-92	83-104	96-120	110-138	127-159	146-182	Aggravated
	58-73	67-83	77-96	88-110	101-127	117-146	PRESUMPTIVE
D	44-58	50-67	58-77	66-88	76-101	87-117	Mitigated
	A	A	A	A	A	A	DISPOSITION
	64-80	73-92	84-105	97-121	111-139	128-160	Aggravated
E	51-64	59-73	67-84	78-97	89-111	103-128	PRESUMPTIVE
	38-51	44-59	51-67	58-78	67-89	77-103	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
F	25-31	29-36	33-41	38-48	44-55	50-63	Aggravated
	20-25	23-29	26-33	30-38	35-44	40-50	PRESUMPTIVE
	15-20	17-23	20-26	23-30	26-35	30-40	Mitigated
G	I/A	I/A	I/A	A	A	A	DISPOSITION
	16-20	19-23	21-27	25-31	28-36	33-41	Aggravated
	13-16	15-19	17-21	20-25	23-28	26-33	PRESUMPTIVE
H	10-13	11-15	13-17	15-20	17-23	20-26	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION
	13-16	14-18	17-21	19-24	22-27	25-31	Aggravated
I	10-13	12-14	13-17	15-19	17-22	20-25	PRESUMPTIVE
	8-10	9-12	10-13	11-15	13-17	15-20	Mitigated
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
J	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
K	C	C/I	I	I/A	I/A	I/A	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
L	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated

(d) Maximum Sentences Specified for Class F through Class I Felonies. -- Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

3-13	4-14	5-15	6-17	7-18	8-19	9-20	10-21
11-23	12-24	13-25	14-26	15-27	16-29	17-30	18-31
19-32	20-33	21-35	22-36	23-37	24-38	25-39	26-41
27-42	28-43	29-44	30-45	31-47	32-48	33-49	34-50
35-51	36-53	37-54	38-55	39-56	40-57	41-59	42-60
43-61	44-62	45-63	46-65	47-66	48-67	49-68	

(e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months. -- Unless provided otherwise in a statute establishing a punish-

ment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

15-30	16-32	17-33	18-34	19-35	20-36	21-38	22-39
23-40	24-41	25-42	26-44	27-45	28-46	29-47	30-48
31-50	32-51	33-52	34-53	35-54	36-56	37-57	38-58
39-59	40-60	41-62	42-63	43-64	44-65	45-66	46-68
47-69	48-70	49-71	50-72	51-74	52-75	53-76	54-77
55-78	56-80	57-81	58-82	59-83	60-84	61-86	62-87
63-88	64-89	65-90	66-91	67-93	68-94	69-95	70-96
71-98	72-99	73-100	74-101	75-102	76-104	77-105	78-106
79-107	80-108	81-110	82-111	83-112	84-113	85-114	86-115
87-117	88-118	89-119	90-120	91-122	92-123	93-124	94-125
95-126	96-128	97-129	98-130	99-131	100-132	101-134	102-135
103-136	104-137	105-138	106-140	107-141	108-142	109-143	110-144
111-146	112-147	113-148	114-149	115-150	116-152	117-153	118-154
119-155	120-156	121-158	122-159	123-160	124-161	125-162	126-164
127-165	128-166	129-167	130-168	131-170	132-171	133-172	134-173
135-174	136-176	137-177	138-178	139-179	140-180	141-182	142-183
143-184	144-185	145-186	146-188	147-189	148-190	149-191	150-192
151-194	152-195	153-196	154-197	155-198	156-200	157-201	158-202
159-203	160-204	161-206	162-207	163-208	164-209	165-210	166-212
167-213	168-214	169-215	170-216	171-218	172-219	173-220	174-221
175-222	176-224	177-225	178-226	179-227	180-228	181-230	182-231
183-232	184-233	185-234	186-236	187-237	188-238	189-239	190-240
191-242	192-243	193-244	194-245	195-246	196-248	197-249	198-250
199-251	200-252	201-254	202-255	203-256	204-257	205-258	206-260
207-261	208-262	209-263	210-264	211-266	212-267	213-268	214-269
215-270	216-271	217-273	218-274	219-275	220-276	221-278	222-279
223-280	224-281	225-282	226-284	227-285	228-286	229-287	230-288
231-290	232-291	233-292	234-293	235-294	236-296	237-297	238-298
239-299	240-300	241-302	242-303	243-304	244-305	245-306	246-308
247-309	248-310	249-311	250-312	251-314	252-315	253-316	254-317
255-318	256-320	257-321	258-322	259-323	260-324	261-326	262-327
263-328	264-329	265-330	266-332	267-333	268-334	269-335	270-336
271-338	272-339	273-340	274-341	275-342	276-344	277-345	278-346
279-347	280-348	281-350	282-351	283-352	284-353	285-354	286-356
287-357	288-358	289-359	290-360	291-362	292-363	293-364	294-365
295-366	296-368	297-369	298-370	299-371	300-372	301-374	302-375
303-376	304-377	305-378	306-380	307-381	308-382	309-383	310-384
311-386	312-387	313-388	314-389	315-390	316-392	317-393	318-394
319-395	320-396	321-398	322-399	323-400	324-401	325-402	326-404
327-405	328-406	329-407	330-408	331-410	332-411	333-412	334-413
335-414	336-416	337-417	338-418	339-419			

(e1) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms of 340 Months or More. -- Unless provided otherwise in a statute establishing a punishment for a specific crime, when the minimum sentence is 340 months or more, the cor-

responding maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus 12 additional months.

- (f) **Maximum Sentences Specified for Class B1 Through Class E Sex Offenses.** -- Unless provided otherwise in a statute establishing a punishment for a specific crime, for offenders sentenced for a Class B1 through E felony that is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes, the maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus 60 additional months.

History

1993, c. 538, s. 1; 1994, Ex. Sess., c. 14, ss. 20, 21; c. 22, s. 7; c. 24, s. 14(b); 1995, c. 507, s. 19.5(l); 1997-80, s. 3; [2009-555, s. 2](#); [2009-556, s. 1](#); [2011-192, s. 2\(e\)-\(g\)](#); [2011-307, s. 1](#); [2011-412, s. 2.4\(a\)](#).

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N.C. Gen. Stat. § 15A-1340.18

Statutes current through the 2012 Regular Session Annotations Current through March 29, 2013

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§ 15A-1340.18. Advanced supervised release

- (a) **Definitions.** -- For the purposes of this section, the following definitions apply:
- (1) "Advanced supervised release" or "ASR" means release from prison and placement on post-release supervision under this section if an eligible defendant is sentenced to active time.
 - (2) "Eligible defendant" means a defendant convicted and sentenced based upon any of the following felony classes and prior record levels:
 - a. Class D, Prior Record Level I-III.
 - b. Class E, Prior Record Level I-IV.
 - c. Class F, Prior Record Level I-V.
 - d. Class G, Prior Record Level I-VI.
 - e. Class H, Prior Record Level I-VI.
 - (3) "Risk reduction incentive" is a sentencing condition which, upon successful completion during incarceration, results in a prisoner being placed on ASR.
- (b) The Division of Adult Correction of the Department of Public Safety is authorized to create risk reduction incentives consisting of treatment, education, and rehabilitative programs. The incentives shall be designed to reduce the likelihood that the prisoner who receives the incentive will reoffend.
- (c) When imposing an active sentence for an eligible defendant, the court, in its discretion and without objection from the prosecutor, may order that the Department of Correction admit the defendant to the ASR program. The Department of Correction shall admit to the ASR program only those defendants for which ASR is ordered in the sentencing judgment.
- (d) The court shall impose a sentence calculated pursuant to Article 81B of the General Statutes. The ASR date shall be the shortest mitigated sentence for the offense at the offender's prior record level. If the court utilizes the mitigated range in sentencing the defendant, then the ASR date shall be eighty percent (80%) of the minimum sentence imposed.
- (e) The defendant shall be notified at sentencing that if the defendant completes the risk reduction incentives as identified by the Department, then he or she will be released on the ASR date, as determined by the Department pursuant to the provisions of subsection (d) of this section. If the Department determines that the defendant is unable to complete the incentives by the ASR date, through no fault of the defendant, then the defendant shall be released at the ASR date.
- (f) Termination from the risk reduction incentive program shall result in the nullification of the ASR date, and the defendant's release date shall be calculated based upon the adjudged sentence. A prisoner who has completed the risk reduction incentives prior to the ASR date may have the ASR date nullified due to noncompliance with Division rules or regulations.

- (g) A defendant released on the ASR date is subject to post-release supervision under this Article. Notwithstanding the provisions in [G.S. 15A-1368.3\(c\)](#), if the defendant has been returned to prison for three, three-month periods of confinement, a subsequent violation shall result in the defendant returning to prison to serve the time remaining on the maximum imposed term, and is ineligible for further post-release supervision regardless of the amount of time remaining to be served.
- (h) The Division shall adopt policies and procedures for the assessment to occur at diagnostic processing, for documentation of the inmate's progress, and for termination from the incentive program due to a lack of progress or a pattern of noncompliance in the program or with other Division rules or regulations.

History

[2011-145, s. 19.1\(h\)](#); [2011-192, s. 5\(c\)](#); [2011-412, ss. 2.7, 2.8](#).

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§ 15A-1340.19D. Incidents of parole, NC ST § 15A-1340.19D

West's North Carolina General Statutes Annotated

Chapter 15A. Criminal Procedure Act (Refs & Annos)

Subchapter XIII. Disposition of Defendants (Refs & Annos)

Article 81B. Structured Sentencing of Persons Convicted of Crimes (Refs & Annos)

Part 2A. Sentencing for Minors Subject to Life Imprisonment Without Parole

N.C.G.S.A. § 15A-1340.19D

§ 15A-1340.19D. Incidents of parole

Effective: July 12, 2012

Currentness

(a) Except as otherwise provided in this section, a defendant sentenced to life imprisonment with parole shall be subject to the conditions and procedures set forth in Article 85 of Chapter 15A of the General Statutes, including the notification requirement in G.S. 15A-1371(b)(3).

(b) The term of parole for a person released from imprisonment from a sentence of life imprisonment with parole shall be five years and may not be terminated earlier by the Post-Release Supervision and Parole Commission.

(c) A defendant sentenced to life imprisonment with parole who is paroled, and then violates a condition of parole and is returned to prison to serve the life sentence, shall not be eligible for parole for five years from the date of the return to confinement.

(d) Life imprisonment with parole under this Part means that unless the defendant receives parole, the defendant shall remain imprisoned for the defendant's natural life.

Credits

Added by S.L. 2012-148, § 1, eff. July 12, 2012.

N.C.G.S.A. § 15A-1340.19D, NC ST § 15A-1340.19D

The statutes and Constitution are current through S.L. 2013-107 of the 2013 Regular Session of the General Assembly.

N.C. Gen. Stat. § 15A-1340.20

Statutes current through the 2012 Regular Session Annotations Current through March 29, 2013

[General Statutes of North Carolina](#) > [CHAPTER 15A.](#) > [SUBCHAPTER 13](#) > [ARTICLE 81B.](#) > [PART 3.](#)

§ 15A-1340.20. Procedure and incidents of sentence of imprisonment for misdemeanors

- (a) **Application to Misdemeanors Only.** -- This Part applies to sentences imposed for misdemeanor convictions.
- (b) **Procedure Generally; Term of Imprisonment.** -- A sentence imposed for a misdemeanor shall contain a sentence disposition specified for the class of offense and prior conviction level, and any sentence of imprisonment shall be within the range specified for the class of offense and prior conviction level, unless applicable statutes require otherwise. The kinds of sentence dispositions are active punishment, intermediate punishment, and community punishment. Except for the work and earned time credits authorized by [G.S. 162-60](#), or earned time credits authorized by [G.S. 15A-1355\(c\)](#), if applicable, an offender whose sentence of imprisonment is activated shall serve each day of the term imposed.
- (c) **Suspension of Sentence.** -- Unless otherwise provided, the court shall suspend a sentence of imprisonment if the class of offense and prior conviction level requires community or intermediate punishment as a sentence disposition.
- (c1) **Active Punishment Exception.** -- The court may impose an active punishment for a class of offense and prior conviction level that does not otherwise authorize the imposition of an active punishment if the term of imprisonment is equal to or less than the total amount of time the offender has already spent committed to or in confinement in any State or local correctional, mental, or other institution as a result of the charge that culminated in the sentence.
- (d) **Earned Time Authorization.** -- An offender sentenced to a term of imprisonment that is activated is eligible to receive earned time credit for misdemeanor offenders awarded by the Division of Adult Correction of the Department of Public Safety or the custodian of a local confinement facility, pursuant to rules adopted in accordance with law and pursuant to [G.S. 162-60](#). These rules and statute combined shall not award misdemeanor offenders more than four days of earned time credit per month of incarceration.

History

1993, c. 538, s. 1; 1994, Ex. Sess., c. 24, s. 14(b); 1993 (Reg. Sess., 1994), c. 767, s. 1; 1997-79, s. 1; [2011-145, s. 19.1\(h\)](#).

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§ 15A-1371. Parole eligibility, consideration, and refusal, NC ST § 15A-1371

West's North Carolina General Statutes Annotated
Chapter 15A. Criminal Procedure Act (Refs & Annos)
Subchapter XIII. Disposition of Defendants (Refs & Annos)
Article 85. Parole (Refs & Annos)

N.C.G.S.A. § 15A-1371

§ 15A-1371. Parole eligibility, consideration, and refusal

Effective: July 20, 2010
Currentness

(a) Eligibility.--Unless his sentence includes a minimum sentence, a prisoner serving a term of imprisonment for a conviction of impaired driving under G.S. 20-138.1 other than one included in a sentence of special probation imposed under authority of this Subchapter is eligible for release on parole at any time. A prisoner whose sentence includes a minimum term of imprisonment imposed under authority of this Subchapter is eligible for release on parole only upon completion of the service of that minimum term or one fifth of the maximum penalty allowed by law for the offense for which the prisoner is sentenced, whichever is less, less any credit allowed under G.S. 15A-1355(c) and Article 19A of Chapter 15 of the General Statutes.

(a1) Repealed by Laws 1994, Ex. Sess., c. 21, § 3, eff. Oct. 1, 1994.

(b)(1), (2) Repealed by Session Laws 1993, c. 538, s. 22.

(3) Whenever the Post-Release Supervision and Parole Commission will be considering for parole a prisoner serving a sentence of life imprisonment the Commission must notify, at least 30 days in advance of considering the parole, by first class mail at the last known address:

a. The prisoner;

b. The district attorney of the district where the prisoner was convicted;

c. The head of the law enforcement agency that arrested the prisoner and the sheriff of the county where the crime occurred;

d. Any of the victim's immediate family members who have requested in writing to be notified; and

e. Repealed by Session Laws 1993, c. 538, s. 22.

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- f. As many newspapers of general circulation and other media in the county where the defendant was convicted and if different, in the county where the prisoner was charged, as reasonable. The Commission may elect to use electronic means rather than the mail to notify the media under this sub-subdivision if such notification would be more timely and cost-effective.

The Post-Release Supervision and Parole Commission must consider any information provided by any such parties before consideration of parole. The Commission must also give the district attorney, the head of the law enforcement agency who has requested in writing to be notified, the victim, any member of the victim's immediate family who has requested to be notified, and as many newspapers of general circulation and other media in the county or counties designated in sub-subdivision f. of this section as reasonable, written notice of its decision within 10 days of that decision. The Commission may elect to use electronic means rather than the mail to notify the media under this paragraph if such notification would be more timely and cost-effective. The Parole Commission shall not, however, include the name of any victim in its notification to the newspapers and other media.

(c) Repealed by Laws 1993, c. 538, § 22, eff. Oct. 1, 1994.

(d) Criteria.--The Post-Release Supervision and Parole Commission may refuse to release on parole a prisoner it is considering for parole if it believes:

- (1) There is a substantial risk that he will not conform to reasonable conditions of parole; or
- (2) His release at that time would unduly depreciate the seriousness of his crime or promote disrespect for law; or
- (3) His continued correctional treatment, medical care, or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life if he is released at a later date; or
- (4) There is a substantial risk that he would engage in further criminal conduct.

(e) Refusal of Parole.--A prisoner who has been granted parole may elect to refuse parole and to serve the remainder of his term of imprisonment.

(f) Repealed by Laws 1993, c. 538, § 22, eff. Oct. 1, 1994.

(g) Notwithstanding the provisions of subsection (a), a prisoner serving a sentence of not less than 30 days nor as great as 18 months for impaired driving may be released on parole when he completes service of one-third of his maximum sentence unless the Post-Release Supervision and Parole Commission finds in writing that:

- (1) There is a substantial risk that he will not conform to reasonable conditions of parole; or

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- (2) His release at that time would unduly depreciate the seriousness of his crime or promote disrespect for law; or
- (3) His continued correctional treatment, medical care, or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life if he is released at a later date; or
- (4) There is a substantial risk that he would engage in further criminal conduct.

If a prisoner is released on parole by operation of this subsection, the term of parole is the unserved portion of the sentence to imprisonment, and the conditions of parole, unless otherwise specified by the Post-Release Supervision and Parole Commission, are those authorized in G.S. 15A-1374(b)(4) through (10).

In order that the Post-Release Supervision and Parole Commission may have an adequate opportunity to make a determination whether parole under this section should be denied, no prisoner eligible for parole under this subsection shall be released from confinement prior to the fifth full working day after he shall have been placed in the custody of the Secretary of Public Safety or the custodian of a local confinement facility.

(h) Community Service Parole.--Notwithstanding the provisions of any other subsection herein, prisoners serving sentences for impaired driving shall be eligible for community service parole, in the discretion of the Post-Release Supervision and Parole Commission.

Community service parole is early parole for the purpose of participation in community service under the supervision of the Section of Community Corrections of the Division of Adult Correction. A parolee who is paroled under this subsection must perform as a condition of parole community service in an amount and over a period of time to be determined by the Post-Release Supervision and Parole Commission. However, the total amount of community service shall not exceed an amount equal to 32 hours for each month of active service remaining in his minimum sentence. The Post-Release Supervision and Parole Commission may grant early parole under this section without requiring the performance of community service if it determines that such performance is inappropriate to a particular case.

The probation/parole officer and the judicial services coordinator shall develop a program of community service for the parolee. The coordinator shall report any willful failure to perform community service work to the probation/parole officer. Parole may be revoked for any parolee who willfully fails to perform community service work as directed by the Section of Community Corrections of the Division of Adult Correction. The provisions of G.S. 15A-1376 shall apply to this violation of a condition of parole.

Community service parole eligibility shall be available to a prisoner:

- (1) Who is serving an active sentence the term of which exceeds six months; and
- (2) Who, in the opinion of the Post-Release Supervision and Parole Commission, is unlikely to engage in further criminal conduct; and
- (3) Who agrees to complete service of his sentence as herein specified; and

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(4) Who has served one-half of his minimum sentence.

In computing the service requirements of subdivision (4) of this subsection, credit shall be given for good time and gain time credit earned pursuant to G.S. 148-13. Nothing herein is intended to create or shall be construed to create a right or entitlement to community service parole in any prisoner.

(i) The fee required by G.S. 143B-708 shall be paid by all persons who participate in the Community Service Parole Program.

(j) The Post-Release Supervision and Parole Commission may terminate a prisoner's community service parole before the expiration of the term of imprisonment where doing so will not endanger the public, unduly depreciate the seriousness of the crime, or promote disrespect for the law.

Credits

Added by Laws 1977, c. 711, § 1. Amended by Laws 1977 (2nd Sess.), c. 1147, §§ 19A to 22; Laws 1979, c. 749, §§ 9, 10; Laws 1979 (2nd Sess.), c. 1316, § 42; Laws 1981, c. 63, § 1; Laws 1981, c. 179, § 14; Laws 1983 (Reg. Sess., 1984), c. 1098, § 1; Laws 1985, c. 453, §§ 1, 2; Laws 1985 (Reg. Sess., 1986), c. 960, § 2; Laws 1985 (Reg. Sess., 1986), c. 1012, §§ 2, 5; Laws 1987, c. 47; Laws 1987, c. 783, § 7; Laws 1989, c. 1, §§ 3, 4; Laws 1991, c. 217, § 3; Laws 1991, c. 288, § 2; Laws 1993, c. 538, § 22, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 21, § 3, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(b), eff. March 26, 1994; Laws 1994 (1st Ex. Sess.), c. 25, §§ 1, 2, eff. Oct. 1, 1994; S.L. 2002-126, § 29A.1.(a), eff. Oct. 1, 2002; S.L. 2006-264, § 34, eff. Aug. 27, 2006; S.L. 2008-133, § 1, eff. Oct. 1, 2008; S.L. 2009-372, § 13, eff. Dec. 1, 2009; S.L. 2009-451, § 19.26(a), eff. July 1, 2009; S.L. 2009-451, § 19.26(d), eff. Dec. 1, 2009; S.L. 2010-107, § 1, eff. July 20, 2010; S.L. 2011-145, § 19.1(i), (k), eff. Jan. 1, 2012.

Editors' Notes

CRIMINAL CODE COMMISSION COMMENTARY

Subsection (a) encompasses the important provision which gives the judge's minimum term considerably more bite than it has under present law. Unless the minimum term of imprisonment is particularly long, the Parole Commission must respect that minimum and the inmate cannot be paroled before that minimum is served. This subsection does place a limit on the effective minimum, however. If the minimum which the judge imposes a greater than one-fifth of the maximum penalty allowed by law, then he is eligible for release when he has served one-fifth of that maximum. Notice that the limit is based on the maximum penalty allowed by law and not on the maximum term which the judge actually imposes. The Commission wished to avoid the circumstance which occurs under present law in which the judge manipulates the length of the sentence imposed in order to affect the date for which the defendant is eligible for release on parole. This means that a judge if he wished could sentence a safecracker to a prison term of six to ten years and the offender could not be released on parole until he had served the full six years, since six years is one fifth of the maximum penalty allowed by law. On the other hand, if a judge sentenced the offender to a term of nine to ten years, the practical effect would be the same as the earlier example. Since the minimum term exceeded one fifth of the maximum allowed by law, he would continue to be eligible for release after serving six years.

Subsection (b) does two important things: (1) it requires annual review of inmate's case as soon as he is eligible for parole and annually thereafter until he is released. The subsection does not, however, have anything to say about

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the procedure to be followed in this consideration for parole. The subsection also requires that any time the Parole Commission is considering for release one who has served less than half the maximum term it must notify the district attorney in advance and he, in turn, may require that the consideration be made publicly. The Commission added this provision in an attempt to provide some assurance against the feeling sometimes expressed that parole is granted without adequate knowledge of the facts of the case.

Subsection (c) was discussed in the commentary on § 15A-1351(d). Subsection (d) states the reasons why parole may be denied, but it does not require a written finding or other written statement. The Commission believes that this list embodies all of the legitimate reasons for denying parole.

Subsection (e) grants the offender the same kind of election he has in the case of probation and fine.

Subsection (f) provides another of the significant changes brought by this proposal. It requires a minimum of six month's parole for every person serving a term of 18 months or more for a felony. The Commission believed that the prisoner who is unable to obtain parole earlier is the very one who most needs this period of gradual readjustment to freedom.

Subsection (g) attempts to overcome the inertia that makes it almost impossible for persons with short sentences to obtain parole; it reverses the normal burden--the person must be released unless the Parole Commission finds to the contrary. The final sentence of this subsection attempts to establish an automatic term of parole and automatic conditions of parole, in those cases since, by definition, the Parole Commission will not be considering these matters individually.

LIBRARY REFERENCES

Pardon and Parole 48, 55.1.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 45 to 51.

RESEARCH REFERENCES

Encyclopedias

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Strong's N.C. Index 4th, Automobiles and Other Vehicles § 919, Weighing Aggravating and Mitigating Factors.
Strong's N.C. Index 4th, Criminal Law § 1334, Imposition of Maximum and Minimum Term.
Strong's N.C. Index 4th, Criminal Law § 1358, Fee for Participation.
Strong's N.C. Index 4th, Criminal Law § 1505, Rules and Regulations for Parole Consideration.
Strong's N.C. Index 4th, Criminal Law § 1513, Prisoner Refusal of Parole.
Strong's N.C. Index 4th, Criminal Law § 1514, Eligibility Under Minimum Sentence.
Strong's N.C. Index 4th, Criminal Law § 1515, Eligibility Under Sentence of 30 Days and Less Than 18 Months.
Strong's N.C. Index 4th, Criminal Law § 1516, Criteria for Parole Refusal.
Strong's N.C. Index 4th, Criminal Law § 1517, Opportunity to Consider Parole Refusal.
Strong's N.C. Index 4th, Criminal Law § 1532, Generally; Definition.
Strong's N.C. Index 4th, Criminal Law § 1533, Duties of Authorities in Charge.
Strong's N.C. Index 4th, Criminal Law § 1534, Eligibility for Community Service Parole.

§ 15A-1371. Parole eligibility, consideration, and refusal, NC ST § 15A-1371

Strong's N.C. Index 4th, State § 23, Applicability to State Officers and to Individual State Employees.

Notes of Decisions (54)

N.C.G.S.A. § 15A-1371, NC ST § 15A-1371

The statutes and Constitution are current through S.L. 2013-107 of the 2013 Regular Session of the General Assembly.

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§ 15A-1372. Length and effect of parole term, NC ST § 15A-1372

West's North Carolina General Statutes Annotated
Chapter 15A. Criminal Procedure Act (Refs & Annos)
Subchapter XIII. Disposition of Defendants (Refs & Annos)
Article 85. Parole (Refs & Annos)

N.C.G.S.A. § 15A-1372

§ 15A-1372. Length and effect of parole term

Currentness

- (a) Term of Parole.--The term of parole for any person released from imprisonment may be no greater than one year.
- (b) Repealed by Laws 1993, c. 538, § 23, eff. Oct. 1, 1994.
- (c) Termination of Sentence.--When a parolee completes his period of parole, the sentence or sentences from which he was paroled are terminated.
- (d) Repealed by Laws 1993, c. 538, § 23, eff. Oct. 1, 1994.

Credits

Added by Laws 1977, c. 711, § 1. Amended by Laws 1981, c. 642; Laws 1989, c. 1, § 8; Laws 1989 (Reg. Sess., 1990), c. 1031, § 3; Laws 1991, c. 217, § 1; Laws 1993, c. 538, § 23, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 21, § 4, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(b), eff. March 26, 1994.

Editors' Notes

CRIMINAL CODE COMMISSION COMMENTARY

This section establishes the permissible length of the parole term, which must always be at least one year or the remainder of his term if the remainder of the term is less than a year. Otherwise, the parole term is within the discretion of the Parole Commission as long as it is no greater than the outside limits set forth in this section, which vary according to the length of the maximum prison sentence imposed.

LIBRARY REFERENCES

Pardon and Parole  67.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole § 61.

RESEARCH REFERENCES

§ 15A-1372. Length and effect of parole term, NC ST § 15A-1372

Encyclopedias

Strong's N.C. Index 4th, Criminal Law § 1520, Maximum Term of Parole.

Strong's N.C. Index 4th, Criminal Law § 1521, Termination of Sentence.

N.C.G.S.A. § 15A-1372, NC ST § 15A-1372

The statutes and Constitution are current through S.L. 2013-107 of the 2013 Regular Session of the General Assembly.

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§ 15A-1373. Incidents of parole, NC ST § 15A-1373

West's North Carolina General Statutes Annotated
Chapter 15A. Criminal Procedure Act (Refs & Annos)
Subchapter XIII. Disposition of Defendants (Refs & Annos)
Article 85. Parole (Refs & Annos)

N.C.G.S.A. § 15A-1373

§ 15A-1373. Incidents of parole

Currentness

(a) Conditionality of Parole.--Unless terminated sooner as provided in subsection (b), parole remains conditional and subject to revocation.

(b) Early Termination.--The Post-Release Supervision and Parole Commission may terminate a period of parole and discharge the parolee at any time after the expiration of one year of successful parole if warranted by the conduct of the parolee and the ends of justice.

(c) Modification of Conditions.--The Post-Release Supervision and Parole Commission may for good cause shown modify the conditions of parole at any time prior to the expiration or termination of the period for which the parole remains conditional.

(d) Effect of Violation.--If the parolee violates a condition at any time prior to the expiration or termination of the period, the Commission may continue him on the existing parole, with or without modifying the conditions, or, if continuation or modification is not appropriate, may revoke the parole as provided in G.S. 15A-1376 and reimprison the parolee for a term consistent with the following requirements:

- (1) The time the parolee was at liberty on parole and in compliance with all terms and conditions of that parole shall be credited on a day-for-day basis against the maximum term of imprisonment imposed by the court under G.S. 15A-1351, except that the parolee shall receive no credit for the last six months of his parole.
- (2) The prisoner must be given credit against the term of reimprisonment for all time spent in custody as a result of revocation proceedings under G.S. 15A-1376.

(e) Re-parole.--A prisoner who has been reimprisoned following parole may be re-paroled by the Post-Release Supervision and Parole Commission subject to the provisions which govern initial parole. In the event that a defendant serves the final six months of his maximum imprisonment as a result of being recommitted for violation of parole, he may not be required to serve a further period on parole.

(f) Timing of Revocation.--The Post-Release Supervision and Parole Commission may revoke parole for violation of a condition during the period of parole. The Commission also may revoke following the period of parole if:

§ 15A-1373. Incidents of parole, NC ST § 15A-1373

- (1) Before the expiration of the period of parole, the Commission has recorded its intent to conduct a revocation hearing, and
- (2) The Commission finds that every reasonable effort has been made to notify the parolee and conduct the hearing earlier.

Credits

Added by Laws 1977, c. 711, § 1. Amended by Laws 1979, c. 927; Laws 1991, c. 217, § 2; Laws 1993, c. 538, § 38, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(b), eff. March 26, 1994.

Editors' Notes

CRIMINAL CODE COMMISSION COMMENTARY

The Commission here declines to give to the parolee whose parole is revoked credit against the remainder of his sentence when he is reimprisoned for the time spent on parole prior to revocation. There is at least a minimum six months period on reimprisonment so that even if the parolee has very little time remaining on his active sentence, he still must serve six months in prison upon revocation. Under subsection (e) the recommitted parolee is still subject to the provisions of automatic parole at the end of his term unless he has served out the entire period of his imprisonment.

Subsection (f) provides for revocation and reimprisonment for a parolee after the period of parole if a parole violation occurred during the period of parole. This provision is aimed at the situation in which the violator is outside the jurisdiction and inaccessible earlier. As a precaution against abuse, the subsection requires that the intention to hold a revocation hearing be recorded prior to the expiration of the period of parole and requires a finding that every reasonable effort was made to conduct the hearing earlier.

LIBRARY REFERENCES

Pardon and Parole  64.1, 69.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 59, 65.

RESEARCH REFERENCES

Encyclopedias

Strong's N.C. Index 4th, Criminal Law § 1509, Power to Modify Conditions or Revoke Parole.
Strong's N.C. Index 4th, Criminal Law § 1510, Power to Grant Early Termination.
Strong's N.C. Index 4th, Criminal Law § 1512, Conditionality of Parole.
Strong's N.C. Index 4th, Criminal Law § 1523, Mandatory Conditions; Subsequent Criminal Acts.
Strong's N.C. Index 4th, Criminal Law § 1540, Reparole After Reimprisonment for Violation.
Strong's N.C. Index 4th, Criminal Law § 1549, Time of Revocation.

Notes of Decisions (1)

§ 15A-1373. Incidents of parole, NC ST § 15A-1373

N.C.G.S.A. § 15A-1373, NC ST § 15A-1373

The statutes and Constitution are current through S.L. 2013-107 of the 2013 Regular Session of the General Assembly.

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§ 15A-1374. Conditions of parole, NC ST § 15A-1374

West's North Carolina General Statutes Annotated
Chapter 15A. Criminal Procedure Act (Refs & Annos)
Subchapter XIII. Disposition of Defendants (Refs & Annos)
Article 85. Parole (Refs & Annos)

N.C.G.S.A. § 15A-1374

§ 15A-1374. Conditions of parole

Effective: October 1, 2010
Currentness

(a) In General.--The Post-Release Supervision and Parole Commission may in its discretion impose conditions of parole it believes reasonably necessary to insure that the parolee will lead a law-abiding life or to assist him to do so. The Commission must provide as an express condition of every parole that the parolee not commit another crime during the period for which the parole remains subject to revocation. When the Commission releases a person on parole, it must give him a written statement of the conditions on which he is being released.

(a1) Required Conditions for Certain Offenders. -- A person serving a term of imprisonment for an impaired driving offense sentenced pursuant to G.S. 20-179 that:

- (1) Has completed any recommended treatment or training program required by G.S. 20-179(p)(3); and
- (2) Is not being paroled to a residential treatment program;

shall, as a condition of parole, receive community service parole pursuant to G.S. 15A-1371(h), or be required to comply with subdivision (b)(8a) of this section.

(b) Appropriate Conditions.--As conditions of parole, the Commission may require that the parolee comply with one or more of the following conditions:

- (1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip him for suitable employment.
- (2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
- (3) Attend or reside in a facility providing rehabilitation, instruction, recreation, or residence for persons on parole.
- (4) Support his dependents and meet other family responsibilities.

§ 15A-1374. Conditions of parole, NC ST § 15A-1374

- (5) Refrain from possessing a firearm, destructive device, or other dangerous weapon unless granted written permission by the Commission or the parole officer.
- (6) Report to a parole officer at reasonable times and in a reasonable manner, as directed by the Commission or the parole officer.
- (7) Permit the parole officer to visit him at reasonable times at his home or elsewhere.
- (8) Remain within the geographic limits fixed by the Commission unless granted written permission to leave by the Commission or the parole officer.
- (8a) Remain in one or more specified places for a specified period or periods each day and wear a device that permits the defendant's compliance with the condition to be monitored electronically.
- (8b) Remain alcohol free, and prove such abstinence through evaluation by a continuous alcohol monitoring system of a type approved by the Division of Adult Correction of the Department of Public Safety.
- (9) Answer all reasonable inquiries by the parole officer and obtain prior approval from the parole officer for any change in address or employment.
- (10) Promptly notify the parole officer of any change in address or employment.
- (11) Submit at reasonable times to warrantless searches by a parole officer of the parolee's person and of the parolee's vehicle and premises while the parolee is present, for purposes reasonably related to the parole supervision. The Commission may not require as a condition of parole that the parolee submit to any other searches that would otherwise be unlawful. If the parolee has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, warrantless searches of the parolee's computer or other electronic mechanism which may contain electronic data shall be considered reasonably related to the parole supervision. Whenever the search consists of testing for the presence of illegal drugs, the parolee may also be required to reimburse the Division of Adult Correction of the Department of Public Safety for the actual cost of drug testing and drug screening, if the results are positive.
- (11a) Make restitution or reparation to an aggrieved party as provided in G.S. 148-57.1.
- (11b) Comply with an order from a court of competent jurisdiction regarding the payment of an obligation of the parolee in connection with any judgment rendered by the court.

§ 15A-1374. Conditions of parole, NC ST § 15A-1374

(11c) In the case of a parolee who was attending a basic skills program during incarceration, continue attending a basic skills program in pursuit of a General Education Development Degree or adult high school diploma.

(12) Satisfy other conditions reasonably related to his rehabilitation.

(b1) Mandatory Satellite-Based Monitoring Required as Condition of Parole for Certain Offenders. -- If a parolee is in a category described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(2), the Commission must require as a condition of parole that the parolee submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

(c) Supervision Fee.--The Commission must require as a condition of parole that the parolee pay a supervision fee of forty dollars (\$40.00) per month. The Commission may exempt a parolee from this condition of parole only if it finds that requiring him to pay the fee will constitute an undue economic burden. The fee must be paid to the clerk of superior court of the county in which the parolee was convicted. The clerk must transmit any money collected pursuant to this subsection to the State to be deposited in the general fund of the State. In no event shall a person released on parole be required to pay more than one supervision fee per month.

(d) Any fees or costs paid by the parolee in order to comply with the imposition of subdivision (8b) of subsection (b) of this section shall be paid to the clerk of court for the county in which the parolee was convicted. Fees or costs collected under this subsection shall be transmitted to the entity providing the continuous alcohol monitoring system.

Credits

Added by Laws 1977, c. 711, § 1. Amended by Laws 1979, c. 749, § 11; Laws 1983, c. 562; Laws 1985, c. 474, § 6; Laws 1987, c. 579, § 3; Laws c. 830, § 17; Laws 1989 (Reg. Sess. 1990), c. 1034, § 2; Laws 1991, c. 54, § 1; Laws 1991 (Reg. Sess., 1992), c. 1000, § 2; Laws 1993, c. 538, § 39, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(b), eff. March 26, 1994; S.L. 2002-126, § 29A.2.(c), eff. Oct. 1, 2002; S.L. 2006-247, § 15(h), eff. Aug. 16, 2006; S.L. 2006-253, § 27, eff. Dec. 1, 2006; S.L. 2007-165, §§ 4, 5, eff. Dec. 1, 2007; S.L. 2007-213, § 8, eff. Dec. 1, 2007; S.L. 2010-31, § 19.3(c), eff. Oct. 1, 2010; S.L. 2011-145, § 19.1(h), eff. Jan. 1, 2012.

Editors' Notes

CRIMINAL CODE COMMISSION COMMENTARY

The provisions on conditions of parole are parallel to those on conditions of probation, including the provision on search. The search as a condition of parole may be made only by a parole officer.

LIBRARY REFERENCES

Pardon and Parole 64.1.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole § 59.

RESEARCH REFERENCES

Encyclopedias

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Strong's N.C. Index 4th, Criminal Law § 1515, Eligibility Under Sentence of 30 Days and Less Than 18 Months.

Strong's N.C. Index 4th, Criminal Law § 1522, Requirement of Written Statement of Conditions.

Strong's N.C. Index 4th, Criminal Law § 1523, Mandatory Conditions; Subsequent Criminal Acts.

Strong's N.C. Index 4th, Criminal Law § 1524, Mandatory Conditions; Subsequent Criminal Acts--Payment of Supervision Fee.

Strong's N.C. Index 4th, Criminal Law § 1525, Appropriate Conditions of Parole.

Notes of Decisions (11)

N.C.G.S.A. § 15A-1374, NC ST § 15A-1374

The statutes and Constitution are current through S.L. 2013-107 of the 2013 Regular Session of the General Assembly.

§ 15A-1375. Commencement of parole; multiple sentences, NC ST § 15A-1375

West's North Carolina General Statutes Annotated
Chapter 15A. Criminal Procedure Act (Refs & Annos)
Subchapter XIII. Disposition of Defendants (Refs & Annos)
Article 85. Parole (Refs & Annos)

N.C.G.S.A. § 15A-1375

§ 15A-1375. Commencement of parole; multiple sentences

Currentness

A period of parole commences on the day the prisoner is released from imprisonment. Periods of parole run concurrently with any federal or State prison, jail, probation, or parole term to which the defendant is subject during the period.

Credits

Added by Laws 1977, c. 711, § 1.

Editors' Notes

CRIMINAL CODE COMMISSION COMMENTARY

A person on parole who is during that time sentenced to a term of imprisonment or to a term of probation or parole continues to satisfy his parole term during the period when he is serving the other sentence.

LIBRARY REFERENCES

Pardon and Parole  67.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole § 61.

RESEARCH REFERENCES

Encyclopedias

Strong's N.C. Index 4th, Criminal Law § 1518, Commencement of Term of Parole.
Strong's N.C. Index 4th, Criminal Law § 1519, Commencement of Term of Parole--Multiple Sentences.

N.C.G.S.A. § 15A-1375, NC ST § 15A-1375

The statutes and Constitution are current through S.L. 2013-107 of the 2013 Regular Session of the General Assembly.

§ 15A-1376. Arrest and hearing on parole violation, NC ST § 15A-1376

West's North Carolina General Statutes Annotated
Chapter 15A. Criminal Procedure Act (Refs & Annos)
Subchapter XIII. Disposition of Defendants (Refs & Annos)
Article 85. Parole (Refs & Annos)

N.C.G.S.A. § 15A-1376

§ 15A-1376. Arrest and hearing on parole violation

Currentness

(a) Arrest for Violation of Parole. -- A parolee is subject to arrest by a law-enforcement officer or a parole officer for violation of conditions of parole only upon the issuance of an order of temporary or conditional revocation of parole by the Post-Release Supervision and Parole Commission. However, a parole revocation hearing under subsection (e) may be held without first arresting the parolee.

(b) When and Where Preliminary Hearing on Parole Violation Required. -- Unless the hearing required by subsection (e) is first held or a continuance is requested by the parolee, a preliminary hearing on parole violation must be held reasonably near the place of the alleged violation or arrest and within seven working days of the arrest of a parolee to determine whether there is probable cause to believe that he violated a condition of parole. Otherwise, the parolee must be released seven working days after his arrest to continue on parole pending a hearing. If the parolee is not within the State, his preliminary hearing is as prescribed by G.S. 148-65.1A.

(c) Officers to Conduct Hearing. -- The preliminary hearing on parole violation must be conducted by a judicial official, or by a hearing officer designated by the Post-Release Supervision and Parole Commission. No person employed by the Division of Adult Correction of the Department of Public Safety may serve as a hearing officer at a hearing provided in this section unless he is a member of the Post-Release Supervision and Parole Commission or is employed solely as a hearing officer.

(d) Procedure for Preliminary Hearing on Parole Violation. -- The Division of Adult Correction of the Department of Public Safety must give the parolee notice of the preliminary hearing and its purpose, including a statement of the violations alleged. At the hearing, the parolee may appear and speak in his own behalf, may present relevant information, and may, on request, personally question witnesses and adverse informants, unless the hearing officer finds good cause for not allowing confrontation. If the person holding the hearing determines there is probable cause to believe the parolee violated his parole, he must summarize the reasons for his determination and the evidence he relied on. Formal rules of evidence do not apply at the hearing. If probable cause is found, the parolee may be held in the custody of the Division of Adult Correction of the Department of Public Safety to serve the appropriate term of imprisonment, subject to the outcome of a revocation hearing under subsection (e).

(e) Revocation Hearing. -- Before finally revoking parole, the Post-Release Supervision and Parole Commission must, unless the parolee waived the hearing or the time limit, provide a hearing within 45 days of the parolee's reconfinement to determine whether to revoke parole finally. The Post-Release Supervision and Parole Commission must adopt rules governing the hearing.

§ 15A-1376. Arrest and hearing on parole violation, NC ST § 15A-1376

Credits

Added by Laws 1977, c. 711, § 1. Amended by Laws 1977 (2nd Sess.), c. 1147, §§ 23 to 26; Laws 1987, c. 827, § 1; Laws 1993, c. 538, § 40, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(b), eff. March 26, 1994; Laws 1996 (2nd Ex. Sess.), c. 18, § 20.15(a), eff. Aug. 3, 1996; S.L. 2000-189, § 2, eff. Aug. 2, 2000; S.L. 2011-145, § 19.1(h), eff. Jan. 1, 2012.

Editors' Notes

CRIMINAL CODE COMMISSION COMMENTARY

Like the parallel provisions on probation, this section carries forward existing law and practice and conforms procedure requirements for those demanded by the United States Supreme Court in *Morrissey v. Brewer*, 408 U.S. 471 (1972). The parolee's right to counsel is left to the provisions of G.S. 148-62.1. The provision of subsection (c) goes beyond the constitutional requirements and directs that the hearing examiner in any of the required hearings not be a person who holds some other job with the Department of Corrections which might be seen as creating a kind of "conflict of interest". The only instance in which an employee of the Department of Corrections may be used as the hearing examiner is either if he is a member of the Parole Commission or if his sole job is being hearing examiner.

Subsection (e) turns to North Carolina's Administrative Procedure Act for the hearing prescribed except for those exceptions noted, but does not intend to overcome the rest of the 1975 exemption for the Department of Corrections.

LIBRARY REFERENCES

Pardon and Parole 80, 85, 87.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 71 to 80.

RESEARCH REFERENCES

Encyclopedias

Strong's N.C. Index 4th, Arrest and Bail § 55, Special Provisions Regarding the Arrest of Particular Suspects.
Strong's N.C. Index 4th, Criminal Law § 1505, Rules and Regulations for Parole Consideration.
Strong's N.C. Index 4th, Criminal Law § 1541, Arrest Upon Violation.
Strong's N.C. Index 4th, Criminal Law § 1543, Hearing Officer.
Strong's N.C. Index 4th, Criminal Law § 1544, Notice and Appearance at Preliminary Hearing.
Strong's N.C. Index 4th, Criminal Law § 1545, Evidence at Preliminary Hearing for Violation of Parole.
Strong's N.C. Index 4th, Criminal Law § 1546, Summary of Probable Cause Findings.

Notes of Decisions (6)

N.C.G.S.A. § 15A-1376, NC ST § 15A-1376

The statutes and Constitution are current through S.L. 2013-107 of the 2013 Regular Session of the General Assembly.

N.C. Gen. Stat. § 148-13

Statutes current through the 2012 Regular Session Annotations Current through March 29, 2013

[General Statutes of North Carolina](#) > [CHAPTER 148.](#) > [ARTICLE 2.](#)

§ 148-13. Regulations as to custody grades, privileges, gain time credit, etc

- (a) The Secretary of Public Safety may issue regulations regarding the grades of custody in which State prisoners are kept, the privileges and restrictions applicable to each custody grade, and the amount of cash, clothing, etc., to be awarded to State prisoners after their discharge or parole. The amount of cash awarded to a prisoner upon discharge or parole after being incarcerated for two years or longer shall be at least forty-five dollars (\$ 45.00).
- (a1) The Secretary of Public Safety shall adopt rules to specify the rates at, and circumstances under, which earned time authorized by [G.S. 15A-1340.13\(d\)](#) and [G.S. 15A-1340.20\(d\)](#) may be earned or forfeited by persons serving activated sentences of imprisonment for felony or misdemeanor convictions.
- (b) With respect to prisoners who are serving prison or jail terms for impaired driving offenses under [G.S. 20-138.1](#), the Secretary of Public Safety may, in his discretion, issue regulations regarding deductions of time from the terms of such prisoners for good behavior, meritorious conduct, work or study, participation in rehabilitation programs, and the like.
- (c), (d) Repealed by Session Laws 1993, c. 538, s. 32, effective January 1, 1995.
- (e) The Secretary's regulations concerning earned time credits authorized by this section shall be distributed to and followed by local jail administrators with regard to sentenced jail prisoners.
- (f) The provisions of this section do not apply to persons sentenced to a term of special probation under [G.S. 15A-1344\(e\)](#) or [G.S. 15A-1351\(a\)](#).

History

1933, c. 172, s. 23; 1935, c. 414, s. 15; 1937, c. 88, s. 1; 1943, c. 409; 1955, c. 238, s. 6; 1979, c. 760, s. 4; 1979, 2nd Sess., c. 1316, ss. 43-47; 1981, c. 63, s. 1; c. 179, s. 14; c. 662, ss. 8, 9; 1983, c. 560, s. 3; 1985, c. 310, ss. 1-4; 1987 (Reg. Sess., 1988), c. 1086, s. 120(a); 1991, c. 187, s. 3; 1993, c. 538, s. 32; 1994, Ex. Sess., c. 24, s. 14(b); [2011-145, s. 19.1\(i\)](#).

General Statutes of North Carolina

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§ 148-60.1. Allowances for paroled prisoner and prisoner on..., NC ST § 148-60.1

West's North Carolina General Statutes Annotated
Chapter 148. State Prison System
Article 4. Paroles (Refs & Annos)

N.C.G.S.A. § 148-60.1

§ 148-60.1. Allowances for paroled prisoner and prisoner on post-release supervision

Currentness

Upon the release of any prisoner upon parole or post-release supervision, the superintendent or warden of the institution shall provide the prisoner with suitable clothing and, if needed, an amount of money sufficient to purchase transportation to the place within the State where the prisoner is to reside. The Post-Release Supervision and Parole Commission may, in its discretion, provide that the prisoner shall upon his release on parole or post-release supervision receive a sum of money of at least forty-five dollars (\$45.00).

Credits

Added by Laws 1953, c. 17, § 8. Amended by Laws 1973, c. 1262, § 10; Laws 1987 (Reg. Sess., 1988), c. 1086, § 120(b); Laws 1993, c. 538, § 51, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(b), eff. March 26, 1994.

Editors' Notes

LIBRARY REFERENCES

Prisons 241.
Westlaw Topic No. 310.

RESEARCH REFERENCES

Encyclopedias

Strong's N.C. Index 4th, Criminal Law § 1526, Allowances for Paroled Prisoner.

N.C.G.S.A. § 148-60.1, NC ST § 148-60.1

The statutes and Constitution are current through S.L. 2013-107 of the 2013 Regular Session of the General Assembly.

§ 148-64.1. Early conditional release of inmates subject to a..., NC ST § 148-64.1

West's North Carolina General Statutes Annotated
Chapter 148. State Prison System
Article 4. Paroles (Refs & Annos)

N.C.G.S.A. § 148-64.1

§ 148-64.1. Early conditional release of inmates subject to a removal order; revocation of release

Effective: August 8, 2008
Currentness

(a) Eligibility for Early Release.--Notwithstanding any other provision of law, the Post-Release Supervision and Parole Commission may conditionally release an inmate into the custody and control of United States Immigration and Customs Enforcement if all of the following requirements are satisfied:

- (1) The Division of Adult Correction of the Department of Public Safety has received a final order of removal for the inmate from United States Immigration and Customs Enforcement.
- (2) The inmate was convicted of a nonviolent criminal offense and is incarcerated for that offense. If the inmate was convicted of and is incarcerated for more than one offense, then all of the offenses of which the inmate was convicted and is incarcerated must be nonviolent criminal offenses. As used in this subdivision, the term "nonviolent criminal offense" means a conviction for an impaired driving offense or a felony violation of any of the following:
 - a. G.S. 14-54.
 - b. G.S. 14-56.
 - c. G.S. 14-71.1.
 - d. G.S. 14-100, where the thing of value is less than one hundred thousand dollars (\$100,000).
 - e. G.S. 90-95(d)(4).
- (3) The inmate has served at least half of the minimum sentence imposed by the court or, in the case of an inmate convicted of an impaired driving offense under G.S. 20-138.1, the inmate has met all of the parole eligibility requirements under G.S. 15A-1371, notwithstanding G.S. 20-179(p)(3).
- (4) The inmate was not convicted of an impaired driving offense resulting in death or serious bodily injury, as that term is defined in G.S. 14-32.4.

§ 148-64.1. Early conditional release of inmates subject to a..., NC ST § 148-64.1

(5) The inmate agrees not to reenter the United States unlawfully.

(b) Release Is Discretionary.--The decision to release an inmate once the requirements of subsection (a) of this section are satisfied is in the sole, unappealable discretion of the Post-Release Supervision and Parole Commission.

(c) Return of Inmates.--In the event that the United States Immigration and Customs Enforcement is unable to or does not deport the inmate, the inmate shall be returned to the custody of the Division of Adult Correction of the Department of Public Safety to serve the remainder of the original sentence.

(d) Unlawful Reentry Constitutes Violation.--An inmate released pursuant to this section who returns unlawfully and willfully to the United States violates the conditions of the inmate's early release.

(e) Arrest Authority.--An inmate who violates the conditions of the inmate's early release is subject to arrest by a law enforcement officer.

(f) Effect of Violation.--Upon notification from any federal or state law enforcement agency that the inmate is in custody, and after notice and opportunity to be heard, the Post-Release Supervision and Parole Commission shall revoke the inmate's release and reimprison the inmate for a period equal to the inmate's maximum sentence minus time already served by the inmate upon a finding that an inmate has violated the conditions of the inmate's early release.

(g) Violators Ineligible for Future Release.--Upon revocation of release under this subsection, the inmate shall not be eligible for any future release under this section or for any other release from confinement, other than post-release supervision, until the remainder of the sentence of imprisonment is served.

Credits

Added by S.L. 2008-199, § 3, eff. Aug. 8, 2008. Amended by S.L. 2011-145, § 19.1(h), eff. Jan. 1, 2012.

N.C.G.S.A. § 148-64.1, NC ST § 148-64.1

The statutes and Constitution are current through S.L. 2013-107 of the 2013 Regular Session of the General Assembly.

§ 31-21-10. Parole authority and procedure, NM ST § 31-21-10

West's New Mexico Statutes Annotated
Chapter 31. Criminal Procedure
Article 21. Sentence, Pardons and Paroles (Refs & Annos)

N. M. S. A. 1978, § 31-21-10

§ 31-21-10. Parole authority and procedure

Effective: July 1, 2009
Currentness

A. An inmate of an institution who was sentenced to life imprisonment becomes eligible for a parole hearing after the inmate has served thirty years of the sentence. Before ordering the parole of an inmate sentenced to life imprisonment, the board shall:

- (1) interview the inmate at the institution where the inmate is committed;
- (2) consider all pertinent information concerning the inmate, including:
 - (a) the circumstances of the offense;
 - (b) mitigating and aggravating circumstances;
 - (c) whether a deadly weapon was used in the commission of the offense;
 - (d) whether the inmate is a habitual offender;
 - (e) the reports filed under Section 31-21-9 NMSA 1978; and
 - (f) the reports of such physical and mental examinations as have been made while in an institution;
- (3) make a finding that a parole is in the best interest of society and the inmate; and
- (4) make a finding that the inmate is able and willing to fulfill the obligations of a law-abiding citizen.

If parole is denied, the inmate sentenced to life imprisonment shall again become entitled to a parole hearing at two-year intervals. The board may, on its own motion, reopen any case in which a hearing has already been granted and parole denied.

§ 31-21-10. Parole authority and procedure, NM ST § 31-21-10

B. Unless the board finds that it is in the best interest of society and the parolee to reduce the period of parole, a person who was sentenced to life imprisonment shall be required to undergo a minimum period of parole of five years. During the period of parole, the person shall be under the guidance and supervision of the board.

C. An inmate of an institution who was sentenced to life imprisonment without possibility of release or parole is not eligible for parole and shall remain incarcerated for the entirety of the inmate's natural life.

D. Except for certain sex offenders as provided in Section 31-21-10.1 NMSA 1978, an inmate who was convicted of a first, second or third degree felony and who has served the sentence of imprisonment imposed by the court in an institution designated by the corrections department shall be required to undergo a two-year period of parole. An inmate who was convicted of a fourth degree felony and who has served the sentence of imprisonment imposed by the court in an institution designated by the corrections department shall be required to undergo a one-year period of parole. During the period of parole, the person shall be under the guidance and supervision of the board.

E. Every person while on parole shall remain in the legal custody of the institution from which the person was released, but shall be subject to the orders of the board. The board shall furnish to each inmate as a prerequisite to release under its supervision a written statement of the conditions of parole that shall be accepted and agreed to by the inmate as evidenced by the inmate's signature affixed to a duplicate copy to be retained in the files of the board. The board shall also require as a prerequisite to release the submission and approval of a parole plan. If an inmate refuses to affix the inmate's signature to the written statement of the conditions of parole or does not have an approved parole plan, the inmate shall not be released and shall remain in the custody of the institution in which the inmate has served the inmate's sentence, excepting parole, until such time as the period of parole the inmate was required to serve, less meritorious deductions, if any, expires, at which time the inmate shall be released from that institution without parole, or until such time that the inmate evidences acceptance and agreement to the conditions of parole as required or receives approval for the inmate's parole plan or both. Time served from the date that an inmate refuses to accept and agree to the conditions of parole or fails to receive approval for the inmate's parole plan shall reduce the period, if any, to be served under parole at a later date. If the district court has ordered that the inmate make restitution to a victim as provided in Section 31-17-1 NMSA 1978, the board shall include restitution as a condition of parole. The board shall also personally apprise the inmate of the conditions of parole and the inmate's duties relating thereto.

F. When a person on parole has performed the obligations of the person's release for the period of parole provided in this section, the board shall make a final order of discharge and issue the person a certificate of discharge.

G. Pursuant to the provisions of Section 31-18-15 NMSA 1978, the board shall require the inmate as a condition of parole:

(1) to pay the actual costs of parole services to the adult probation and parole division of the corrections department for deposit to the corrections department intensive supervision fund not exceeding one thousand eight hundred dollars (\$1,800) annually to be paid in monthly installments of not less than twenty-five dollars (\$25.00) and not more than one hundred fifty dollars (\$150), as set by the appropriate district supervisor of the adult probation and parole division, based upon the financial circumstances of the defendant. The defendant's payment of the supervised parole costs shall not be waived unless the board holds an evidentiary hearing and finds that the defendant is unable to pay the costs. If the board waives the defendant's payment of the supervised parole costs and the defendant's financial circumstances subsequently change so that the defendant

§ 31-21-10. Parole authority and procedure, NM ST § 31-21-10

is able to pay the costs, the appropriate district supervisor of the adult probation and parole division shall advise the board and the board shall hold an evidentiary hearing to determine whether the waiver should be rescinded; and

(2) to reimburse a law enforcement agency or local crime stopper program for the amount of any reward paid by the agency or program for information leading to the inmate's arrest, prosecution or conviction.

H. The provisions of this section shall apply to all inmates except geriatric, permanently incapacitated and terminally ill inmates eligible for the medical and geriatric parole program as provided by the Parole Board Act.¹

Credits

L. 1980, Ch. 28, § 1. Amended by L. 1981, Ch. 285, § 3; L. 1982, Ch. 107, § 1; L. 1983, Ch. 136, § 1; L. 1987, Ch. 139, § 4; L. 1988, Ch. 62, § 2; L. 1994, Ch. 21, § 1; L. 1994, Ch. 24, § 4; L. 1996, Ch. 79, § 4, eff. July 1, 1996; L. 1997, Ch. 140, § 2, eff. July 1, 1997; L. 2003, Sp.Sess., Ch. 1, § 8; L. 2004, Ch. 38, § 2, eff. July 1, 2004; L. 2005, Ch. 59, § 3, eff. June 17, 2005; L. 2007, Ch. 69, § 3, eff. July 1, 2007; L. 2009, Ch. 11, § 4, eff. July 1, 2009.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole 50, 57.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 48 to 57.

RESEARCH REFERENCES

ALR Library

92 ALR 5th 35, Persons or Entities Entitled to Restitution as "Victim" Under State Criminal Restitution Statute.
95 ALR 2nd 1265, Withdrawal, Forfeiture, Modification, or Denial of Good-Time Allowance to Prisoner.

Notes of Decisions (44)

Footnotes

¹ NMSA 1978, § 31-21-22 et seq.
NMSA 1978, § 31-21-10, NM ST § 31-21-10
Current through Ch. 228 (end) of the First Regular Session of the 51st Legislature (2013)

§ 31-21-10.1. Sex offenders; period of parole; terms and..., NM ST § 31-21-10.1

West's New Mexico Statutes Annotated
Chapter 31. Criminal Procedure
Article 21. Sentence, Pardons and Paroles (Refs & Annos)

N. M. S. A. 1978, § 31-21-10.1

§ 31-21-10.1. Sex offenders; period of parole; terms and conditions of parole

Effective: July 1, 2007
Currentness

A. If the district court sentences a sex offender to a term of incarceration in a facility designated by the corrections department, the district court shall include a provision in the judgment and sentence that specifically requires the sex offender to serve an indeterminate period of supervised parole for a period of:

(1) not less than five years and not in excess of twenty years for the offense of kidnapping when committed with intent to inflict a sexual offense upon the victim, criminal sexual penetration in the third degree, criminal sexual contact of a minor in the fourth degree or sexual exploitation of children in the second degree; or

(2) not less than five years and up to the natural life of the sex offender for the offense of aggravated criminal sexual penetration, criminal sexual penetration in the first or second degree, criminal sexual contact of a minor in the second or third degree or sexual exploitation of children by prostitution in the first or second degree.

A sex offender's period of supervised parole may be for a period of less than the maximum if, at a review hearing provided for in Subsection C of this section, the state is unable to prove that the sex offender should remain on parole.

B. Prior to placing a sex offender on parole, the board shall conduct a hearing to determine the terms and conditions of supervised parole for the sex offender. The board may consider any relevant factors, including:

(1) the nature and circumstances of the offense for which the sex offender was incarcerated;

(2) the nature and circumstances of a prior sex offense committed by the sex offender;

(3) rehabilitation efforts engaged in by the sex offender, including participation in treatment programs while incarcerated or elsewhere;

(4) the danger to the community posed by the sex offender; and

(5) a risk and needs assessment regarding the sex offender, developed by the sex offender management board of the New Mexico sentencing commission or another appropriate entity, to be used by appropriate parole board personnel.

§ 31-21-10.1. Sex offenders; period of parole; terms and..., NM ST § 31-21-10.1

C. When a sex offender has served the initial five years of supervised parole, and at two and one-half year intervals thereafter, the board shall review the duration of the sex offender's supervised parole. At each review hearing, the attorney general shall bear the burden of proving by clear and convincing evidence that the sex offender should remain on parole.

D. The board may order a sex offender released on parole to abide by reasonable terms and conditions of parole, including:

(1) being subject to intensive supervision by a parole officer of the corrections department;

(2) participating in an outpatient or inpatient sex offender treatment program;

(3) a parole agreement by the sex offender not to use alcohol or drugs;

(4) a parole agreement by the sex offender not to have contact with certain persons or classes of persons; and

(5) being subject to alcohol testing, drug testing or polygraph examinations used to determine if the sex offender is in compliance with the terms and conditions of the sex offender's parole.

E. The board shall require electronic real-time monitoring of every sex offender released on parole for the entire time the sex offender is on parole. The electronic monitoring shall use global positioning system monitoring technology or any successor technology that would give continuous information on the sex offender's whereabouts and enable law enforcement and the corrections department to determine the real-time position of a sex offender to a high level of accuracy.

F. The board shall notify the chief public defender of an upcoming parole hearing for a sex offender pursuant to Subsection C of this section, and the chief public defender shall make representation available to the sex offender at the parole hearing.

G. If the board finds that a sex offender has violated the terms and conditions of parole, the board may revoke the sex offender's parole or may modify the terms and conditions of parole.

H. The provisions of this section shall apply to all sex offenders, except geriatric, permanently incapacitated and terminally ill inmates eligible for the medical and geriatric parole program as provided by the Parole Board Act.

I. As used in this section, "sex offender" means a person who is convicted of, pleads guilty to or pleads nolo contendere to any one of the following offenses:

(1) kidnapping, as provided in Section 30-4-1 NMSA 1978, when committed with intent to inflict a sexual offense upon the victim;

§ 31-21-10.1. Sex offenders; period of parole; terms and..., NM ST § 31-21-10.1

(2) aggravated criminal sexual penetration or criminal sexual penetration in the first, second or third degree, as provided in Section 30-9-11 NMSA 1978;

(3) criminal sexual contact of a minor in the second, third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(4) sexual exploitation of children in the second degree, as provided in Section 30-6A-3 NMSA 1978; or

(5) sexual exploitation of children by prostitution in the first or second degree, as provided in Section 30-6A-4 NMSA 1978.

Credits

Added by L. 2003, Sp.Sess., Ch. 1, § 9. Amended by L. 2007, Ch. 68, § 4, eff. July 1, 2007; L. 2007, Ch. 69, § 4, eff. July 1, 2007.

NMSA 1978, § 31-21-10.1, NM ST § 31-21-10.1

Current through Ch. 228 (end) of the First Regular Session of the 51st Legislature (2013)

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§ 31-21-11. Parole to detainees to serve another sentence or..., NM ST § 31-21-11

West's New Mexico Statutes Annotated
Chapter 31. Criminal Procedure
Article 21. Sentence, Pardons and Paroles (Refs & Annos)

N. M. S. A. 1978, § 31-21-11

§ 31-21-11. Parole to detainees to serve another sentence or for hospitalization and treatment

Currentness

Prisoners who are otherwise eligible for parole may be paroled to detainees to serve another sentence within the penitentiary or to the forensic treatment or alcohol treatment unit of the New Mexico behavioral health institute at Las Vegas or to any other specific hospital or residential treatment program determined necessary by the board.

Credits

L. 1959, Ch. 30, § 1; L. 1977, Ch. 216, § 13; L. 1982, Ch. 107, § 2; L. 2005, Ch. 313, § 10, eff. June 17, 2005.

Formerly 1953 Comp., § 41-17-24.1.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole 41.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole § 42.

Notes of Decisions (2)

NMSA 1978, § 31-21-11, NM ST § 31-21-11
Current through Ch. 228 (end) of the First Regular Session of the 51st Legislature (2013)

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§ 31-21-12. Conditional release, NM ST § 31-21-12

West's New Mexico Statutes Annotated
Chapter 31. Criminal Procedure
Article 21. Sentence, Pardons and Paroles (Refs & Annos)

N. M. S. A. 1978, § 31-21-12

§ 31-21-12. Conditional release

Currentness

A. Any prisoner who is released by authority of the governor under any conditional release or other disposition made under the pardoning power, other than full pardon, shall, upon release, be deemed as released on parole until the expiration of the basic term or terms of imprisonment for which he was sentenced and until the expiration of any period of parole included as a part of sentence.

B. Except for a full pardon, the governor may not conditionally release or otherwise pardon a prisoner during the period for which such person is serving any enhanced term of his sentence pursuant to Section 31-18-16 NMSA 1978.

Credits

L. 1955, Ch. 232, § 14; L. 1977, Ch. 216, § 14.

Formerly 1953 Comp., § 41-17-25.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole 23, 64.

Westlaw Topic No. 284.

C.J.S. Pardon and Parole §§ 1 to 2, 5 to 6, 11 to 30, 58 to 59.

NMSA 1978, § 31-21-12, NM ST § 31-21-12

Current through Ch. 228 (end) of the First Regular Session of the 51st Legislature (2013)

N.M. Stat. Ann. § 31-21-13.1

This section is current through the First Session of the Fifty-First Legislature

[New Mexico Statutes Annotated](#) > [CHAPTER 31.](#) > [ARTICLE 21.](#)

§ 31-21-13.1. Intensive supervision programs

- A. As used in this section, "intensive supervision programs" means programs that provide highly structured and intense supervision, with stringent reporting requirements, of certain individuals who represent an excessively high assessment of risk of violation of probation or parole, emphasize meaningful rehabilitative activities and reasonable alternatives without seriously increasing the risk of recidivist crime and facilitate the payment of restitution by the offender to the victim. "Intensive supervision programs" include house arrest programs or electronic surveillance programs or both.
- B. The corrections department shall implement and operate intensive supervision programs in various local communities. The programs shall provide services for appropriate individuals by probation and parole officers of the corrections department. The corrections department shall promulgate rules and regulations to provide that the officers providing these services have a maximum case load of forty offenders and to provide for offender selection and other criteria. The corrections department may cooperate with all recognized law enforcement authorities and share all necessary and pertinent information, records or documents regarding probationers or parolees in order to implement and operate these intensive supervision programs.
- C. For purposes of this section, a judge contemplating imposition of an intensive supervision program for an individual shall consult with the adult probation and parole division of the corrections department and consider the recommendations before imposing such probation. The adult probation and parole division of the corrections department shall recommend only those individuals who would have otherwise been recommended for incarceration for intensive supervision programs. A judge has discretion to impose an intensive supervision program for an individual, regardless of recommendations made by the adult probation and parole division. Inmates eligible for parole, or within twelve months of eligibility for parole, or inmates who would otherwise remain in a correctional institution for lack of a parole plan or those parolees whose parole the board would otherwise revoke are eligible for intensive supervision programs. The provisions of this section do not limit or reduce the statutory authority vested in probation and parole supervision as defined by any other section of the Probation and Parole Act [[31-21-3 NMSA](#) 1978].
- D. There is created in the state treasury the "corrections department intensive supervision fund" to be administered by the corrections department upon vouchers signed by the secretary of corrections. Balances in the corrections department intensive supervision fund shall not revert to the general fund. Beginning July 1, 1988, the intensive supervision programs established pursuant to this section shall be funded by those supervision costs collected pursuant to the provisions of [Sections 31-20-6](#) and [31-21-10 NMSA](#) 1978. The corrections department is specifically authorized to hire additional permanent or term full-time equivalent positions for the purpose of implementing the provisions of this section.

History

N.M. Stat. Ann. § 31-21-13.1

1978 Comp., § 31-21-13.1, enacted by Laws 1988, ch. 62, § 3; 1991, ch. 52, § 2; [2013, ch. 48, § 1](#).

Michie's Annotated Statutes Of New Mexico

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§ 31-21-14. Return of parole violator, NM ST § 31-21-14

West's New Mexico Statutes Annotated
Chapter 31. Criminal Procedure
Article 21. Sentence, Pardons and Paroles (Refs & Annos)

N. M. S. A. 1978, § 31-21-14

§ 31-21-14. Return of parole violator

Currentness

A. At any time during release on parole the board or the director may issue a warrant for the arrest of the released prisoner for violation of any of the conditions of release, or issue a notice to appear to answer a charge of violation. The notice shall be served personally upon the prisoner. The warrant shall authorize the superintendent of the institution from which the prisoner was released to return the prisoner to the actual custody of the institution or to any other suitable detention facility designated by the board or the director. If the prisoner is out of the state, the warrant shall authorize the superintendent to return him to the state.

B. The director may arrest the prisoner without a warrant or may deputize any officer with power of arrest to do so by giving him a written statement setting forth that the prisoner has, in the judgment of the director, violated the conditions of his release. Where an arrest is made without a warrant, the prisoner shall not be returned to the institution unless authorized by the director or the board. Pending hearing as provided by law upon any charge of violation, the prisoner shall remain incarcerated in the institution.

C. Upon arrest and detention, the board shall cause the prisoner to be promptly brought before it for a parole revocation hearing on the parole violation charged, under rules and regulations the board may adopt. If violation is established, the board may continue or revoke the parole or enter any other order as it sees fit.

D. A prisoner for whose return a warrant has been issued shall, if it is found that the warrant cannot be served, be a fugitive from justice. If it appears that he has violated the provisions of his release, the board shall determine whether the time from the date of the violation to the date of his arrest, or any part of it, shall be counted as time served under the sentence.

Credits

L. 1955, Ch. 232, § 17; L. 1959, Ch. 31, § 1; L. 1963, Ch. 301, § 12.

Formerly 1953 Comp., § 41-17-28.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole  69, 80.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 65, 71 to 74.

§ 31-21-14. Return of parole violator, NM ST § 31-21-14

Notes of Decisions (30)

NMSA 1978, § 31-21-14, NM ST § 31-21-14

Current through Ch. 228 (end) of the First Regular Session of the 51st Legislature (2013)

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§ 31-21-15. Return of probation violator, NM ST § 31-21-15

West's New Mexico Statutes Annotated
Chapter 31. Criminal Procedure
Article 21. Sentence, Pardons and Paroles (Refs & Annos)

N. M. S. A. 1978, § 31-21-15

§ 31-21-15. Return of probation violator

Currentness

A. At any time during probation:

(1) the court may issue a warrant for the arrest of a probationer for violation of any of the conditions of release. The warrant shall authorize the return of the probationer to the custody of the court or to any suitable detention facility designated by the court;

(2) the court may issue a notice to appear to answer a charge of violation. The notice shall be personally served upon the probationer; or

(3) the director may arrest a probationer without warrant or may deputize any officer with power of arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the director, violated the conditions of his release. The written statement, delivered with the probationer by the arresting officer to the official in charge of a county jail or other place of detention, is sufficient warrant for the detention of the probationer. Upon arrest and detention, the director shall immediately notify the court and submit in writing a report showing in what manner the probationer has violated the conditions of release.

B. The court shall then hold a hearing, which may be informal, on the violation charged. If the violation is established, the court may continue the original probation, revoke the probation and either order a new probation with any condition provided for in Section 31-20-5 or 31-20-6 NMSA 1978, or require the probationer to serve the balance of the sentence imposed or any lesser sentence. If imposition of sentence was deferred, the court may impose any sentence which might originally have been imposed, but credit shall be given for time served on probation.

C. If it is found that a warrant for the return of a probationer cannot be served, the probationer is a fugitive from justice. After hearing upon return, if it appears that he has violated the provisions of his release, the court shall determine whether the time from the date of violation to the date of his arrest, or any part of it, shall be counted as time served on probation.

D. The board shall budget funds to cover expenses of returning probationers to the court. The sheriff of the county in which the probationer was convicted is the court's agent in the transportation of the probationer, but the director, with the consent of the court, may utilize other state agencies for this purpose when it is in the best interest of the state.

§ 31-21-15. Return of probation violator, NM ST § 31-21-15

Credits

L. 1963, Ch. 301, § 13; L. 1989, Ch. 139, § 1.

Formerly 1953 Comp., § 41-17-28.1.

Editors' Notes

LIBRARY REFERENCES

Sentencing and Punishment 2011 to 2013.

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ALR Library

26 ALR 4th 905, Power of State Court, During Same Term, to Increase Severity of Lawful Sentence--Modern Status.

99 ALR 3rd 781, Right of Defendant Sentenced After Revocation of Probation to Credit for Jail Time Served as Condition of Probation.

Treatises and Practice Aids

Criminal Procedure, Second Edition § 26.9(A), General Standards.

Notes of Decisions (197)

NMSA 1978, § 31-21-15, NM ST § 31-21-15

Current through Ch. 228 (end) of the First Regular Session of the 51st Legislature (2013)

West's New Mexico Statutes Annotated
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N. M. S. A. 1978, § 31-21-25.1

§ 31-21-25.1. Parole board; additional powers and duties; medical and geriatric parole program

Currentness

A. The parole board shall:

- (1) establish rules and implement a “medical and geriatric parole program”, in cooperation with the corrections department, by December 31, 1994;
- (2) determine the appropriate level of supervision following parole and develop a comprehensive discharge plan for geriatric, permanently incapacitated and terminally ill inmates released under the medical and geriatric parole program;
- (3) report annually to the corrections department and the legislature the number of applications for medical and geriatric parole it receives, the nature of the illnesses, disease or condition of applicants, the reasons for denial of applications for medical or geriatric parole and the number of persons on medical and geriatric parole who have been returned to the custody of the department and the reasons for their return;
- (4) make a determination whether to grant geriatric or medical parole within thirty days of receipt of an application and supporting documentation from the corrections department;
- (5) at the time of release, prescribe terms and conditions of geriatric or medical parole, including medical supervision and intervals of periodic medical evaluations; and
- (6) authorize the release of geriatric, permanently incapacitated and terminally ill inmates upon terms and conditions as the board may prescribe, if the board determines that an inmate is geriatric, permanently incapacitated or terminally ill, parole is not incompatible with the welfare of society and the inmate is not a first degree murder felon.

B. Inmates who have not served their minimum sentences may be considered eligible for parole under the medical and geriatric parole program. Medical and geriatric parole consideration shall be in addition to any other parole for which a geriatric, permanently incapacitated or terminally ill inmate may be eligible.

C. When considering an inmate for medical or geriatric parole, the parole board may request that certain medical evidence be produced or that reasonable medical examinations be conducted.

§ 31-21-25.1. Parole board; additional powers and duties;..., NM ST § 31-21-25.1

D. The parole term of a geriatric, permanently incapacitated or terminally ill inmate on medical or geriatric parole shall be for the remainder of the inmate's sentence, without diminution of sentence for good behavior.

E. When determining an inmate's eligibility for geriatric or medical parole, the parole board shall consider the following criteria concerning the inmate's:

- (1) age;
- (2) severity of illness, disease or infirmities;
- (3) comprehensive health evaluation;
- (4) institutional behavior;
- (5) level of risk for violence;
- (6) criminal history; and
- (7) alternatives to maintaining geriatric or medical inmates in traditional settings.

F. As used in this section:

- (1) "geriatric inmate" means a male or female offender who:
 - (a) is under sentence to or confined in a prison or other correctional institution under the control of the corrections department;
 - (b) is sixty-five years of age or older;
 - (c) suffers from a chronic infirmity, illness or disease related to aging; and
 - (d) does not constitute a danger to himself or society;
- (2) "permanently incapacitated inmate" means a male or female offender who:

§ 31-21-25.1. Parole board; additional powers and duties;..., NM ST § 31-21-25.1

(a) is under sentence to or confined in a prison or other correctional institution under the control of the corrections department;

(b) by reason of an existing medical condition, is permanently and irreversibly physically incapacitated; and

(c) does not constitute a danger to himself or to society; and

(3) “terminally ill inmate” means a male or female offender who:

(a) is under sentence or confined in a prison or other correctional institution under the control of the corrections department;

(b) has an incurable condition caused by illness or disease that would, within reasonable medical judgment, produce death within six months; and

(c) does not constitute a danger to himself or society.

Credits

L. 1994, Ch. 21, § 3.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole § 55.1.

Westlaw Topic No. 284.

C.J.S. Pardon and Parole §§ 45 to 47.

NMSA 1978, § 31-21-25.1, NM ST § 31-21-25.1

Current through Ch. 228 (end) of the First Regular Session of the 51st Legislature (2013)

N.M. Stat. Ann. § 31-21-25

This section is current through the First Session of the Fifty-First Legislature

[New Mexico Statutes Annotated](#) > [CHAPTER 31.](#) > [ARTICLE 21.](#)

§ 31-21-25. Powers and duties of the board

- A. The parole board shall have the powers and duties of the former state board of probation and parole pursuant to Sections 31-21-6 and [31-21-10 through 31-21-17 NMSA](#) 1978 and such additional powers and duties relating to the parole of adults as are enumerated in this section.
- B. The parole board shall have the following powers and duties to:
- (1) grant, deny or revoke parole;
 - (2) conduct or cause to be conducted such investigations, examinations, interviews, hearings and other proceedings as may be necessary for the effectual discharge of the duties of the board;
 - (3) summon witnesses, books, papers, reports, documents or tangible things and administer oaths as may be necessary for the effectual discharge of the duties of the board;
 - (4) maintain records of its acts, decisions and orders and notify each corrections facility of its decisions relating to persons who are or have been confined therein;
 - (5) adopt an official seal of which the courts shall take judicial notice;
 - (6) employ such officers, agents, assistants and other employees as may be necessary for the effectual discharge of the duties of the board;
 - (7) contract for services, supplies, equipment, office space and such other provisions as may be necessary for the effectual discharge of the duties of the board; and
 - (8) adopt such rules and regulations as may be necessary for the effectual discharge of the duties of the board.
- C. The parole board shall provide a prisoner or parolee with a written statement of the reason or reasons for denying or revoking parole.
- D. The parole board shall adopt a written policy specifying the criteria to be considered by the board in determining whether to grant, deny or revoke parole or to discharge a parolee.
- E. When the parole board conducts a parole hearing for an offender, and upon request of the victim or family member the board shall allow the victim of the offender's crime or a family member of the victim to be present during the parole hearing. If the victim or a family member of the victim requests an opportunity to speak to the board during the hearing in public or private, the board shall grant that request. As used in this subsection, "family member of the victim" means a mother, father, sister, brother, child or spouse of the victim or a person who has custody of the victim.

History

1953 Comp., § 41-17-40, enacted by Laws 1975, ch. 194, § 4; 1983, ch. 320, § 1; 1989, ch. 210, § 1; 2001, ch. 224, § 1.

Michie's Annotated Statutes Of New Mexico

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§ 31-21-27. Reentry drug court program for inmates; district..., NM ST § 31-21-27

West's New Mexico Statutes Annotated
Chapter 31. Criminal Procedure
Article 21. Sentence, Pardons and Paroles (Refs & Annos)

N. M. S. A. 1978, § 31-21-27

§ 31-21-27. Reentry drug court program for inmates; district court supervision

Currentness

A. The corrections department shall develop criteria regarding the eligibility of an inmate for early release into a reentry drug court program, including requirements that the inmate:

- (1) was incarcerated following conviction for a nonviolent, drug-related offense; and
- (2) is within eighteen months of release or eligibility for parole.

B. The corrections department may petition a district court that operates a reentry drug court program to accept limited jurisdiction of an inmate. If the district court grants the petition, the district court shall have jurisdiction over the inmate and the corrections department shall retain its jurisdiction over the inmate pursuant to the terms of the inmate's judgment and sentence.

C. The provisions of this section shall not be interpreted to change the jurisdictional authority of the sentencing court, pursuant to the provisions of the Rules of Criminal Procedure for the District Courts, as promulgated by the supreme court. The jurisdictional authority conferred upon a reentry drug court pursuant to this section is limited to acceptance and supervision of a released inmate by the reentry drug court program.

D. The provisions of this section shall not be interpreted to limit the statutory authority vested in the adult probation and parole division of the corrections department, pursuant to the provisions of the Probation and Parole Act.

Credits

L. 2001, Ch. 35, § 1, eff. July 1, 2001.

Editors' Notes

LIBRARY REFERENCES

Chemical Dependents 11.
Westlaw Topic No. 76A.
C.J.S. Chemical Dependents §§ 17 to 19.

NMSA 1978, § 31-21-27, NM ST § 31-21-27

§ 31-21-27. Reentry drug court program for inmates; district..., NM ST § 31-21-27

Current through Ch. 228 (end) of the First Regular Session of the 51st Legislature (2013)

End of Document

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N.M. Stat. Ann. § 33-2-34

This section is current through the First Session of the Fifty-First Legislature

[New Mexico Statutes Annotated](#) > [CHAPTER 33.](#) > [ARTICLE 2.](#)

§ 33-2-34. Eligibility for earned meritorious deductions

- A.** To earn meritorious deductions, a prisoner confined in a correctional facility designated by the corrections department must be an active participant in programs recommended for the prisoner by the classification supervisor and approved by the warden or the warden's designee. Meritorious deductions shall not exceed the following amounts:
- (1) for a prisoner confined for committing a serious violent offense, up to a maximum of four days per month of time served;
 - (2) for a prisoner confined for committing a nonviolent offense, up to a maximum of thirty days per month of time served;
 - (3) for a prisoner confined following revocation of parole for the alleged commission of a new felony offense or for absconding from parole, up to a maximum of four days per month of time served during the parole term following revocation; and
 - (4) for a prisoner confined following revocation of parole for a reason other than the alleged commission of a new felony offense or absconding from parole:
 - (a) up to a maximum of eight days per month of time served during the parole term following revocation, if the prisoner was convicted of a serious violent offense or failed to pass a drug test administered as a condition of parole; or
 - (b) up to a maximum of thirty days per month of time served during the parole term following revocation, if the prisoner was convicted of a nonviolent offense.
- B.** A prisoner may earn meritorious deductions upon recommendation by the classification supervisor, based upon the prisoner's active participation in approved programs and the quality of the prisoner's participation in those approved programs. A prisoner may not earn meritorious deductions unless the recommendation of the classification supervisor is approved by the warden or the warden's designee.
- C.** If a prisoner's active participation in approved programs is interrupted by a lockdown at a correctional facility, the prisoner may continue to be awarded meritorious deductions at the rate the prisoner was earning meritorious deductions prior to the lockdown, unless the warden or the warden's designee determines that the prisoner's conduct contributed to the initiation or continuance of the lockdown.
- D.** A prisoner confined in a correctional facility designated by the corrections department is eligible for lump-sum meritorious deductions as follows:
- (1) for successfully completing an approved vocational, substance abuse or mental health program, one month; except when the prisoner has a demonstrable physical, mental health or developmental disability that prevents the prisoner from successfully earning a general education diploma, in which case, the prisoner shall be awarded three months;
 - (2) for earning a general education diploma, three months;
 - (3) for earning an associate's degree, four months;
 - (4) for earning a bachelor's degree, five months;

- (5) for earning a graduate qualification, five months; and
 - (6) for engaging in a heroic act of saving life or property, engaging in extraordinary conduct for the benefit of the state or the public that is at great expense, risk or effort on behalf of the prisoner, or engaging in extraordinary conduct far in excess of normal program assignments that demonstrates the prisoner's commitment to self-rehabilitation. The classification supervisor and the warden or the warden's designee may recommend the number of days to be awarded in each case based upon the particular merits, but any award shall be determined by the director of the adult institutions division of the corrections department or the director's designee.
- E.** Lump-sum meritorious deductions, provided in Paragraphs (1) through (6) of Subsection D of this section, may be awarded in addition to the meritorious deductions provided in Subsections A and B of this section. Lump-sum meritorious deductions shall not exceed one year per award and shall not exceed a total of one year for all lump-sum meritorious deductions awarded in any consecutive twelve-month period.
- F.** A prisoner is not eligible to earn meritorious deductions if the prisoner:
- (1) disobeys an order to perform labor, pursuant to [Section 33-8-4 NMSA](#) 1978;
 - (2) is in disciplinary segregation;
 - (3) is confined for committing a serious violent offense and is within the first sixty days of receipt by the corrections department; or
 - (4) is not an active participant in programs recommended and approved for the prisoner by the classification supervisor.
- G.** The provisions of this section shall not be interpreted as providing eligibility to earn meritorious deductions from a sentence of life imprisonment or a sentence of death.
- H.** The corrections department shall promulgate rules to implement the provisions of this section, and the rules shall be matters of public record. A concise summary of the rules shall be provided to each prisoner, and each prisoner shall receive a quarterly statement of the meritorious deductions earned.
- I.** A New Mexico prisoner confined in a federal or out-of-state correctional facility is eligible to earn meritorious deductions for active participation in programs on the basis of the prisoner's conduct and program reports furnished by that facility to the corrections department. All decisions regarding the award and forfeiture of meritorious deductions at such facility are subject to final approval by the director of the adult institutions division of the corrections department or the director's designee.
- J.** In order to be eligible for meritorious deductions, a prisoner confined in a federal or out-of-state correctional facility designated by the corrections department must actively participate in programs that are available. If a federal or out-of-state correctional facility does not have programs available for a prisoner, the prisoner may be awarded meritorious deductions at the rate the prisoner could have earned meritorious deductions if the prisoner had actively participated in programs.
- K.** A prisoner confined in a correctional facility in New Mexico that is operated by a private company, pursuant to a contract with the corrections department, is eligible to earn meritorious deductions in the same manner as a prisoner confined in a state-run correctional facility. All decisions regarding the award or forfeiture of meritorious deductions at such facilities are subject to final approval by the director of the adult institutions division of the corrections department or the director's designee.

L. As used in this section:

- (1) "active participant" means a prisoner who has begun, and is regularly engaged in, approved programs;
- (2) "program" means work, vocational, educational, substance abuse and mental health programs, approved by the classification supervisor, that contribute to a prisoner's self-betterment through the development of personal and occupational skills. "Program" does not include recreational activities;
- (3) "nonviolent offense" means any offense other than a serious violent offense; and
- (4) "serious violent offense" means:
 - (a) second degree murder, as provided in [Section 30-2-1 NMSA](#) 1978;
 - (b) voluntary manslaughter, as provided in [Section 30-2-3 NMSA](#) 1978;
 - (c) third degree aggravated battery, as provided in [Section 30-3-5 NMSA](#) 1978;
 - (d) third degree aggravated battery against a household member, as provided in [Section 30-3-16 NMSA](#) 1978;
 - (e) first degree kidnapping, as provided in [Section 30-4-1 NMSA](#) 1978;
 - (f) first and second degree criminal sexual penetration, as provided in [Section 30-9-11 NMSA](#) 1978;
 - (g) second and third degree criminal sexual contact of a minor, as provided in [Section 30-9-13 NMSA](#) 1978;
 - (h) first and second degree robbery, as provided in [Section 30-16-2 NMSA](#) 1978;
 - (i) second degree aggravated arson, as provided in [Section 30-17-6 NMSA](#) 1978;
 - (j) shooting at a dwelling or occupied building, as provided in [Section 30-3-8 NMSA](#) 1978;
 - (k) shooting at or from a motor vehicle, as provided in [Section 30-3-8 NMSA](#) 1978;
 - (l) aggravated battery upon a peace officer, as provided in [Section 30-22-25 NMSA](#) 1978;
 - (m) assault with intent to commit a violent felony upon a peace officer, as provided in [Section 30-22-23 NMSA](#) 1978;
 - (n) aggravated assault upon a peace officer, as provided in [Section 30-22-22 NMSA](#) 1978; and
 - (o) any of the following offenses, when the nature of the offense and the resulting harm are such that the court judges the crime to be a serious violent offense for the purpose of this section: 1) involuntary manslaughter, as provided in [Section 30-2-3 NMSA](#) 1978; 2) fourth degree aggravated assault, as provided in [Section 30-3-2 NMSA](#) 1978; 3) third degree assault with intent to commit a violent felony, as provided in [Section 30-3-3 NMSA](#) 1978; 4) fourth degree aggravated assault against a household member, as provided in [Section 30-3-13 NMSA](#) 1978; 5) third degree assault against a household member with intent to commit a violent felony, as provided in [Section 30-3-14 NMSA](#) 1978; 6) third and fourth degree aggravated stalking, as provided in [Section 30-3A-3.1 NMSA](#) 1978; 7) second degree kidnapping, as provided in [Section 30-4-1 NMSA](#) 1978; 8) second degree abandonment of a child,

as provided in [Section 30-6-1 NMSA](#) 1978; 9) first, second and third degree abuse of a child, as provided in [Section 30-6-1 NMSA](#) 1978; 10) third degree dangerous use of explosives, as provided in [Section 30-7-5 NMSA](#) 1978; 11) third and fourth degree criminal sexual penetration, as provided in [Section 30-9-11 NMSA](#) 1978; 12) fourth degree criminal sexual contact of a minor, as provided in [Section 30-9-13 NMSA](#) 1978; 13) third degree robbery, as provided in [Section 30-16-2 NMSA](#) 1978; 14) third degree homicide by vehicle or great bodily injury by vehicle, as provided in [Section 66-8-101 NMSA](#) 1978; and 15) battery upon a peace officer, as provided in [Section 30-22-24 NMSA](#) 1978.

- M.** Except for sex offenders, as provided in [Section 31-21-10.1 NMSA](#) 1978, an offender sentenced to confinement in a correctional facility designated by the corrections department who has been released from confinement and who is serving a parole term may be awarded earned meritorious deductions of up to thirty days per month upon recommendation of the parole officer supervising the offender, with the final approval of the adult parole board. The offender must be in compliance with all the conditions of the offender's parole to be eligible for earned meritorious deductions. The adult parole board may remove earned meritorious deductions previously awarded if the offender later fails to comply with the conditions of the offender's parole. The corrections department and the adult parole board shall promulgate rules to implement the provisions of this subsection. This subsection applies to offenders who are serving a parole term on or after July 1, 2004.

History

1978 Comp., § 33-2-34, enacted by Laws 1999, ch. 238, § 1; 2003 (1st S.S.), ch. 1, § 13; 2004, ch. 75, § 1; 2006, ch. 82, § 1.

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N.M. Stat. Ann. § 33-2-36

This section is current through the First Session of the Fifty-First Legislature

[New Mexico Statutes Annotated](#) > [CHAPTER 33.](#) > [ARTICLE 2.](#)

§ 33-2-36. Forfeiture of earned meritorious deductions

- A.** Meritorious deductions earned by a prisoner may be forfeited in an amount up to ninety days for two or more misconduct violations. Meritorious deductions earned by a prisoner may be forfeited in an amount in excess of ninety days for a major conduct violation. Forfeitures of meritorious deductions of up to ninety days shall only proceed upon the recommendation of the classification supervisor and final approval by the warden or the warden's designee. Forfeitures of meritorious deductions in an amount in excess of ninety days shall only proceed upon the recommendation of the classification supervisor and the warden or the warden's designee and final approval of the director of the adult institutions division of the corrections department or the director's designee. The secretary of corrections may review and revise any decision regarding the forfeiture of meritorious deductions.
- B.** The provisions of this section also apply to the forfeiture of earned meritorious deductions for a prisoner confined in a:
- (1) federal or out-of-state correctional facility; or
 - (2) correctional facility in New Mexico operated by a private company pursuant to a contract with the corrections department.

History

1978 Comp., § 33-2-36, enacted by Laws 1988, ch. 78, § 6; 1999, ch. 238, § 2; 2006, ch. 82, § 2.

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N.M. Stat. Ann. § 33-2-37

This section is current through the First Session of the Fifty-First Legislature

[New Mexico Statutes Annotated](#) > [CHAPTER 33.](#) > [ARTICLE 2.](#)

§ 33-2-37. Restoration of forfeited meritorious deductions

- A.** Meritorious deductions forfeited pursuant to [Section 33-2-36 NMSA](#) 1978 may be restored in whole or in part to a prisoner who is exemplary in conduct and work performance for a period of not less than six months following the date of forfeiture. Meritorious deductions may be restored upon recommendation of the classification supervisor, approval by the warden or the warden's designee and final approval by the director of the adult institutions division of the corrections department or the director's designee.
- B.** The provisions of this section also apply to the restoration of earned meritorious deductions for a prisoner confined in a:
- (1) federal or out-of-state correctional facility; or
 - (2) correctional facility in New Mexico operated by a private company pursuant to a contract with the corrections department.

History

1978 Comp., § 33-2-37, enacted by Laws 1988, ch. 78, § 7; 1999, ch. 238, § 3; 2006, ch. 82, § 3.

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N.M. Stat. Ann. § 33-3-9

This section is current through the First Session of the Fifty-First Legislature

[New Mexico Statutes Annotated](#) > [CHAPTER 33.](#) > [ARTICLE 3.](#)

§ 33-3-9. County jails; deduction of time for good behavior

- A. The sheriff or jail administrator of any county, with the approval of the committing judge or presiding judge, may grant any person imprisoned in the county jail a deduction of time from the term of his sentence for good behavior and industry and shall establish rules for the accrual of "good time". Deductions of time shall not exceed one-half of the term of the prisoner's original sentence. If a prisoner is under two or more cumulative sentences, the sentences shall be treated as one sentence for the purpose of deducting time for good behavior.
- B. A prisoner shall not accrue good time for the mandatory portion of a sentence imposed pursuant to the provisions of:
 - (1) [Sections 66-8-102](#) and [66-5-39 NMSA](#) 1978; or
 - (2) a county or municipal ordinance that prohibits driving while under the influence of intoxicating liquor or drugs, or driving with a revoked or suspended driver's license.
- C. A part or all of the prisoner's accrued deductions may be forfeited for any conduct violation. The sheriff or jail administrator shall establish rules and procedures for the forfeiture of accrued deductions and keep a record of all forfeitures of accrued deductions and the reasons for the forfeitures. In addition, any independent contractor shall also keep a duplicate record of such forfeitures.
- D. No other time allowance or credits in addition to deductions of time permitted under this section may be granted to any prisoner.
- E. If a private independent contractor operates a jail, he shall make reports of disciplinary violations and good behavior to the sheriff of the county in which the jail is located. All action on such reports and awards or forfeitures of good time shall be made by the sheriff. The independent contractor shall not have the power to award or cause the forfeiture of good time pursuant to this section.

History

1953 Comp., § 42-2-7.1, enacted by Laws 1969, ch. 207, § 1; 1983, ch. 181, § 10; 1984, ch. 22, § 11; 1993, ch. 134, § 1; 1995, ch. 112, § 1.

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21 Okl. St. § 13.1

Current with Emergency Provisions through Chapter 213 of the first regular session of the of the 54th Legislature. Annotations current through June 13, 2013.

[Oklahoma Statutes](#) > [TITLE 21.](#) > [PART I.](#) > [CHAPTER 1.](#)

§ 13.1. Required service of minimum percentage of sentence--Offenses specified

Persons convicted of:

1. First degree murder as defined in Section 701.7 of this title;
2. Second degree murder as defined by Section 701.8 of this title;
3. Manslaughter in the first degree as defined by Section 711 of this title;
4. Poisoning with intent to kill as defined by Section 651 of this title;
5. Shooting with intent to kill, use of a vehicle to facilitate use of a firearm, crossbow or other weapon, assault, battery, or assault and battery with a deadly weapon or by other means likely to produce death or great bodily harm, as provided for in Section 652 of this title;
6. Assault with intent to kill as provided for in Section 653 of this title;
7. Conjoint robbery as defined by Section 800 of this title;
8. Robbery with a dangerous weapon as defined in Section 801 of this title;
9. First degree robbery as defined in Section 797 of this title;
10. First degree rape as provided for in Section 1115 of this title;
11. First degree arson as defined in Section 1401 of this title;
12. First degree burglary as provided for in Section 1436 of this title;
13. Bombing as defined in Section 1767.1 of this title;
14. Any crime against a child provided for in Section 843.5 of this title;
15. Forcible sodomy as defined in Section 888 of this title;
16. Child pornography as defined in Section 1021.2, 1021.3 or 1024.1 of this title;
17. Child prostitution as defined in Section 1030 of this title;
18. Lewd molestation of a child as defined in Section 1123 of this title;
19. Abuse of a vulnerable adult as defined in [Section 10-103 of Title 43A of the Oklahoma Statutes](#) who is a resident of a nursing facility;
20. Aggravated trafficking as provided for in subsection C of [Section 2-415 of Title 63 of the Oklahoma Statutes](#); or
21. Aggravated assault and battery upon any person defending another person from assault and battery,

shall be required to serve not less than eighty-five percent (85%) of any sentence of imprisonment imposed by the judicial system prior to becoming eligible for consideration for parole. Persons convicted of these offenses shall not be eligible for earned credits or any other type of credits which have the effect of reducing the length of the sentence to less than eighty-five percent (85%) of the sentence imposed.

History

[Laws 2007, ch. 199](#) (SB 677), § 1, eff. Nov. 1, 2007; [Laws 2009, ch. 234](#) (HB 2029), § 117, eff. May 21, 2009; [Laws 2011, ch. 385](#) (SB 952), § 1, eff. Nov. 1, 2011.

OKLAHOMA STATUTES, ANNOTATED BY LEXISNEXIS ®

57 Okl. St. § 20

Current with Emergency Provisions through Chapter 213 of the first regular session of the of the 54th Legislature. Annotations current through June 13, 2013.

[Oklahoma Statutes](#) > [TITLE 57.](#) > [CHAPTER 1.](#)

§ 20. Credit on fine and costs--Credit for efficient work and good behavior

Every county, city or town convict in this state, whether required to work upon the public highways of the county, city or town, in accordance with the laws of this state, or merely confined in the county, city or town prison, shall receive credit upon his or her fine and costs of One Dollar (\$ 1.00) for each day confined in prison, or worked upon the public highways, rock pile, or rock crusher, or public work; provided that those prisoners or convicts doing and performing the most efficient work and making the best prisoners, shall be entitled to an additional credit of one (1) day for every five (5) days of work, the custodian of the prison to determine at the end of each five (5) days of imprisonment whether or not the prisoner is entitled to such credit, and to make a record of the decision and notify the prisoner of the same.

History

[Laws 2011, ch. 160](#) (HB 1382), § 2, *eff. Nov. 1, 2011.*

OKLAHOMA STATUTES, ANNOTATED BY LEXISNEXIS ®

57 Okl. St. § 65

Current with Emergency Provisions through Chapter 213 of the first regular session of the of the 54th Legislature. Annotations current through June 13, 2013.

[Oklahoma Statutes](#) > [TITLE 57.](#) > [CHAPTER 2.](#)

§ 65. Credit for good behavior and blood donations--Duty of sheriff

Any person in this state convicted of a crime, who is serving time as a prisoner in the county jail of any county in the State of Oklahoma as a result of said conviction of crime, shall be entitled to receive five (5) days' credit for every four (4) days' time in said county jail provided said prisoner shall have obeyed the rules and regulations promulgated by the sheriff in charge of said county jail in a satisfactory manner. Each prisoner shall also, in addition thereto, be entitled to a deduction of three (3) days for each pint of his blood he donates during his first thirty (30) days of confinement in the county jail, and to five (5) days for each pint of his blood he donates during any sixty-day period thereafter to the American Red Cross or to a hospital approved for such purpose by the sheriff. And the sheriff of said county is hereby authorized to order said credit to be given to said prisoner on the records of the court out of which said conviction is had.

OKLAHOMA STATUTES, ANNOTATED BY LEXISNEXIS ®

§ 332.7. Consideration for parole, OK ST T. 57 § 332.7

Oklahoma Statutes Annotated

Title 57. Prisons and Reformatories (Refs & Annos)

Chapter 7. Pardons and Paroles (Refs & Annos)

57 Okl.St.Ann. § 332.7

§ 332.7. Consideration for parole

Currentness

A. For a crime committed prior to July 1, 1998, any person in the custody of the Department of Corrections shall be eligible for consideration for parole at the earliest of the following dates:

1. Has completed serving one-third (#) of the sentence;

2. Has reached at least sixty (60) years of age and also has served at least fifty percent (50%) of the time of imprisonment that would have been imposed for that offense pursuant to the applicable Truth in Sentencing matrix, provided in Sections 598 through 601, Chapter 133, O.S.L. 1997; provided, however, no inmate serving a sentence for crimes listed in Schedules A, S-1, S-2 or S-3 of Section 6, Chapter 133, O.S.L. 1997, or serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph;

3. Has reached eighty-five percent (85%) of the midpoint of the time of imprisonment that would have been imposed for an offense that is listed in Schedule A, B, C, D, D-1, S-1, S-2 or S-3 of Section 6, Chapter 133, O.S.L. 1997, pursuant to the applicable matrix; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph; or

4. Has reached seventy-five percent (75%) of the midpoint of the time of imprisonment that would have been imposed for an offense that is listed in any other schedule, pursuant to the applicable matrix; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph.

B. For a crime committed on or after July 1, 1998, any person in the custody of the Department of Corrections shall be eligible for consideration for parole who has completed serving one-third (#) of the sentence; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this subsection.

C. The parole hearings conducted for persons pursuant to paragraph 3 of subsection A of this section or for any person who was convicted of a violent crime as set forth in Section 571 of this title and who is eligible for parole consideration pursuant to either paragraph 1 of subsection A of this section or subsection B of this section shall be conducted in two stages, as follows:

§ 332.7. Consideration for parole, OK ST T. 57 § 332.7

1. At the initial hearing, the Pardon and Parole Board shall review the completed report submitted by the staff of the Board and shall conduct a vote regarding whether, based upon that report, the Board decides to consider the person for parole at a subsequent meeting of the Board; and

2. At the subsequent meeting, the Board shall hear from any victim or victim's representative that wants to contest the granting of parole to that person and shall conduct a vote regarding whether parole should be recommended for that person.

D. Any inmate who has parole consideration dates calculated pursuant to subsection A, B or C of this section shall be considered at the earliest such date. Except as otherwise directed by the Pardon and Parole Board, any person who has been considered for parole and was denied parole or who has waived consideration shall not be reconsidered for parole:

1. Within three (3) years of the denial or waiver, if the person was convicted of a violent crime, as set forth in Section 571 of this title, and was eligible for consideration pursuant to paragraph 1 of subsection A of this section or subsection B of this section, unless the person is within one (1) year of discharge; or

2. Until the person has served at least one-third (#) of the sentence imposed, if the person was eligible for consideration pursuant to paragraph 3 of subsection A of this section. Thereafter the person shall not be considered more frequently than once every three (3) years, unless the person is within one (1) year of discharge.

E. Any person in the custody of the Department of Corrections for a crime committed prior to July 1, 1998, who has been considered for parole on a docket created for a type of parole consideration that has been abolished by the Legislature shall not be considered for parole except in accordance with this section.

F. The Pardon and Parole Board shall promulgate rules for the implementation of subsections A, B and C of this section. The rules shall include, but not be limited to, procedures for reconsideration of persons denied parole under this section and procedure for determining what sentence a person eligible for parole consideration pursuant to subsection A of this section would have received under the applicable matrix.

G. The Pardon and Parole Board shall not recommend to the Governor any person who has been convicted of three or more felonies arising out of separate and distinct transactions, with three or more incarcerations for such felonies, unless such person shall have served the lesser of at least one-third (#) of the sentence imposed, or ten (10) years; provided that whenever the population of the prison system exceeds ninety-five percent (95%) of the capacity as certified by the State Board of Corrections, the Pardon and Parole Board may, at its discretion, recommend to the Governor for parole any person who is incarcerated for a nonviolent offense not involving injury to a person and who is within six (6) months of his or her statutory parole eligibility date.

H. It shall be the duty of the Pardon and Parole Board to cause an examination to be made at the penal institution where the person is assigned, and to make inquiry into the conduct and the record of the said person during his custody in the Department of Corrections, which shall be considered as a basis for consideration of said person for recommendation to the Governor for parole. However, the Pardon and Parole Board shall not be required to consider for parole any person who has completed the time period provided for in this subsection if the person has participated in a riot or in the taking of hostages, or has been placed

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on escape status, while in the custody of the Department of Corrections. The Pardon and Parole Board shall adopt policies and procedures governing parole consideration for such persons.

I. Any person in the custody of the Department of Corrections who is convicted of an offense not designated as a violent offense by Section 571 of Title 57 of the Oklahoma Statutes and who is not a citizen of the United States and is or becomes subject of a final order of deportation issued by the United States Department of Justice shall be considered for parole to the custody of the United States Immigration and Naturalization Service for continuation of deportation proceedings at any time subsequent to reception and processing through the Department of Corrections.

J. Upon application of any person convicted and sentenced by a court of this state and relinquished to the custody of another state or federal authorities pursuant to Section 61.2 of Title 21 of the Oklahoma Statutes, the Pardon and Parole Board may determine a parole consideration date consistent with the provisions of this section and criteria established by the Pardon and Parole Board.

K. No person who is appearing out of the normal processing procedure shall be eligible for consideration for parole without the concurrence of at least three (3) members of the Pardon and Parole Board.

L. All references in this section to matrices or schedules shall be construed with reference to the provisions of Sections 6, 598, 599, 600 and 601, Chapter 133, O.S.L. 1997.

M. Any person in the custody of the Department of Corrections who is convicted of a felony sex offense pursuant to Section 582 of Title 57 of the Oklahoma Statutes who is paroled shall immediately be placed on intensive supervision.

Credits

Laws 1947, p. 343, § 1; Laws 1980, c. 84, § 1, eff. Oct. 1, 1980; Laws 1987, c. 28, § 1, eff. Nov. 1, 1987; Laws 1988, c. 141, § 2, eff. Nov. 1, 1988; Laws 1989, c. 348, § 22, eff. Nov. 1, 1989; Laws 1993, c. 276, § 1, emerg. eff. May 27, 1993; Laws 1996, c. 168, § 1, eff. July 1, 1996; Laws 1997, c. 133, § 26, eff. July 1, 1997; Laws 1997, c. 333, § 23, eff. July 1, 1997; Laws 1998, c. 89, § 6, eff. July 1, 1998; Laws 1998, 1st Ex.Sess., c. 2, § 18, emerg. eff. June 19, 1998; Laws 1999, 1st Ex.Sess., c. 5, § 12, eff. July 1, 1999; Laws 2001, c. 437, § 27, eff. July 1, 2001; Laws 2003, c. 306, § 2, eff. Nov. 1, 2003; Laws 2004, c. 168, § 7, emerg. eff. April 27, 2004.

Editors' Notes

LAW REVIEW AND JOURNAL COMMENTARIES

- Annual Survey of Oklahoma Law: Criminal law and procedure--Expectation of liberty and Oklahoma's parole system. 6 Okla.City U.L.Rev. 139 (1981).
- Civil liability of parole officials for releasing dangerous prisoners: *Martinez v. California*, 16 Tulsa L.J. 229 (1980).
- Judicial review: Due process in parole process. 32 Okla.L.Rev. 666 (1979).
- Parole--Function of judiciary? Robert A. Fairbanks, 27 Okla.L.Rev. 634 (1974).
- Primer on obtaining pardons and paroles. Charles C. Chesnut, 42 Okla.B.J.Q. 73 (1971).
- Problems of crime, parole board structure outlined. Charles C. Chesnut, 53 Okla.B.J. 807 (1982).

§ 332.7. Consideration for parole, OK ST T. 57 § 332.7

LIBRARY REFERENCES

Pardon and Parole 44, 45, 48, 59.

Westlaw Topic No. 284.

C.J.S. Pardon and Parole §§ 44, 48 to 51, 55.

RESEARCH REFERENCES

Forms

2B Vernon's Oklahoma Forms 2d § 34.2, Consideration for Parole.

Notes of Decisions (28)

57 Okl. St. Ann. § 332.7, OK ST T. 57 § 332.7

Current with emergency effective provisions through Chapter 213 of the First Regular Session of the 54th Legislature (2013)

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§ 332.7a. Crimes related to controlled dangerous..., OK ST T. 57 § 332.7a

Oklahoma Statutes Annotated

Title 57. Prisons and Reformatories (Refs & Annos)

Chapter 7. Pardons and Paroles (Refs & Annos)

57 Okl.St.Ann. § 332.7a

§ 332.7a. Crimes related to controlled dangerous substances--Reporting procedures--Consideration by Board

Currentness

A. The Department of Corrections shall establish procedures for obtaining drug-related information, pursuant to Section 1 of this act,¹ and shall establish a method of reporting such information in relation to any person convicted and incarcerated in the State Penitentiary or placed on probation or parole.

B. The Pardon and Parole Board shall be provided any drug-related information on any person eligible for parole by the Department of Corrections prior to such person's consideration.

C. The Pardon and Parole Board shall consider the nature and relationship of the offense and offender to any controlled dangerous substance.

Credits

Laws 1989, c. 361, § 2, eff. June 2, 1989.

Editors' Notes

LIBRARY REFERENCES

Westlaw Topic No. 284.

C.J.S. Pardon and Parole §§ 48 to 51.

Footnotes

¹ Section 2-418 of title 63.

57 Okl. St. Ann. § 332.7a, OK ST T. 57 § 332.7a

Current with emergency effective provisions through Chapter 213 of the First Regular Session of the 54th Legislature (2013)

§ 332.8. Conditions for parole--Employment and residence..., OK ST T. 57 § 332.8

Oklahoma Statutes Annotated

Title 57. Prisons and Reformatories (Refs & Annos)

Chapter 7. Pardons and Paroles (Refs & Annos)

57 Okl.St. Ann. § 332.8

§ 332.8. Conditions for parole--Employment and residence assistance

Currentness

No recommendations to the Governor for parole shall be made in relation to any inmate in a penal institution in the State of Oklahoma unless the Pardon and Parole Board considers the victim impact statements if presented to the jury, or the judge in the event a jury was waived, at the time of sentencing and, in every appropriate case, as a condition of parole, monetary restitution of economic loss as defined by Section 991f of Title 22 of the Oklahoma Statutes, incurred by a victim of the crime for which the inmate was imprisoned. In every case, the Pardon and Parole Board shall first consider the number of previous felony convictions and the type of criminal violations leading to any such felony convictions, then shall consider either suitable employment or a suitable residence, and finally shall mandate participation in education programs to achieve the proficiency level established in Section 510.7 of this title or, at the discretion of the Board require the attainment of a general education diploma, as a condition for release on parole. The Board shall consider the availability of programs and the waiting period for such programs in setting conditions of parole release. The Board may require any program to be completed after the inmate is released on parole as a condition of parole. A facsimile signature of the inmate on parole papers that is transmitted to the Board shall be an accepted means of acknowledgement of parole conditions. The probation and parole officer shall render every reasonable assistance to any person making application for parole, in helping to obtain suitable employment or enrollment in an education program or a suitable residence. Any inmate who fails to satisfactorily attend and make satisfactory progress in the educational program in which the inmate has been required to participate as a condition of parole, may have his or her parole revoked. If an inmate's parole is revoked, such inmate shall be returned to confinement in the custody of the Department of Corrections.

Credits

Laws 1947, p. 343, § 2; Laws 1979, c. 73, § 1, eff. Oct. 1, 1979; Laws 1983, c. 38, § 1, eff. April 20, 1983; Laws 1992, c. 136, § 6, eff. July 1, 1992; Laws 1993, c. 325, § 22, emerg. eff. June 7, 1993; Laws 1994, c. 2, § 19, emerg. eff. March 2, 1994; Laws 1997, c. 133, § 27, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 13, eff. July 1, 1999; Laws 2001, c. 437, § 28, eff. July 1, 2001.

Editors' Notes

LAW REVIEW AND JOURNAL COMMENTARIES

Civil liability of parole officials for releasing dangerous prisoners: *Martinez v. California*, 16 *Tulsa L.J.* 229 (1980).
Judicial review: Due process in the parole process. 32 *Okla.L.Rev.* 666 (1979).

LIBRARY REFERENCES

Pardon and Parole 64.
Westlaw Topic No. 284.

§ 332.8. Conditions for parole--Employment and residence..., OK ST T. 57 § 332.8

C.J.S. Pardon and Parole § 59.

57 Okl. St. Ann. § 332.8, OK ST T. 57 § 332.8

Current with emergency effective provisions through Chapter 213 of the First Regular Session of the 54th Legislature (2013)

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§ 332.20. Two-stage parole consideration process--Tracking..., OK ST T. 57 § 332.20

Oklahoma Statutes Annotated

Title 57. Prisons and Reformatories (Refs & Annos)

Chapter 7. Pardons and Paroles (Refs & Annos)

57 Okl.St.Ann. § 332.20

§ 332.20. Two-stage parole consideration process--Tracking effects--Data collection

Currentness

The Department of Corrections, in conjunction with the Pardon and Parole Board, shall implement a method for tracking the success and recidivism of persons who are required to have a two-stage parole consideration process pursuant to subsection C of Section 332.7 of this title for the first three (3) years following their individual release from incarceration or release to parole. Included in the annual and cumulative data to be collected for this category of offenders shall be offender demographics and statistics including:

1. Offense type;
2. Sentence length;
3. Release information, indicating parole including the offense to which parole applied and whether multiple offenses or concurrent offenses were reviewed for purposes of parole or timed-out sentence and the percent of sentence served;
4. Number of persons by offense type eligible for parole consideration in the first and second stages of parole consideration in the calendar year;
5. Number of persons by offense type actually recommended for parole in the calendar year;
6. Number of persons by offense type granted parole by the Governor in the calendar year;
7. Rearrest data in the calendar year and cumulatively over the offender's three-year data collection period;
8. Reincarceration data in the calendar year and cumulatively over the offender's three-year data collection period;
9. Employment data for the calendar year cumulatively over the offender's three-year data collection period; and
10. Other information deemed beneficial to analyzing the success and recidivism of this category of offenders annually and cumulatively over the offender's three-year data collection period.

§ 332.20. Two-stage parole consideration process--Tracking..., OK ST T. 57 § 332.20

The information collected shall be made available to the members of the Legislature, the Oklahoma State Bureau of Investigation, and the Governor, by the Department of Corrections or the Pardon and Parole Board annually upon request, but not later than March 1 following the first data collection period.

Credits

Laws 2007, c. 149, § 1, eff. Nov. 1, 2007; Laws 2009, c. 178, § 12.

57 Okl. St. Ann. § 332.20, OK ST T. 57 § 332.20

Current with emergency effective provisions through Chapter 213 of the First Regular Session of the 54th Legislature (2013)

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57 Okl. St. § 332

Current with Emergency Provisions through Chapter 213 of the first regular session of the of the 54th Legislature. Annotations current through June 13, 2013.

[Oklahoma Statutes](#) > [TITLE 57.](#) > [CHAPTER 7.](#)

§ 332. Pardons and paroles--Power of Governor

The Governor shall have power to grant, after conviction, reprieves, commutations, paroles and pardons for all offenses, except cases of impeachment, upon such conditions and such restrictions and limitations as may be deemed proper by the Governor, subject, however, to the regulations prescribed by law and the provisions of [Section 10 of Article VI of the Oklahoma Constitution](#).

OKLAHOMA STATUTES, ANNOTATED BY LEXISNEXIS ®

§ 347. Out-of-state parolee supervision--Compacts with other states, OK ST T. 57 § 347

Oklahoma Statutes Annotated

Title 57. Prisons and Reformatories (Refs & Annos)

Chapter 7. Pardons and Paroles (Refs & Annos)

57 Okl.St. Ann. § 347

§ 347. Out-of-state parolee supervision--Compacts with other states

Currentness

The Governor of this state is hereby authorized and directed to execute a Compact on behalf of the State of Oklahoma with any of the United States legally joining therein in the form substantially as follows:

A Compact entered into by and among the contracting states, signatories hereto, with the consent of the Congress of the United States of America, granted by an act entitled "An Act granting the consent of Congress to any two or more states to enter into agreements or Compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes."¹

The contracting states solemnly agree:

(1) That it shall be competent for the duly-constituted judicial and administrative authorities of a state party to this Compact (herein called "sending state"), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this Compact (herein called "receiving state"), while on probation or parole, if

(a) Such person is in fact a resident of or has his family residing with the receiving state and can obtain employment there;

(b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one (1) year prior to his coming to the sending state and has not resided within the sending state more than six (6) continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for their own probationers and parolees.

(3) That duly-accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. Any legal requirements to obtain extradition of fugitives from justice are hereby

§ 347. Out-of-state parolee supervision--Compacts with other states, OK ST T. 57 § 347

expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state: Provided, however, that if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

(4) That the duly-accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this Compact, without interference.

(5) That the Governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this Compact.

(6) That this Compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

(7) That this Compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this Compact shall be by the same authority which executed it, by sending six (6) months' notice in writing of its intention to withdraw from the Compact to the other state party hereto.

Credits

Laws 1945, p. 186, § 1.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole 68.
Westlaw Topic Nos. 284, 360.
C.J.S. Pardon and Parole § 62.
C.J.S. States §§ 31 to 32, 143.

Notes of Decisions (6)

Footnotes

1 4 U.S.C.A. § 112.

57 Okl. St. Ann. § 347, OK ST T. 57 § 347

Current with emergency effective provisions through Chapter 213 of the First Regular Session of the 54th Legislature (2013)

§ 347. Out-of-state parolee supervision--Compacts with other states, OK ST T. 57 § 347

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§ 348. Partial invalidity, OK ST T. 57 § 348

Oklahoma Statutes Annotated

Title 57. Prisons and Reformatories (Refs & Annos)

Chapter 7. Pardons and Paroles (Refs & Annos)

57 Okl.St. Ann. § 348

§ 348. Partial invalidity

Currentness

If any section, sentence, subdivision or clause of this act¹ is for any reason held invalid or to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Credits

Laws 1945, p. 187, § 2.

Editors' Notes

LIBRARY REFERENCES

Westlaw Topic No. 361.

C.J.S. Statutes §§ 87, 89 to 90, 94 to 97, 99, 102 to 104, 107.

Footnotes

¹ Title 57, § 347 et seq.

57 Okl. St. Ann. § 348, OK ST T. 57 § 348

Current with emergency effective provisions through Chapter 213 of the First Regular Session of the 54th Legislature (2013)

§ 349.3. Rights of parolee or probationer, OK ST T. 57 § 349.3

Oklahoma Statutes Annotated

Title 57. Prisons and Reformatories (Refs & Annos)

Chapter 7. Pardons and Paroles (Refs & Annos)

57 Okl.St.Ann. § 349.3

§ 349.3. Rights of parolee or probationer

Currentness

With respect to any hearing pursuant to this act, the parolee or probationer:

1. Shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that its purpose is to determine whether there is probable cause to believe that he has committed a violation that may lead to a revocation of parole or probation;
2. Shall be permitted to advise with any persons whose assistance he reasonably desires, prior to the hearing;
3. Shall have the right to confront and examine any persons who have made allegations against him, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons; and
4. May admit, deny or explain the violation alleged and may present proof, including affidavits and other evidence, in support of his contentions. A record of the proceedings shall be made and preserved.

Credits

Laws 1973, c. 191, § 3, eff. May 17, 1973.

Editors' Notes

LAW REVIEW AND JOURNAL COMMENTARIES

Judicial review: Due process in the parole process. 32 Okla.L.Rev. 666 (1979).

LIBRARY REFERENCES

Pardon and Parole ☞85.

Pardon and Parole ☞89, 90.

States ☞6.

Westlaw Topic Nos. 284, 360.

C.J.S. Pardon and Parole §§ 75, 79 to 80.

C.J.S. Pardon and Parole §§ 84 to 85.

§ 349.3. Rights of parolee or probationer, OK ST T. 57 § 349.3

C.J.S. States §§ 31 to 32, 143.

57 Okl. St. Ann. § 349.3, OK ST T. 57 § 349.3

Current with emergency effective provisions through Chapter 213 of the First Regular Session of the 54th Legislature (2013)

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§ 350. Deduction from sentence of time spent on..., OK ST T. 57 § 350

Oklahoma Statutes Annotated

Title 57. Prisons and Reformatories (Refs & Annos)

Chapter 7. Pardons and Paroles (Refs & Annos)

57 Okl.St.Ann. § 350

§ 350. Deduction from sentence of time spent on parole--Revocation of parole

Currentness

A. Every person, hereinafter referred to as "convict", who has been or who in the future may be sentenced to imprisonment in any state penal institution shall, in addition to any other deductions provided for by law, be entitled to a deduction from his sentence for all time during which he has been or may be on parole. The provisions of this section are hereby declared to be both retroactive and prospective, and to apply to convicts who are on parole on the effective date of this act¹ as well as to convicts who may be paroled thereafter; and shall at the discretion of the paroling authority apply to time on a parole which has been or shall be revoked.

B. Beginning November 1, 1987, the paroling authority also shall have the discretion to revoke all or any portion of the parole.

Credits

Laws 1959, p. 222, § 1; Laws 1981, c. 84, § 1; Laws 1987, c. 156, § 3, eff. Nov. 1, 1987.

Editors' Notes

LAW REVIEW AND JOURNAL COMMENTARIES

Judicial review: Due process in parole process. 32 Okla.L.Rev. 666 (1979).

LIBRARY REFERENCES

Pardon and Parole 76.

Westlaw Topic No. 284.

C.J.S. Pardon and Parole §§ 90 to 92.

RESEARCH REFERENCES

ALR Library

28 ALR 947, Parole as Suspending Running of Sentence.

Notes of Decisions (12)

Footnotes

§ 350. Deduction from sentence of time spent on..., OK ST T. 57 § 350

1 Ch. 84, O.S.L.1981.

57 Okl. St. Ann. § 350, OK ST T. 57 § 350

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§ 354. Continuing study of prisoner by Pardon and Parole..., OK ST T. 57 § 354

Oklahoma Statutes Annotated

Title 57. Prisons and Reformatories (Refs & Annos)

Chapter 7. Pardons and Paroles (Refs & Annos)

57 Okl.St. Ann. § 354

§ 354. Continuing study of prisoner by Pardon and Parole Board--Hearings--Recommendations

Currentness

Upon the commitment to imprisonment of any prisoner under the provisions of Section 1 hereof,¹ the Pardon and Parole Board shall cause a continuing study to be made of the prisoner. When the prisoner has served the minimum sentence imposed, or as soon thereafter as he or she can be heard, the Pardon and Parole Board shall hear the prisoner's application for parole, and shall make such recommendation to the Governor as, in its discretion, the public interest requires. Nothing herein contained shall be construed to prevent a hearing by the Pardon and Parole Board before the minimum term has been served.

Credits

Laws 1963, c. 78, § 2.

Editors' Notes

LAW REVIEW AND JOURNAL COMMENTARIES

Judicial review: Due process in parole process. 32 Okla.L.Rev. 666 (1979).

LIBRARY REFERENCES

Pardon and Parole 48.

Westlaw Topic No. 284.

C.J.S. Pardon and Parole §§ 48 to 51.

Notes of Decisions (4)

Footnotes

¹ Title 57, § 353.

57 Okl. St. Ann. § 354, OK ST T. 57 § 354

Current with emergency effective provisions through Chapter 213 of the First Regular Session of the 54th Legislature (2013)

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§ 365. Specialized parole, OK ST T. 57 § 365

Oklahoma Statutes Annotated

Title 57. Prisons and Reformatories (Refs & Annos)

Chapter 7. Pardons and Paroles (Refs & Annos)

Specialized Parole

57 Okl.St.Ann. § 365

§ 365. Specialized parole

Currentness

A. Persons in the custody of the Department of Corrections sentenced for crimes committed prior to July 1, 1998, who meet the following guidelines may be considered by the Pardon and Parole Board for a specialized parole:

1. a. who are within one (1) year of projected release date and are serving a sentence for a crime listed in Schedule A, B, C, D or D-1 on the main sentencing matrix or S-1, S-2 or S-3 on the sex crimes matrix; or

b. who are within two (2) years of projected release date and are serving a sentence for an offense that is in a different schedule of the main matrix or is on the drug crimes or intoxicant crimes involving a vehicle matrix; and

2. Who have completed at least one of the following:

a. general education diploma, or

b. adult literacy program, or

c. residential substance abuse program, or

d. participation in a prison public works program for ninety (90) consecutive days, or

e. a vocational-technical education program, or

f. other educational or rehabilitation program available in the department; and

3. Who are not incarcerated for an offense for which parole is prohibited pursuant to law.

§ 365. Specialized parole, OK ST T. 57 § 365

B. Upon an inmate becoming eligible for specialized parole it shall be the duty of the Pardon and Parole Board, with or without application being made, to cause an examination to be made of the criminal record of the inmate and to make inquiry into the conduct and the record of the inmate during confinement in the custody of the Department of Corrections.

C. Upon a favorable finding by the Pardon and Parole Board, the Board shall recommend to the Governor that the inmate be placed on specialized parole. If approved by the Governor, notification shall be made to the Department of Corrections that said inmate has been placed on specialized parole.

D. Prior to the placement of an inmate on specialized parole, the Pardon and Parole Board shall provide written notification to the sheriff and district attorney of the county in which any person on specialized parole is to be placed and to the chief law enforcement officer of any incorporated city or town in which said person is to be placed of the placement of the person on specialized parole within the county or incorporated city or town. The Board also shall provide written notification of the placement of the person on specialized parole within the county or incorporated city or town to any victim of the crime for which the inmate was convicted by mailing the notification to the last-known address of the victim, if such information is requested by the victim. The Board shall not give the address of the inmate to any victim of the crime for which the inmate was convicted.

Credits

Laws 1988, c. 310, § 8, operative July 1, 1988; Laws 1989, c. 306, § 1, eff. May 25, 1989; Laws 1990, c. 105, § 2, eff. Sept. 1, 1990; Laws 1991, c. 291, § 13, eff. Sept. 1, 1991; Laws 1993, c. 125, § 7, emerg. eff. April 29, 1993; Laws 1997, c. 133, § 28, eff. July 1, 1997.

Editors' Notes

LIBRARY REFERENCES

Prisons  15.
Westlaw Topic No. 310.
C.J.S. Prisons and Rights of Prisoners § 153.

RESEARCH REFERENCES

Forms

2B Vernon's Oklahoma Forms 2d § 32.29, Service of Sentences and Credit Applicable to Offenders in the Custody of the Oklahoma Department of Corrections.

Notes of Decisions (13)

57 Okl. St. Ann. § 365, OK ST T. 57 § 365

Current with emergency effective provisions through Chapter 213 of the First Regular Session of the 54th Legislature (2013)

S.C. Code Ann. § 16-1-90

This document is current through all Legislation enacted in the 2012 Session The most current annotation is dated July 1, 2013

[South Carolina Code of Laws Annotated](#) > [TITLE 16.](#) > [CHAPTER 1.](#)

§ 16-1-90. Crimes classified as felonies.
--

(A) The following offenses are Class A felonies and the maximum terms established for a Class A felony, not more than thirty years, as set forth in [Section 16-1-20\(A\)](#), apply:

10-11-325(B)(2)	Detonating an explosive or destructive device or igniting an incendiary device upon the capitol grounds or within the capitol building resulting in death to a person where there was not malice aforethought
16-3-50	Manslaughter--voluntary
16-3-29	Attempted murder
16-3-652	Criminal sexual conduct
	First degree
16-3-655(C)(2)	Criminal sexual conduct, 1st degree, with minor less than 16, 2nd offense
16-3-656	Assault with intent to commit criminal sexual conduct
	First degree
16-3-658	Criminal sexual conduct where victim is legal spouse (separated)
	First degree
16-3-910	Kidnapping
16-3-920	Conspiracy to commit kidnapping
16-3-1050(F)	Abuse or neglect of a vulnerable adult resulting in death
16-3-1075(B)(2)	Carjacking (great bodily injury)
16-3-2020(D)	Trafficking in persons - 2nd offense
16-11-110(A)	Arson in the first degree
16-11-330(A)	Robbery while armed with a deadly weapon
16-11-380(A)	Entering bank with intent to steal money, securities for money, or property, by force, intimidation, or threats
16-11-390	Safecracking
16-11-523(D)(2)	Injuring real property when illegally obtaining nonferrous metals and the act results in the death of a person
16-23-720(A)(2)	Detonating a destructive device or causing an explosion, or intentionally aiding, counseling, or procuring an explosion by means of detonation of a destructive device which results in the death of a person where there was not malice aforethought
24-13-450	Taking of a hostage by an inmate
25-7-30	Giving information respecting national or state defense to foreign contacts in time of war
25-7-40	Gathering information for an enemy
43-35-85(F), 16-3-1050(F)	Abuse or neglect of a vulnerable adult resulting in death
44-53-370	Prohibited Acts A, penalties (b)(1) (narcotic drugs in Schedules I(b) and (c), LSD, and Schedule II) second, third, or subsequent offense
44-53-370(e)(2)(a)2	Prohibited Acts A, penalties (trafficking in cocaine, 10 grams or more but less than 28 grams)
	Second offense
44-53-370(e)(2)(b)2	Prohibited Acts, penalties (trafficking in cocaine, 28 grams or more but less than 100 grams)
	Second offense

S.C. Code Ann. § 16-1-90

44-53-370(e)(5)(a)2	Prohibited Acts, penalties (trafficking in LSD, 100 dosage units or more but less than 500 dosage units)
	Second offense
44-53-370(e)(5)(b)2	Prohibited Acts, penalties (trafficking in LSD, 500 dosage units or more but less than 1,000 dosage units)
	Second offense
44-53-370(e)(5)(a)3	Prohibited Acts, penalties (trafficking in LSD, 100 dosage units or more, but less than 500 dosage units)
	Third or subsequent offense
44-53-370(e)(5)(b)3	Prohibited Acts, penalties (trafficking in LSD, 500 dosage units or more, but less than 1,000 dosage units)
	Third or subsequent offense
44-53-370(e)(6)(d)	Prohibited Acts, penalties (trafficking in flunitrazepam, 5 kilograms or more)
44-53-370(e)(8)(a)(ii)	Trafficking in MDMA or ecstasy, 100 dosage units but less than 500--Second offense
44-53-370(e)(8)(a)(iii)	Trafficking in MDMA or ecstasy, 100 dosage units but less than 500--Third or subsequent offense
44-53-370(e)(8)(b)(ii)	Trafficking in MDMA or ecstasy, 100 dosage units but less than 1000--Third or subsequent offense
44-53-370(e)(8)(b)(iii)	Trafficking in MDMA or ecstasy, 100 dosage units but less than 1000--Third or subsequent offense
44-53-370(g)(1)(b)	Prohibited Acts A, penalties (distribution of narcotic drugs in Schedules I(b) and (c), LSD, and Schedule II with intent to commit a crime)
	Second offense
44-53-370(g)(1)(c)	Prohibited Acts A, penalties (distribution of narcotic drugs in Schedules I(b) and (c), LSD, and Schedule II with intent to commit a crime)
	Third or subsequent offense
44-53-375(B)(2)	Manufacture, distribution of methamphetamine or cocaine base, second offense
44-53-375(B)(3)	Manufacture, distribution, etc., methamphetamine, or cocaine base
	Third or subsequent offense
44-53-375(C)(1)(b)	Trafficking in ice, crank, or crack cocaine (10 grams or more but less than 28 grams)
	Second offense
44-53-375(C)(2)(b)	Trafficking in ice, crank, or crack cocaine (28 grams or more but less than 100 grams)
44-53-375(E)(a)(ii) and (iii)	Trafficking in nine grams or more, but less than twenty-eight grams of ephedrine, pseudoephedrine, or phenylpropanolamine second of subsequent offense
44-53-375(F)(1)(e)	Trafficking in four hundred grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine
	Second offense
55-1-30(3)	Unlawful removing or damaging of airport facility or equipment when death results
56-5-1030(B)(3)	Interference with traffic-control devices or railroad signs or signals prohibited when death results from violation
58-17-4090	Penalty for obstruction of railroad

(B) The following offenses are Class B felonies and the maximum terms established for a Class B felony, not more than twenty-five years, as set forth in [Section 16-1-20\(A\)](#), apply:

10-11-325(B)(3)	Detonating an explosive or destructive device or igniting an incendiary device upon the capitol ground or within the capitol building resulting in injury to a person
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10-11-325(B)(4)	Detonating an explosive or destructive device or igniting an incendiary device upon the capitol grounds or within the capitol building resulting in damage to real or personal property
16-3-210(C)	Assault and battery by mob in the second degree
16-11-110(B)	Arson in the second degree
16-23-720(A)(3)	Detonating a destructive device, or causing an explosion, or aiding, counseling, or procuring an explosion by means of detonation of a destructive device resulting in injury to a person
16-23-720(B)	Causing an explosion by means of a destructive device, or aiding, counseling, or procuring an explosion by means of a destructive device which results in damage to real or personal property, or attempting to injure a person or damage or destroy real or property by means of a destructive device
44-53-370(e)(1)(a)(3)	Trafficking in marijuana, 10 pounds or more (third or subsequent offense)
44-53-370(e)(2)(b)1	Prohibited Acts, penalties (trafficking in cocaine, 28 grams or more, but less than 100 grams)
	First offense
44-53-370(e)(3)(a)1	Prohibited Acts A, penalties (trafficking in illegal drugs, 4 grams or more, but less than 14 grams)
44-53-370(e)(5)(b)1	Prohibited Acts, penalties (trafficking in LSD, 500 dosage units or more, but less than 1000 dosage units)
	First offense
44-53-370(e)(6)(a)(2)	Prohibited Acts, penalties (trafficking in flunitrazepam, 1 gram)
	Second or subsequent offense
44-53-370(e)(6)(c)	Prohibited Acts, penalties (trafficking in flunitrazepam, 1000 grams but less than 5 kilograms)
44-53-370(e)(7)(b)	Trafficking in gamma hydroxybutyric acid (second or subsequent offense)
44-53-370(e)(8)(b)(i)	Trafficking in MDMA or ecstasy, 100 dosage units but less than 1000--First offense
44-53-370(e)(8)(c)	Trafficking in MDMA or ecstasy, 1000 or more dosage units
44-53-370(g)(2)(c)	Prohibited Acts A, penalties (distribution of controlled substances with intent to commit a crime)
	Third or subsequent offense
44-53-375(E)(1)(b)(i) and (c)	Trafficking in twenty-eight grams or more, but less than four hundred grams of ephedrine, pseudoephedrine, or phenylpropanolamine
44-53-375(C)(2)(a)	Trafficking in ice, crank, crack cocaine 28 grams or more, but less than 100 grams
	First offense
50-21-113(A)(2)	Operating or controlling a moving water device while under the influence of alcohol, drugs, or a combination of both when death results
50-21-130(A)(3)	Failure of an operator of a vessel involved in a collision resulting in death to stop and render assistance
56-5-750(C)(2)	Failure to stop for a law enforcement vehicle (death occurs)
56-5-1210(A)(3)	Failure to stop a vehicle involved in an accident when death occurs
56-5-2945(A)(2)	Causing great bodily injury or death by operating vehicle while under influence of drugs or alcohol, death resulting

(C) The following offenses are Class C felonies and the maximum terms established for a Class C felony, not more than twenty years, as set forth in [Section 16-1-20\(A\)](#), apply:

16-3-70	Administering or attempting to administer poison
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16-3-75	Unlawful and malicious tampering with human drug product or food
16-3-85(C)(2)	Aiding in the death of a child by abuse or neglect
16-3-95(A)	Inflicting great bodily injury upon a child
16-3-600(B)	Aggravated assault and battery
16-3-653	Criminal sexual conduct
	Second degree
16-3-655(C)(3)	Criminal sexual conduct, 2nd degree, with minor between 11 and 14 or at least 14 and less than 16 if actor in familial or custodial position
16-3-656	Assault with intent to commit criminal sexual conduct
	Second degree
16-3-658	Criminal sexual conduct in second degree where victim is legal spouse (separated)
16-3-810	Engaging child under 18 for sexual performance
16-3-1075(B)(1)	Carjacking
16-11-330(B)	Attempted armed robbery
16-11-350	Train robbery by stopping train
16-11-360	Robbery after entry upon train
16-11-380(B)	Stealing money, securities for money, or property, by force, intimidation, or threats, from a person who has just used a bank night depository, an ATM, or another automated banking device
16-15-395	Sexual exploitation of a minor
16-15-415	Promoting prostitution of a minor
25-7-30	Giving information respecting national or state defense to foreign contacts (violation during peacetime)
44-53-370(b)(2)	Prohibited Acts A, penalties (manufacture or possession of other substances in Schedule I, II, III, with intent to distribute)
	Third or subsequent offense
44-53-370(e)(1)(a)2	Prohibited Acts A, penalties (trafficking in marijuana, 10 pounds or more, but less than 100 pounds)
	Second offense
44-53-370(e)(6)(b)	Prohibited Acts, penalties (trafficking in flunitrazepam, 100 grams but less than 1000 grams)
44-53-370(g)(1)(a)	Prohibited Acts A, penalties (distribution of narcotic drugs in Schedules I(b) and (c), LSD, and Schedule II with intent to commit a crime)
	First offense
44-53-370(g)(2)(b)	Prohibited Acts A, penalties (distribution of controlled substances with intent to commit a crime)
	Second offense
44-53-440	Distribution of controlled substance under Sections 44-53-370(a) and 44-53-375(B) to persons under 18
44-53-475	Transportation or attempt to transfer monetary instruments derived from unlawful drug activity
44-53-475(A)(1)	Financial transactions involving property derived from unlawful drug activity
44-53-475(A)(3)	Concealment of property derived from unlawful drug activity
56-1-1105(B)(2)	Unlawful driving by habitual offender resulting in death
58-15-870	Injuring railroad or electric railway generally if act endangers life

(D) The following offenses are Class D felonies and the maximum terms established for a Class D felony, not more than fifteen years, as set forth in [Section 16-1-20\(A\)](#), apply:

10-11-325(A)	Possessing, having readily accessible, or transporting onto the
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	capitol grounds or within the capitol building an explosive, destructive, or incendiary device
16-1-55	Accessory after the fact of a Class A, B, or C Felony
16-3-655(C)	Criminal sexual conduct with a minor - 3rd degree
16-3-1090(B)	Assist another person in committing suicide
16-3-1045	Use or employment of person under eighteen to commit certain crimes
16-3-1050(E)	Abuse or neglect of a vulnerable adult resulting in great bodily injury
16-3-1730(C)	Stalking within ten years of a conviction of harassment or stalking
16-3-2020(C)	Trafficking in persons - 1st offense
16-11-110(C)	Arson--third degree
16-11-312	Burglary--second degree
16-11-312(C)(2)	aggravated burglary--second degree
16-11-325	Common law robbery
16-11-523(D)(1)	Obtaining nonferrous metals unlawfully resulting in great bodily injury
16-11-525(D)(1)	Injuring real property when illegally obtaining nonferrous metals and the act results in great bodily injury to person
16-15-355	Disseminating obscene material to a minor 12 years or younger
16-23-720(C)	Possessing, manufacturing, transporting, distributing, possessing with the intent to distribute any explosive device, substance, or material configured to damage, injure, or kill a person, or possessing materials which when assembled constitute a destructive device
16-23-720(D)	Threaten by means of a destructive weapon
16-23-720(E)	Harboring one known to have violated provisions relating to bombs, weapons of mass destruction and destructive devices
16-23-730	Communicating or transmitting to a person that a hoax device or replica is a destructive device or detonator with intent to intimidate or threaten injury, obtain property, or interfere with the ability of a person or government to conduct its affairs
16-23-750	Communicating or aiding and abetting the communication of a threat or conveying false information concerning an attempt to kill, injure, or intimidate a person or damage property or destroy by means of an explosive, incendiary, or destructive device (second or subsequent offense)
24-3-210	Furloughs for qualified inmates of state prison system--Failure to return (See section 24-13-410)
24-13-410(B)	Escaping or attempting to escape from prison or possessing tools or weapons used to escape
24-13-470	Inmate throwing bodily fluids on a correctional facility employee
43-35-85(B)	Abusing or neglecting a vulnerable adult that results in great bodily injury
43-35-85(D), 16-3-1050(E)	Abuse or neglect of a vulnerable adult resulting in great bodily injury
44-53-370(b)(1)	Prohibited Acts A, penalties (narcotic drugs in Schedule I (b) and (c), LSD, and Schedule II)
	First offense
44-53-370	Prohibited Acts A, penalties (g)(2)(a) (distribution of controlled substances with intent to commit a crime)
	First offense
44-53-375(B)(1)	Manufacture, distribution, etc., methamphetamine or cocaine
	First offense
44-53-445(B)(2)	Distribution, manufacture, sale, or possession of crack cocaine

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	within proximity of a school
44-53-577	Unlawful to hire, solicit, direct a person under 17 years of age to transport, conceal, or conduct financial transaction relating to unlawful drug activity
50-21-113(A)(1)	Operating a moving water device while under the influence of alcohol or drugs where great bodily injury results
56-5-2945(A)(1)	Causing great bodily injury by operating vehicle while under influence of drugs or alcohol

(E) The following offenses are Class E felonies and the maximum terms established for a Class E felony, not more than ten years, as set forth in [Section 16-1-20\(A\)](#), apply:

7-25-50	Bribery at elections
	Second offense
7-25-60	Procuring or offering to procure votes by bribery
	Second or subsequent offense
7-25-80	Threatening, intimidating, or abusing voters
8-1-20	Illegal collecting and retaining rebates, commissions, or discounts (public officers/employees)
8-13-705	Offering, giving, soliciting, or receiving anything of value to influence action of public employee, member, or official
9-16-350	Use of any information concerning State Retirement Systems Investment Panel activities by member or employee to obtain economic interest
15-49-20(H)	Falsifying affidavit in order to obtain employment after having been convicted of an offense requiring registration as a sex offender
16-1-55	Accessory after the fact of a Class D Felony
16-1-57	Third or subsequent conviction of certain property crimes
16-3-600(C)	First degree assault and battery
16-3-615	Spousal sexual battery
16-3-625	Resisting arrest with deadly weapon
16-3-654	Criminal sexual conduct
	Third degree
16-3-656	Assault with intent to commit criminal sexual conduct
	Third degree
16-3-820	Promoting, producing, or directing a sexual performance by a child under 18
16-3-1060	No person may accept fee, compensation, etc. (for relinquishing the custody of a child for adoption)
16-3-1730(B)	Stalking while injunction or restraining order prohibiting this conduct is in effect
16-7-160(2)	Illegal use of stink bombs or other devices containing foul or offensive odors--bodily harm results
16-8-20(B)(2)	Teaching, demonstrating the use, application, or making of a firearm or destructive device (second or subsequent offense)
16-8-240(B)	Use of or threat of physical violence by criminal gang member
16-8-250(B)	Preventing or attempting to prevent a witness or victim from attending or giving testimony at a trial that concerns criminal gang activity
16-9-220	Acceptance of bribes by officers
16-9-320(B)	Assaulting police officer serving process or while resisting arrest
16-9-340	Intimidation of court officials, jurors, or witnesses
16-9-410(C)(1)	Aiding escapes from prison, for prisoners serving term of incarceration
16-11-110(C)	Arson--third degree

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16-11-312(C)(1)	Burglary--second degree, dwelling
16-11-313	Burglary--third degree
	Second offense
16-11-510(B)(1)	Malicious injury to animals and personal property (value \$ 10,000 or more)
16-11-520(B)(1)	Malicious injury to real property (value \$ 10,000 or more)
16-11-523(C)(2)	Injuring real property when illegally obtaining nonferrous metals where the value of the injury is \$ 10,000 or more
16-11-535	Malicious injury to place of worship
16-11-580(C)(2)	Forest product violation (value more than \$ 1,000 and less than \$ 5,000) - 2nd or subsequent offense
16-11-580(D)(2)	Forest product violation (value at least \$ 5,000) - 2nd or subsequent offense
16-11-740	Malicious injury to telegraph, telephone, or electric utility system
16-13-10(B)(1)	Forgery (value \$ 10,000 or more)
16-13-30(B)(2)	Grand larceny (value \$ 10,000 or more)
16-13-40(3)	Stealing of bonds and the like (value \$ 10,000 or more)
16-13-50(A)(1)	Stealing livestock, confiscation of motor vehicle, or other chattel (value \$ 10,000 or more)
16-13-70(B)(1)	Stealing of vessels and equipment, payment of damages (value \$ 10,000 or more)
16-13-110(B)(3)	Shoplifting (value \$ 10,000 or more)
16-13-170	Entering house or vessel without breaking in with intent to steal, attempt to enter
16-13-180(3)	Receiving stolen goods (value \$ 10,000 or more)
16-13-210(B)(1)	Embezzlement of public funds (value \$ 10,000 or more)
16-13-230(B)(3)	Breach of trust with fraudulent intent (value \$ 10,000 or more)
16-13-240(1)	Obtaining signature or property by false pretenses (value \$ 10,000 or more)
16-13-260(1)	Obtaining property under false tokens or letters (value \$ 10,000 or more)
16-13-290(1)	Securing property by fraudulent impersonation of officer (value over \$ 400)
16-13-420(B)(1)	Failure to return rented objects, fraudulent appropriation (value \$ 10,000 or more)
16-13-430(C)(1)	Fraudulent acquisition or use of food stamps (value \$ 10,000 or more)
16-13-510	Financial identity fraud
16-15-335	Unlawful to hire, employ, use, or permit any person under 18 to do anything violating obscenity statutes
16-15-342	Criminal solicitation of a minor
16-15-345	Unlawful to disseminate obscene material to any person under 18 years of age
16-15-385	Dissemination of obscene material to minors is unlawful
16-15-387	Employing a person under eighteen to appear in public in the state of sexually explicit nudity
16-15-405(D)	Sexual exploitation of a minor
	Second degree
16-15-410	Sexual exploitation of a minor
	Third degree
16-17-470(C)	Aggravated voyeurism
16-17-495(D)	Transport of child by physical force or threat of physical force with intent to avoid custody order
16-17-550	Bribery of athletes and athletic officials
16-17-600(A),(B)	Destruction or desecration of human remains or repositories--

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	destroys, damages, or desecrates human remains and vandalizes, desecrates, injures gravestones or memorials
16-17-640	Blackmail
16-17-680(C)(2)	Obtaining permit to transport and sell nonferrous metals for the purpose of transporting or selling stolen nonferrous metals
16-17-680(G)	Transportation of stolen nonferrous metals
16-21-80(3)	Receiving, possessing, concealing, selling, or disposing of stolen vehicle (value \$ 10,000 or more)
16-23-220	Unlawful transportation of machine gun or sawed-off shotgun or rifle (see 16-23-260)
16-23-230	Unlawful storing, keeping, or possessing machine gun or sawed-off shotgun or rifle (see 16-23-260)
16-23-240	Unlawful selling, renting, or giving away of machine gun or sawed-off shotgun or rifle (see 16-23-260)
16-23-440(A)	Discharging firearms at or into dwellings
16-23-440(B)	Discharging firearms at or into a vehicle, aircraft, watercraft, or other device
16-23-530	Possession of a gun by an illegal alien
16-23-750	Communicating or aiding and abetting the communication of a threat or conveying false information concerning an attempt to kill, injure, or intimidate a person or damage or destroy property by means of an explosive, incendiary, or destructive device (first offense)
16-25-20(E)	Cause, offer, or attempt to cause injury to a person's household and violate the terms of an order of protection
16-25-65(B)	Commission of criminal domestic violence of a high and aggravated nature
17-13-50	Right to be informed of grounds for arrest, consequences of refusal to answer or false answer
23-31-340	Penalties (violation of article regulating use and possession of machine guns, sawed-off shotguns, and rifles)
23-31-360	Unregistered possession of machine guns by licensed manufacturer
23-36-170(b)	Violation of South Carolina Explosives Control Act
	Second offense
24-3-910	Penalty for penitentiary employee's connivance at escape of prisoners
24-3-950	Contraband (possession by prisoner or furnishing prisoner with or attempt to furnish)
24-7-155	Furnishing or possessing contraband in county or municipal prisons prohibited
24-13-420	Harboring or employing escaped convicts
24-13-430(2)	Participating in riot by prisoners
24-13-440	Carrying or concealing weapon by inmates
25-7-50	False reports, insubordination, obstruction of recruiting during war
25-7-70	Sabotage
32-7-100(A)(2)	Preneed funeral contract violations (value more than \$ 10,000)
34-3-10	Use of word "bank" or "banking" by other than banking institutions
34-11-60	Drawing and uttering fraudulent check, draft, or other written order (more than \$ 1,000, see Section 34-11-90(b)) Third and subsequent offenses
34-13-90	Penalty for improper borrowing by directors or officers
35-1-508(a)(1)	Violation of Title 35, Chapter 1 when investor loses twenty thousand dollars or more
36-9-410(C)(3)	Unlawful disposal of personal property that is subject to a perfected security interest whose value is \$ 10,000 or more

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38-38-720(3)	Making a false statement or representation regarding a fraternal benefit society (second or subsequent offense)
38-55-170(1)	Presenting false claim for payment (insurance companies) (value \$ 10,000 or more)
38-55-540(A)(4)	Knowingly making false statement or misrepresentation resulting in economic advantage of fifty thousand dollars or more, first offense
38-55-540(A)(5)	Knowingly making false statement or misrepresentation resulting in economic advantage of any amount, second offense
38-73-1120(C)	Insurance, provisions to ensure expenses are allocated and treated properly
39-8-90(A)	Stealing trade secrets
39-9-208(B)	Uniform weights and measures law violation
39-15-1190(B)(1)(a)(iv)	Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, Second Offense
39-15-1190(B)(1)(b)(ii)	Trafficking in counterfeit marks, Second or Subsequent Offense
39-22-90(A)(8)	State warehouse system violation if the amount of the violation is \$ 5,000 or more
39-73-325	Violation of regulation under State Commodity Code
40-83-30(J)	Participating in the use of a false document in connection with acts as an immigration assistant
44-23-1080(2)	Furnishing Department of Mental Health patients or prisoners with firearms or dangerous weapons
44-23-1150(C)(1)	First degree sexual misconduct
44-29-145	Exposing others to Human Immuno Deficiency Virus
44-52-165(A)(3)	Possession of firearms or dangerous weapons by patient receiving inpatient services operated by Department of Mental Health
44-52-165(B)(1)	Intentionally allowing patient receiving inpatient services by Department of Mental Health to possess alcoholic beverages or controlled substances
44-52-165(B)(2)	Intentionally allowing patient receiving inpatient services by Department of Mental Health to possess firearms or dangerous weapons
44-53-365	Taking or exercising control over another person's controlled substance--Second offense
44-53-370(b)(2)	Prohibited Acts A, penalties (manufacture or possession of other substances in Schedule I, II, III, flunitrazepam, or a controlled substance analogue with intent to distribute)
	Second offense
44-53-370(d)(3)	Possession of cocaine, third or subsequent offense
44-53-370(e)(1)(a)1	Prohibited Acts A, penalties (trafficking in marijuana, 10 pounds or more, but less than 100 pounds)
44-53-370(e)(2)(a)1	Prohibited Acts A, penalties (trafficking in cocaine, 10 grams or more, but less than 28 grams)
44-53-370(e)(4)(a)1	Prohibited Acts A, penalties (trafficking in methaqualone, 15 grams or more, but less than 150 grams)
44-53-370(e)(5)(a)1	Prohibited Acts, penalties (trafficking in LSD, 100 dosage units or more, but less than 500 dosage units)
	First offense
44-53-370(e)(6)(a)(1)	Prohibited acts, penalties (trafficking in flunitrazepam, 1 gram but less than 100 grams)
	First offense
44-53-370(e)(7)(a)	Trafficking in gamma hydroxybutyric acid (first offense)
44-53-370(e)(8)(a)(i)	Trafficking in MDMA or ecstasy, 100 dosage units but less than 500--First offense

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44-53-375(A)	Possession of less than one gram of methamphetamine or cocaine base, third or subsequent offense
44-53-375(C)(1)(a)	Trafficking in ice, crank, or crack cocaine 10 grams or more, but less than 28 grams
	First offense
44-53-375(E)(1)(a)(i)	Trafficking in nine grams or more, but less than twenty-eight grams of ephedrine, pseudoephedrine, or phenylpropanolamine, first offense
44-53-376(B)	Knowingly causing to be disposed any waste from the production of methamphetamine or knowingly assisting, soliciting, or conspiring with another to dispose of the waste, Second Offense
44-53-378	Manufacturing and exposing a child to methamphetamines
44-53-398(H)(5)	Possessing, manufacturing, delivering, distributing, dispensing, administering, purchasing, selling, or possessing with intent to distribute any substance that contains any amount of ephedrine or pseudoephedrine which has been altered from its original condition, Second Offense
44-53-440	Distribution of controlled substance under Section 44-53-370(a) and (b) to persons under 18 violation
44-53-445(B)(1)	Distribution, manufacture, or sale of controlled substance within proximity of school (other than crack cocaine)
44-53-1530(1)(b)	Distribution of anabolic steroids (second or subsequent offense)
44-53-1530(4)(b)	Possession of anabolic steroids, 100 or more doses (second or subsequent offense)
44-53-1680(B)	Knowingly disclosing information in violation of the Prescription Monitoring Program
44-53-1680(C)	Using prescription monitoring information in a manner or for a purpose in violation of the Prescription Monitoring Program
44-55-1510	Discharge of fumes of acids or similar substances
45-2-40(B)(1)	Inflicting \$ 10,000 or more in damages to a lodging establishment while using or possessing a controlled substance, beer, wine, or alcohol
46-1-20(1)	Stealing crops from the field (value \$ 10,000 or more)
46-1-40(1)	Stealing tobacco plants from bed (value \$ 10,000 or more)
46-1-60(B)(1)	Making away with produce before payment (value \$ 10,000 or more)
46-1-70(B)(1)	Factors or commission merchants failing to account for produce (value \$ 10,000 or more)
47-19-120(C)(2)	Interference with person performing official duties under chapter on poultry inspection--use of deadly weapon in commission of violation
48-23-265(C)(2)	Forest products violation second or subsequent offense (value at least \$ 5,000)
49-1-50(C)(1)	Sale of drifted timber, lumber (\$ 10,000 or more value)
50-21-115	Reckless homicide by operation of a boat (reclassified from Class F felony in 2002)
50-21-130(A)(2)	Failure of an operator of a vessel involved in a collision resulting in great bodily injury to stop and render assistance
55-1-30(2)	Unlawful removing or damaging of airport facility or equipment when injury results
55-1-40	Unlawful entry of aircraft, damaging, or removing equipment
56-1-1105(B)(1)	Unlawful driving by habitual offender resulting in great bodily injury
56-5-750(C)(1)	Failure to stop for a law enforcement vehicle (great bodily harm occurs)
56-5-1030(B)(2)	Interference with traffic-control devices or railroad sign or signals prohibited--injury results

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56-5-1210(A)(2)	Failure to stop a vehicle involved in an accident when great bodily injury results
56-5-2910	Reckless homicide
56-5-4975(C)	Operation of unlicensed ambulance without removing exterior markings, sirens, etc., with intent to commit terrorist act
56-29-30(A)	Unlawful to own, operate, or conduct a chop shop or to transport or sell a motor vehicle to a chop shop
58-15-850	Breaking and entering or shooting into cars
63-5-70	Unlawful neglect of child or helpless person by legal custodian
63-5-70(a)	Causing harm to a child
63-13-200	Committing certain crimes near a childcare facility
63-19-1670	Furnishing contraband to a juvenile in the custody of the Department of Juvenile Justice

(F) The following offenses are Class F felonies and the maximum terms established for a Class F felony, not more than five years, as set forth in [Section 16-1-20\(A\)](#), apply:

7-25-50	Bribery at elections
	First offense
7-25-60	Procuring or offering to procure votes by bribery
	First offense
7-25-190	Illegal conduct at elections generally
8-13-725(B)	Public official disclosing confidential information
8-14-60	Intentional use of a false document in connection with public employment
8-29-10(F)	Intentional use of a false document or aiding in the use of a false document to obtain a public benefit
11-48-90(A)	Sale or possession of counterfeit cigarettes
12-21-2716	Unlawful manufacture or sale of slugs to be used in coin-operated devices
12-21-4150	Posing as a bingo player with the intent to defraud bingo customers
12-21-6000(B)	Marijuana and Controlled Substance Tax Act
12-21-6040(A)	Revealing facts contained in report under Marijuana and Controlled Substance Tax Act
12-54-44(B)(1)	Wilful attempt to evade or defeat tax imposed
12-54-44(B)(2)	Wilful failure to collect or truthfully account for and pay over tax money
12-54-44(B)(6)(a)(i)	Wilfully subscribing to false or fraudulent tax return
12-54-44(B)(6)(a)(ii)	Wilfully assisting in false or fraudulent tax return
12-54-44(B)(6)(b)	Violation of prohibition against preparing returns by person convicted of preparing false return
16-1-55	Accessory after the fact of a Class E felony
16-3-60	Involuntary manslaughter
16-3-95(B)	Inflicting great bodily injury on a child by a person responsible for the child's welfare
16-3-755(B)	Sexual battery with a student
16-3-755(D)	Sexual battery with a student
16-3-1040(A)	Threatening life, person or family of public official
16-3-1050(B)	Abuse of a vulnerable adult
16-3-1050(C)	Neglect of a vulnerable adult
16-3-1050(D)	Exploitation of a vulnerable adult
16-3-1080(A)	Committing or attempting to commit a violent crime while wearing body armor
16-3-1085(D)(1)	Violent offender prohibited from purchasing, owning, or using body armor

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16-3-1720(C)	Stalking (with prior conviction)
16-3-1730(A)	Stalking
16-3-2080(F)	Disclosing information about a trafficking victim or certain shelters or unlawfully entering the grounds of a shelter while possessing a weapon
16-5-10	Conspiracy against civil rights
16-5-130(1)	Penalties for instigating, aiding or participating in riot--resists enforcement of statute of state or United States, obstruct public officer, Carries weapon, etc.
16-8-20(B)(1)	Demonstrating the use of a bomb (first offense)
16-8-240(A)	Committing or threatening acts of violence with the intent to coerce, induce, or solicit another person to participate in gang activity, second offense
16-9-10(B)(1)	Perjury and subordination of perjury
16-9-30	False swearing before persons authorized to administer oaths
16-9-210	Giving or offering bribes to officers
16-9-230	Acceptance of rebates or extra compensation
16-9-260	Corrupting jurors, arbitrators, umpires, or referees
16-9-270	Acceptance of bribes by jurors, arbitrators, umpires, or referees
16-9-460	Movement and harboring intended to further illegal entry or detection
16-11-20	Making, mending or possessing tools or other implements capable of being used in crime
16-11-125	Making false claim or statement in support of claim to obtain insurance benefits for fire or explosion loss
16-11-130	Burning personal property to defraud insurer
16-11-150	Burning lands of another without consent
	Second and subsequent offense
16-11-170	Wilfully burning lands of another
16-11-190	Wilfully and maliciously attempts to burn
16-11-313(B)	Burglary--third degree
	First offense
16-11-510(B)(2)	Malicious injury to animals and personal property (value over \$ 2,000 up to \$ 10,000)
16-11-520(B)(2)	Malicious injury to real property (value over \$ 2,000 up to \$ 10,000)
16-11-523(C)(2)	Injuring real property while illegally obtaining nonferrous metals where the value of the injury is greater than \$ 2,000 but less than \$ 10,000
16-11-617	Unlawful to cultivate or attempt to cultivate marijuana on land of another
16-11-725(B)(2)	Rummaging through or stealing another person's household garbage
16-11-780	Entering certain lands to discover, uncover, move, remove, or attempt to remove an archaeological resource-Third or subsequent offense
16-11-910 and 16-11-915	Transfer of recorded sounds for unauthorized use or sale
16-11-930	Illegal distribution of recording without name and address of manufacturer and designation of featured artist (See Sections 16-11-920(B) and 16-11-940)
16-13-10(B)(1)	Forgery (value more than \$ 10,000)
16-13-30(B)(2)	Grand larceny (value over \$ 2,000 up to \$ 10,000)
16-13-40(2)	Stealing of bonds and the like (value over \$ 2,000 up to \$ 10,000)
16-13-50(A)(2)	Stealing livestock, confiscation of motor vehicle or other chattel (value over \$ 2,000 up to \$ 10,000)

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16-13-70(B)(2)	Stealing of vessels and equipment--payment of damages (value over \$ 2,000 up to \$ 10,000)
16-13-110(B)(2)	Shoplifting (value over \$ 2,000 up to \$ 10,000)
16-13-160	Breaking into motor vehicles or tanks, pumps, and other containers where fuel or lubricants are stored
16-13-180(2)	Receiving stolen goods (value over \$ 2,000 up to \$ 10,000)
16-13-210(B)(2)	Embezzlement of less than \$ 10,000 in public funds
16-13-230(B)(2)	Breach of trust with fraudulent intent (value over \$ 2,000 up to \$ 10,000)
16-13-240(2)	Obtaining signature or property by false pretenses (value over \$ 2,000 up to \$ 10,000)
16-13-260(2)	Obtaining property under false tokens or letters (value over \$ 2,000 up to \$ 10,000)
16-13-420(B)(2)	Failure to return rented objects, fraudulent appropriation (value over \$ 2,000 up to \$ 10,000)
16-13-430(C)(2)	Fraudulent acquisition or use of food stamps (value over \$ 2,000 up to \$ 10,000)
16-13-470(B)(2)	Defrauding a drug or alcohol screening test (second or subsequent offense)
16-13-480	Providing false picture identifications for use by unlawful aliens
16-13-510(E)	Financial identity fraud and identity fraud
16-13-512(C)(2)	Unlawfully printing information on credit and debit card receipts
16-13-525(D)	Display or possession of a false identification or document for the purpose of proving lawful presence--Second and subsequent offense
16-14-20	Financial transaction card theft
16-14-40	Financial transaction card forgery
16-14-60(a)	Financial transaction card fraud--value of things of value exceeds five hundred dollars in a six-month period
16-14-60(g)	Financial transaction card fraud
16-14-70	Criminal possession of financial transaction card forgery devices
16-14-80(B)(2)	Criminally receiving goods and services fraudulently obtained with financial transaction card (value over \$ 1,000)
16-14-100	Financial Transaction Card Crime Act violation
16-15-10	Bigamy
16-15-120	Buggery
16-15-305(A)	Unlawfully disseminating, processing, or promoting obscenity
16-15-425(C)	Participation in the prostitution of a minor
16-16-20(2)	Computer crime--First degree
16-17-410	Conspiracy
16-17-470(B)(2)	Voyeurism (second or subsequent offense)
16-17-495(B)	Transporting a child under sixteen years of age with the purpose of concealing the child or avoiding a custody order or statute
16-17-600(C)	Destruction or desecration of human remains or repositories--destroys, tears down, injures fencing, trees, flowers, or shrubs around a repository of human remains
16-17-680(E)	Unlawful sale of nonferrous metals in any amount to a secondary metals recycler, third or subsequent offense
16-17-722(B)	Knowingly file a false police report regarding a felony
16-21-10	Altering, forging, or counterfeiting certificate of title, registration card, or license plate, misrepresentation or concealment in application
16-21-40(A)(2), (A)(4)	Removing or falsifying identification number of vehicle or engine and buying, receiving, or selling such vehicle or engine

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16-21-80(2)	Receiving, possessing, concealing, selling, or disposing of stolen vehicle (value over \$ 2,000 up to \$ 10,000)
16-23-30	Sale or delivery of pistol to and possession by certain persons unlawful, stolen pistols (See Section 16-23-50)
16-23-50(A)(1)	Handguns
16-23-410	Pointing firearms at a person
16-23-415	Taking a firearm, stun gun, or taser device from a law enforcement officer
16-23-420	Carrying or displaying firearms in public buildings or adjacent areas
16-23-430	Carrying weapons on school property
16-23-480	Manufacture or possession of article designed to cause damage by fire or other means
16-23-490	Possession of firearm or knife during commission or attempt to commit violent crime
16-23-500(B)	Possession of a firearm or ammunition by a person convicted of a violent crime
16-23-520	Use, transportation, manufacture, possession, purchase, or sale of teflon-coated ammunition
16-23-740	Hindering certain individuals or devices during the detection, disarming, or destruction of a destructive device
16-25-20(B)(3)	Criminal domestic violence--Third offense
16-25-20	Commission of criminal domestic violence--Third or subsequent offense
16-25-125(E)	Unlawful entry upon the grounds of a domestic violence shelter while possessing a dangerous weapon
16-27-30	Animal fighting or baiting
16-27-40	Presence at facility where animal fighting or baiting is taking place
	Third and subsequent offenses
17-13-170	False, fictitious, fraudulent, or counterfeit picture identification for purpose of offering proof of lawful presence in the U.S., second or subsequent offense
17-15-90(1)	Wilful failure to appear before a court when released in connection with a charge for a felony or while awaiting sentencing
17-30-50(A)	Interception of wire, electronic, or oral communications
17-30-55(A)	Sending or manufacturing device for unlawful interception of wire, oral or electronic communications
20-4-60(B)(2)	Possession firearm at time of criminal domestic violence
20-4-375(A)	Making, presenting, filing, or attempting to file a false, fictitious, or fraudulent foreign protection order
23-3-470(B)(3)	Failure of sex offender to register
	Third or subsequent offense
23-3-475(B)(3)	Providing false information when registering as a sex offender
	Third or subsequent offense
23-3-510(2)	Committing a felony by using information obtained from the sex offender registry
23-3-535(D)(3)	Sex offender's failure to vacate a residence that is within one thousand feet of a school, daycare center, children's recreational facility, park, or public playground--Second offense
23-3-540(I)	Sex offender failing to comply with reporting requirements
23-3-540(L)	Sex offender removing or tampering with monitoring device
23-3-550	Assisting or harboring unregistered sex offender
23-3-650(C)	Unlawful disclosure of DNA information from State DNA Database
23-31-160	False information or evidence on firearms license application (See Section 23-31-190)

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23-31-190	Penalties, violation concerning regulation of pistols
23-36-170(a)	Penalty (violation of South Carolina Explosives Control Act)
	First offense
23-50-50(B)	Divulging privileged communication, protected information, or a protected identity with intent to obtain monetary gain or other benefit
24-1-270	Trespass or loitering on or refusal to leave state correctional properties
27-32-120(B)	Violation of vacation time sharing plans
	Third or subsequent offense
32-7-100(A)(2)	Preneed funeral contract violations (value between \$ 2,000 and \$ 10,000)
33-56-145(A)	Defrauding a charity (second or subsequent offense)
33-56-145(B)	Giving false information with respect to registering a charity (second or subsequent offense)
34-3-110(B)	Crimes against a federally chartered or insured financial institution
35-1-508(a)(2)	Violation of Title 35, Chapter 1 when an investor loses less than twenty thousand dollars, but more than one thousand dollars
36-9-410(C)(2)	Unlawful disposal of personal property that is subject to a perfected security interest whose value is more than \$ 2,000 but less than \$ 10,000
36-9-501(c)	Filing a false or fraudulent financing statement
38-9-150	Return of deposited securities (making false affidavit)
38-13-170	Making or aiding in making false statement (Insurance)
38-43-245	Licensed insurance producer fraudulently submitting application for insurance
38-55-170(2)	Presenting false claim for payment (Insurance) (value over \$ 2,000 up to \$ 10,000)
38-55-540(A)(3)	Knowingly making false statement or misrepresentation resulting in economic advantage of between ten and fifty thousand dollars, first offense
39-15-1190(B)(1)(a)(iii)	Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, with goods or services having a value of \$ 10000 or more but less than \$ 50000; using any object, tool, machine, or other device to produce or reproduce a counterfeit mark
39-15-1190(B)(1)(b)(i)	Trafficking in counterfeit marks, First Offense
39-22-90(A)(1)-(4), (9)	Prohibited acts. State Warehouse System (See Section 39-22-90(B))
39-23-80(B)(2)	Adulterated, misbranded, or new drugs and devices
	Second offense
39-23-80(B)(3)	Adulterated, misbranded, or new drugs and devices--with intent to defraud or mislead
40-5-310	Unlawful practice of law by a person
41-8-70	Intentional use of a false document in connection with private employment
43-35-85(B), (C), (D), 16-3-1050(B), (C), (D)	Abuse, neglect, or exploitation of a vulnerable adult
44-23-1150(C)(2)	Second degree sexual misconduct
44-41-80	Performing unlawful abortion
44-41-85(A)	Performing a partial-birth abortion
44-43-375(A)	Purchase or sale of body part for transplantation or therapy
44-43-380 -	Falsification of document of gift or refusal for financial gain
44-53-40(B)	Obtaining certain drugs, devices, preparations, or compounds by fraud, deceit, or the like
	Second or subsequent offense

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44-53-365	Taking or exercising control over another person's controlled substance-First offense
44-53-370(b)(2)	Prohibited Acts A, penalties (manufacture or possession of other substances in Schedule I, II, III, flunitrazepam, or a controlled substance analogue with intent to distribute)
	First offense
44-53-370(b)(3)	Prohibited Acts A, penalties (manufacture or possession of Schedule IV drugs except for flunitrazepam with intent to distribute)
	Second or subsequent offense
44-53-370(d)(1)	Prohibited Acts A, penalties (possession of narcotic drugs in Schedule I (b), (c), LSD, and Schedule II)
	Second, third, or subsequent offenses
44-53-370(d)(3)	Possession of cocaine, second offense
44-53-375(A)	Possession of less than one gram of methamphetamine or cocaine base, second offense
44-53-376(B)	Knowingly causing to be disposed any waste from the production of methamphetamine or knowingly assisting, soliciting, or conspiring with another to dispose of the waste, First Offense
44-53-378(B)	Exposing child to methamphetamine
44-53-380	Prohibited Acts B, penalties
44-53-390	Prohibited Acts C, penalties
44-53-395	Prohibited acts, penalties (prescription drugs)
	Second or subsequent offense
44-53-398(H)(5)	Possessing, manufacturing, delivering, distributing, dispensing, administering, purchasing, selling, or possessing with intent to distribute any substance that contains any amount of ephedrine or pseudoephedrine which has been altered from its original condition, First Offense
44-53-1530(1)(a)	Distribution of anabolic steroids (first offense)
44-63-161(B)	Making false statement on or altering official certificate or record
45-2-40(B)(2)	Inflicting more than \$ 2,000 but less than \$ 10,000 in damages to a lodging establishment while using or possessing a controlled substance, beer, wine, or alcohol
46-1-20(2)	Stealing crops from the field (value over \$ 2,000 up to \$ 10,000)
46-1-40(2)	Stealing tobacco plants from bed (value over \$ 2,000 up to \$ 10,000)
46-1-60(B)(2)	Making away with produce before payment (value over \$ 2,000 up to \$ 10,000)
46-1-70(B)(2)	Factors or commission merchants failing to account for produce (value over \$ 2,000 up to \$ 10,000)
46-1-75(B)(2)	Maliciously damaging farm product, research facility or equipment valued at \$ 500 or more
46-41-30(2)	Unlawful to engage in business as dealer without license (agricultural products)
	Second or subsequent offense
47-1-40(B)	Torture, torment, mutilate, cruelly kill, or inflict excessive or repeated unnecessary pain or suffering upon an animal
47-3-630	Torturing, mutilating, injuring, disabling, poisoning, or killing a police dog
47-3-760(B)(2)	Penalty for owner of dangerous animal which attacks and injures a human
	Second or subsequent offense
49-1-50(C)(2)	Sale of drifted lumber or timber (value over \$ 2,000 up to \$ 10,000)

50-11-95(D)	Engaging in Computer Assisted Remote Hunting, Second and Subsequent Offense
54-7-815	Unlawful salvage of certain sunken warships
55-1-30(1)	Unlawful removing or damaging of airport facility or equipment
56-1-1100	Habitual traffic offenders, violation of free vehicle registration for disabled veterans
56-1-2070	Driving commercial motor vehicle in violation of an out-of-service order, two violations
56-5-750(B)(2)	Failure to stop for a law enforcement vehicle--Second or subsequent offense (no death or injury occurs)
56-5-1030(B)(1)	Interference with traffic-control devices or railroad sign or signals
56-5-2780(B)(2)	Unlawful passing a school bus when death results
56-5-2930	Driving under influence of liquor, drugs, or like substances unlawful (See Section 56-5-2940(4))
56-5-2933	Driving with an unlawful alcohol concentration, fourth or subsequent offense
56-5-4975(B)	Operation of unlicensed ambulance without removing exterior markings, sirens, etc., with intent to commit felony
	Fourth or subsequent offense
56-29-30(B)	Unlawful to alter, counterfeit, deface, destroy, disguise, etc. a vehicle identification number
56-29-30(C)(1)	Unlawful to buy, dispose, sell, transfer, or possess a motor vehicle or part with tampered identification number
56-29-30(D)	Attempt to violate Motor Vehicle Chop Shop, Stolen, and Altered Property Act
56-29-30(E)	Conspiracy to violate Motor Vehicle Chop Shop, Stolen, and Altered Property Act
57-1-40	Department of Transportation, bribery
58-13-740	Violation of provisions concerning transportation of explosive compounds
58-15-820	Wilful obstruction of railroad or electric railway
58-17-4100	Shooting or throwing missile at trains
59-150-260(A)	Intentional making, altering, forging, uttering, passing, or counterfeiting a state lottery game ticket
59-150-260(B)	Influencing or attempting to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials
59-150-270(A)	Knowing or intentionally making a material false statement in an application for a license or proposal to conduct lottery activities or a material false entry in a book or record which is compiled or submitted to the lottery board
59-150-400(D)	Conspiracy

History

1993 Act No. 184, § 9; 1993 Act No. 163, § 2; 1993 Act No. 164, Part II, § 19B; 1993 Act No. 164, Part II, § 70B; 1997 Act No. 136, § 3; 1998 Act No. 372, § 3; 1999 Act No. 56, §§ 2 to 4; [2010 Act No. 289, §§ 2, 3, eff June 11, 2010.](#)

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This document is current through all Legislation enacted in the 2012 Session The most current annotation is dated July 1, 2013

[South Carolina Code of Laws Annotated](#) > [TITLE 16.](#) > [CHAPTER 1.](#)

§ 16-1-100. Crimes classified as misdemeanors.

(A) The following offenses are Class A misdemeanors and the maximum terms established for a Class A misdemeanor, not more than three years, as set forth in [Section 16-1-20\(A\)](#), apply:

4-11-130	Disbursing officers may not exceed or transfer appropriations
4-17-70	Wilful injury to courthouse or jail
5-21-30	Municipal officers prohibited from contracting with municipality
5-21-40	Officers required to account to municipality for interest collected on deposits
7-5-325	Fraudulent change of address by elector for registration for voting purposes
7-13-1920	Tampering with voting machine
7-25-10	False swearing in applying for registration (election laws)
7-25-70	Procuring or offering to procure votes by threats
7-25-110	Voting more than once at elections
7-25-120	Impersonating a voter
7-25-160	Wilful neglect or corrupt conduct on the part of managers
7-25-170	Wilful neglect or corrupt conduct by officers other than managers
8-11-30	Payment or receipt of salary not due to state officers or employees
9-1-1160(A)	Collection of members contribution, failure to make payroll reports and remittances (State Retirement System)
10-11-315	Defacing, destroying or attempting to deface or destroy a monument or flag on the capitol grounds
10-11-320	Carrying or discharging a firearm on the capitol grounds or in the capitol building
10-11-360	Violation of article concerning offenses on capitol grounds and in capitol building
11-1-20	Failure to account for interest on deposit of public funds
11-1-40	Contracts in excess of tax or appropriation, diverting public funds
11-9-20	Disbursing officers exceeding or transferring appropriations
12-2-70	Neglect or misconduct of county auditor or treasurer
12-28-1500(F)	An operator of a refinery, terminal, or bulk plant failure to provide an automated shipping document to a driver of a fuel transportation vehicle receiving taxable motor fuel
12-28-1545(B)	Licensed importer failure to meet requirements regarding fuel which has not been dyed, nor tax paid or accrued by the supplier
12-28-1550(C)	Failure to meet requirements for exporting fuel
12-28-1555(D)	Operation of a motor vehicle with dyed fuel
12-28-1560(D)	Knowingly engaging or knowingly aiding and abetting another person to engage in a motor fuel business without a license
12-28-1565(C)	Fuel must meet ASTM standards
12-28-1570(C)	False statement on shipping paper regarding liability for user fees
12-28-1585(C)	Tampering with metering device 12-28-1585

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12-28-1720(C)	Truck drivers who violate certain shipping requirements for the second and subsequent times
12-28-1940(B)	Refusing to allow certain inspections for the purpose of evading the payment of taxes
12-54-44(B)(6)(c)(i)	Concealing goods on which tax imposed with intent to evade assessment or collection
12-54-44(B)(6)(c)(ii)	Wilful failure to pay over money received from third party to discharge payor's tax liability
16-3-600(A)	Assault and battery in the second degree
16-3-730	Publishing name of victim of criminal sexual conduct unlawful
16-3-1050(G)	Threatening, intimidating, or attempting to intimidate a vulnerable adult subject to an investigation
16-3-1050(H)	Obstructing or impeding an investigation pursuant to Chapter 35 of Title 43
16-3-1720(A)	Harassment in the first degree
16-3-1720(B)	Harassment in the first degree when a restraining order is in effect
16-3-2080(F)	Disclosing information about a trafficking victim or certain shelters or unlawfully entering the grounds of certain shelters
16-5-40	Duty of officers to execute warrants
16-5-50	Penalty for hindering officers or rescuing prisoners
16-7-160(1)	Illegal use of stink bombs or other devices containing foul or offensive odors
16-7-170	Entering public buildings for purpose of destroying records or other property
16-11-30	Possession of master keys and nonowner key sets while engaged in crime
16-11-140	Burning of crops and other kinds of personal property
16-11-523	Obtaining nonferrous metals unlawfully resulting in disruption of communication or electrical service to critical infrastructure
16-11-560	Burning, cutting untenanted or unfinished buildings
16-11-570	Injury or destruction of building or crops by tenant
16-11-770(B)(3)	Committing illegal graffiti vandalism, third or subsequent offense
16-11-780	Entering certain lands to discover, uncover, move, remove, or attempt to remove an archaeological resource- second offense
16-11-920(A)(3)	Operation of an audiovisual recording device in a motion picture theatre with intent to record, third offense
16-13-10	Forgery that does not involve a dollar amount
16-13-150	Purse snatching (not grand larceny or robbery)
16-13-380	Theft of electric current (second or subsequent offense)
16-13-385	Tampering with a utility meter
	Second and subsequent offense
16-13-470(B)(1)	Defrauding a drug or alcohol screening test (first offense)
16-15-130	Indecent exposure
16-15-250	Communicating obscene messages (nontelephonic)
16-17-470(A)	Eavesdropping or peeping
16-17-470(B)(1)	Voyeurism (first offense)
16-17-490	Contributing to the delinquency of a minor
16-17-495(C)	Returning a child under sixteen years of age within three days of a violation of a custody order or statute
16-17-505(3)	Knowingly selling cigarettes in packages that violate federal law
16-17-650(A)(2)	Engaging in cock fighting, game fowl or illegal game fowl testing, Second Offense
16-17-680(D)	Purchase from certain persons of nonferrous metals for the

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	purpose of recycling the nonferrous metals, third or subsequent offense
16-17-680(D)(3)	Unlawful purchase of nonferrous metals
16-17-680(E)	Unlawful sale of nonferrous metals in any amount to a secondary metals recycler, second offense
16-17-680(F)	Secondary metals recycler possessing stolen nonferrous metal, third or subsequent offense
16-17-680(G)	Transportation of nonferrous metals of an aggregate weight of more than ten pounds, third or subsequent offense
16-17-735(D)	Persons falsely asserting authority of law
16-21-60(A)	Use of vehicle without permission (intent to deprive)
16-23-465	Additional penalty for unlawfully carrying pistol or firearm on premises of business selling alcoholic liquors, beers, or wines for on premises consumption
16-23-470	Illegal possession of teargas gun or ammunition for teargas gun
16-23-530	Knowingly selling or providing a gun to an illegal alien
16-25-125(E)	Unlawful entry upon the grounds of a domestic violence shelter
17-7-510	Burying body without notice or inquiry
22-9-140	Penalty for failing to execute process of magistrate's court
23-1-20	Peace officers may not be employed on contingent basis
23-3-535(D)(2)	Sex offender's failure to vacate a residence that is within one thousand feet of a school, daycare center, children's recreational facility, park, or public playground--Second offense
25-7-20	Obtaining or giving information respecting national or state defense
29-1-30	Wilful sale of property on which lien exists
35-1-508(a)(3)	Violation of Title 35, Chapter 1 when an investor loses less than one thousand dollars, or if no losses are proven
37-13-50	Regulation of subleasing and loan assumption of a motor vehicle
38-7-140	Failure to pay money due or to supply information required
38-13-140	Refusal to exhibit records, false statements (Insurance)
38-25-330	Violations of Chapter 25, Unauthorized Transaction of Insurance Business
38-38-720(2)	Making a false statement or representation regarding a fraternal benefit society if the amount of the economic benefit received is \$ 1,000 or more (first offense)
38-43-190	Fraud regarding payment of insurance premium
38-55-80	Loans to directors or officers (Insurance)
38-55-150	Accepting premiums or assessments in insolvent company (Insurance)
38-55-160	Insuring uninsurable persons with intent to defraud
38-55-173(B)(1)	Vehicle glass repairer offering or making certain payments of \$ 1,000 or more
38-55-540(A)(2)	Knowingly making false statement or misrepresentation resulting in economic advantage of between one and ten thousand dollars, first offense
38-59-50	Payment or settlement of benefits in merchandise or service prohibited (Insurance)
39-15-750	Destruction of brand or removal or transfer of timber
39-15-1190(B)(1)(a)(ii)	Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, with goods or services having a value of more than \$ 2000 but less than \$ 10,000; using any object, tool, machine, or other device to produce or reproduce a counterfeit mark
40-5-320	Practice of law by corporations and voluntary associations

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	unlawful
40-5-350	Soliciting legal business unlawful
40-5-360	Splitting fees with laymen unlawful
40-54-80	Violations of chapter concerning dealers in precious metals-- Third or subsequent offenses
43-5-40	Unlawful publication or other use of records
43-7-60	False claim, statement, or representation by a medical provider
43-7-70	False statement of representation on an application for public assistance
43-7-80(B)	Provider required to keep separate accounts and records
43-33-40	Unlawful interference with rights of blind or other physically disabled person
43-35-85(G)	Threatening, intimidating, or attempting to intimidate a vulnerable adult subject to an investigation
43-35-85(H)	Obstructing an investigation pursuant to the Omnibus Adult Protection Act
44-31-360	Violation of article concerning tuberculosis prisoners and inmates of institutions
44-37-30	Offenses related to neonatal testing
44-41-36(A)	Performing an abortion on an unemancipated minor
44-41-350	Performing an abortion without satisfying "A Woman's Right to Know" provision, third or subsequent offense
44-53-370(b)(3)	Prohibited Acts A, penalties (Schedule IV drugs except for flunitrazepam)
	First offense
44-53-370(d)(3)	Possession of cocaine, first offense
44-53-375(A)	Possession of less than one gram of methamphetamine or cocaine base
44-53-398(H)(3)	Purchasing a product containing ephedrine or pseudoephedrine from any person other than a manufacturer or registered wholesale distributor, Second Offense
44-79-120	Violation of chapter concerning Physical Fitness Services Act
45-9-90	Equal enjoyment and privileges to public accommodations
46-17-460	Violation of chapter concerning agricultural commodities marketing
46-19-270	Displaying sign showing Department of Agriculture approval prior to approval
46-25-80	Violations of chapter concerning fertilizer law
46-41-30(1)	Unlawful to engage in business as dealer without license, penalties for violation (agricultural products)--First offense
47-3-630	Torturing, mutilating, injuring, disabling, poisoning, or killing a police dog or horse.
47-3-760(B)(1)	Penalty for owner of dangerous animal which attacks and injures a human--First offense
47-3-960	Injuring, disabling or killing guide dog
47-17-100(A)	Violation of a Meat and Meat Food Regulations Inspection Law, with intent to defraud
47-19-120(C)(1)	Interference with person performing official duties under chapter on poultry inspection
47-21-80(A)	Penalty for violation of Farm Animal and Research Facilities Protection Act
47-21-250(A)	Penalty for crop operation violations
48-27-250	Violation of chapter concerning registration of foresters
48-49-60(a)	Violations of chapter concerning SC Mountain Ridge Protec- tion Act
50-1-85(4)	Negligent use of firearms or archery tackle when death results.
50-11-100(B)	Construction of a fence which impedes the free range of deer

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50-13-1460	Use of explosives to take fish
50-13-1470	Failure to report use of explosives to take fish
50-21-112(B)(3)	Operating a water device while under the influence of alcohol (third offense)
50-21-117(B)(3)	Operation of a water device while this privilege is suspended for operation under the influence of alcohol, third or subsequent offense
54-1-40	Criminal liability for unskillful or negligent management of steamboat
55-3-130	Discharging a laser at an aircraft, second offense
56-1-460	Driving while license canceled, suspended, or revoked--Third and subsequent offense
56-5-750(B)(1)	Failure to stop for a law enforcement vehicle--First offense (no death or injury occurs)
56-5-2930	Unlawful for persons to drive under influence of liquor, drugs, or like substances (See Section 56-5-2940(3))--Third offense
56-5-2933	Driving with an unlawful alcohol concentration, third offense
57-7-20(C)	Putting a foreign substance on a highway with malice and personal injury results
58-17-4040	Gross carelessness or negligence in the operation of a train
58-23-920	Insurance required of owners of motor vehicles transporting goods for hire
	Second and subsequent offenses
59-25-250(A)	Revocation or suspension of certificate, powers and duties of Court of Common Pleas, warrant for production of witnesses
59-41-80	Violation of chapter concerning grants to private school pupils
59-63-450	No child may be counted in enrollment more than once
59-102-150	Prohibited acts by athlete agents
61-4-170	Sale of a beverage containing alcohol which resembles a vegetable, or fruit or soft drink
61-6-4180	Possession of a firearm while unlawfully manufacturing, transporting, or selling alcoholic liquors

(B) The following offenses are Class B misdemeanors and the maximum terms established for a Class B misdemeanor, not more than two years, as set forth in [Section 16-1-20\(A\)](#), apply:

12-21-2540	Use of altered or counterfeit tickets or reuse of tickets
12-21-2714	Use of slug or any false coin to operate automatic vending machine or other machine requiring coin for operation
12-21-3070	Improper use, alteration or reuse of stamps and for failure to pay tax, make any report on, or submit required information
14-7-380	Jury commissioners guilty of fraud
16-3-410	Sending or accepting challenge to fight (with a deadly weapon)
16-3-420	Carrying or delivering challenge, serving as second
16-5-130(2), (3)	Instigating, aiding, or participating in riot
16-8-240(A)	Committing or threatening acts of violence with the intent to coerce, induce, or solicit another person to participate in gang activity, first offense
16-9-410(C)(2)	Aiding escapes from prison, for prisoners charged with noncapital offenses
16-9-420	Aiding escape from custody of officers
16-11-580(C)(1)	Forest products violation (value more than \$ 1,000 but less than \$ 5,000)
16-11-910 and 16-11-915	Transfer of recorded sounds for unauthorized use or sale (See Section 16-11-920(C))
16-11-920(A)(2)	Operation of an audiovisual recording device in a motion picture theatre with intent to record, second offense

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16-11-930	Illegal distribution of recordings without name and address of manufacturer and designation of featured artist (See Section 16-11-940(B))
16-13-65	Selling aquaculture products or damaging facilities valued at greater than \$ 100 (third or subsequent offense)
16-13-437	False statement or representation about income to a public housing agency
16-16-20(3)(c)	Computer crime--second degree--Second or subsequent offense
16-16-20(4)	Computer Crime Act--third degree--Second or subsequent offense
16-17-10	Barratry
16-17-510	Enticing enrolled child from attendance in public or private school
16-17-560	Assault or intimidation on account of political opinions or exercise of civil rights
16-17-610	Soliciting emigrants without licenses
23-17-110	Purchases by sheriff or deputy at sheriff's sale
23-31-370	False statement to obtain special license
23-31-400(C)	Use of a firearm while under the influence of alcohol or a controlled substance
23-35-130	Manufacture, storage, transportation, or possession of certain fireworks illegal
23-41-60	Violation of arson reporting immunity act
25-1-150	Unauthorized wearing of military insignia
25-1-2180	Assault upon military personnel
25-7-60	Conspiracy (treason or sabotage during war)
25-7-80	Concealing or harboring violator of chapter on treason; sabotage
27-29-150	Violating provisions of Uniform Land Sales Practice Act
30-15-50	Forgery of discharge (veterans)
31-17-520(2)(c)	License for travel trailer dealer--Third and subsequent offenses
32-1-290	Making or assisting in making contracts when actual delivery not contemplated, or operating bucket shop
34-11-90(b)	Drawing and uttering fraudulent check \$ 5,000 or less, first offense
34-39-240	Wilful violation of section, requiring license for engaging in business of deferred presentment service
34-41-120	Wilful violation of section, requiring license for engaging in business of either Level I or Level II check-cashing service
38-2-20	Penalty for a person convicted of a misdemeanor contained in Title 38
38-2-30	Acting without license required by Title 38 on insurance
38-21-340	Criminal prosecutions (Insurance Holding Company Regulatory Act)
38-43-160	Unlawfully representing an unlicensed insurer
38-43-240	Other offenses by insurance agent
38-45-150	Insurance Broker Chapter Violation
38-47-60	Adjuster acting for unauthorized company (See Section 38-2-20)
38-48-130	Unlawful practices for public insurance adjusters
38-51-20	Acting as an administrator of an insurance benefit plan without a license
38-55-60	Discrimination in the conduct of an insurance business
38-55-340	Connection of Undertakers with certain insurers article violation
38-63-10	Circulation of false or misleading information by an agent or officer of a life insurer

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38-73-80	Withholding or giving false information to the Insurance Commissioner regarding surety rates
38-77-1160	Motor Vehicle Theft and Motor Vehicle Insurance Fraud Reporting--Immunity Act violation
39-23-80(B)(1)	Prohibited acts (concerning adulterated, misbranded, or new drugs and devices)--First offense
39-25-50(a)	Penalties, effect of guaranty from supplier or article, liability of advertising media--Second or subsequent offense
39-33-1320	Violation concerning butterfat content and weight of milk--Second and subsequent offenses
40-15-212	Unlawful practice or aiding or abetting in the unlawful practice of dentistry, dental hygiene, or dental technological work
40-29-180	Violation of chapter concerning manufactured housing
40-37-200(A)	Practicing optometry unlawfully
40-43-86(EE)	Possessing, dispensing, or distributing drugs, or devices without a prescription from a licensed practitioner
40-59-200	Violation of residential builders licensing provisions
40-81-200	Violations of Chapter 40, State Athletic Commission
40-81-480	Events involving combative sports or weapons violation
44-41-80(b)	Performing or soliciting unlawful abortion, testimony of woman may be compelled
44-53-40(B)	Obtaining certain drugs, devices, preparations, or compounds by fraud, deceit, or the like--First offense
44-53-370(b)(4)	Prohibited Acts A, penalties (possession of Schedule V drugs)--Second and subsequent offenses
44-53-370(d)(1)	Prohibited Acts A, penalties (possession of controlled substances in Schedules I (b), (c), II, and LSD)--First offense
44-53-395	Prohibited acts, penalties (prescription drugs)--First offense
44-53-1680(A)	Knowingly failing to submit prescription monitoring information to the bureau of drug control
44-56-130	Unlawful acts (Hazardous Waste Management Act) (See Section 44-56-140)--Second or subsequent offense
44-55-1360	Worker, sewage and waste water disposal violation
44-93-150(C)	Infectious Waste Management Act violation (second offense or subsequent offense)
44-96-100(B)	Wilful violation of solid waste regulations, second or subsequent offenses
44-96-450(B)	Wilful violation of Solid Waste Act Second or subsequent offenses
46-33-60	Penalty on out-of-state shippers
47-1-40(A)	Cruelty to animals--Third or subsequent offense
47-1-50	Cruelty to animals in one's possession
48-1-90	Causing or permitting pollution of environment prohibited (See Section 48-1-320)
48-1-320	Violation (Pollution Control Act)
48-1-340	False statement, representations or certifications, falsifying, tampering with or rendering inaccurate monitoring devices or methods
48-23-265(C)(1)	Forest products violation first offense (value at least \$ 5,000)
48-27-230	Endorsement of documents by registrants, illegal endorsements
48-43-550(f)	Regulations as to removal of discharges of pollutants
49-1-20	Permitting logs and the like to obstruct or interfere with navigation of rivers or harbors
50-1-85(3)	Use of a firearm or archery tackle while hunting or returning from hunting, in a criminally negligent manner when bodily injury results
50-11-96	Introducing a fertility control agent or chemical substance into

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	any wildlife without a permit
50-11-430	Illegal taking of bears and bear parts
50-11-2640(B)	Bringing into State or importing live coyote or fox without permit--Second offense
50-13-1440	Using explosives to take fish unlawful--Third offense
51-3-150	Trespass upon state park property
56-1-2070	Driving commercial motor vehicle in violation of an out-of-service order, first violation
56-5-5030	Devices to emit smoke screen, noisome gases, or odors prohibited
56-15-310(B)(3)	Dealer wholesaler license violation (third or subsequent offense)
56-16-140(B)(3)	Failure to secure a license as a motorcycle dealer or wholesaler
58-13-10	Opening or injuring package, parcel, or baggage by employee of carrier unlawful
58-15-840	Taking or removing brasses, bearings, waste, or packing from railroad cars
58-15-860	Injuring or destroying electric signals or other structures or mechanisms
61-6-4010(B)(3)	Unlawful manufacture, possession or sale of alcoholic liquors--Third or subsequent offense
61-6-4025(c)	Possession of unlawfully acquired or manufactured alcoholic liquors in a vehicle, vessel, or aircraft--Third or subsequent offense
61-6-4030(c)	Transportation of alcoholic liquors in a taxi or other vehicle for hire--Third or subsequent offense
61-6-4040(c)	Rendering aid in unlawful transportation of alcoholic liquors--Third or subsequent offense
61-6-4060(B)(3)	Unlawful storage of alcoholic liquor in a place of business--Third or subsequent offense
61-6-4100(c)	Manufacture, sale, or possession of unlawful distillery--Third or subsequent offense
61-6-4110(c)	Knowingly permitting or allowing a person to locate an unlawful distillery on a premise--Third or subsequent offense
61-6-4120(c)	Unlawful manufacture, transport, or possession of materials used in the manufacture of alcoholic liquors--Third or subsequent offense
61-6-4130(c)	Present at a place where alcoholic liquors are unlawfully manufactured--Third or subsequent offense
61-6-4150(c)	Unlawful sale of alcoholic liquor from a vehicle, vessel, or aircraft--Third or subsequent offense
61-6-4155(B)(3)	Use, offer for use, purchase, offer for purchase, sell, offer to sell, or possession of an alcohol without liquid device--Third and subsequent offense
61-6-4160(c)	Unlawful sale of alcoholic liquors on Sundays, election days, and other day--Third or subsequent offense
61-6-4170(B)(3)	Advertisement of alcoholic liquors from billboards--Third or subsequent offense
63-9-2050	Submitting false claim for benefits

(C) The following offenses are Class C misdemeanors and the maximum terms established for a Class C misdemeanor, not more than one year, as set forth in [Section 16-1-20\(A\)](#), apply:

1-6-100	Unlawful disclosure of confidential information
1-7-400	Circuit solicitors disabled by intoxicants
2-15-120	Confidentiality of records (Legislative Audit Council) penalty for violations

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2-17-50	Failure to file requirement statement with State Ethics Commission, third or subsequent offense
2-17-130	Penalties for violations of lobbyist chapter
2-17-140	Penalties for filing groundless complaint
5-21-500	Diverting municipal funds allocated to bond payments for other purposes
6-1-120(C)	Disclosure of taxpayer information
7-25-20	Fraudulent registration or voting
7-25-100	Allowing ballot to be seen, removing ballot from voting place, improper assistance
7-25-200	Unlawful to pay a candidate to file or withdraw from candidacy
8-1-30	Knowingly allowing false claims by witnesses or jurors of mileage traveled
8-1-80	Misconduct in office, habitual negligence, and the like
8-9-10	Delivery by officer of books and papers to successor (public officers/employees)
8-9-30	Delivery by officer of monies on hand to successor
8-13-320(9)(c)	Penalty for wilful filing of groundless complaint with Ethics Commission
8-13-320(10)(g)	Penalty for wilful release of confidential information relating to ethics investigation
8-13-540(1)	Penalty for wilful filing of groundless complaint with Senate or House Ethics Committee
8-13-1510	Failure to file reports, Ethics, Government Accountability, and Campaign Reform, third or subsequent offense
8-13-1520	Penalty for violation of ethics chapter
9-1-40	Penalties for making false statement or record (South Carolina Retirement System)
9-8-220	Penalty for false statements or falsification of records (Judges' and Solicitors' Retirement System)
9-9-210	False statements and falsification of records (General Assembly Retirement System)
9-11-320	False statements and falsification of records (Police Officers' Retirement System)
10-9-260	Interfering with state, board or licensees, mining without license
11-15-90	Failure to make payment or remit funds for payment of obligations
11-15-290	Public officer failure to make investments in accordance with article
11-48-30(C)(3)	Sale or possession of cigarettes of a manufacturer not included in the state directory
11-48-100	Knowingly violating tobacco regulations
12-21-2710	Unlawful possession or operation of gaming devices
12-21-2830	Record required of gross receipts, record subject to inspection, violations
12-24-70(B)	Submitting false information on an affidavit accompanied by a deed
12-28-2345	Unlawful alteration of petroleum products shipping information
12-51-96	Conditions of redemption, taxation
12-54-44(B)(3)	Wilful failure to pay estimated tax or keep required records
12-54-44(B)(4)	Wilful furnishing of false statement required for tax purposes
12-54-44(B)(5)	Wilfully providing employer with false information which decreases tax withheld
12-54-44(B)(6)(c)(iii)	Wilful delivery to tax department of fraudulent document

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12-54-240	Disclosure of records of and reports and returns filed with the Department of Revenue by employees and agents of the department and the State Auditor's Office prohibited
13-7-80	Violation of provisions concerning nuclear energy
14-7-1720	Penalty for disclosing State Grand Jury information
14-17-580	Clerk is responsible for books, papers, and other property
14-23-680	Judge responsible for books, papers, and property of office
16-1-55	Accessory after the fact to a Class B Misdemeanor
16-3-210	Assault and battery by mob in the third degree
16-3-530	Penalties, hazing
16-3-610	Assault with concealed weapon
16-3-1050(A)	Failure to report abuse, neglect, or exploitation of a vulnerable adult
16-3-1340	Victim's compensation fund, soliciting employment to pursue claim or award
16-3-1710(B)	Harassment in the second degree
16-3-1720(D)	Harassment first degree with use of licensing or registration information
16-3-2090(D)	Use of property or conveyance subject to forfeiture
16-7-110	Wearing masks and the like (See Section 16-7-140)
16-7-120	Placing burning or flaming cross in public place (See Section 16-7-140)
16-7-150	Slander and libel
16-9-260	Corruption of jurors, arbitrators, umpires, or referees
16-9-270	Acceptance of bribes by jurors, arbitrators, umpires, or referees
16-9-320(A)	Opposing or resisting law enforcement officer serving process
16-9-370(a)	Taking money or reward to compound or conceal offense
16-11-150(a)	Burning lands of another without consent--First offense
16-11-180	Negligently allowing fire to spread to lands or property of another--Second or subsequent offense
16-11-700(E)	Littering (exceeding 500 lbs. or 100 cu. ft. in volume)
16-11-730	Malicious injury to or interference with microwave, radio, or television facilities; unauthorized use of such facilities
16-11-750	Unlawful injury or interference with electric lines
16-11-770(B)(2)	Committing illegal graffiti vandalism, second offense
16-11-820	Theft of cable television service unlawful use without payment (See Section 16-11-855)--Second and subsequent offense
16-11-825	Theft of cable television, unauthorized connection or use of device to cable television system (See Section 16-11-855)--Second and subsequent offenses
16-11-830	Theft of cable television service, aid, abet, or attempt (See Section 16-11-855)--Second and subsequent offenses
16-11-835	Advertisement or sale of instrument designed to avoid payment for cable services (See Section 16-11-855)--Second and subsequent offenses
16-11-840	Unauthorized device to decode or descramble cable television signal (See Section 16-11-855)--Second and subsequent offenses
16-11-845	Use, sale, or installation of a converter or similar device for unauthorized reception of cable signals (See Section 16-11-855)--Second and subsequent offenses
16-11-855	Violation of Article 8, Theft of Cable Television Service
16-11-910	Transfer of recorded sounds for unauthorized use or sale (See Section 16-11-920(E))
16-11-915	Unauthorized sale of article containing live performances (See Section 16-11-920(E))

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16-11-920(A)(1)	Operation of an audiovisual recording device in a motion picture theatre with intent to record, first offense
16-11-930	Illegal distribution of recordings without name and address of manufacturer and designation of feature artist (See Section 16-11-940(D))
16-13-15	Falsifying or altering transcript or diploma, fraudulent use of falsified or altered transcript or diploma penalty
16-13-65	Stealing aquaculture products or damaging aquaculture facilities - First and second offense
16-13-300	Fraudulent removal or secreting of personal property attached or levied on
16-13-400	Avoiding or attempting to avoid payment of telecommunications
16-13-410(1)	Making or possessing device, plans or instruction which can be used to violate Section 16-3-400
16-14-60	Financial transaction card fraud
16-14-60(a)	Financial transaction card fraud--value of things of value does not exceed five hundred dollars in any six-month period
16-14-60(a)(2)(d)	Financial transaction card fraud--using financial transaction card to exceed certain balances or authorized lines of credit
16-14-60(b)	Financial transaction card fraud by a person authorized to furnish anything of value upon presentation of a financial transaction card if the value does not exceed five hundred dollars in a six-month period
16-14-60(c)	Financial transaction card fraud--filing of false application to an issuer of a financial transaction card
16-14-60(d)	Financial transaction card fraud--filing of false notice or report of theft
16-14-80	Criminally receiving goods and services fraudulently obtained
16-15-50	Seduction under promise of marriage
16-15-60	Adultery or fornication
16-15-90	Prostitution (See Section 16-15-110(3))--Third or subsequent offenses
16-15-100	Prostitution; further acts (See Section 16-15-110(3))--Third or subsequent offenses
16-15-315	Condition on certain sales for resale or on franchising rights that obscene material be received for resale prohibited
16-15-325	Participation in preparation of obscene material prohibited
16-16-20(3)(c)	Computer crime--second degree--First offense
16-17-310	Imitation of organizations' names, emblems, and the like
16-17-500(3)	Providing tobacco products to a minor
16-17-520	Disturbance of religious worship
16-17-540	Bribery with respect to agents, servants, or employees
16-17-650(A)(1)	Engaging in cockfighting, game fowl or illegal game fowl fighting testing, First Offense
16-17-680(D)	Purchase from certain persons of nonferrous metals for the purpose of recycling the nonferrous metals, second offense
16-17-680(D)(2)	Unlawful purchase or transportation of nonferrous metals, second offense
16-17-680(E)	Unlawful sale of nonferrous metals in any amount to a secondary metals recycler, first offense
16-17-680(F)	Secondary metals recycler possessing stolen nonferrous metal, second offense
16-17-680(G)	Transportation of nonferrous metals of an aggregate weight of more than ten pounds, second offense
16-17-700	Tattooing
16-17-720	Impersonating law enforcement officer
16-17-735	Impersonation of state or local official or employee or law

	enforcement officer or asserting authority of state law in connection with a sham legal process
16-19-10	Setting up lotteries
16-19-40	Unlawful games and betting
16-21-60(B)	Use of vehicle without permission (Temporary purpose only)
16-21-70	Use of bicycle or other vehicle without permission, but without intent to steal
16-23-20	Unlawful carrying of pistol (See Section 16-23-50(A)(2))
16-23-450	Placing loaded trap gun, spring gun, or like device
16-23-730	Manufacturing, possessing, transporting, distributing, using, aiding, counseling, or conspiring in the use of a hoax device or replica of a destructive device or detonator that causes a person to believe that the hoax device or replica is a destructive device or detonator
16-25-20	Commission of Criminal Domestic Violence, second offense
16-25-20(B)(2)	Criminal domestic violence, second offense
16-27-40	Penalty (Animal Fighting or Baiting Act)--Second offense
17-15-90(2)	Wilful failure to appear before a court when released in connection with a charge for a misdemeanor
17-22-170	Unlawful retention or release of information regarding participation in intervention program
17-28-350	Willful and malicious destruction of physical evidence or biological material. Second and subsequent offense
17-29-20	Installation of pen register or tap and trace device
17-30-50(B)(1)	Interception of wire, electronic or oral communications--First offense
20-3-210	Unlawful advertising for purpose of procuring divorce (See Section 20-3-220)
22-9-170	Oppression in office or other misconduct, punishment
23-3-475(B)(2)	Providing false information when registering as a sex offender--Second offense
23-17-40	Liability of sheriff for official misconduct for remaining in contempt after attachment
23-19-130	Penalties for failure to pay over monies (by sheriff)
23-31-215(M)	Carrying a concealed weapon into a prohibited environment
23-31-225	Carrying a concealable weapon into the dwelling place of another without permission
23-35-150(3)	Violation concerning fireworks and explosives--Third and subsequent offenses
23-37-50	Violations concerning safety glazing materials
23-39-40	Prohibited acts (Hazardous Waste Management Act)--Second and subsequent offenses (See Section 23-39-50(a))
23-50-50(B)	Divulging privileged communication, protected information, or a protected identity
24-3-410	Sale of prison-made products on open market generally prohibited
24-3-420	Violations of article governing prison industries other than Section 24-3-410
24-5-90	Discrimination in treatment of prisoners unlawful
24-27-300	Frivolous complaints or appeals filed by a prisoner
25-1-440(c)(1)	Fraudulent or wilful misstatement of fact in application for financial federal disaster assistance
25-1-1420	Unlawful purchase or receipt of military property
25-1-3067	Conduct that prejudices the good order and discipline in military forces or brings discredit upon military forces
25-15-20	Improper use of Confederate Crosses of Honor
27-18-350(D)	Refusal to deliver property under Uniform Unclaimed Property

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	Act
30-2-50	Use of personal information from a public body for commercial solicitation
33-56-140	Illegal charitable organization of professional solicitations
33-56-145(A)	Defrauding a charity (first offense)
33-56-145(B)	Giving false information with respect to registering a charity (first offense)
34-1-120	Penalties for obstructing commissioner of banking
34-3-70	False statements concerning solvency of bank
34-3-90	Penalties (violation of Sections 34-1-60, 34-1-70, 34-3-310, 34-3-320, 34-5-10 to 34-5-80 and 34-5-100 to 34-5-150 regarding banks and banking generally)
34-11-30	Receipt of deposits or trusts after knowledge of insolvency (banks and banking generally)
34-11-60	Drawing and uttering fraudulent check, draft, or other written order or stopping payment on check, draft, or order with intent to defraud (more than \$ 200)--First offense
34-19-110	Use of words "safe deposit" or "safety deposit"
34-25-90(b)	Wilfully entering false statements in bank records by an officer, director, agent, or employee of a bank holding company or a subsidiary of it
34-28-390	Penalties and remedies (violations concerning savings and loan acquisition and holding companies)
34-28-740	False statement affecting credit or standing of savings association
34-36-70	Violation of a provision that regulates loan brokers
37-5-301(a),(b)	Wilful violations (Consumer Protection Code)
37-5-302	Disclosure violations (Consumer Protection Code)
37-5-303	Fraudulent use of cards (Consumer Protection Code)
37-11-120	Violation of a provision concerning the licensing and regulation of Continuing Care Retirement Communities
38-13-200	Penalty for refusing to be examined under oath (Insurance)
38-27-80(d)	Cooperation of officers, owners, and employees (violation) (Insurance)
38-49-40	Violation of a provision that regulates Motor Vehicle Physical Damage Appraisers
39-9-200	Misuse of commercial weights and measures (See Section 39-9-208(A))
39-11-170	Violation of a provision that regulates weighmasters (second or subsequent offense)
39-15-460	Unauthorized alteration, change, removal, or obliteration of registered mark or brand (labels and trademarks)
39-15-470	Purchase or receipt of containers marked or branded from other than registered owner
39-15-480	Unauthorized possession of marked or branded containers (trade and commerce)
39-15-490	Effect of refusal to deliver containers to lawful owner (trade and commerce)
39-15-500	Taking or sending containers out of State without consent of owner
39-15-1190	Intentional use of counterfeit mark or trafficking in goods carrying the mark
39-15-1190(B)(1)(a)(i)	Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, with goods or services having a value of \$ 2000 or less; using any object, tool, machine, or other device to produce or reproduce a counterfeit mark
39-17-340	Penalties (violation of article concerning grading of watermel-

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	ons)
39-19-60	Penalty for disposal of stored cotton without consent of owner
39-22-90(A)(5)-(7)	Prohibited acts. State Warehouse System (See Section 39-22-90(B))
39-41-570	Penalties (violation of article concerning deception in sale of liquid fuels, lubricating oils and greases)
39-75-50	Selling, offering for sale, or delivering for introduction into this State nonconforming regrooved tires
40-1-200	Penalty for unlawful practice of a profession or submitting false information to obtain a license to practice a profession
40-2-200	Certified Public Accountants and Public Accountants regulations violations
40-3-200	Engaging in practice of architecture in violation of chapter or knowingly submitting false information for purpose of obtaining license
40-6-200	Penalties (violation of chapter concerning auctioneers)--Second offense
40-7-200	Practicing barbering unlawfully or submitting false information to obtain barbering license
40-8-110(K)	Failure to make required contribution to care and maintenance trust fund or a merchandise account fund
40-8-190	Submitting false information to procure cemetery operator's license
40-10-200	Violation of First Protection Sprinkler Act
40-11-200	Illegal practice as licensed contractor
40-18-150	Penalties (violation of chapter concerning detective and private security agencies)
40-23-200	Practice as environmental systems operator in violation of Title 40, Chapter 23
40-31-20	Penalties (violation of chapter concerning naturopathy)
40-33-200	Unauthorized practice of nursing
40-35-200(C)	Administering a nursing home, residential care facility or habilitation center without a license
40-36-200	Knowingly submitting false information to obtain license to practice as occupational therapist or as occupational therapy assistant
40-38-200	Violation of chapter regulating Opticians
40-41-60	License required for erection of lightning rods
40-41-220	Encamping and trading in animals or commodities by nomadic individuals without license unlawful
40-43-140	Unlawful use of titles, declarations, and signs--unlawful dispensing, compounding, and sale of drugs (pharmacists)
40-47-112	Attending to a patient while under the influence of drugs or alcohol
40-47-200	Submitting false information for purpose of obtaining a license to practice medicine
40-51-220	Penalties (violation of chapter on podiatry)
40-54-80	Violations of chapter concerning dealers in precious metals Second offense
40-55-170	Unauthorized practice of psychology
40-56-200	State Board of Pyrotechnic Safety violations
40-63-200	Practice as social worker in violation of Title 40, Chapter 63
40-68-150(B)	Staff Leasing Services violation
40-79-200(A)	Penalty (violation of South Carolina Regulation of Burglar Alarm System Businesses Act)
40-82-200	Failure to obtain a license to engage in liquified petroleum gas activities
41-1-60	Certain transactions between carriers or shippers and labor

S.C. Code Ann. § 16-1-100

	organizations prohibited, penalties
41-15-320(e)	Penalties (wilfully violating safety or health rule or regulation) --Subsequent offense
41-25-30	Private personnel placement services applications and licensing (violations) (See Section 41-25-90)
41-25-40	Private personnel placement services; duties of licensees (See Section 41-25-90)
41-25-50	Prohibited activities or conduct of personnel agencies (See Section 41-25-90)
41-25-60	Advertisements in South Carolina of firms located outside its jurisdiction (See Section 41-25-90)
41-25-70	Prohibited activities or conduct of employers or person seeking employment (private personnel agencies) (See Section 41-25-90)
41-25-80	Confidentiality of record and files (private personnel agencies) (See Section 41-25-90)
42-9-360	Receiving fees, consideration, or gratuity for services not approved by the commission or the court
42-15-90	Receipt of fees, other consideration, or a gratuity not approved by the Worker's Compensation Commission
43-5-25	Wilful use of payment for purpose not in best interest of child, protective payee
43-5-950	Violations of article concerning women, infants, and children supplemental food program
43-35-85(A)	Failure to report abuse, neglect, or exploitation of a vulnerable adult
44-2-140	Underground Petroleum Response Bank Act violation
44-6-180(B)	Medically Indigent Assistance Act confidentiality violation
44-6-200	Falsification of information regarding eligibility for Medically Indigent Assistance Program
44-17-860	Unlawful taking of person from mental health facility without permission
44-22-100(C)	Unlawful to disclose records of mental health patient or former patient
44-22-220(C)	Unlawful to wilfully deny a patient his rights afforded him under chapter
44-23-240	Unwarranted confinement of an individual
44-23-1150(D)	Submitting inaccurate or untruthful information concerning sexual misconduct
44-24-210	Unlawful without prior authorization to take child from grounds of inpatient facility
44-26-210	Denial of rights to a client with intellectual disability
44-32-120(F)	Unlawful body piercing
44-34-100(F)	Tattooing violation
44-41-31(C)	False representation on an affidavit for abortion
44-43-580	Traffic in dead bodies
44-53-50(E)	Sale of cleaning agents containing phosphates prohibited
44-53-370(b)(4)	Prohibited Acts A, penalties (manufacture or possession of Schedule V drugs with intent to distribute)--First offense
44-53-370(d)(2)	Prohibited Acts A, penalties (possession of other controlled substances in Schedules I through V)--Second and subsequent offense
44-53-398(H)(3)	Purchasing a product containing ephedrine or pseudoephedrine from any person other than a manufacturer or registered wholesale distributor, First Offense
44-53-445(D)(2)	Purchase of controlled substance within proximity of school
44-53-590	Penalty for use of property in manner which makes it subject to forfeiture (as provided in Sections 44-53-520 and 44-53-

S.C. Code Ann. § 16-1-100

	530)
44-53-1530(2)(b)	Possession of anabolic steroids, ten or fewer doses (second or subsequent offense)
44-53-1530(3)(a)	Possession of anabolic steroids, 11 to 99 doses (first offense)
44-55-80	Unlawful acts (violation of State Safe Water Drinking Act) (See Section 44-55-90(a))
44-56-130	Unlawful acts (Hazardous Waste Management Act) (See Section 44-56-140C.)--First offense
44-56-490(C)	Wilfully violating a provision of the Drycleaning Facility Restoration Trust Fund provisions
44-63-161(C)	Willful violation of regulation or order relative to recording, reporting, or filing information with Bureau of Vital Statistics
44-93-150(C)	Infectious Waste Management Act violation (first offense)
44-96-100(B)	Wilful violation of solid waste regulations, first offense
44-96-450(B)	Wilful violation of Solid Waste Act--First offense
45-9-85	Violation of confidentiality of Section 45-9-60 (Equal enjoyment and privileges to public accommodations, complaints, hearings, etc.)
46-1-50	Firing turpentine farms
46-1-75	Maliciously damaging farm product, research facility or equipment valued at less than \$ 500
46-10-100	Penalties (violation of article concerning boll weevil eradication)
46-23-80	Penalty (violation of South Carolina Noxious Weed Act)
46-41-170(1)	Penalty (violation of chapter concerning dealers and handlers of agriculture products) Second or subsequent offense
46-50-30, section 15	Disclosure of confidential information relating to Southern Interstate Dairy Compact
46-50-60	Violation of Southern Interstate Dairy Compact
47-9-10	Marking, branding, or disfiguring large animals of another--Second or subsequent offense
47-9-30	Use of horse, mare, or mule without permission
47-9-410	Violations (article concerning livestock generally)
47-17-60	Prohibited acts (meat and meat food, Regulations and Inspection Law) (See Section 47-17-100(a))
47-17-70	Slaughtering or processing except in compliance with article prohibited (meat and meat food, Regulations and Inspection Law) (See Section 47-17-100(a))
47-17-80	Records (meat and meat food, Regulations and Inspection Law) (See Section 47-17-100(a))
47-21-80(B)	Penalty for violation of Farm Animal and Research Facilities Protection Act (violation of Section 47-21-60)
47-21-250(B)	Unlawful entry into or remaining unlawfully in a crop operation
48-39-170(A)	Penalties (violation of chapter concerning coastal tidelands and wetlands)--Second or subsequent offense
50-1-125(2), (3), and (4)	Trafficking in wildlife
50-1-136	Penalties for conspiracy (violation of provisions of Title 50 relating to fish, game, and watercraft)
50-5-1535	Unlawful taking, possessing, buying, selling, or shipping of short nose sturgeon
50-5-2305(D)	Unlawful catching of wild rock (second or subsequent offense)
50-5-2535	Engaging in prohibited activities while under suspension, Marine Resources Act
50-9-1200	Hunting or fishing while under suspension
50-11-95	Engaging in Computer Assisted Remote Hunting, First Offense
50-11-710	Night hunting and illegal use of artificial lights while hunting

S.C. Code Ann. § 16-1-100

50-11-720	Night hunting for deer or bear
50-11-852	Molesting or killing a bald eagle
50-11-1920	Violation of food service permit to sell exotic farm-raised venison
50-11-2640(B)	Bringing into State or importing live coyote or fox without permit--First offense
50-13-1410	Unlawful to pollute waters so as to injure fish and shellfish
50-13-1440	Using explosives to take fish unlawful--Second offense
50-15-80(b)	Penalties, violation of Sections 50-15-40(c) or 50-15-50(d), (e)
50-18-270(C)	Placing or releasing species imported from another state into waters of State--Second offense
50-18-285(C)	Damaging or poisoning aquaculture products or facilities--Second offense
50-21-112(B)(2)	Operating a water device while under the influence of alcohol or drugs (second offense)
50-21-130(A)(1)	Failure of an operator of a vessel involved in a collision resulting in property damage to stop and render assistance
52-5-10	Race horses must not be entered under assumed names or out of proper class
52-5-40	Misrepresenting or concealing former performance of race horse
54-7-810(B)(1)	Violation of Underwater Antiquities Act
55-1-100(F)	Unlawful to operate or act as a flight crew member of aircraft while under the influence of alcohol or drugs
55-3-130	Discharging a laser at an aircraft
55-3-130	Shining light at aircraft with intent to interfere with the operation of the aircraft
56-1-25	Disclosure of Department of Motor Vehicles confidential information
56-3-150	Illegal operation of foreign vehicle
56-5-1210(A)(1)	Failure to stop a vehicle involved in an accident when injury results but great bodily injury or death does not occur
56-5-1220	Failure to comply with the duties of a driver involved in an accident
56-5-2780	Unlawfully passing a stopped school bus, great bodily injury results
56-5-2930	Unlawful for narcotic users or persons under influence of liquor, drugs or like substances to drive (See Section 56-5-2940(2))--Second offense
56-5-2933	Driving with an unlawful alcohol concentration, second offense
56-5-4975(A)	Operation of unlicensed ambulance without removing exterior markings, sirens, etc
56-11-250	Failure of a motor carrier to apply for a registration card and identification marker
56-17-10	Failure to purchase a license, keep records, supply information when required by law
56-19-240	Application for certificate, form, and contents (vehicle title)
56-19-480	Transfer and surrender of certificates, license plates, registration cards, and manufacturers serial plates of vehicles sold as salvage, abandoned, scrapped, or destroyed--Second and subsequent offenses
56-31-50(C)	Rental company making a false report regarding certain personal property taxes
56-31-50(D)	Misrepresentation of the amount of personal property taxes on a private passenger motor vehicle or rental vehicle paid or the amount of surcharges collected
57-25-145(C)	Placing an outdoor sign advertising an adult or sexually-

	oriented business within one mile of a public highway
58-3-280	Restriction on employment of former commissioners by public utility
58-4-130	Restriction on outside employment of executive director
58-15-870	Injuring railroad or electric railway generally
58-15-1110	Violation by Railroads of Interstate Commerce Act
58-17-2760	Criminal penalty on individuals for violation of transportation of freight
58-17-4030	Injury due to negligence or carelessness of general railroad law
58-17-4050	Injury due to wilful violation of general railroad law
58-23-920	Insurance required of owners of motor vehicles transporting goods for hire--First offense
59-5-130	Members shall not contract with State Board of Education
59-69-260	Officials shall not acquire interest in claims or contracts (school funds)
61-2-240	Interference with an officer or use of abusive language by an officer or another person
61-4-1530	Operation of brewery or winery without permit
61-6-4010(B)(2)	Unlawful manufacture, possession or sale of alcoholic liquors--Second offense
61-6-4025(b)	Possession of unlawfully acquired or manufactured alcoholic liquors in a vehicle, vessel, or aircraft--Second offense
61-6-4030(b)	Transportation of alcoholic liquors in a taxi or other vehicle for hire--Second offense
61-6-4040(b)	Rendering aid in unlawful transportation of alcoholic liquor--Second offense
61-6-4060(B)(2)	Unlawful storage of alcoholic liquor in a place of business--Second offense
61-6-4100(b)	Manufacture, sale, or possession of unlawful distillery--Second offense
61-6-4110(b)	Knowingly permitting or allowing a person to locate an unlawful distillery on a premise--Second offense
61-6-4120(b)	Unlawful manufacture, transport, or possession of materials used in the manufacture of alcoholic liquors--Second offense
61-6-4130(b)	Present at a place where alcoholic liquors are unlawfully manufactured--Second offense
61-6-4150(b)	Unlawful sale of alcoholic liquor from a vehicle, vessel, or aircraft--Second offense
61-6-4160(b)	Unlawful sale of alcoholic liquors on Sundays, election days, and other days--Second offense
61-6-4170(B)(2)	Advertisement of alcoholic liquors from billboard--Second offense
61-6-4200	Unlawful disposal, rescue, or attempted disposal or rescue of alcoholic liquors
61-8-50	Violation of a restraining order against unlawful sale, barter, exchange, storage, or possession of alcoholic liquors
62-2-901	Destruction of or failure to deliver a will to a Judge of Probate
63-3-620	Contempt of court
63-5-20	Failure to provide reasonable support to a spouse or minor child
63-7-940	Dissemination of classified information
63-7-1990(A)	Dissemination of confidential reports
63-11-90	Violations of Article 1, Child Welfare Agencies
63-11-1350	Disclosure of confidential records
63-13-40(B)	Unlawful application for employment by an ex-convict

63-13-190(C)	Unlawful application for employment by ex-convict
63-13-420(F)	Application for operator license for childcare facilities when persons convicted of certain crimes
63-13-430(E)	Renewal application for operator license for childcare facilities when persons convicted of certain crimes
63-13-620(E), (F)	Application for statement of standard conformity or approval for childcare facilities when persons convicted of certain crimes
63-13-630(E), (G)	Renewal application for statement of standard conformity or approval for childcare facilities when persons convicted of certain crimes
63-13-820(E), (F)	Application for registration for childcare facilities when persons convicted of certain crimes
63-13-830(C), (D)	Renewal application for registration for childcare facilities when persons convicted of certain crimes
63-13-1010(D)	Application for license or registration of church and religious centers for childcare facilities when persons convicted of certain crimes
63-17-1070	Unlawful release of information

History

1993 Act No. 184, § 9; 1993 Act No. 164, Part II, § 19B; 1997 Act No. 80, § 8.

S.C. Code Ann. § 24-13-100

This document is current through all Legislation enacted in the 2012 Session The most current annotation is dated July 1, 2013

[South Carolina Code of Laws Annotated](#) > [TITLE 24.](#) > [CHAPTER 13.](#) > [ARTICLE 1.](#)

§ 24-13-100. Definition of no parole offense; classification.

For purposes of definition under South Carolina law, a "no parole offense" means a class A, B, or C felony or an offense exempt from classification as enumerated in [Section 16-1-10\(d\)](#), which is punishable by a maximum term of imprisonment for twenty years or more.

History

1995 Act No. 83, § 1.

SOUTH CAROLINA CODE OF LAWS ANNOTATED BY LEXISNEXIS®

S.C. Code Ann. § 24-13-150

This document is current through all Legislation enacted in the 2012 Session The most current annotation is dated July 1, 2013

[South Carolina Code of Laws Annotated](#) > [TITLE 24.](#) > [CHAPTER 13.](#) > [ARTICLE 1.](#)

§ 24-13-150. Early release, discharge, and community supervision; limitations; forfeiture of credits.

- (A) Notwithstanding any other provision of law, except in a case in which the death penalty or a term of life imprisonment is imposed, an inmate convicted of a "no parole offense" as defined in [Section 24-13-100](#) and sentenced to the custody of the Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement authorized by [Section 24-3-20](#) or [Section 24-3-30](#), is not eligible for early release, discharge, or community supervision as provided in [Section 24-21-560](#), until the inmate has served at least eighty-five percent of the actual term of imprisonment imposed. This percentage must be calculated without the application of earned work credits, education credits, or good conduct credits, and is to be applied to the actual term of imprisonment imposed, not including any portion of the sentence which has been suspended. Nothing in this section may be construed to allow an inmate convicted of murder or an inmate prohibited from participating in work release, early release, discharge, or community supervision by another provision of law to be eligible for work release, early release, discharge, or community supervision.
- (B) If an inmate sentenced to the custody of the Department of Corrections and confined in a facility of the department, confined in a local facility pursuant to a designated facility agreement authorized by [Section 24-3-20](#) or [Section 24-3-30](#), or temporarily confined, held, detained, or placed in a facility which is not under the direct control of the department, to include an inmate on a labor crew or any other assigned detail or placement, or an inmate in transport status, commits an offense or violates one of the rules of the institution during his term of imprisonment, all or part of the credit he has earned may be forfeited in the discretion of the Director of the Department of Corrections. If an inmate sentenced to a local detention facility or upon the public works of any county in this State, even when temporarily confined, held, detained, or placed in any facility which is not under the direct control of the local detention facility, to include an inmate on a labor crew or any other assigned detail or placement, or an inmate in transport status, commits an offense or violates one of the rules of the institution during his term of imprisonment, all or part of the credit he has earned may be forfeited in the discretion of the local official having charge of the inmate. The decision to withhold credits is solely the responsibility of officials named in this subsection.

History

1995 Act No. 83, § 3; [2010 Act No. 237, § 71](#), *eff* June 11, 2010.

S.C. Code Ann. § 24-13-210

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[South Carolina Code of Laws Annotated](#) > [TITLE 24.](#) > [CHAPTER 13.](#) > [ARTICLE 3.](#)

§ 24-13-210. Credit given inmates for good behavior.

- (A) An inmate convicted of an offense against this State, except a "no parole offense" as defined in [Section 24-13-100](#), and sentenced to the custody of the Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement authorized by [Section 24-3-20](#) or [Section 24-3-30](#), whose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined and has not been subjected to punishment for misbehavior, is entitled to a deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of twenty days for each month served. When two or more consecutive sentences are to be served, the aggregate of the several sentences is the basis upon which the good conduct credit is computed.
- (B) An inmate convicted of a "no parole offense" against this State as defined in [Section 24-13-100](#) and sentenced to the custody of the Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement authorized by [Section 24-3-20](#) or [Section 24-3-30](#), whose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined and has not been subjected to punishment for misbehavior, is entitled to a deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of three days for each month served. However, no inmate serving a sentence for life imprisonment or a mandatory minimum term of imprisonment for thirty years pursuant to [Section 16-3-20](#) is entitled to credits under this provision. No inmate convicted of a "no parole offense" is entitled to a reduction below the minimum term of incarceration provided in [Section 24-13-125](#) or [24-13-150](#). When two or more consecutive sentences are to be served, the aggregate of the several sentences is the basis upon which the good conduct credit is computed.
- (C) An inmate convicted of an offense against this State and sentenced to a local detention facility, or upon the public works of any county in this State, whose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined, and has not been subjected to punishment for misbehavior, is entitled to a deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of one day for every two days served. When two or more consecutive sentences are to be served, the aggregate of the several sentences is the basis upon which good conduct credits must be computed.
- (D) If an inmate sentenced to the custody of the Department of Corrections and confined in a facility of the department, confined in a local facility pursuant to a designated facility agreement authorized by [Section 24-3-20](#) or [Section 24-3-30](#), or temporarily confined, held, detained, or placed in any facility which is not under the direct control of the department, to include an inmate on a labor crew or any other assigned detail or placement, or an inmate in transport status, commits an offense or violates one of the rules of the facility during his term of imprisonment, all or part of the good conduct credit he has earned may be forfeited in the discretion of the Director of the Department of Corrections. If an in-

mate sentenced to a local detention facility or upon the public works of any county in this State, even when temporarily confined, held, detained, or placed in any facility that is not under the direct control of the local detention facility, to include a prisoner on a labor crew or any other assigned detail or placement, or a prisoner in transport status, commits an offense or violates one of the rules of the institution during his term of imprisonment, all or part of the good conduct credit he has earned may be forfeited in the discretion of the local official having charge of the inmate. The decision to withhold forfeited good conduct time is solely the responsibility of officials named in this subsection.

- (E) Any person who has served the term of imprisonment for which he has been sentenced less deductions allowed for good conduct is considered upon release to have served the entire term for which he was sentenced unless the person is required to complete a community supervision program pursuant to [Section 24-21-560](#). If the person is required to complete a community supervision program, he must complete his sentence as provided in [Section 24-21-560](#) prior to discharge from the criminal justice system.
- (F) No credits earned pursuant to this section may be applied in a manner which would prevent full participation in the Department of Probation, Parole and Pardon Services' pre-release or community supervision program as provided in [Section 24-21-560](#).

History

1962 Code § 55-8; 1952 Code § 55-8; 1942 Code § 1578; 1932 Code § 1578; Cr. C. '22 § 531; 1914 (28) 617; 1935 (39) 467; 1938 (40) 1833; 1955 (49) 475; 1956 (49) 1776; 1958 (50) 1910; 1959 (51) 123; 1960 (51) 1917; 1973 (58) 428; 1980 Act No. 513, § 1; 1986 Act No. 462, § 13; 1993 Act No. 181, § 437; 1995 Act No. 83, § 26; [2010 Act No. 237, § 72](#), *eff June 11, 2010*.

S.C. Code Ann. § 24-13-220

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[South Carolina Code of Laws Annotated](#) > [TITLE 24.](#) > [CHAPTER 13.](#) > [ARTICLE 3.](#)

§ 24-13-220. Time off for good behavior in cases of commuted or suspended sentences.

The provisions of [Section 24-13-210](#) shall also apply when a portion of a sentence which has been imposed is suspended. Credits earned for good conduct shall be deducted from and computed on the time the person is actually required to serve, and the suspended sentence shall begin on the date of his release from servitude as herein provided.

History

1962 Code § 55-9; 1952 Code § 55-9; 1942 Code § 1578; 1932 Code § 1578; Cr. C. '22 § 531; 1914 (28) 617; 1935 (39) 467; 1938 (40) 1833; 1947 (45) 105; 1995 Act No. 83, § 27.

SOUTH CAROLINA CODE OF LAWS ANNOTATED BY LEXISNEXIS®

S.C. Code Ann. § 24-13-230

This document is current through all Legislation enacted in the 2012 Session The most current annotation is dated July 1, 2013

[South Carolina Code of Laws Annotated](#) > [TITLE 24.](#) > [CHAPTER 13.](#) > [ARTICLE 3.](#)

§ 24-13-230. Reduction of sentence for productive duty assignment or participation in academic, technical, or vocational training program.

- (A) The Director of the Department of Corrections may allow an inmate sentenced to the custody of the department, except an inmate convicted of a "no parole offense" as defined in [Section 24-13-100](#), who is assigned to a productive duty assignment, including an inmate who is serving time in a local facility pursuant to a designated facility agreement authorized by [Section 24-3-20](#) or [Section 24-3-30](#) or who is regularly enrolled and actively participating in an academic, technical, or vocational training program, a reduction from the term of his sentence of zero to one day for every two days he is employed or enrolled. A maximum annual credit for both work credit and education credit is limited to one hundred eighty days.
- (B) The Director of the Department of Corrections may allow an inmate sentenced to the custody of the department serving a sentence for a "no parole offense" as defined in [Section 24-13-100](#), who is assigned to a productive duty assignment, including an inmate who is serving time in a local facility pursuant to a designated facility agreement authorized by [Section 24-3-20](#) or [Section 24-3-30](#) or who is regularly enrolled and actively participating in an academic, technical, or vocational training program, a reduction from the term of his sentence of six days for every month he is employed or enrolled. However, no prisoner serving a sentence for life imprisonment or a mandatory minimum term of imprisonment for thirty years pursuant to [Section 16-3-20](#) is entitled to credits under this provision. No prisoner convicted of a "no parole offense" is entitled to a reduction below the minimum term of incarceration provided in [Section 24-13-125](#) or [24-13-150](#). A maximum annual credit for both work credit and education credit is limited to seventy-two days.
- (C) No credits earned pursuant to this section may be applied in a manner which would prevent full participation in the Department of Probation, Parole and Pardon Services' pre-release or community supervision program as provided in [Section 24-21-560](#).
- (D) The amount of credit to be earned for each duty classification or enrollment must be determined by the director and published by him in a conspicuous place available to inmates at each correctional institution. If a prisoner commits an offense or violates one of the rules of the institution during his term of imprisonment, all or part of the work credit or education credit he has earned may be forfeited in the discretion of the Director of the Department of Corrections.
- (E) The official in charge of a local detention facility must allow an inmate sentenced to the custody of the facility who is assigned to a mandatory productive duty assignment a reduction from the term of his sentence of zero to one day for every two days so employed. The amount of credit to be earned for each duty classification must be determined by the official in charge of the local detention facility and published by him in a conspicuous place available to inmates.
- (F)

- (1) An individual is eligible for the educational credits provided for in this section only upon successful participation in an academic, technical, or vocational training program.
 - (2) The educational credit provided for in this section, is not available to any individual convicted of a violent crime as defined in [Section 16-1-60](#).
- (G) The South Carolina Department of Corrections may not pay any tuition for college courses.

History

1962 Code § 55-8.1; 1963 (53) 506; 1964 (53) 2165; 1969 (56) 273; 1974 (58) 2366; 1978 Act No. 496 § 16; 1986 Act No. 462, § 14; 1993 Act No. 181, § 438; 1995 Act No. 83, § 28; [2010 Act No. 237, § 73](#), *eff June 11, 2010*.

§ 24-21-610. Eligibility for parole., SC ST § 24-21-610

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-610

§ 24-21-610. Eligibility for parole.

Currentness

In all cases cognizable under this chapter the Board may, upon ten days' written notice to the solicitor and judge who participated in the trial of any prisoner, parole a prisoner convicted of a crime and imprisoned in the state penitentiary, in any jail, or upon the public works of any county who if:

(1) sentenced for not more than thirty years has served at least one-third of the term;

(2) sentenced to life imprisonment or imprisonment for any period in excess of thirty years, has served at least ten years.

If after January 1, 1984, the Board finds that the statewide case classification system provided for in Chapter 23 of this title has been implemented, that an intensive supervision program for parolees who require more than average supervision has been implemented, that a system for the periodic review of all parole cases in order to assess the adequacy of supervisory controls and of parolee participation in rehabilitative programs has been implemented, and that a system of contracted rehabilitative services for parolees is being furnished by public and private agencies, then in all cases cognizable under this chapter the Board may, upon ten days' written notice to the solicitor and judge who participated in the trial of any prisoner, to the victim or victims, if any, of the crime, and to the sheriff of the county where the prisoner resides or will reside, parole a prisoner who if sentenced for a violent crime as defined in § 16-1-60, has served at least one-third of the term or the mandatory minimum portion of sentence, whichever is longer. For any other crime the prisoner shall have served at least one-fourth of the term of a sentence or if sentenced to life imprisonment or imprisonment for any period in excess of forty years, has served at least ten years.

The provisions of this section do not affect the parole ineligibility provisions for murder, armed robbery, and drug trafficking as set forth respectively in §§ 16-3-20 and 16-11-330, and subsection (e) of § 44-53-370.

In computing parole eligibility, no deduction of time may be allowed in any case for good behavior, but after June 30, 1981, there must be deductions of time in all cases for earned work credits, notwithstanding the provisions of §§ 16-3-20, 16-11-330, and 24-13-230.

Notwithstanding the provisions of this section, the Board may parole any prisoner not sooner than one year prior to the prescribed date of parole eligibility when, based on medical information furnished to it, the Board determines that the physical condition of the prisoner concerned is so serious that he would not be reasonably expected to live for more than one year. Notwithstanding any other provision of this section or of law, no prisoner who has served a total of ten consecutive years or more in prison may be paroled until the Board has first received a report as to his mental condition and his ability to adjust to life outside the prison from a duly qualified psychiatrist or psychologist.

§ 24-21-610. Eligibility for parole., SC ST § 24-21-610

Credits

HISTORY: 1962 Code § 55-611; 1952 Code § 55-611; 1942 Code § 1038-10; 1942 (42) 1456; 1949 (46) 311; 1962 (52) 1887; 1963 (53) 241; 1972 (57) 2528; 1981 Act No. 100, § 9; 1984 Act No. 482, § 2; 1986 Act No. 462, § 35.

Editors' Notes

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Pardon and Parole 50.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 48 to 51.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Burglary § 7, Punishment.
S.C. Jur. Burglary § 9, Punishment.
S.C. Jur. Post-Conviction Relief § 5, Illegal Sentence.
S.C. Jur. Probation, Parole, and Pardon § 4, Powers and Duties of the Board.
S.C. Jur. Probation, Parole, and Pardon § 14, Summary of Parole Eligibility Calculations.
S.C. Jur. Probation, Parole, and Pardon § 15, Computation of Parole Eligibility Involving Deductions for Earned Work Credits, Education Credits, and Service Credits.
S.C. Jur. Probation, Parole, and Pardon § 18, Statutory Requirements.

LAW REVIEW AND JOURNAL COMMENTARIES

Penal Incarceration and Cruel and Unusual Punishment. 25 S.C. L. Rev. 579.
Sentencing. 24 S.C. L. Rev. 523.

Notes of Decisions (9)

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Code 1976 § 24-21-610, SC ST § 24-21-610
Current through End of 2012 Reg. Sess.

§ 24-21-615. Review of case of prisoner convicted of capital..., SC ST § 24-21-615

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Pardons and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-615

§ 24-21-615. Review of case of prisoner convicted of capital offense by Parole Board restricted.

Currentness

The board may not review the case of a prisoner convicted of a capital offense for the purpose of determining whether the person is entitled to any of the benefits provided in this chapter during the month of December of each year.

Credits

HISTORY: 1994 Act No. 286, § 1.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole  48.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 48 to 51.

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Code 1976 § 24-21-615, SC ST § 24-21-615
Current through End of 2012 Reg. Sess.

§ 24-21-620. Review by Board of prisoner's case after prisoner..., SC ST § 24-21-620

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Pardons and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-620

§ 24-21-620. Review by Board of prisoner's case after prisoner has served one fourth of sentence.

Currentness

Within the ninety-day period preceding a prisoner having served one-fourth of his sentence, the board, either acting in a three-member panel or meeting as a full board, shall review the case, regardless of whether or not any application has been made therefor, for the purpose of determining whether or not such prisoner is entitled to any of the benefits provided for in this chapter; provided, that in cases of prisoners in confinement due to convictions for nonviolent crimes, an administrative hearing officer may be appointed by the director to review the case who must submit to the full board written findings of fact and recommendations which shall be the basis for a determination by the board. Upon an affirmative determination, the prisoner must be granted a provisional parole or parole. Upon a negative determination, the prisoner's case shall be reviewed every twelve months thereafter for the purpose of such determination.

Credits

HISTORY: 1962 Code § 55-611.1; 1952 Code § 55-611.1; 1942 Code § 1038-10; 1942 (42) 1456; 1949 (46) 311; 1981 Act No. 100, § 10; 1991 Act No. 134, § 18; 1993 Act No. 181, § 473.

Editors' Notes

LIBRARY REFERENCES

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Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 48 to 51.

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S.C. Jur. Probation, Parole, and Pardon § 18, Statutory Requirements.

Notes of Decisions (10)

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Code 1976 § 24-21-620, SC ST § 24-21-620
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§ 24-21-620. Review by Board of prisoner's case after prisoner..., SC ST § 24-21-620

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§ 24-21-630. Effect of time served while awaiting trial upon..., SC ST § 24-21-630

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-630

§ 24-21-630. Effect of time served while awaiting trial upon
determination of time required to be served for eligibility for parole.

Currentness

For the purpose of determining the time required to be served by a prisoner before he shall be eligible to be considered for parole, notwithstanding any other provision of law, all prisoners shall be given benefit for time served in prison in excess of three months while awaiting trial or between trials.

Credits

HISTORY: 1962 Code § 55-611.2; 1968 (55) 2717.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole 50.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 48 to 51.

Notes of Decisions (1)

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Code 1976 § 24-21-630, SC ST § 24-21-630
Current through End of 2012 Reg. Sess.

§ 24-21-635. Earned work credits., SC ST § 24-21-635

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-635

§ 24-21-635. Earned work credits.

Currentness

For the purpose of determining the time required to be served by a prisoner before he shall be eligible to be considered for parole, notwithstanding any other provision of law, all prisoners shall be given benefit of earned work credits awarded pursuant to § 24-13-230.

Credits

HISTORY: 1978 Act No. 496, § 17; 1981 Act No. 100, § 11.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole  50.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 48 to 51.

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Code 1976 § 24-21-635, SC ST § 24-21-635
Current through End of 2012 Reg. Sess.

§ 24-21-640. Circumstances warranting parole; search and..., SC ST § 24-21-640

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-640

§ 24-21-640. Circumstances warranting parole; search and seizure; criteria;
reports of parolees; records subject to Freedom of Information Act.

Effective: April 28, 2010
Currentness

The board must carefully consider the record of the prisoner before, during, and after imprisonment, and no such prisoner may be paroled until it appears to the satisfaction of the board: that the prisoner has shown a disposition to reform; that in the future he will probably obey the law and lead a correct life; that by his conduct he has merited a lessening of the rigors of his imprisonment; that the interest of society will not be impaired thereby; and that suitable employment has been secured for him.

Before an inmate may be released on parole, he must agree in writing to be subject to search or seizure, without a search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or is driving, and any of the inmate's possessions by:

- (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or
- (2) any other law enforcement officer.

An inmate may not be granted parole release by the board if he fails to comply with this provision. However, an inmate who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the inmate agree to be subject to search or seizure, without a search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or is driving, or any of the inmate's possessions.

Immediately before each search or seizure pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency's policies and procedures.

The board must establish written, specific criteria for the granting of parole and provisional parole. This criteria must reflect all of the aspects of this section and include a review of a prisoner's disciplinary and other records. The criteria must be made

§ 24-21-640. Circumstances warranting parole; search and..., SC ST § 24-21-640

available to all prisoners at the time of their incarceration and the general public. The paroled prisoner must, as often as may be required, render a written report to the board giving that information as may be required by the board which must be confirmed by the person in whose employment the prisoner may be at the time. The board must not grant parole nor is parole authorized to any prisoner serving a sentence for a second or subsequent conviction, following a separate sentencing for a prior conviction, for violent crimes as defined in Section 16-1-60. Provided that where more than one included offense shall be committed within a one-day period or pursuant to one continuous course of conduct, such multiple offenses must be treated for purposes of this section as one offense.

Any part or all of a prisoner's in-prison disciplinary records and, with the prisoner's consent, records involving all awards, honors, earned work credits and educational credits, are subject to the Freedom of Information Act as contained in Chapter 4, Title 30.

Credits

HISTORY: 1981 Act No. 100, § 12; 1986 Act No. 462, § 30; 1962 Code § 55-612; 1952 Code § 55-612; 1942 Code § 1038-11; 1942 (42) 1456; 1949 (46) 311; 1981 Act No. 100, § 12; 1986 Act No. 462, § 30; 1990 Act No. 510, § 1; 2010 Act No. 151, § 12, eff April 28, 2010.

Editors' Notes

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Pardon and Parole 48.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 48 to 51.

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39 Am. Jur. Trials 157, Historical Aspects and Procedural Limitations of Federal Habeas Corpus.
Am. Jur. 2d Habeas Corpus § 109, Form and Content of Petition; Filing.
S.C. Jur. Constitutional Law § 101, Nature of Ex Post Facto Laws.
S.C. Jur. Post-Conviction Relief § 5, Illegal Sentence.
S.C. Jur. Probation, Parole, and Pardon § 12, Authority and Power to Grant or Deny Parole.
S.C. Jur. Probation, Parole, and Pardon § 16, Statutory Disqualifications from Parole Eligibility.
S.C. Jur. Probation, Parole, and Pardon § 18, Statutory Requirements.
S.C. Jur. Probation, Parole, and Pardon § 20, Conditions of Parole.

Notes of Decisions (24)

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Code 1976 § 24-21-640, SC ST § 24-21-640

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Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-645

§ 24-21-645. Parole and provisional parole orders; search and seizure; review schedule following parole denial of prisoners confined for violent crimes.

Effective: January 1, 2011
Currentness

(A) The board may issue an order authorizing the parole which must be signed either by a majority of its members or by all three members meeting as a parole panel on the case ninety days prior to the effective date of the parole; however, at least two-thirds of the members of the board must authorize and sign orders authorizing parole for persons convicted of a violent crime as defined in Section 16-1-60. A provisional parole order shall include the terms and conditions, if any, to be met by the prisoner during the provisional period and terms and conditions, if any, to be met upon parole.

(B) The conditions of parole must include the requirement that the parolee must permit the search or seizure, without a search warrant, with or without cause, of the parolee's person, any vehicle the parolee owns or is driving, and any of the parolee's possessions by:

- (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or
- (2) any other law enforcement officer.

However, the conditions of parole for a parolee who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the parolee agree to be subject to search or seizure, without a search warrant, with or without cause, of the parolee's person, any vehicle the parolee owns or is driving, or any of the parolee's possessions.

(C) By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. Immediately before each search or seizure pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement

§ 24-21-645. Parole and provisional parole orders; search and..., SC ST § 24-21-645

Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency's policies and procedures.

(D) Upon satisfactory completion of the provisional period, the director or one lawfully acting for him must issue an order which, if accepted by the prisoner, shall provide for his release from custody. However, upon a negative determination of parole, prisoners in confinement for a violent crime as defined in Section 16-1-60 must have their cases reviewed every two years for the purpose of a determination of parole, except that prisoners who are eligible for parole pursuant to Section 16-25-90, and who are subsequently denied parole must have their cases reviewed every twelve months for the purpose of a determination of parole. This subsection applies retroactively to a prisoner who has had a parole hearing pursuant to Section 16-25-90 prior to the effective date of this act.

Credits

HISTORY: 1981 Act. No. 100, § 13; 1986 Act No. 462, § 31; 1991 Act No. 134, § 19; 1993 Act No. 181, § 474; 1997 Act No. 120, § 4; 2010 Act No. 151, § 13, eff April 28, 2010; 2010 Act No. 273, § 58, eff January 1, 2011.

Editors' Notes

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Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 52 to 57.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Constitutional Law § 102, Constitutionality of Ex Post Facto Laws.
S.C. Jur. Probation, Parole, and Pardon § 18, Statutory Requirements.
S.C. Jur. Probation, Parole, and Pardon § 20, Conditions of Parole.

Notes of Decisions (9)

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Code 1976 § 24-21-645, SC ST § 24-21-645

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§ 24-21-650. Order of parole., SC ST § 24-21-650

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-650

§ 24-21-650. Order of parole.

Currentness

The board shall issue an order authorizing the parole which must be signed by at least a majority of its members with terms and conditions, if any, but at least two-thirds of the members of the board must sign orders authorizing parole for persons convicted of a violent crime as defined in Section 16-1-60. The director, or one lawfully acting for him, then must issue a parole order which, if accepted by the prisoner, provides for his release from custody. Upon a negative determination of parole, prisoners in confinement for a violent crime as defined in Section 16-1-60 must have their cases reviewed every two years for the purpose of a determination of parole.

Credits

HISTORY: 1962 Code § 55-613; 1952 Code § 55-613; 1942 Code § 1038-11; 1942 (42) 1456; 1949 (46) 311; 1977 Act No. 110, § 1; 1986 Act No. 462, § 32; 1988 Act No. 480, § 14; 1991 Act No. 134, § 1993 Act No. 181, § 475.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole  57.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 52 to 57.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Probation, Parole, and Pardon § 11, Definition, Nature, and Purpose of Parole.
S.C. Jur. Probation, Parole, and Pardon § 18, Statutory Requirements.

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Code 1976 § 24-21-650, SC ST § 24-21-650

Current through End of 2012 Reg. Sess.

§ 24-21-660. Effect of parole., SC ST § 24-21-660

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-660

§ 24-21-660. Effect of parole.

Currentness

Any prisoner who has been paroled is subject during the remainder of his original term of imprisonment, up to the maximum, to the conditions and restrictions imposed in the order of parole or by law imposed. Every such paroled prisoner must remain in the jurisdiction of the board and may at any time on the order of the board, be imprisoned as and where therein designated.

Credits

HISTORY: 1962 Code § 55-614; 1952 Code § 55-614; 1942 Code § 1038-11; 1942 (42) 1456; 1949 (46) 311; 1991 Act No. 134, § 21.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole 64 to 67.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 58 to 61.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Probation, Parole, and Pardon § 19, Effect of a Grant or Denial of Parole.

Notes of Decisions (3)

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Code 1976 § 24-21-660, SC ST § 24-21-660

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§ 24-21-670. Term of parole., SC ST § 24-21-670

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-670

§ 24-21-670. Term of parole.

Currentness

Any prisoner who may be paroled under authority of this chapter shall continue on parole until the expiration of the maximum term or terms specified in his sentence without deduction of such allowance for good conduct as may be provided for by law.

Credits

HISTORY: 1962 Code § 55-615; 1952 Code § 55-615; 1942 Code § 1038-12; 1942 (42) 1456.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole  67.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole § 61.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Probation, Parole, and Pardon § 19, Effect of a Grant or Denial of Parole.

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Code 1976 § 24-21-670, SC ST § 24-21-670

Current through End of 2012 Reg. Sess.

§ 24-21-680. Violation of parole., SC ST § 24-21-680

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-680

§ 24-21-680. Violation of parole.

Currentness

Upon failure of any prisoner released on parole under the provisions of this chapter to do or refrain from doing any of the things set forth and required to be done by and under the terms of his parole, the parole agent must issue a warrant or citation charging the violation of parole, and a final determination must be made by the board as to whether the prisoner's parole should be revoked and whether he should be required to serve any part of the remaining unserved sentence. But such prisoner must be eligible to parole thereafter when and if the board thinks such parole would be proper. The board shall be the sole judge as to whether or not a parole has been violated and no appeal therefrom shall be allowed; provided, that any person arrested for violation of terms of parole may be released on bond, for good cause shown, pending final determination of the violation by the Probation, Parole and Pardon Board. No bond shall be granted except by the presiding or resident judge of the circuit wherein the prisoner is arrested, or, if there be no judge within such circuit, by the judge, presiding or resident, in an adjacent circuit, and the judge granting the bond shall determine the amount thereof.

Credits

HISTORY: 1962 Code § 55-616; 1952 Code § 55-616; 1942 Code § 1038-11; 1942 (42) 1456; 1947 (45) 67; 1949 (46) 311; 1962 (52) 1887; 1965 (54) 306; 1991 Act No. 134, § 22.

Editors' Notes

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C.J.S. Pardon and Parole §§ 65 to 93.

RESEARCH REFERENCES

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S.C. Jur. Probation, Parole, and Pardon § 22, Revocation of Parole and Due Process Guarantees.

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Code 1976 § 24-21-680, SC ST § 24-21-680

§ 24-21-680. Violation of parole., SC ST § 24-21-680

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§ 24-21-690. Release after service of full time less good..., SC ST § 24-21-690

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Pardons and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-690

§ 24-21-690. Release after service of full time less good conduct deduction.

Currentness

Any person who shall have served the term for which he has been sentenced less deductions allowed therefrom for good conduct shall, upon release, be treated as if he had served the entire term for which he was sentenced.

Credits

HISTORY: 1962 Code § 55-617; 1952 Code § 55-617; 1942 Code § 1038-12; 1942 (42) 1456; 1955 (49) 475.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole 93.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole § 64.

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Code 1976 § 24-21-690, SC ST § 24-21-690

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§ 24-21-700. Special parole of persons needing psychiatric care., SC ST § 24-21-700

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-700

§ 24-21-700. Special parole of persons needing psychiatric care.

Currentness

Any prisoner who is otherwise eligible for parole under the provisions of this article, except that his mental condition is deemed by the Probation, Pardon and Parole Board to be such that he should not be released from confinement may, subject to approval by the Veterans Administration, be released to the custody of the Veterans Administration or to a committee appointed to commit such prisoner to a Veterans Administration Hospital. Such a special parole shall be granted in the sole discretion of the Board and, when so paroled, a prisoner shall be transferred directly from his place of confinement to a Veterans Administration Hospital which provides psychiatric care. When any prisoner paroled for psychiatric treatment is determined to be in a suitable condition to be released, he shall not be returned to penal custody except for a subsequent violation of the conditions of his parole.

Credits

HISTORY: 1962 Code § 55-618; 1968 (55) 2696.

Editors' Notes

LIBRARY REFERENCES

Pardon and Parole  64.
Westlaw Topic No. 284.
C.J.S. Pardon and Parole §§ 58 to 59.

LAW REVIEW AND JOURNAL COMMENTARIES

Dangerousness and the Mentally Ill Criminal. 21 S.C. L. Rev. 23.

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Code 1976 § 24-21-700, SC ST § 24-21-700

Current through End of 2012 Reg. Sess.

§ 24-21-715. Parole for terminally ill, geriatric, or permanently..., SC ST § 24-21-715

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Paroles and Pardons
Chapter 21. Probation, Parole and Pardon
Article 7. Parole; Release for Good Conduct

Code 1976 § 24-21-715

§ 24-21-715. Parole for terminally ill, geriatric, or permanently disabled inmates.

Effective: January 1, 2011
Currentness

(A) As contained in this section:

(1) "Terminally ill" means an inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that was unknown at the time of sentencing or, since the time of sentencing, has progressed to render the inmate terminally ill, and that will likely produce death within two years, and that is so debilitating that the inmate does not pose a public safety risk.

(2) "Geriatric" means an inmate who is seventy years of age or older and suffers from chronic infirmity, illness, or disease related to aging, which has progressed so the inmate is incapacitated as determined by a licensed physician to the extent that the inmate does not pose a public safety risk.

(3) "Permanently incapacitated" means an inmate who no longer poses a public safety risk because of a medical condition that is not terminal but that renders him permanently and irreversibly incapacitated as determined by a licensed physician and which requires immediate and long term residential care.

(B) Notwithstanding another provision of law, only the full parole board, upon a petition filed by the Director of the Department of Corrections, may order the release of an inmate who is terminally ill, geriatric, permanently incapacitated, or any combination of these conditions.

(C) The parole order issued by the parole board pursuant to this section must include findings of fact that substantiate a legal and medical conclusion that the inmate is terminally ill, geriatric, permanently incapacitated, or a combination of these conditions, and does not pose a threat to society or himself. It also must contain the requirements for the inmate's supervision and conditions for his participation and removal.

(D) An inmate granted a parole pursuant to this section is under the supervision of the Department of Probation, Parole and Pardon Services. The inmate must reside in an approved residence and abide by all conditions ordered by the parole board. The department is responsible for supervising an inmate's compliance with the conditions of the parole board's order as well as monitoring the inmate in accordance with the department's policies.

§ 24-21-715. Parole for terminally ill, geriatric, or permanently..., SC ST § 24-21-715

(E) The department shall retain jurisdiction for all matters relating to the parole granted pursuant to this section and conduct an annual review of the inmate's status to ensure that he remains eligible for parole pursuant to this section. If the department determines that the inmate is no longer eligible to participate in the parole set forth in this section, a probation agent must issue a warrant or citation charging a violation of parole and the board shall proceed pursuant to the provisions of Section 24-21-680.

Credits

HISTORY: 2010 Act No. 273, § 55, eff January 1, 2011.

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Code 1976 § 24-21-715, SC ST § 24-21-715

Current through End of 2012 Reg. Sess.

West's Tennessee Code Annotated
Title 40. Criminal Procedure
Chapter 28. Probation, Paroles and Pardons
Part 1. General Provisions

T. C. A. § 40-28-115

§ 40-28-115. Eligibility

Effective: July 1, 2012
Currentness

(a) Every person sentenced to an indeterminate sentence and confined in a state prison, after having served a period of time equal to the minimum sentence imposed by the court for the crime of which the person was convicted, shall be subject to the jurisdiction of the board. The time of release shall be discretionary with the board, but no such person shall be released before serving the minimum sentence nor before serving one (1) year.

(b)(1) Every person sentenced to a determinate sentence and confined in a state prison, after having served a period of time equal to one half (1/2) of the sentence imposed by the court for the crime for which the person was convicted, but in no event less than one (1) year, shall likewise be subject to parole in the same manner provided for those sentenced to an indeterminate sentence.

(2) The parole eligibility for each person who commits a crime on or after July 1, 1982, shall be determined by the criteria listed in the Criminal Sentencing Reform Act of 1982 [repealed].

(c) The action of the board in releasing prisoners shall be deemed a judicial function and shall not be reviewable if done according to law.

(d) If a prisoner has been accorded a bona fide offer of employment, the board may release the prisoner on probationary parole under either of the following conditions:

(1) At any time not more than six (6) months before the prisoner's date of eligibility for parole as provided in this chapter if, after all credit for good conduct, that eligibility shall occur more than eighteen (18) months and less than five (5) years from the date of sentence; or

(2) At any time not more than one (1) year before the prisoner's date of eligibility for parole as provided in this chapter if, after all credit for good conduct, that eligibility shall occur more than five (5) years from the date of sentence.

(e) The prisoner shall at all times during probationary parole be under the jurisdiction of the board and the supervision of the department. The board may revoke the probationary parole for any reason satisfactory to it.

§ 40-28-115. Eligibility, TN ST § 40-28-115

(f) Notwithstanding any other provision of this chapter relating to parole eligibility, and when acting pursuant to the Tennessee Contract Sentencing Act of 1979, compiled in chapter 34 of this title, the board of parole is authorized to release a prisoner on parole on the date specified in a sentencing agreement entered into by the prisoner, the board and the department of correction. In granting parole, the board may impose any conditions and limitations that the board deems necessary.

(g)(1) The general assembly declares it to be public policy that no person shall be granted parole, notwithstanding any law, rule or regulation to the contrary, until the person has successfully completed a test requiring that individual to master certain basic and other skills. The test shall include as a minimum requirement scoring at an eighth-grade reading level. This requirement shall not apply to any person certified by the commissioner of correction or the commissioner's designee as being so intellectually disabled or mentally ill as to be incapable of learning at the required levels. Furthermore, this subsection (g) shall not apply to the following:

(A) Persons who are incarcerated in county jails or workhouses;

(B) Persons who are in the custody of the department of correction for less than one (1) year; or

(C) Persons who have high school diplomas or the equivalent.

(2) The commissioner or the commissioner's designee, the board of parole and the state board of education shall jointly formulate policies and procedures to implement this subsection (g).

(3) This subsection (g) shall be inapplicable to any inmate or group of inmates if the commissioner determines that its effectuation will increase the system's inmate population and if the commissioner so certifies the determination to the governor.

(h)(1) The department of correction shall not certify an inmate for a parole grant hearing, other than an initial grant hearing, if, at the time the department of correction would otherwise have certified the inmate as eligible, the inmate is classified as close custody. This decertification shall continue for the duration of the classification, and for a period of one (1) year thereafter.

(2) The department of correction shall not certify an inmate for a parole grant hearing, other than an initial grant hearing, if, at the time the department of correction would otherwise have certified the inmate as eligible, the inmate is classified as maximum custody. This decertification shall continue for the duration of the classification, and for a period of two (2) years thereafter.

Credits

1937 Pub.Acts, c. 276, § 8; 1957 Pub.Acts, c. 162, § 1; 1974 Pub.Acts, c. 624, § 3; impl. am. by 1979 Pub.Acts, c. 359, §§ 5, 26; 1979 Pub.Acts, c. 359, § 17; 1979 Pub.Acts, c. 386, § 2; 1985 Pub.Acts, c. 254, § 1; 1985 Pub.Acts (1st Ex. Sess.), c. 5, § 25; 1989 Pub.Acts, c. 227, § 29; 1990 Pub.Acts, c. 1011, § 1; 1998 Pub.Acts, c. 743, §§ 1, 2, eff. July 1, 1998; 1998 Pub.Acts, c. 1049, §§ 24, 66, eff. May 18, 1998; 1999 Pub.Acts, c. 516, § 4, eff. June 17, 1999; 2011 Pub.Acts, c. 158, § 20, eff. May 5, 2011; 2012 Pub.Acts, c. 727, § 23, eff. July 1, 2012.

§ 40-28-115. Eligibility, TN ST § 40-28-115

Formerly Mod. 1950 Code Supp., § 11818.8; Williams' Code, § 11843.8; § 40-3612.

Editors' Notes

LIBRARY REFERENCES

Key Numbers

Pardon and Parole 48.

Westlaw Key Number Search: 284k48.

Corpus Juris Secundum

C.J.S. Pardon and Parole §§ 45 to 48.

Notes of Decisions (38)

T. C. A. § 40-28-115, TN ST § 40-28-115

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West's Tennessee Code Annotated
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T. C. A. § 40-28-116

§ 40-28-116. Release; powers and duties

Effective: July 1, 2012
Currentness

(a)(1) The board has the power to cause to be released on parole any person the department has declared eligible for parole consideration.

(2) No person convicted of a sex crime shall be released on parole unless a psychiatrist or licensed psychologist designated as a health service provider has evaluated the inmate and determined to a reasonable medical or psychological certainty that the inmate does not pose the likelihood of committing sexual assaults upon release from confinement. The evaluations shall be provided by psychiatrists or licensed psychologists designated as health service providers whose services are contracted for and funded by the board.

(b) Notwithstanding any other provision of this chapter relating to parole eligibility, and when acting pursuant to the Tennessee Contract Sentencing Act of 1979, compiled in chapter 34 of this title, the board is authorized to release a prisoner on parole on the date specified in a sentencing agreement entered into by the prisoner and the board. In granting parole, the board may impose any conditions and limitations that the board deems necessary.

Credits

1913 Pub.Acts, c. 8, § 3; impl. am. by 1915 Pub.Acts, c. 20, § 7; impl. am. by 1919 Pub.Acts, c. 39, § 2; impl. am. by 1923 Pub.Acts, c. 7, § 42; impl. am. by 1937 Pub.Acts, c. 276, §§ 1, 3; 1957 Pub.Acts, c. 353, § 1; 1961 Pub.Acts, c. 93, § 10; 1965 Pub.Acts, c. 273, §§ 1, 2; impl. am. by 1972 Pub.Acts, c. 636, § 1; 1973 Pub.Acts, c. 370, §§ 1, 2; 1974 Pub.Acts, c. 624, § 4; modified; impl. am. by 1979 Pub.Acts, c. 359, §§ 5, 26; 1979 Pub.Acts, c. 359, § 18; 1979 Pub.Acts, c. 386, § 3; 1985 Pub.Acts (1st Ex. Sess.), c. 5, § 26; 1989 Pub.Acts, c. 227, § 30; 1989 Pub.Acts, c. 591, § 8; 1992 Pub.Acts, c. 991, § 17; 1998 Pub.Acts, c. 1049, § 24, eff. May 18, 1998; 2012 Pub.Acts, c. 727, § 24, eff. July 1, 2012.

Editors' Notes

LIBRARY REFERENCES

Key Numbers

Pardon and Parole  45.1, 55.1.

Westlaw Key Number Searches: 284k45.1; 284k55.1.

§ 40-28-116. Release; powers and duties, TN ST § 40-28-116

Corpus Juris Secundum

C.J.S. Pardon and Parole §§ 41 to 44.

Notes of Decisions (58)

T. C. A. § 40-28-116, TN ST § 40-28-116

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T. C. A. § 40-28-117

§ 40-28-117. Grounds; terms

Currentness

(a) Parole being a privilege and not a right, no prisoner shall be released on parole merely as a reward for good conduct or efficient performance of duties assigned in prison, but only if the board is of the opinion that there is reasonable probability that the prisoner, if released, will live and remain at liberty without violating the law, and that the prisoner's release is not incompatible with the welfare of society. If the board so determines, the prisoner may be paroled and if paroled shall be allowed to go upon parole outside of prison walls and enclosure upon the terms and conditions as the board shall prescribe, but to remain while thus on parole in the legal custody of the warden of the prison or the supervisor of the county jail or workhouse from which the prisoner is paroled, until the expiration of parole. The terms and conditions of parole set by the board may specifically include the requirement that a prisoner pay restitution to the victims of the crimes for which the prisoner had been sentenced to prison, to compensate them for their personal injuries or property losses or both proximately caused through the commission of those crimes.

(b) Every prisoner who has never been granted a parole of any type by the board on a particular sentence of imprisonment shall be granted a mandatory parole by the board subject to the following restrictions:

(1) Prisoners serving an indeterminate or determinate sentence with a maximum term of two (2) years up to ten (10) years inclusive, as fixed by the court, shall be paroled by the board ninety (90) days prior to the completion of the maximum term of sentence less credit for good and honor time and incentive time;

(2) Prisoners serving a determinate or indeterminate sentence with a maximum term of more than ten (10) years as fixed by the court, shall be paroled by the board six (6) months prior to the completion of the maximum term of sentence less credit for good and honor time and incentive time;

(3) All prisoners mandatorily paroled shall be paroled under the provisions and conditions as the board may deem necessary. A violation of the provisions and conditions shall subject the prisoner to all the penalties and provisions of law now provided for violation of the terms of parole. Upon a violation, the prisoner shall not receive another mandatory parole, but may be paroled in the discretion of the board;

(4) Mandatory parole shall not be construed to grant parole earlier than set forth in §§ 40-28-115--40-28-119;

§ 40-28-117. Grounds; terms, TN ST § 40-28-117

(5) Every prisoner released on mandatory parole shall receive a money and clothing allowance, as set out in § 41-21-219, for prisoners released on parole; and

(6) Prisoners who have been convicted of a sex offense shall not be released on mandatory parole unless they have been evaluated and met the requirement described in § 40-28-116(a).

Credits

1937 Pub.Acts, c. 276, § 9; 1961 Pub.Acts, c. 93, § 11; 1974 Pub.Acts, c. 624, § 5; 1975 Pub.Acts, c. 99, § 1; 1979 Pub.Acts, c. 313, § 1; 1989 Pub.Acts, c. 227, §§ 31 to 33.

Formerly 1950 Code Supp., § 11818.9; Williams' Code, § 11843.9; § 40-3614.

Editors' Notes

LIBRARY REFERENCES

Key Numbers

Pardon and Parole 49, 64.

Westlaw Key Number Searches: 284k49; 284k64.

Corpus Juris Secundum

C.J.S. Pardon and Parole §§ 45 to 48, 55.

RESEARCH REFERENCES

ALR Library

61 ALR, Federal 135, United States Parole Commission Guidelines for Federal Prisoners.

Notes of Decisions (33)

T. C. A. § 40-28-117, TN ST § 40-28-117

Current with laws from the 2013 First Reg. Sess., eff. through April 25, 2013

§ 40-28-118. Release determination; violations of parole, TN ST § 40-28-118

West's Tennessee Code Annotated
Title 40. Criminal Procedure
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T. C. A. § 40-28-118

§ 40-28-118. Release determination; violations of parole

Effective: July 1, 2012
Currentness

(a) Subject to other provisions of law, the board is charged with the duty of determining what prisoners serving a felony sentence of more than two (2) years or consecutive felony sentences equaling a term greater than two (2) years in state prisons, jails and county workhouses may be released on parole and when and under what conditions.

(b) Deleted by 2012 Pub.Acts, c. 727, § 25, eff. July 1, 2012.

(c) When the director of probation and parole issues a warrant for the retaking of a parolee pursuant to § 40-28-607, the board is charged with determining whether violation of parole conditions exists in specific cases and of deciding the action to be taken in reference to the violation.

(d) It is also the duty of the members of the board to study the prisoners confined in the prisons, workhouses and jails when they are eligible for parole consideration so as to determine their ultimate fitness to be paroled.

(e) Deleted by 2012 Pub.Acts, c. 727, § 25, eff. July 1, 2012.

Credits

1937 Pub.Acts, c. 276, § 6; 1961 Pub.Acts, c. 93, § 12; 1974 Pub.Acts, c. 624, § 6; 1977 Pub.Acts, c. 22, § 1; 1979 Pub.Acts, c. 359, § 19; 1989 Pub.Acts, c. 227, §§ 34 to 36; 1990 Pub.Acts, c. 729, § 3; 1998 Pub.Acts, c. 1049, §§ 23, 25, eff. May 18, 1998; 2012 Pub.Acts, c. 727, § 25, eff. July 1, 2012.

Formerly 1950 Code Supp., § 11818.6; Williams' Code, § 11843.6; § 40-3615.

Editors' Notes

LIBRARY REFERENCES

Key Numbers

Pardon and Parole  55.1, 68.

Westlaw Key Number Searches: 284k55.1; 284k68.

§ 40-28-118. Release determination; violations of parole, TN ST § 40-28-118

Corpus Juris Secundum

C.J.S. Pardon and Parole §§ 42 to 44, 58.

Notes of Decisions (14)

T. C. A. § 40-28-118, TN ST § 40-28-118

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§ 40-28-121. Parole violations; arrests; procedures, TN ST § 40-28-121

West's Tennessee Code Annotated
Title 40. Criminal Procedure
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Part 1. General Provisions

T. C. A. § 40-28-121

§ 40-28-121. Parole violations; arrests; procedures

Effective: July 1, 2012
Currentness

(a) Upon the issuance of a warrant under § 40-28-607, any officer authorized to serve criminal process, or any peace officer to whom a warrant is delivered, shall execute the warrant by taking the prisoner and returning the prisoner to a prison, workhouse or jail to be held to await the action of the board.

(b) Deleted by 2012 Pub.Acts, c. 727, § 28, eff. July 1, 2012.

(c) Upon the arrest of a parolee pursuant to subsection (a), unless waived in writing, a preliminary hearing shall be conducted to determine whether probable cause exists to believe that the parolee has violated the conditions of parole in an important respect. Indictment by a grand jury or a finding of probable cause or a waiver of a probable cause hearing or a conviction in any federal or state court of competent jurisdiction for any felony or misdemeanor committed after parole shall constitute "probable cause" and no further proof shall be necessary at the preliminary hearing. If a parole revocation hearing is held within fourteen (14) days of the service of the warrant, a preliminary hearing will not be necessary.

(d) Written notice of the violations alleged and the time, place and purpose of the hearing shall be given the parolee a reasonable time before the hearing.

(e) The preliminary hearing shall be conducted by a hearing officer, appointed by the chair of the board.

Credits

1937 Pub.Acts, c. 276, § 11; 1949 Pub.Acts, c. 18, § 1; 1974 Pub.Acts, c. 624, § 8; 1978 Pub.Acts, c. 659, § 1; 1978 Pub.Acts, c. 929, § 4; 1979 Pub.Acts, c. 359, § 22; 1989 Pub.Acts, c. 227, § 40; 2012 Pub.Acts, c. 727, § 28, eff. July 1, 2012.

Formerly 1950 Code Supp., § 11818.11; Williams' Code, § 11843.11; § 40-3618.

Editors' Notes

LIBRARY REFERENCES

Key Numbers

§ 40-28-121. Parole violations; arrests; procedures, TN ST § 40-28-121

Pardon and Parole 80, 85, 87.

Westlaw Key Number Searches: 284k80; 284k85; 284k87.

Corpus Juris Secundum

C.J.S. Pardon and Parole §§ 67 to 73.

Notes of Decisions (4)

T. C. A. § 40-28-121, TN ST § 40-28-121

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West's Tennessee Code Annotated
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T. C. A. § 40-28-122

§ 40-28-122. Parole violations; hearings; appointment of attorneys

Effective: July 1, 2012
Currentness

(a) Deleted by 2012 Pub.Acts, c. 727, § 29, eff. July 1, 2012.

(b) When the director of probation and parole issues a warrant for the retaking of a parolee pursuant to § 40-28-607, the board is charged with determining whether violation of parole conditions exists in specific cases and of deciding the action to be taken in reference to the violation. After being notified that a warrant has been executed and a probable cause hearing has been held or waived, the board shall, as soon as practicable, hold a parole revocation hearing and consider the case of the parole violator, who shall be given an opportunity to appear personally before a board member or hearing officer and explain the charges made. A probable cause hearing shall not be necessary if a parole revocation hearing is held within fourteen (14) days of the service of the warrant.

(c) A laboratory report regarding a parolee's drug test may be admissible in any parole revocation proceeding, even though the laboratory technician who performed the test is not present to testify, when accompanied by an affidavit containing at least the following information:

- (1) The identity of the certifying technician;
- (2) A statement of qualifications from the certifying technician;
- (3) A specific description of the testing methodology;
- (4) A statement that the method of testing was the most accurate test for this particular drug;
- (5) A certification that the results were reliable and accurate;
- (6) A declaration that all established procedures and protocols were followed; and

§ 40-28-122. Parole violations; hearings; appointment of attorneys, TN ST § 40-28-122

(7) A statement of acknowledgment that submission of false information in the affidavit may subject the affiant to prosecution for the criminal offense of perjury pursuant to § 39-16-702.

(d)(1) The board shall, within a reasonable time, act upon the charges, and may, if it sees fit, require the prisoner to serve out in prison the balance of the maximum term for which the prisoner was originally sentenced, calculated from the date of delinquency or such part thereof, as it may determine, or impose the punishment as it deems proper, subject to § 40-28-123.

(2) At a revocation hearing for a prisoner paroled from a department of correction facility, the board may also, in conjunction with revocation of the prisoner's parole for reasons other than the commission of a new felony offense, reparole the prisoner effective upon the department's certification that the prisoner has successfully completed a diversion program established by the department of correction pursuant to § 41-1-123. If the offender fails to successfully complete the program, the offender shall be scheduled for a preparole rescission hearing.

(e)(1) In any revocation hearing conducted by the board, or in cases of initial preliminary hearings, the board is authorized to appoint legal counsel for an indigent individual where necessary in obedience to the requirements of the supreme court of the United States. For this purpose, the supreme court of Tennessee shall prescribe by rule the nature of costs for which reimbursement may be allowed, and the limitations on and conditions for the reimbursement of costs as it deems appropriate in the public interest, subject to this part. The rules shall also specify the form and content of applications for reimbursement of costs to be filed under this section.

(2) The administrative director of the courts shall administer this subsection (e) and rules promulgated pursuant to subdivision (e) (1), and shall audit and review all applications for reimbursement of cost. Upon finding payment to be in order, the administrative director of the courts shall process the payment thereof out of money appropriated for that purpose.

(f) Costs incurred by the state in providing legal counsel shall be minimized insofar as is possible and practicable by the appointment by the board of counsel from any legal services group functioning in the county in which the proceedings are held if the group is supported in whole or in part from federal, state, county or municipal moneys.

Credits

1937 Pub.Acts, c. 276, § 12; 1978 Pub.Acts, c. 929, § 5; 1989 Pub.Acts, c. 227, §§ 41, 42; 1993 Pub.Acts, c. 66, § 70, eff. March 22, 1993; 1998 Pub.Acts, c. 1049, § 25, eff. May 18, 1998; 2001 Pub.Acts, c. 323, § 1, eff. May 30, 2001; 2001 Pub.Acts, c. 355, § 1, eff. June 7, 2001; 2006 Pub.Acts, c. 666, § 2, eff. May 12, 2006; 2012 Pub.Acts, c. 727, §§ 29, 30, eff. July 1, 2012.

Formerly 1950 Code Supp., § 11818.12; Williams' Code, § 11843.12; § 40-3619.

Editors' Notes

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Westlaw Key Number Searches: 284k85 to 284k91.

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C.J.S. Pardon and Parole §§ 69 to 73, 75 to 78.

RESEARCH REFERENCES

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148 ALR 1243, Parolee's Right to Habeas Corpus.

Notes of Decisions (22)

T. C. A. § 40-28-122, TN ST § 40-28-122

Current with laws from the 2013 First Reg. Sess., eff. through April 25, 2013

§ 40-28-123. Felonies committed during parole, TN ST § 40-28-123

West's Tennessee Code Annotated
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T. C. A. § 40-28-123

§ 40-28-123. Felonies committed during parole

Effective: July 1, 2012
Currentness

(a) Any prisoner who is convicted in this state of a felony, committed while on parole from a state prison, jail or workhouse, shall serve the remainder of the sentence under which the prisoner was paroled, or part of that sentence, as the board may determine before the prisoner commences serving the sentence received for the felony committed while on parole. If any prisoner while on parole from a state prison, jail or workhouse commits a crime under the laws of another state government or country which, if committed within this state, would be a felony, and is convicted of the crime, the director of probation and parole shall arrange for the return of the prisoner through the terms of the interstate compact. The board shall require that the prisoner serve the portion remaining of the maximum term of sentence or part of that sentence as the board may determine. The board, at its discretion, may recommend to the commissioner of correction the removal of all or any part of the good and honor time and incentive time accrued on the sentence under which the prisoner was paroled.

(b)(1) Any prisoner who is convicted in this state of any felony except escape, and when the felony is committed while the prisoner is assigned to any work release, educational release, restitution release or other program whereby the prisoner enjoys the privilege of supervised release into the community, including, but not limited to, participation in any programs authorized by § 41-21-208 or § 41-21-227, the prisoner shall serve the remainder of the term without benefit of parole eligibility or further participation in any of these programs. The department shall have the authority to penalize or punish prisoners who escape from any of the above programs in accordance with department policy.

(2) As a prerequisite to any inmate's placement in a program described in subdivision (b)(1), the department shall read and provide the inmate with a copy of subdivision (b)(1). The inmate shall then give written acknowledgement of receipt of the copy and shall signify comprehension of the provisions contained in it. A permanent file, hardcopy or electronic, of these acknowledgements shall be maintained by the department.

Credits

1937 Pub.Acts, c. 276, § 13; 1961 Pub.Acts, c. 289, § 1; 1974 Pub.Acts, c. 624, § 9; 1978 Pub.Acts, c. 794, § 1; 1979 Pub.Acts, c. 359, § 23; 1985 Pub.Acts, c. 220, § 1; 1989 Pub.Acts, c. 227, §§ 43, 44; 1998 Pub.Acts, c. 1049, §§ 24, 25, eff. May 18, 1998; 2012 Pub.Acts, c. 727, § 31, eff. July 1, 2012.

Formerly 1950 Code Supp., § 11818.13; Williams' Code, § 11843.13; § 40-3620.

§ 40-28-123. Felonies committed during parole, TN ST § 40-28-123

Editors' Notes

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Key Numbers

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Westlaw Key Number Search: 284k72.

Corpus Juris Secundum

C.J.S. Pardon and Parole § 80.

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Notes of Decisions (16)

T. C. A. § 40-28-123, TN ST § 40-28-123

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§ 40-28-601. Supervision of parolees, TN ST § 40-28-601

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Title 40. Criminal Procedure
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T. C. A. § 40-28-601

§ 40-28-601. Supervision of parolees

Effective: July 1, 2012
Currentness

(a) The department is charged with the duty of supervising all prisoners released on parole from the prisons of the state, workhouses, jails or those accepted through the interstate compact, and of making investigation as may be necessary in connection therewith.

(b) A probation and parole officer may, with the consent of the director, suspend direct supervision of a parolee after a successful two-year period of supervision. The parolee shall continue on parole and be subject to all rules and conditions of parole. A parolee who violates the rules and conditions may be subject to reinstatement of direct supervision or revocation of parole.

Credits

2012 Pub.Acts, c. 727, § 43, eff. July 1, 2012.

T. C. A. § 40-28-601, TN ST § 40-28-601

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§ 40-28-607. Report of violation of parole; declaration of delinquency, TN ST § 40-28-607

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Part 6. Probation and Parole

T. C. A. § 40-28-607

§ 40-28-607. Report of violation of parole; declaration of delinquency

Effective: July 1, 2012
Currentness

(a) If the probation and parole officer having charge of a paroled prisoner has reasonable cause to believe that the prisoner has violated the conditions of parole in an important respect, the officer shall report the facts to the director of probation and parole. The director or the director's designee shall review the reports and may issue a warrant for the retaking of the prisoner if the director or the director's designee agrees that parole may have been violated in an important respect. The governor shall have the power to issue requisition for the person if the person has departed from the state.

(b) Whenever there is reasonable cause to believe that a parolee has violated parole and a parole violation warrant has been issued, the director of probation and parole may declare the parolee to be delinquent and the parolee will stop earning credit for service of the parolee's sentence from the date the warrant was issued until the removal of delinquency by the board.

Credits

2012 Pub.Acts, c. 727, § 43, eff. July 1, 2012.

T. C. A. § 40-28-607, TN ST § 40-28-607

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§ 40-28-608. Relief from further reports; permission to leave..., TN ST § 40-28-608

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Part 6. Probation and Parole

T. C. A. § 40-28-608

§ 40-28-608. Relief from further reports; permission to leave state or county

Effective: July 1, 2012
Currentness

The director may relieve a prisoner on parole from making further reports and may permit the prisoner to leave the state or county, if satisfied that this is for the best interests of society.

Credits

2012 Pub.Acts, c. 727, § 43, eff. July 1, 2012.

T. C. A. § 40-28-608, TN ST § 40-28-608

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§ 40-28-609. Final discharge of parolee, TN ST § 40-28-609

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Title 40. Criminal Procedure
Chapter 28. Probation, Paroles and Pardons
Part 6. Probation and Parole

T. C. A. § 40-28-609

§ 40-28-609. Final discharge of parolee

Effective: July 1, 2012
Currentness

(a) Whenever the director is satisfied that a parolee has kept the conditions of parole in a satisfactory manner, the director shall issue to the parolee a certificate of final discharge. This final discharge from parole will be granted only after a parolee has completed the maximum sentence imposed, less diminution allowed for good and honor time and incentive time and sentence credits earned and retained. If a parolee is not eligible for a certificate of discharge because of a pending violation, parole will expire at the end of the maximum sentence less diminution for good and honor time, incentive time and sentence credits earned and retained, plus delinquent time.

(b) This is in no way to be construed as permitting a discharge from parole for parolees with a life sentence.

Credits

2012 Pub.Acts, c. 727, § 43, eff. July 1, 2012.

T. C. A. § 40-28-609, TN ST § 40-28-609

Current with laws from the 2013 First Reg. Sess., eff. through April 25, 2013

§ 40-28-610. Special alternative incarceration, TN ST § 40-28-610

West's Tennessee Code Annotated
Title 40. Criminal Procedure
Chapter 28. Probation, Paroles and Pardons
Part 6. Probation and Parole

T. C. A. § 40-28-610

§ 40-28-610. Special alternative incarceration

Effective: July 1, 2012
Currentness

(a) In addition to any other terms or conditions of probation, the trial judge may provide that probationers sentenced to a period of time of not less than one (1) year nor more than six (6) years on probation as a condition of probation must satisfactorily complete a program of incarceration in a special alternative incarceration unit of the department for a period of ninety (90) days from the time of initial incarceration in the unit. Notwithstanding any other provision of the law to the contrary, these probationers shall not be entitled to have their time in the special alternative incarceration unit reduced by sentence credits of any sort.

(b) Before a court can place this condition upon the sentence, the director of probation and parole must certify to the sentencing court that the probationer is qualified for the treatment in that the individual is not physically or mentally handicapped in a way that would prevent the individual from strenuous physical activity, that the individual has no obvious contagious diseases, that the individual is not less than seventeen (17) years of age nor more than twenty-five (25) years of age at the time of sentencing, and that the department has approved the placement of the individual in the special alternative incarceration unit.

(c) In every case where an individual is sentenced under the terms of this section, the clerk of the sentencing court shall, within five (5) working days, mail to the department a certified copy of the sentence and indictment, a personal history statement, and an affidavit of the custodian provided by the sheriff of the county.

(d) The department will arrange with the sheriff's office in the county of incarceration to have the individual delivered to the designated facility within a specific date not less than fifteen (15) days after receipt by the department of the documents provided by the clerk of the court under this section.

(e) At any time during the individual's incarceration in the unit, but at least five (5) days prior to the individual's expected date of release, the department will certify to the trial court whether the individual has satisfactorily completed this condition of probation.

(f) Upon the receipt of a satisfactory report of performance in the program from the department, the trial court shall release the individual from confinement in the special alternative incarceration unit. However, the receipt of an unsatisfactory report will be grounds for revocation of the probated sentence as would any other violation of a condition or term of probation.

§ 40-28-610. Special alternative incarceration, TN ST § 40-28-610

(g) This section shall be subject to funding availability and availability of a suitable facility within the department.

(h) Nothing in this section shall be construed to limit the current authority of a trial judge to sentence a defendant to an initial period of incarceration at a jail or workhouse as a condition of probation in accordance with the Criminal Sentencing Reform Act of 1982 [repealed] or the Criminal Sentencing Reform Act of 1989, when applicable, compiled in chapter 35 of this title, or in conjunction with a community-based program in accordance with the Tennessee Community Corrections Act of 1985, compiled in chapter 36 of this title.

Credits

2012 Pub.Acts, c. 727, § 43, eff. July 1, 2012.

T. C. A. § 40-28-610, TN ST § 40-28-610

Current with laws from the 2013 First Reg. Sess., eff. through April 25, 2013

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Tenn. Code Ann. § 40-35-501

Current through the 2012 Regular Session Annotations current through April 15, 2013 for the Tennessee Supreme Court

[Tennessee Code Annotated](#) > [Title 40](#) > [Chapter 35](#) > [Part 5](#)

40-35-501. Release eligibility status -- Calculations.

(a)

- (1) A felony sentence to the department of correction or to a local jail or workhouse shall be served according to this chapter. An inmate shall not be eligible for parole until reaching the inmate's release eligibility date; provided, that nothing in this section shall be construed as prohibiting the offender, in the discretion of the commissioner or sheriff, from participating in work crews that are under direct guard supervision.
- (2) Except for inmates who receive sentences of imprisonment for life without possibility of parole, only inmates with felony sentences of more than two (2) years or consecutive felony sentences equaling a term greater than two (2) years shall be eligible for parole consideration.
- (3) Notwithstanding any other provision of law, inmates with felony sentences of two (2) years or less shall have the remainder of their original sentence suspended upon reaching their release eligibility date. The release shall not occur for sentences of two (2) years or less when the sentences are part of a consecutive sentence whose term is greater than two (2) years. The department of correction shall notify the district attorney general and the appropriate sheriff, jail administrator, workhouse superintendent or warden of the release eligibility date of all felons with sentences of two (2) years or less in the institution.
- (4) No inmate shall be released under this section until at least ten (10) days after receipt of all sentencing documents by the department and ten (10) days after the department has sent notice of the release eligibility dates to the district attorney general and the appropriate sheriff, jail administrator, workhouse superintendent or warden.
- (5) Suspension of sentence in this manner shall be to probation supervision under terms and conditions established by the department.
- (6)
 - (A) The district attorney general or the appropriate sheriff, jail administrator, workhouse superintendent or warden acting through the district attorney general may file a petition with the sentencing court requesting denial of suspension of sentence based on disciplinary violations during time served in the institution. The district attorney general may file a petition with the sentencing court requesting denial of suspension of sentence based on the offender's threat to public safety as indicated by a pattern of prior violent or drug-related criminal behavior evidenced by convictions for at least two (2) crimes against the person or two (2) drug offenses under [§ 39-17-417](#). The district attorney general shall promptly send a copy of any petition filed under this subsection (a) to the appropriate sheriff, jail administrator, workhouse superintendent, warden and defense attorney.
 - (B) The court may deny suspension for the remainder of the sentence or any portion of the sentence after a hearing to determine the merits of the petition. The hearing shall be held within twenty (20) days of filing or the petition is deemed to be de-

nied and may be continued by the court for reasonable cause. The inmate may petition the court for review of the denial of probation after sixty (60) days have elapsed since a hearing denying release under this subsection (a). There shall be no appeal from a court order or judgment under this subsection (a). Upon denial of suspension of sentence the clerk of the court shall promptly notify the department.

(7)

- (A)** The court is authorized to revoke probation pursuant to the revocation proceedings of [§ 40-35-311](#). If the sentencing court revokes probation, the sentencing court may cause the defendant to commence the execution of the judgment as originally entered, less any credit for time served, plus any sentence credits earned and retained by the inmate. Any defendant whose probation has been revoked pursuant to this subsection (a) is not eligible for release on the same sentence pursuant to the terms of subdivision (a)(3).
- (B)** Nothing in subdivision (a)(7)(A) prohibits the sentencing court from:
- (i)** Suspending the original sentence at any time prior to its expiration, notwithstanding whether the offender is incarcerated in a local jail or a prison; or
 - (ii)** Resentencing the defendant for the remainder of the unexpired sentence to any community-based alternative to incarceration authorized by chapter 36 of this title; provided, that the violation of probation is a technical one and does not involve the commission of a new offense.
- (b)** Release eligibility for each defendant sentenced as an especially mitigated offender shall occur after service of either twenty percent (20%) or thirty percent (30%) of the actual sentence imposed, less sentence credits earned and retained by the defendant. The percentage of service shall be stated on the judgment order. If the order is silent, release eligibility shall occur after service of twenty percent (20%) of the actual sentence imposed.
- (c)** Release eligibility for each defendant sentenced as a Range I standard offender shall occur after service of thirty percent (30%) of the actual sentence imposed less sentence credits earned and retained by the defendant.
- (d)** Release eligibility for each defendant sentenced as a Range II multiple offender shall occur after service of thirty-five percent (35%) of the actual sentence imposed less sentence credits earned and retained by the defendant.
- (e)** Release eligibility for each defendant sentenced as a Range III persistent offender shall occur after service of forty-five percent (45%) of the actual sentence imposed less sentence credits earned and retained by the defendant.
- (f)** Release eligibility for each defendant sentenced as a career offender shall occur after service of sixty percent (60%) of the actual sentence imposed less sentence credits earned and retained by the defendant.
- (g)** There shall be no release eligibility for a defendant receiving a sentence of imprisonment for life without parole as a repeat violent offender.
- (h)**
- (1)** Release eligibility for each defendant receiving a sentence of imprisonment for life for first degree murder shall occur after service of sixty percent (60%) of sixty (60) years less sentence credits earned and retained by the defendant, but in no event shall

a defendant sentenced to imprisonment for life be eligible for parole until the defendant has served a minimum of twenty-five (25) full calendar years of the sentence, notwithstanding the governor's power to reduce prison overcrowding pursuant to title 41, chapter 1, part 5, any sentence reduction credits authorized by [§ 41-21-236](#) or any other provision of law relating to sentence credits. A defendant receiving a sentence of imprisonment for life for first degree murder shall be entitled to earn and retain sentence credits, but the credits shall not operate to make the defendant eligible for release prior to the service of twenty-five (25) full calendar years.

- (2) There shall be no release eligibility for a defendant receiving a sentence of imprisonment for life without possibility of parole for first degree murder.
- (i)
 - (1) There shall be no release eligibility for a person committing an offense, on or after July 1, 1995, that is enumerated in subdivision (i)(2). The person shall serve one hundred percent (100%) of the sentence imposed by the court less sentence credits earned and retained. However, no sentence reduction credits authorized by [§ 41-21-236](#) or any other provision of law, shall operate to reduce the sentence imposed by the court by more than fifteen percent (15%).
 - (2) The offenses to which subdivision (i)(1) applies are:
 - (A) Murder in the first degree;
 - (B) Murder in the second degree;
 - (C) Especially aggravated kidnapping;
 - (D) Aggravated kidnapping;
 - (E) Especially aggravated robbery;
 - (F) Aggravated rape;
 - (G) Rape;
 - (H) Aggravated sexual battery;
 - (I) Rape of a child;
 - (J) Aggravated arson;
 - (K) Aggravated child abuse;
 - (L) Aggravated rape of a child;
 - (M) Sexual exploitation of a minor involving more than one hundred (100) images;
 - (N) Aggravated sexual exploitation of a minor involving more than twenty-five (25) images; or
 - (O) Especially aggravated sexual exploitation of a minor.
 - (3) Nothing in this subsection (i) shall be construed as affecting, amending or altering [§ 39-13-523](#), which requires child sexual predators, aggravated rapists, child rapists and multiple rapists to serve the entire sentence imposed by the court undiminished by any sentence reduction credits.
 - (j) There shall be no release eligibility for a person committing a violation of [§ 39-17-1324\(a\)](#) or (b) on or after January 1, 2008, until the person has served one hundred per-

cent (100%) of the minimum mandatory sentence established in [§ 39-17-1324\(a\)](#) or (b) and imposed by the court less sentence credits earned and retained; however, no sentence reduction credits authorized by [§ 41-21-236](#) or any other law shall operate to reduce the mandatory minimum sentence imposed by the court by more than fifteen percent (15%).

(k)

- (1)** There shall be no release eligibility for a person committing aggravated robbery, as defined in [§ 39-13-402\(a\)\(1\)](#), on or after July 1, 2010, until the person has served eighty-five percent (85%) of the sentence imposed by the court less sentence credits earned and retained. However, no sentence reduction credits authorized by [§ 41-21-236](#), or any other provision of law, shall operate to reduce below seventy percent (70%) the percentage of sentence imposed by the court such person must serve before becoming release eligible.
- (2)** There shall be no release eligibility for a person committing aggravated robbery, as defined in [§ 39-13-402](#), on or after January 1, 2008, if the person has at least one (1) prior conviction for aggravated robbery, as defined in [§ 39-13-402](#), or especially aggravated robbery, as defined in [§ 39-13-403](#). The person shall serve one hundred percent (100%) of the sentence imposed by the court less sentence credits earned and retained; however, no sentence reduction credits authorized by [§ 41-21-236](#) or any other provision of law shall operate to reduce the sentence imposed by the court by more than fifteen percent (15%).
- (3)**

 - (A)** "Prior conviction" means, for purposes of this section, unless the context otherwise requires, that the person serves and is released or discharged from, or is serving, a separate period of incarceration or supervision for the commission of an aggravated robbery or especially aggravated robbery prior to or at the time of committing an aggravated robbery on or after January 1, 2008.
 - (B)** "Prior conviction" includes convictions under the laws of any other state, government or country that, if committed in this state, would constitute the offense of aggravated robbery. If an offense involving a robbery accomplished by use of a firearm in a jurisdiction other than this state is not identified as aggravated robbery or especially aggravated robbery in this state, it shall be considered a prior conviction if the elements of the felony are the same as the elements for aggravated robbery or especially aggravated robbery.
- (4)** "Separate period of incarceration or supervision" includes a sentence to any of the sentencing alternatives set out in [§ 40-35-104\(c\)\(3\)-\(9\)](#). An aggravated robbery shall be considered as having been committed after a separate period of incarceration or supervision if the aggravated robbery is committed while the person was:

 - (A)** On probation, parole or community correction supervision for an aggravated robbery or especially aggravated robbery;
 - (B)** Incarcerated for an aggravated robbery or especially aggravated robbery;
 - (C)** Assigned to a program whereby the person enjoys the privilege of supervised release into the community, including, but not limited to, work release, educational release, restitution release or medical furlough for an aggravated robbery or especially aggravated robbery; or

- (D) On escape status from any correctional institution when incarcerated for an aggravated robbery or especially aggravated robbery.
- (l) The release eligibility date provided for in this section is separately calculated for each offense for which a defendant is convicted. For consecutive sentences, the periods of ineligibility for release are calculated for each sentence and are added together to determine the release eligibility date for the consecutive sentences.
- (m) The release eligibility date provided for in this section is the earliest date an inmate convicted of a felony is eligible for parole. The date is conditioned on the inmate's good behavior while in prison. For a violation of any of the rules of the department of correction or institution in which the inmate is incarcerated or while on any release program other than parole, the commissioner or the commissioner's designees may defer the release eligibility date so as to increase the total amount of time an inmate must serve before becoming eligible for parole. This increase may, in the discretion of the commissioner, be in any amount of time not to exceed the full sentence originally imposed by the court and shall be imposed pursuant to regulations promulgated by the commissioner that give notice of the length of discretionary increases that may be imposed for a violation of each of the rules of the department or institution.
- (n)
- (1) The department of correction shall not certify an inmate for a parole grant hearing, other than an initial grant hearing, if, at the time the department of correction would otherwise have certified the inmate as eligible, the inmate is classified as close custody. The decertification shall continue for the duration of the classification and for a period of one (1) year thereafter.
- (2) The department of correction shall not certify an inmate for a parole grant hearing, other than an initial grant hearing, if, at the time the department of correction would otherwise have certified the inmate as eligible, the inmate is classified as maximum custody. The decertification shall continue for the duration of the classification and for a period of two (2) years thereafter.
- (o) Extensions in the release eligibility date provided for in this section and in other sections of this chapter shall only be imposed following a hearing conducted in accordance with due process of law.
- (p) Notwithstanding any other provision of this chapter relating to release eligibility and when acting pursuant to the Tennessee Contract Sentencing Act of 1979, compiled in chapter 34 of this title, the board of parole is authorized to grant a prisoner parole as specified in a sentence agreement entered into by the prisoner and the board. In granting the parole, the board may impose any conditions and limitations that the board deems necessary.
- (q) Notwithstanding any other provision of the law to the contrary, the department is responsible for calculating the sentence expiration date and the release eligibility date of any felony offender sentenced to the department and any felony offender sentenced to confinement in a local jail or workhouse for one (1) or more years.
- (r) To assist the department in fulfilling the duty specified in subsection (o), the clerk of the court shall send a copy of each judgment document for a felony conviction to the department. These copies shall be forwarded to the department no less than one (1) time each month so that all judgments rendered in one (1) calendar month have been received by the department by the fifteenth day of the following month.

History

Acts 1989, ch. 591, § 6; 1990, ch. 729, § 1; 1991, ch. 374, § 6; 1993, ch. 221, § 1; 1993, ch. 473, §§ 3, 9; 1994, ch. 994, § 4; 1995, ch. 492, § 1; 1998, ch. 743, §§ 3, 4; 1999, ch. 516, § 6; 2001, ch. 53, § 3; 2006, ch. 890, § 24; [2007, ch. 525, § 2](#); 2007, ch. 528, § 3; 2007, ch. 594, § 4; [2009, ch. 203, § 1](#); [2010, ch. 1090, § 3](#); [2012, ch. 727, §§ 44, 45](#); [2012, ch. 1073, § 6](#).

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Tenn. Code Ann. § 40-35-503

Current through the 2012 Regular Session Annotations current through April 15, 2013 for the Tennessee Supreme Court

[Tennessee Code Annotated](#) > [Title 40](#) > [Chapter 35](#) > [Part 5](#)

40-35-503. Authority to determine release status of felon -- Grounds for denying release status -- Hearings -- Parole potential.

- (a) The board of parole has the authority to parole inmates with felony sentences of more than two (2) years or consecutive felony sentences equaling a term greater than two (2) years.
- (b) Release on parole is a privilege and not a right, and no inmate convicted shall be granted parole if the board finds that:
 - (1) There is a substantial risk that the defendant will not conform to the conditions of the release program;
 - (2) The release from custody at the time would depreciate the seriousness of the crime of which the defendant stands convicted or promote disrespect for the law;
 - (3) The release from custody at the time would have a substantially adverse effect on institutional discipline; or
 - (4) The defendant's continued correctional treatment, medical care or vocational or other training in the institution will substantially enhance the defendant's capacity to lead a law-abiding life when given release status at a later time.
- (c) No person convicted of a sex crime shall be released on parole unless a psychiatrist or licensed psychologist designated as a health service provider has examined and evaluated the inmate and certified that, to a reasonable medical certainty, the inmate does not pose the likelihood of committing sexual assaults upon release from confinement. The examination and evaluation shall be provided by psychiatrists or licensed psychologists designated as health service providers whose services are contracted or funded by the department of correction or the board of parole. The board shall consider any other evaluation by a psychiatrist or licensed psychologist designated as a health service provider that may be provided by the defendant.
- (d)
 - (1) The board shall conduct a hearing within a reasonable time prior to a defendant's release eligibility date to determine a defendant's fitness for parole.
 - (2) At the hearing, the board shall permit the video testimony of the immediate family members of the victim of a defendant's criminal offense relative to the fitness of the defendant for parole, if the family members are unable to attend the hearing. The board may, by rule, establish reasonable guidelines as to what constitutes a family member being unable to attend a hearing.
- (e) The board shall notify the district attorney general and the sentencing court or their successors of the eligibility hearing in the manner provided for in [§ 40-28-107\(c\)](#).
- (f) If the board determines that a defendant should be released on parole, it shall furnish reasons for that decision to the district attorney general who prosecuted the defendant, the chief law enforcement official of the agency that prosecuted the case and the judge who tried that defendant or to their successors, upon their request.

- (g) In determining whether an inmate should be granted parole, the board shall consider as a factor the extent to which the inmate has attempted to improve the inmate's educational, vocational or employment skills through available department of correction programs while the inmate was incarcerated. The board shall have the right to deny parole to an inmate who has made no attempt to improve such skills while incarcerated.

History

Acts 1989, ch. 591, § 6; 1990, ch. 729, § 2; 1990, ch. 980, § 34; 1992, ch. 991, § 18; 1993, ch. 235, § 1; 1994, ch. 730, § 2; [2012, ch. 727, § 58](#).

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Tenn. Code Ann. § 40-35-504

Current through the 2012 Regular Session Annotations current through April 15, 2013 for the Tennessee Supreme Court

[Tennessee Code Annotated](#) > [Title 40](#) > [Chapter 35](#) > [Part 5](#)

40-35-504. Release classification status programs -- Parole -- Penalty for violation of parole.

- (a) When the board of parole determines that an eligible inmate should be granted parole, the inmate may be placed on supervised parole under the prescribed conditions and in accordance with [§ 40-28-118](#). If it is determined that an eligible inmate should not be granted parole, the board shall thereupon inform the inmate, in writing, of the date the inmate will be reconsidered for parole.
- (b) A defendant convicted of a felony who has been admitted to parole shall be supervised by the department of correction and shall make periodic reports to an assigned parole officer for not less than one (1) year. Thereafter, the defendant may be relieved from making any further periodic reports if the parole officer, with the consent of the director of probation and parole, determines that:
 - (1) The defendant has abided by the terms of parole in a satisfactory manner;
 - (2) There is a reasonable likelihood that the defendant will remain at liberty without violating the law; and
 - (3) Relief from further periodic reporting is not incompatible with the welfare of society.
- (c) A defendant relieved from reporting shall still be considered to be within the jurisdiction of the board and the department of correction or the local jail or workhouse authorities and shall be subject to termination of parole status for the remainder of the sentence originally imposed. The director of probation and parole may reinstitute required periodic reporting at any time.
- (d) A defendant who violates the terms of parole is subject to the terms of [§§ 40-28-120 -- 40-28-123](#), which shall govern the termination of parole.
- (e) If a defendant who has been placed on parole is convicted of a felony committed while on parole, the board, in its discretion, may revoke the defendant's parole and require the defendant to serve the remainder of the sentence originally imposed, or a portion of the original sentence as the board may determine, before the defendant begins serving the sentence for the crime committed while on parole.
- (f) Upon revocation of supervised or unsupervised parole by the board under subsection (d) or (e), the time a defendant spent on parole shall not be considered as service of the sentence unless the board determines to grant all or part of the time to the defendant.

History

Acts 1989, ch. 591, § 6; [2012, ch. 727, § 59](#).

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Tenn. Code Ann. § 40-35-505

Current through the 2012 Regular Session Annotations current through April 15, 2013 for the Tennessee Supreme Court

[Tennessee Code Annotated](#) > [Title 40](#) > [Chapter 35](#) > [Part 5](#)

40-35-505. Orientation to post-release or parole issues.

Before the release of an inmate under this chapter, the department of correction shall conduct an orientation for the inmate concerning relevant post-release or parole issues. As a part of the department's existing orientation program, the orientation shall address issues of restoration of citizenship, voting and the availability of services relating to education, employment, family and child support. Specific attention shall be given to, but not limited to, general equivalency diplomas and adult education, access to health care and health insurance, reinstatement of licenses and voting rights and food stamps.

History

Acts 2004, ch. 752, § 1.

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Tenn. Code Ann. § 41-2-111

Current through the 2012 Regular Session Annotations current through April 15, 2013 for the Tennessee Supreme Court

[Tennessee Code Annotated](#) > [Title 41](#) > [Chapter 2](#)

41-2-111. Sentence to hard labor -- Good time credit -- Disciplinary review board.

- (a) In all cases where a person is by law liable to be imprisoned in the county jail for punishment or for failure to pay a fine, that person shall be sentenced to be confined, and shall be confined, at hard labor in the county workhouse until the expiration of the sentence of imprisonment or, subject to the limitations imposed by [§ 40-24-104](#), until the fine has been worked out, paid or secured to be paid.
- (b) Each such prisoner who has been sentenced to the county jail or workhouse for any period of time less than one (1) year on either a misdemeanor or a felony, and who behaves uprightly, shall have deducted from the sentence imposed by the court time equal to one quarter (1/4) of the sentence. In calculating the amount of good time credit earned, the one-quarter reduction shall apply to the entire sentence, including pre-trial and post-trial confinement. Fractions of a day's credit for good time of one half (1/2) or more shall be considered a full day's credit. If any prisoner violates the rules and regulations of the jail or workhouse, or otherwise behaves improperly, the sheriff or superintendent of the institution may revoke all or any portion of the prisoner's good time credit; provided, that the prisoner is given a hearing in accordance with due process before a disciplinary review board and is found to have violated the rules and regulations of the institution.
- (c)
- (1) The disciplinary review board for each institution shall be composed of six (6) impartial members, one (1) or more of whom may be members of the jail or workhouse staff.
 - (2) The members of the disciplinary review board, which is created by this section, shall be appointed by the sheriff or superintendent of the jail or workhouse where the institution is located, subject to approval by the county legislative body.
 - (3) Members shall serve for a period of two (2) years, except that appointments made to fill unexpired terms shall be for the period of the unexpired terms.
 - (4) No less than one (1) and no more than three (3) of the members of the disciplinary review board are required to transact the business authorized by this section.
 - (5) The county legislative body is authorized to establish the rate of compensation for such board members. In any county having a population of more than seven hundred thousand (700,000) according to the 1980 federal census or any subsequent federal census, the provisions of this subsection (c) shall not apply.
 - (6) Members of the board, while acting in good faith, shall not be subject to civil liability relative to the performance of duties delegated to the board by this section.
- (d) The prisoner shall be given notice of the disciplinary hearing and shall have the right to call witnesses in the prisoner's behalf. The decisions of the disciplinary review board for workhouse inmates may be appealed to the sheriff or workhouse superintendent.

History

Acts 1891, ch. 123, § 12; Shan., § 7417; Code 1932, § 12026; Acts 1967, ch. 103, § 1; impl. am. Acts 1978, ch. 934, §§ 16, 36; 1982, ch. 940, § 1; T.C.A. (orig. ed.), § 41-1219; Acts 1986, ch. 744, §§ 4-9; 1995, ch. 315, § 1; 2005, ch. 307, § 1.

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Tenn. Code Ann. § 41-2-123

Current through the 2012 Regular Session Annotations current through April 15, 2013 for the Tennessee Supreme Court

[Tennessee Code Annotated](#) > [Title 41](#) > [Chapter 2](#)

41-2-123. Road work by prisoners -- Credit for time worked -- Grants for litter abatement -- Governmental immunity.

- (a) All prisoners sentenced to the county workhouse under the provisions of [§ 40-23-104](#) or former [§ 40-35-311](#) shall be worked on the county roads under the supervision of the chief administrative officer of the county highway department, when, in the opinion of the chief administrative officer, a sufficient number are available to pay the county for the necessary expense incurred for keeping and caring for them. The prisoners may be utilized by municipalities within the county by mutual agreement between the county sheriff or superintendent of the county workhouse and the chief executive officer of the municipality.
- (b)
- (1) When any prisoner has been sentenced to imprisonment in a county workhouse or county jail for a period not to exceed eleven (11) months and twenty-nine (29) days, the sheriff of the county or the superintendent of the county workhouse, or both, are authorized to permit the prisoner to work on the county roads or within municipalities within the county on roads, parks, public property, public easements or alongside public waterways up to a maximum of fifty feet (50') from the shoreline.
- (2) It is the duty of the prisoners to pick up and collect litter, trash and other miscellaneous items unsightly to the public that have accumulated on the county roads. All prisoners participating in this work program shall be under the supervision of the county sheriff or the sheriff's representative or the superintendent of the county workhouse or the superintendent's representative. Prisoners utilized by a municipality shall be supervised by representatives of the municipality. The prisoners may be utilized by the municipalities for such duties or manual labor as the municipality deems appropriate.
- (3) Work performed by the prisoner under this subsection (b) shall be credited toward reduction of the prisoner's sentence in the following manner: for each one (1) day worked on the road by the prisoner, the prisoner's sentence shall be reduced by two (2) days.
- (c) The commissioner of transportation is authorized to make grants to the several counties of the state, either through the office of sheriff or that of county mayor, or other appropriate official, for the purpose of funding programs for the collection of litter and trash along county, state and interstate roads and highways within the respective counties. The grants may provide for the use of labor of prisoners sentenced to the county workhouse and may fund expenses, including, but not limited to, salaries, administration and the purchase, maintenance and operation of equipment. Not more than ten percent (10%) of the funds awarded by a grant under this subsection (c) shall be expended for the purpose of advertising or promoting a litter and trash collection program, and no part of such funds shall be used to purchase supplies, materials or equipment displaying the name or likeness of the administrator of such program or of any other individual. Local county officials and other recipients may submit applications outlining a plan for litter abatement, which may include recycling programs, to the department of transportation. All applications shall be subject to prior review and approval by the governor or designated agent.

(d)

- (1)** Neither the state nor any municipality, county or political subdivision of the state, nor any employee or officer thereof, shall be liable to any person for the acts of any prisoner while on a work detail, while being transported to or from a work detail, while attempting an escape from a work detail or after escape from a work detail.
- (2)** Except as provided in § 9-8-209 [repealed], neither the state nor any municipality, county or political subdivision of the state, nor any employee or officer thereof, shall be liable to any prisoner or prisoner's family for death or injuries received while on a work detail, other than for medical treatment for the injury during the period of the prisoner's confinement.

History

Acts 1915, ch. 107, § 2; Shan., § 7207a2; Code 1932, § 11794; modified; impl. am. Acts 1978, ch. 934, §§ 16, 36; Acts 1979, ch. 249, §§ 1, 2; 1981, ch. 93, §§ 1, 2; 1981, ch. 290, § 1; 1981, ch. 307, § 4; T.C.A. (orig. ed.), § 41-1231; Acts 1983, ch. 98, §§ 1-5; 1986, ch. 744, §§ 18, 19; 1989, ch. 511, § 2; 2003, ch. 90, § 2; 2004, ch. 907, § 1.

TENNESSEE CODE ANNOTATED

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§ 498.002. Classification and Reclassification, TX GOVT § 498.002

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 498. Inmate Classification and Good Time (Refs & Annos)

V.T.C.A., Government Code § 498.002

§ 498.002. Classification and Reclassification

Currentness

The department shall classify each inmate as soon as practicable on the inmate's arrival at the institutional division or a transfer facility and, subject to the requirements of Section 498.005, shall reclassify the inmate as circumstances warrant. Each inmate must be classified according to the inmate's conduct, obedience, and industry. The department shall maintain a record on each inmate showing each classification and reclassification of the inmate with the date and reason for each classification or reclassification. The department may classify each inmate on the inmate's arrival at the institutional division or a transfer facility in a time-earning category that does not allow the inmate to earn more than 30 days' good conduct time for each 30 days actually served.

Credits

Added by Acts 1989, 71st Leg., ch. 212, § 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code § 497.002 and amended by Acts 1991, 72nd Leg., ch. 16, § 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, § 11.03, eff. Aug. 29, 1991; Acts 1995, 74th Leg., ch. 249, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, § 1.047, eff. Sept. 1, 1995.

Notes of Decisions (4)

V. T. C. A., Government Code § 498.002, TX GOVT § 498.002

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§ 498.003. Accrual of Good Conduct Time, TX GOVT § 498.003

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 498. Inmate Classification and Good Time (Refs & Annos)

V.T.C.A., Government Code § 498.003

§ 498.003. Accrual of Good Conduct Time

Currentness

(a) Good conduct time applies only to eligibility for parole or mandatory supervision as provided by Section 508.145 or 508.147 and does not otherwise affect an inmate's term. Good conduct time is a privilege and not a right. Regardless of the classification of an inmate, the department may grant good conduct time to the inmate only if the department finds that the inmate is actively engaged in an agricultural, vocational, or educational endeavor, in an industrial program or other work program, or in a treatment program, unless the department finds that the inmate is not capable of participating in such a program or endeavor.

(b) An inmate accrues good conduct time according to the inmate's classification in amounts as follows:

(1) 20 days for each 30 days actually served while the inmate is classified as a trusty, except that the department may award the inmate not more than 10 extra days for each 30 days actually served;

(2) 20 days for each 30 days actually served while the inmate is classified as a Class I inmate; and

(3) 10 days for each 30 days actually served while the inmate is classified as a Class II inmate.

(c) An inmate may not accrue good conduct time during any period the inmate is classified as a Class III inmate or is on parole or under mandatory supervision.

(d) An inmate may accrue good conduct time, in an amount determined by the department that does not exceed 15 days for each 30 days actually served, for diligent participation in an industrial program or other work program or for participation in an agricultural, educational, or vocational program provided to inmates by the department. For the purposes of this subsection, the term "participation in an educational program" includes the participation of the inmate as a tutor or a pupil in a literacy program authorized by Section 501.005. The department may not award good conduct time under this subsection for participation in a literacy program unless the department determines that the inmate participated in good faith and with diligence as a tutor or pupil.

(e) If a person is confined in a county jail, the department shall award good conduct time to the person up to an amount equal to the amount earned by an inmate in the entry level time earning class. The department shall award good conduct time to a defendant for diligent participation in a voluntary work program operated by a sheriff under Article 43.101, Code of Criminal

§ 498.003. Accrual of Good Conduct Time, TX GOVT § 498.003

Procedure, in the same manner as if the inmate had diligently participated in an industrial program or other work program provided to inmates by the department. The sheriff of each county shall have attached a certification of the number of days each inmate diligently participated in the volunteer work program operated by the sheriff under Article 43.101, Code of Criminal Procedure.

(f) Repealed by Acts 1999, 76th Leg., ch. 1188, § 1.37(b), eff. Sept. 1, 1999.

Credits

Added by Acts 1989, 71st Leg., ch. 212, § 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code § 497.003 and amended by Acts 1991, 72nd Leg., ch. 16, § 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 86, § 2, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 988, § 1.05, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 249, § 3, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, § 1.048, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, § 12.11, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1430, § 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1188, § 1.37(a), (b), eff. Sept. 1, 1999.

Notes of Decisions (42)

V. T. C. A., Government Code § 498.003, TX GOVT § 498.003

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§ 498.004. Forfeiture and Restoration of Good Conduct Time, TX GOVT § 498.004

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 498. Inmate Classification and Good Time (Refs & Annos)

V.T.C.A., Government Code § 498.004

§ 498.004. Forfeiture and Restoration of Good Conduct Time

Effective: September 1, 2009
Currentness

(a) If, during the actual term of imprisonment of an inmate in the department or in a transfer facility, the inmate commits an offense or violates a rule of the department, the department may forfeit all or any part of the inmate's accrued good conduct time or, in accordance with the policy adopted under Subsection (c), place all or any part of the inmate's accrued good conduct time in suspension. The department may not restore good conduct time forfeited under this subsection but may reinstate good conduct time suspended under this subsection.

<Text of subsec. (b), as amended by Acts 1995, 74th Leg., ch. 249, § 4>

(b) On the revocation of parole or mandatory supervision of an inmate, the inmate forfeits all good conduct time previously accrued. On return to the institutional division the inmate may accrue new good conduct time for subsequent time served in the division. The department may not restore good conduct time forfeited on a revocation.

<Text of subsec. (b), as amended by Acts 1995, 74th Leg., ch. 321, § 1.049>

(b) On the revocation of parole or mandatory supervision of an inmate, the inmate forfeits all good conduct time previously accrued. On return to the institutional division the inmate may accrue new good conduct time for subsequent time served in the division. The department may restore good conduct time forfeited on a revocation that does not involve a new criminal conviction after the inmate has served at least three months of good behavior in the institutional division, subject to policies established by the division.

(c) The department shall establish a policy regarding the suspension of good conduct time under Subsection (a). The policy must provide that:

(1) the department will consider the severity of an inmate's offense or violation in determining whether to suspend all or part of the inmate's good conduct time instead of forfeiting the inmate's good conduct time;

(2) during any period of suspension, good conduct time placed in suspension may not be used:

§ 498.004. Forfeiture and Restoration of Good Conduct Time, TX GOVT § 498.004

(A) for purposes of granting privileges to an inmate; or

(B) to compute an inmate's eligibility for parole under Section 508.145 or to determine an inmate's date of release to mandatory supervision under Section 508.147;

(3) at the conclusion of any period of suspension, the department may forfeit or reinstate the good conduct time placed in suspension based on the inmate's conduct during the period of the suspension; and

(4) in determining whether to forfeit or reinstate good conduct time placed in suspension, the department must consider whether any impact to public safety is likely to result from the inmate's release on parole or to mandatory supervision if the good conduct time is reinstated.

Credits

Added by Acts 1989, 71st Leg., ch. 212, § 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code § 497.004 and amended by Acts 1991, 72nd Leg., ch. 16, § 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 249, § 4, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, § 1.049, eff. Sept. 1, 1995; Acts 2009, 81st Leg., ch. 1251, § 1, eff. Sept. 1, 2009.

Notes of Decisions (1)

V. T. C. A., Government Code § 498.004, TX GOVT § 498.004

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§ 498.005. Annual Review of Classification; Retroactive Award..., TX GOVT § 498.005

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Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 498. Inmate Classification and Good Time (Refs & Annos)

V.T.C.A., Government Code § 498.005

§ 498.005. Annual Review of Classification; Retroactive Award of Good Time

Currentness

At least annually, the board shall review the institutional division's policies relating to the manner in which inmates are classified and reclassified, and the manner in which additional good conduct time is awarded retroactively to inmates who have been reclassified.

Credits

Added by Acts 1989, 71st Leg., ch. 212, § 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code § 497.005 and amended by Acts 1991, 72nd Leg., ch. 16, § 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, § 11.04, eff. Aug. 29, 1991; Acts 1995, 74th Leg., ch. 249, § 5, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, § 1.050, eff. Sept. 1, 1995.

Notes of Decisions (3)

V. T. C. A., Government Code § 498.005, TX GOVT § 498.005

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§ 499.025. Award of Administrative Good Conduct Time;..., TX GOVT § 499.025

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Subtitle G. Corrections
Chapter 499. Population Management; Special Programs (Refs & Annos)
Subchapter B. Population Management

V.T.C.A., Government Code § 499.025

§ 499.025. Award of Administrative Good Conduct Time; Advancement of Parole Eligibility Date

Currentness

(a) If the inmate population of the institutional division reaches 99 percent or more of capacity, the director shall immediately notify the executive director and the board in writing of that fact. Until the inmate population is reduced to less than 99 percent of capacity, the director shall make a weekly written report to the executive director and the board stating the extent to which the inmate population is less than, equal to, or in excess of capacity.

(b) If the inmate population of the institutional division reaches 100 percent of capacity or, if the attorney general has authorized an increase in the permissible percentage of capacity under Section 499.109, the inmate population reaches that increased permissible percentage, the director shall immediately notify the executive director, the board, and the attorney general in writing of that fact. The attorney general shall certify to the board in writing as to whether the institutional division has reached 100 percent of capacity or, if applicable, the increased permissible percentage. If the attorney general certifies that 100 percent of capacity has been reached or, if applicable, that the increased permissible percentage has been reached, the board shall immediately certify that an emergency overcrowding situation exists and direct the Board of Pardons and Paroles to proceed in the manner described by Subsection (c). If the Commission on Jail Standards determines that in any county jail in this state there exists an inmate awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom all paperwork and processing required for transfer have been completed for not less than 45 days, the board may direct the Board of Pardons and Paroles to proceed in the manner described by Subsection (c).

(c) If the Board of Pardons and Paroles receives a directive from the board under Subsection (b), the Board of Pardons and Paroles acting in parole panels, shall immediately begin to review and consider for early release to intensive supervision parole each eligible inmate who would not at the time of review otherwise be eligible for parole. The board may impose additional criteria for determining which inmates are eligible for release under this subsection. A parole panel may not release an inmate under this subsection if the panel determines that the release of the inmate will increase the likelihood of harm to the public, according to objective parole criteria.

Credits

Added by Acts 1989, 71st Leg., ch. 212, § 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code § 498.025 and amended by Acts 1991, 72nd Leg., ch. 16, § 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., ch. 655, § 1, eff. June 16, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 10, § 17.02, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 107, § 4.10, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 318, § 71(a), eff. Sept. 1, 1997.

§ 499.025. Award of Administrative Good Conduct Time;..., TX GOVT § 499.025

Notes of Decisions (2)

V. T. C. A., Government Code § 499.025, TX GOVT § 499.025

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§ 499.026. Release Procedure, TX GOVT § 499.026

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Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 499. Population Management; Special Programs (Refs & Annos)
Subchapter B. Population Management

V.T.C.A., Government Code § 499.026

§ 499.026. Release Procedure

Effective: September 1, 2011
Currentness

(a) If a parole panel releases an inmate under this subchapter, the panel shall impose conditions and limitations as appropriate on the parolee and to the extent practicable shall maximize placements in residential treatment centers. The parole panel shall otherwise place a parolee released under this subchapter under intensive supervision parole, whether or not the parolee is of a type who would ordinarily be required to submit to intensive supervision parole.

(b) The authority of the board to take the actions listed in Section 499.025(b) continues until the attorney general, or if appropriate, the Commission on Jail Standards, certifies in writing to the board that the overcrowding crisis that produced the emergency certification under Section 499.025(b) has been resolved. If the board receives this certification from the attorney general or the Commission on Jail Standards under this subsection, the board shall immediately notify the pardons and paroles division that the emergency overcrowding situation no longer exists.

(c) An inmate released to parole under this subchapter is subject to terms and conditions imposed on parolees released under Chapter 508.

(d) Not later than the 10th day before the date on which a parole panel proposes to release an inmate under this subchapter, the department shall give notice of the proposed release to the sheriff, the attorney representing the state, and the district judge of the county in which the defendant was convicted. If there was a change of venue in the case, the department shall also notify the sheriff, the attorney representing the state, and the district judge of the county in which the prosecution was originated. Any notice required by this subsection must be provided by e-mail or other electronic communication.

Credits

Added by Acts 1989, 71st Leg., ch. 212, § 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code § 498.026 and amended by Acts 1991, 72nd Leg., ch. 16, § 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, § 17.02, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 321, § 1.056, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, § 12.15, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., ch. 1123 (H.B. 200), § 3, eff. Sept. 1, 2011.

V. T. C. A., Government Code § 499.026, TX GOVT § 499.026

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§ 499.026. Release Procedure, TX GOVT § 499.026

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§ 499.027. Eligible Inmates, TX GOVT § 499.027

Vernon's Texas Statutes and Codes Annotated
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Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 499. Population Management; Special Programs (Refs & Annos)
Subchapter B. Population Management

V.T.C.A., Government Code § 499.027

§ 499.027. Eligible Inmates

Effective: September 1, 2011
Currentness

(a) Except as provided by Subsection (b) and subject to the conditions imposed by this subchapter, an inmate is eligible under this subchapter to be considered for release to intensive supervision parole if the inmate is awaiting transfer to the institutional division following conviction of a felony or probation revocation and for whom paperwork and processing required for transfer have been completed or is classified as a state approved Trusty I, II, III, or IV, and:

(1) is serving a sentence of 10 years or less;

(2) does not have a history of or has not shown a pattern of violent or assaultive behavior in the institutional division or county jail or prior to confinement; and

(3) will not increase the likelihood of harm to the public if released, according to objective parole criteria as determined by a parole panel.

(b) An inmate is not eligible under this subchapter to be considered for release to intensive supervision parole if:

(1) the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure;

(2) the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense listed in one of the following sections of the Penal Code:

(A) Section 19.02 (murder);

(B) Section 19.03 (capital murder);

§ 499.027. Eligible Inmates, TX GOVT § 499.027

- (C) Section 19.04 (manslaughter);
- (D) Section 20.03 (kidnapping);
- (E) Section 20.04 (aggravated kidnapping);
- (F) Section 21.11 (indecenty with a child);
- (G) Section 22.011 (sexual assault);
- (H) Section 22.02 (aggravated assault);
- (I) Section 22.021 (aggravated sexual assault);
- (J) Section 22.04 (injury to a child, elderly individual, or disabled individual);
- (K) Section 25.02 (prohibited sexual conduct);
- (L) Section 25.08 (sale or purchase of a child);
- (M) Section 28.02 (arson);
- (N) Section 29.02 (robbery);
- (O) Section 29.03 (aggravated robbery);
- (P) Section 30.02 (burglary), if the offense is punished as a first-degree felony under that section;
- (Q) Section 43.04 (aggravated promotion of prostitution);
- (R) Section 43.05 (compelling prostitution);
- (S) Section 43.24 (sale, distribution, or display of harmful material to minor);

§ 499.027. Eligible Inmates, TX GOVT § 499.027

(T) Section 43.25 (sexual performance by a child);

(U) Section 46.10 (deadly weapon in penal institution);

(V) Section 15.01 (criminal attempt), if the offense attempted is listed in this subsection;

(W) Section 15.02 (criminal conspiracy), if the offense that is the subject of the conspiracy is listed in this subsection;

(X) Section 15.03 (criminal solicitation), if the offense solicited is listed in this subsection;

(Y) Section 21.02 (continuous sexual abuse of young child or children); or

<Text of subsec. (b)(2)(Z), as added by Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 5.01>

(Z) Section 20A.02 (trafficking of persons); or

<Text of subsec. (b)(2)(Z), as added by Acts 2011, 82nd Leg., ch. 122 (H.B. 3000), § 8>

(Z) Section 20A.03 (continuous trafficking of persons); or

(3) the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense under Chapter 481, Health and Safety Code, punishable by a minimum term of imprisonment or a maximum fine that is greater than the minimum term of imprisonment or the maximum fine for a first degree felony.

(c) The department shall provide each county with necessary assistance to enable the county to identify inmates confined in the county jail who may be eligible under this subchapter to be considered for release.

Credits

Added by Acts 1989, 71st Leg., ch. 212, § 2.01, eff. Sept. 1, 1989. Renumbered from V.T.C.A., Government Code § 498.027 and amended by Acts 1991, 72nd Leg., ch. 16, § 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, § 17.02, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 321, § 1.057, eff. Sept. 1, 1995; Acts 2007, 80th Leg., ch. 593, § 3.36, eff. Sept. 1, 2007; Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 5.01, eff. Sept. 1, 2011; Acts 2011, 82nd Leg., ch. 122 (H.B. 3000), § 8, eff. Sept. 1, 2011.

V. T. C. A., Government Code § 499.027, TX GOVT § 499.027

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§ 508.002. Clemency, Commutation Distinguished, TX GOVT § 508.002

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Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter A. General Provisions

V.T.C.A., Government Code § 508.002

§ 508.002. Clemency, Commutation Distinguished

Currentness

Neither parole nor mandatory supervision is a commutation of sentence or any other form of clemency.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997.

Notes of Decisions (4)

V. T. C. A., Government Code § 508.002, TX GOVT § 508.002

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§ 498.0042. Forfeiture for Contacting Victims, TX GOVT § 498.0042

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Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 498. Inmate Classification and Good Time (Refs & Annos)

V.T.C.A., Government Code § 498.0042

§ 498.0042. Forfeiture for Contacting Victims

Effective: September 1, 2011
Currentness

(a) The department shall adopt policies that prohibit an inmate in the institutional division or in a transfer facility from contacting by letter, telephone, or any other means, either directly or indirectly, a victim of the offense for which the inmate is serving a sentence or a member of the victim's family, if:

(1) the victim was younger than 17 years of age at the time of the commission of the offense; and

(2) the department has not, before the inmate makes contact:

(A) received written consent to the contact from:

(i) a parent of the victim or the member of the victim's family, other than the inmate;

(ii) a legal guardian of the victim or the member of the victim's family; or

(iii) the victim or the member of the victim's family, if the victim is 17 years of age or older at the time of giving the consent; and

(B) provided the inmate with a copy of the consent.

(b) If, during the actual term of imprisonment of an inmate in the institutional division or a transfer facility, the inmate violates a policy adopted under Subsection (a) or an order entered under Article 42.24, Code of Criminal Procedure, the department shall forfeit all or any part of the inmate's accrued good conduct time. The department may not restore good conduct time forfeited under this subsection.

(c) In this section, "family" has the meaning assigned by Section 71.003, Family Code.

§ 498.0042. Forfeiture for Contacting Victims, TX GOVT § 498.0042

Credits

Added by Acts 1997, 75th Leg., ch. 666, § 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 670, § 7, eff. Sept. 1, 1997. Amended by Acts 2011, 82nd Leg., ch. 491 (H.B. 1028), § 3, eff. Sept. 1, 2011.

V. T. C. A., Government Code § 498.0042, TX GOVT § 498.0042

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§ 498.0045. Forfeiture of Good Conduct Time: Frivolous Lawsuits, TX GOVT § 498.0045

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Subtitle G. Corrections
Chapter 498. Inmate Classification and Good Time (Refs & Annos)

V.T.C.A., Government Code § 498.0045

§ 498.0045. Forfeiture of Good Conduct Time: Frivolous Lawsuits

Effective: September 1, 2005
Currentness

(a) In this section, “final order” means a certified copy of a final order of a state or federal court that dismisses as frivolous or malicious a lawsuit, including a proceeding arising from an application for writ of habeas corpus, brought by an inmate while the inmate was in the custody of the department or confined in county jail awaiting transfer to the department following conviction of a felony or revocation of community supervision, parole, or mandatory supervision.

(a-1) For purposes of this chapter, an application for writ of habeas corpus is considered “frivolous” if brought for the purpose of abusing judicial resources.

(b) On receipt of a final order, the department shall forfeit:

- (1) 60 days of an inmate's accrued good conduct time, if the department has previously received one final order;
- (2) 120 days of an inmate's accrued good conduct time, if the department has previously received two final orders; or
- (3) 180 days of an inmate's accrued good conduct time, if the department has previously received three or more final orders.

(c) The department may not restore good conduct time forfeited under this section.

Credits

Added by Acts 1995, 74th Leg., ch. 378, § 5, eff. June 8, 1995. Amended by Acts 1999, 76th Leg., ch. 655, § 3, eff. June 18, 1999; Acts 2005, 79th Leg., ch. 1207, § 1, eff. Sept. 1, 2005.

Notes of Decisions (4)

V. T. C. A., Government Code § 498.0045, TX GOVT § 498.0045

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§ 498.0045. Forfeiture of Good Conduct Time: Frivolous Lawsuits, TX GOVT § 498.0045

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§ 508.0441. Release and Revocation Duties, TX GOVT § 508.0441

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Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter B. Board of Pardons and Paroles

V.T.C.A., Government Code § 508.0441

§ 508.0441. Release and Revocation Duties

Effective: January 11, 2004
Currentness

- (a) Board members and parole commissioners shall determine:
- (1) which inmates are to be released on parole or mandatory supervision;
 - (2) conditions of parole or mandatory supervision, including special conditions;
 - (3) the modification and withdrawal of conditions of parole or mandatory supervision;
 - (4) which releasees may be released from supervision and reporting; and
 - (5) the continuation, modification, and revocation of parole or mandatory supervision.
- (b) The board shall develop and implement a policy that clearly defines circumstances under which a board member or parole commissioner should disqualify himself or herself from voting on:
- (1) a parole decision; or
 - (2) a decision to revoke parole or mandatory supervision.
- (c) The board may adopt reasonable rules as proper or necessary relating to:
- (1) the eligibility of an inmate for release on parole or release to mandatory supervision;
 - (2) the conduct of a parole or mandatory supervision hearing; or

§ 508.0441. Release and Revocation Duties, TX GOVT § 508.0441

(3) conditions to be imposed on a releasee.

(d) The presiding officer may provide a written plan for the administrative review of actions taken by a parole panel by a review panel.

(e) Board members and parole commissioners shall, at the direction of the presiding officer, file activity reports on duties performed under this chapter.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, §§ 10.12 to 10.14, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 856, § 4, eff. Sept. 1, 2001. Redesignated from V.T.C.A., Government Code § 508.044(b) to (f) and amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, § 11.12, eff. Jan. 11, 2004.

Notes of Decisions (1)

V. T. C. A., Government Code § 508.0441, TX GOVT § 508.0441

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§ 508.046. Extraordinary Vote Required, TX GOVT § 508.046

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Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter B. Board of Pardons and Paroles

V.T.C.A., Government Code § 508.046

§ 508.046. Extraordinary Vote Required

Effective: September 1, 2011
Currentness

To release on parole an inmate who was convicted of an offense under Section 20A.03, 21.02, 21.11(a)(1), or 22.021, Penal Code, or who is required under Section 508.145(c) to serve 35 calendar years before becoming eligible for release on parole, all members of the board must vote on the release on parole of the inmate, and at least two-thirds of the members must vote in favor of the release on parole. A member of the board may not vote on the release unless the member first receives a copy of a written report from the department on the probability that the inmate would commit an offense after being released on parole.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 2005, 79th Leg., ch. 787, § 3, eff. Sept. 1, 2005; Acts 2007, 80th Leg., ch. 593, § 3.38, eff. Sept. 1, 2007; Acts 2011, 82nd Leg., ch. 122 (H.B. 3000), § 9, eff. Sept. 1, 2011.

Notes of Decisions (6)

V. T. C. A., Government Code § 508.046, TX GOVT § 508.046

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§ 508.115. Notification of Release of Inmate, TX GOVT § 508.115

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter D. Pardons and Paroles Division

V.T.C.A., Government Code § 508.115

§ 508.115. Notification of Release of Inmate

Effective: September 1, 2011
Currentness

(a) Not later than the 11th day before the date a parole panel orders the release on parole of an inmate or not later than the 11th day after the date the board recommends that the governor grant executive clemency, the division shall notify the sheriffs, each chief of police, the prosecuting attorneys, and the district judges in the county in which the inmate was convicted and the county to which the inmate is released that a parole panel is considering release on parole or the governor is considering clemency.

(b) In a case in which there was a change of venue, the division shall notify the sheriff, the prosecuting attorney, and the district judge in the county in which the prosecution was originated if, not later than the 30th day after the date the inmate was sentenced, those officials request in writing that the division give the officials notice under this section of a release of the inmate.

(c) Not later than the 10th day after the date a parole panel orders the transfer of an inmate to a halfway house under this chapter, the division shall give notice in accordance with Subsection (d) to:

- (1) the sheriff of the county in which the inmate was convicted;
- (2) the sheriff of the county in which the halfway house is located and each chief of police in the county; and
- (3) the attorney who represents the state in the prosecution of felonies in the county in which the halfway house is located.

(d) The notice must state:

- (1) the inmate's name;
- (2) the county in which the inmate was convicted; and
- (3) the offense for which the inmate was convicted.

§ 508.115. Notification of Release of Inmate, TX GOVT § 508.115

(e) The notice must be provided by e-mail or other electronic communication.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, § 10.19, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 856, § 5, eff. Sept. 1, 2001; Acts 2011, 82nd Leg., ch. 1123 (H.B. 200), § 5, eff. Sept. 1, 2011.

V. T. C. A., Government Code § 508.115, TX GOVT § 508.115

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§ 508.117. Victim Notification, TX GOVT § 508.117

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter D. Pardons and Paroles Division

V.T.C.A., Government Code § 508.117

§ 508.117. Victim Notification

Effective: September 1, 2007
Currentness

(a) Before a parole panel considers for release on parole an inmate who is serving a sentence for an offense in which a person was a victim, the division, using the name and address provided on the victim impact statement, shall make a reasonable effort to notify:

- (1) the victim;
- (2) if the victim has a guardian, the guardian; or
- (3) if the victim is deceased, a close relative of the deceased victim.

(b) A victim, guardian of a victim, or close relative of a deceased victim who would have been entitled to notification of parole consideration by the division but failed to provide a victim impact statement containing the person's name and address may file with the division a written request for notification. After receiving the written request, the division shall grant to the person all privileges, including notification under this section, to which the person would have been entitled had the person submitted a completed victim impact statement.

(c) If the notice is sent to a guardian or close relative of a deceased victim, the notice must contain a request by the division that the guardian or relative inform other persons having an interest in the matter that the inmate is being considered for release on parole.

(d) The failure of the division to comply with notice requirements of this section is not a ground for revocation of parole.

(e) Before an inmate is released from the institutional division on parole or to mandatory supervision, the pardons and paroles division shall give notice of the release to a person entitled to notification of parole consideration for the inmate under Subsection (a) or (b).

§ 508.117. Victim Notification, TX GOVT § 508.117

(f) Except as necessary to comply with this section, the board or the department may not disclose to any person the name or address of a person entitled to notice under this section unless:

(1) the person approves the disclosure; or

(2) a court determines that there is good cause for disclosure and orders the board or the department to disclose the information.

(g) In this section:

(1) "Close relative of a deceased victim" means a person who was:

(A) the spouse of the victim at the time of the victim's death;

(B) a parent of the deceased victim;

(C) an adult brother, sister, or child of the deceased victim; or

(D) the nearest relative of the deceased victim by consanguinity, if the persons described by Paragraphs (A) through (C) are deceased or are incapacitated due to physical or mental illness or infirmity.

(2) "Guardian of a victim" means a person who is the legal guardian of a victim, whether or not the legal relationship between the guardian and the victim exists because of the age of the victim or the physical or mental incompetency of the victim.

(2-a) "Sexual assault" includes an offense under Section 21.02, Penal Code.

(3) "Victim" means a person who:

(A) is a victim of sexual assault, kidnapping, aggravated robbery, or felony stalking; or

(B) has suffered bodily injury or death as the result of the criminal conduct of another.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 2007, 80th Leg., ch. 593, § 3.39, eff. Sept. 1, 2007; Acts 2007, 80th Leg., ch. 826, § 1, eff. June 15, 2007; Acts 2007, 80th Leg., ch. 1308, § 38, eff. June 15, 2007.

§ 508.117. Victim Notification, TX GOVT § 508.117

V. T. C. A., Government Code § 508.117, TX GOVT § 508.117

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§ 508.141. Authority to Consider and Order Release on Parole, TX GOVT § 508.141

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter E. Parole and Mandatory Supervision; Release Procedures

V.T.C.A., Government Code § 508.141

§ 508.141. Authority to Consider and Order Release on Parole

Effective: June 19, 2009
Currentness

- (a) A parole panel may consider for release and release on parole an inmate who:
- (1) has been sentenced to a term of imprisonment in the institutional division;
 - (2) is confined in a penal or correctional institution, including a jail in this state, a federal correctional institution, or a jail or a correctional institution in another state; and
 - (3) is eligible for release on parole.
- (b) A parole is issued only on the order of a parole panel.
- (c) Before releasing an inmate on parole, a parole panel may have the inmate appear before the panel and interview the inmate.
- (d) A parole panel may release an inmate on parole during the parole month established for the inmate if the panel determines that the inmate's release will not increase the likelihood of harm to the public.
- (e) A parole panel may release an inmate on parole only when:
- (1) arrangements have been made for the inmate's employment or for the inmate's maintenance and care, which may include the issuance of payment for the cost of temporary post-release housing under Section 508.157; and
 - (2) the parole panel believes that the inmate is able and willing to fulfill the obligations of a law-abiding citizen.
- (f) A parole panel may order a parole only for the best interest of society and not as an award of clemency.

§ 508.141. Authority to Consider and Order Release on Parole, TX GOVT § 508.141

(g) The board shall adopt a policy establishing the date on which the board may reconsider for release an inmate who has previously been denied release. The policy must require the board to reconsider for release an inmate serving a sentence for an offense listed in Section 508.149(a) during a month designated by the parole panel that denied release. The designated month must begin after the first anniversary of the date of the denial and end before the fifth anniversary of the date of the denial. The policy must require the board to reconsider for release an inmate other than an inmate serving a sentence for an offense listed in Section 508.149(a) as soon as practicable after the first anniversary of the date of the denial.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 349, § 1, eff. June 18, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 3, § 11.17, eff. Jan. 11, 2004; Acts 2009, 81st Leg., ch. 944, § 2, eff. June 19, 2009.

Notes of Decisions (29)

V. T. C. A., Government Code § 508.141, TX GOVT § 508.141

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§ 508.142. Period of Parole, TX GOVT § 508.142

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Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter E. Parole and Mandatory Supervision; Release Procedures

V.T.C.A., Government Code § 508.142

§ 508.142. Period of Parole

Currentness

(a) The institutional division shall provide the board with sentence time credit information for each inmate who is eligible for release on parole.

(b) Good conduct time credit is computed for an inmate as if the inmate were confined in the institutional division during the entire time the inmate was actually confined.

(c) The period of parole is computed by subtracting from the term for which the inmate was sentenced the calendar time served on the sentence.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997.

Notes of Decisions (9)

V. T. C. A., Government Code § 508.142, TX GOVT § 508.142

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§ 508.145. Eligibility for Release on Parole; Computation of..., TX GOVT § 508.145

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter E. Parole and Mandatory Supervision; Release Procedures

V.T.C.A., Government Code § 508.145

§ 508.145. Eligibility for Release on Parole; Computation of Parole Eligibility Date

Effective: September 1, 2011
Currentness

(a) An inmate under sentence of death, serving a sentence of life imprisonment without parole, serving a sentence for an offense under Section 21.02, Penal Code, or serving a sentence for an offense under Section 22.021, Penal Code, that is punishable under Subsection (f) of that section is not eligible for release on parole.

(b) An inmate serving a life sentence under Section 12.31(a)(1), Penal Code, for a capital felony is not eligible for release on parole until the actual calendar time the inmate has served, without consideration of good conduct time, equals 40 calendar years.

(c) An inmate serving a sentence under Section 12.42(c)(2), Penal Code, is not eligible for release on parole until the actual calendar time the inmate has served, without consideration of good conduct time, equals 35 calendar years.

(d)(1) An inmate serving a sentence for an offense described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), (I), (J), or (K), Article 42.12, Code of Criminal Procedure, or for an offense for which the judgment contains an affirmative finding under Section 3g(a)(2) of that article, or for an offense under Section 20A.03, Penal Code, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than two calendar years.

(2) Notwithstanding Subdivision (1), an inmate serving a sentence for an offense described by Section 3g(a)(1)(E), Article 42.12, Code of Criminal Procedure, is not eligible for release on parole if the inmate is serving a sentence for an offense for which punishment was enhanced under Section 12.42(c)(4), Penal Code.

(d-1) Notwithstanding Subsection (d), for every 12 months that elapse between the date an arrest warrant is issued for the inmate following an indictment for the offense and the date the inmate is arrested for the offense, the earliest date on which an inmate is eligible for parole is delayed by three years from the date otherwise provided by Subsection (d), if the inmate is serving a sentence for an offense under Section 19.02, 22.011, or 22.021, Penal Code.

§ 508.145. Eligibility for Release on Parole; Computation of..., TX GOVT § 508.145

(e) An inmate serving a sentence for which the punishment is increased under Section 481.134, Health and Safety Code, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals five years or the term to which the inmate was sentenced, whichever is less.

(f) Except as provided by Section 508.146, any other inmate is eligible for release on parole when the inmate's actual calendar time served plus good conduct time equals one-fourth of the sentence imposed or 15 years, whichever is less.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, § 10.21, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 787, §§ 4, 12, eff. Sept. 1, 2005; Acts 2007, 80th Leg., ch. 405, § 2, eff. Sept. 1, 2007; Acts 2007, 80th Leg., ch. 593, § 1.10, eff. Sept. 1, 2007; Acts 2009, 81st Leg., ch. 87, § 11.008, eff. Sept. 1, 2009; Acts 2009, 81st Leg., ch. 146, § 2, eff. Sept. 1, 2009; Acts 2009, 81st Leg., ch. 765, § 2, eff. Sept. 1, 2009; Acts 2009, 81st Leg., ch. 1400, § 3, eff. Sept. 1, 2009; Acts 2011, 82nd Leg., ch. 122 (H.B. 3000), § 10, eff. Sept. 1, 2011; Acts 2011, 82nd Leg., ch. 1119 (H.B. 3), § 2, eff. Sept. 1, 2011.

Notes of Decisions (110)

V. T. C. A., Government Code § 508.145, TX GOVT § 508.145

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§ 508.146. Medically Recommended Intensive Supervision, TX GOVT § 508.146

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter E. Parole and Mandatory Supervision; Release Procedures

V.T.C.A., Government Code § 508.146

§ 508.146. Medically Recommended Intensive Supervision

Effective: September 1, 2007
Currentness

(a) An inmate other than an inmate who is serving a sentence of death or life without parole may be released on medically recommended intensive supervision on a date designated by a parole panel described by Subsection (e), except that an inmate with an instant offense that is an offense described in Section 3g, Article 42.12, Code of Criminal Procedure, or an inmate who has a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure, may only be considered if a medical condition of terminal illness or long-term care has been diagnosed by a physician, if:

(1) the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the Correctional Managed Health Care Committee, identifies the inmate as being:

(A) elderly, physically disabled, mentally ill, terminally ill, or mentally retarded or having a condition requiring long-term care, if the inmate is an inmate with an instant offense that is described in Section 3g, Article 42.12, Code of Criminal Procedure; or

(B) in a persistent vegetative state or being a person with an organic brain syndrome with significant to total mobility impairment, if the inmate is an inmate who has a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure;

(2) the parole panel determines that, based on the inmate's condition and a medical evaluation, the inmate does not constitute a threat to public safety; and

(3) the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the pardons and paroles division, has prepared for the inmate a medically recommended intensive supervision plan that requires the inmate to submit to electronic monitoring, places the inmate on super-intensive supervision, or otherwise ensures appropriate supervision of the inmate.

§ 508.146. Medically Recommended Intensive Supervision, TX GOVT § 508.146

(b) An inmate may be released on medically recommended intensive supervision only if the inmate's medically recommended intensive supervision plan under Subsection (a)(3) is approved by the Texas Correctional Office on Offenders with Medical or Mental Impairments.

(c) The parole panel shall require as a condition of release under Subsection (a) that the releasee remain under the care of a physician and in a medically suitable placement. At least once each calendar quarter, the Texas Correctional Office on Offenders with Medical or Mental Impairments shall report to the parole panel on the releasee's medical and placement status. On the basis of the report, the parole panel may modify conditions of release and impose any condition on the releasee that a panel could impose on a releasee released under Section 508.145, including a condition that the releasee reside in a halfway house or community residential facility.

(d) The Texas Correctional Office on Offenders with Medical or Mental Impairments and the Texas Department of Human Services shall jointly request proposals from public or private vendors to provide under contract services for inmates released on medically recommended intensive supervision. A request for proposals under this subsection may require that the services be provided in a medical care facility located in an urban area. For the purposes of this subsection, "urban area" means the area in this state within a metropolitan statistical area, according to the standards of the United States Bureau of the Census.

(e) Only parole panels composed of the presiding officer of the board and two members appointed to the panel by the presiding officer may make determinations regarding the release of inmates on medically recommended intensive supervision under Subsection (a) or of inmates released pending deportation. If the Texas Council on Offenders with Mental Impairments identifies an inmate as a candidate for release under the guidelines established by Subsection (a)(1), the council shall present to a parole panel described by this subsection relevant information concerning the inmate and the inmate's potential for release under this section.

(f) An inmate who is not a citizen of the United States, as defined by federal law, who is not under a sentence of death or life without parole, and who does not have a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure, or an instant offense described in Section 3g, Article 42.12, Code of Criminal Procedure, may be released to immigration authorities pending deportation on a date designated by a parole panel described by Subsection (e) if the parole panel determines that on release the inmate would be deported to another country and that the inmate does not constitute a threat to public safety in the other country or this country and is unlikely to reenter this country illegally.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1435, § 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 252, § 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 856, § 21, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 787, § 5, eff. Sept. 1, 2005; Acts 2007, 80th Leg., ch. 1247, § 1, eff. Sept. 1, 2007.

V. T. C. A., Government Code § 508.146, TX GOVT § 508.146

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§ 508.150. Consecutive Felony Sentences, TX GOVT § 508.150

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter E. Parole and Mandatory Supervision; Release Procedures

V.T.C.A., Government Code § 508.150

§ 508.150. Consecutive Felony Sentences

Currentness

(a) If an inmate is sentenced to consecutive felony sentences under Article 42.08, Code of Criminal Procedure, a parole panel shall designate during each sentence the date, if any, the inmate would have been eligible for release on parole if the inmate had been sentenced to serve a single sentence.

(b) For the purposes of Article 42.08, Code of Criminal Procedure, the judgment and sentence of an inmate sentenced for a felony, other than the last sentence in a series of consecutive sentences, cease to operate:

(1) when the actual calendar time served by the inmate equals the sentence imposed by the court; or

(2) on the date a parole panel designates as the date the inmate would have been eligible for release on parole if the inmate had been sentenced to serve a single sentence.

(c) A parole panel may not:

(1) consider consecutive sentences as a single sentence for purposes of parole; or

(2) release on parole an inmate sentenced to serve consecutive felony sentences before the date the inmate becomes eligible for release on parole from the last sentence imposed on the inmate.

(d) A parole panel may not use calendar time served and good conduct time accrued by an inmate that are used by the panel in determining when a judgment and sentence cease to operate:

(1) for the same purpose in determining that date in a subsequent sentence in the same series of consecutive sentences; or

(2) for determining the date an inmate becomes eligible for release on parole from the last sentence in a series of consecutive sentences.

§ 508.150. Consecutive Felony Sentences, TX GOVT § 508.150

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997.

Notes of Decisions (9)

V. T. C. A., Government Code § 508.150, TX GOVT § 508.150

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§ 508.151. Presumptive Parole Date, TX GOVT § 508.151

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter E. Parole and Mandatory Supervision; Release Procedures

V.T.C.A., Government Code § 508.151

§ 508.151. Presumptive Parole Date

Effective: September 1, 2011
Currentness

(a) For the purpose of diverting inmates to halfway houses under Section 508.118, a parole panel, after reviewing all available pertinent information, may designate a presumptive parole date for an inmate who:

(1) has never been convicted of an offense listed under Section 3g(a)(1), Article 42.12, Code of Criminal Procedure, or an offense under Section 20A.03 or 21.02, Penal Code; and

(2) has never had a conviction with a judgment that contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure.

(b) The presumptive parole date may not be a date that is earlier than the inmate's initial parole eligibility date computed under Section 508.145.

(c) A parole panel may rescind or postpone a previously established presumptive parole date on the basis of a report from an agent of the division responsible for supervision or an agent of the institutional division acting in the case.

(d) If an inmate transferred to preparole status has satisfactorily served the inmate's sentence in the halfway house to which the inmate is assigned from the date of transfer to the presumptive parole date, without rescission or postponement of the date, the parole panel shall order the inmate's release on parole and issue an appropriate certificate of release. The releasee is subject to the provisions of this chapter governing release on parole.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 2007, 80th Leg., ch. 593, § 3.40, eff. Sept. 1, 2007; Acts 2011, 82nd Leg., ch. 122 (H.B. 3000), § 12, eff. Sept. 1, 2011.

V. T. C. A., Government Code § 508.151, TX GOVT § 508.151

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

§ 508.151. Presumptive Parole Date, TX GOVT § 508.151

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§ 508.153. Statements of Victim, TX GOVT § 508.153

Vernon's Texas Statutes and Codes Annotated
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Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter E. Parole and Mandatory Supervision; Release Procedures

V.T.C.A., Government Code § 508.153

§ 508.153. Statements of Victim

Effective: January 11, 2004
Currentness

(a) A parole panel considering for release on parole or mandatory supervision an inmate who is serving a sentence for an offense in which a person was a victim shall allow:

(1) the victim, a guardian of the victim, a close relative of the deceased victim, or a representative of the victim, the victim's guardian, or the victim's close relative to provide a written statement to the panel; and

(2) the victim, guardian of the victim, or close relative of the deceased victim to appear in person before the board members to present a statement of the person's views about:

(A) the offense;

(B) the inmate; and

(C) the effect of the offense on the victim.

(b) If more than one person is entitled to appear in person before the board members or parole commissioners, only the person chosen by all persons entitled to appear as the persons' sole representative may appear.

(c) The panel shall consider the statements and the information provided in a victim impact statement in determining whether to recommend an inmate for release on parole.

(d) This section does not limit the number of persons who may provide written statements for or against the release of the inmate on parole.

§ 508.153. Statements of Victim, TX GOVT § 508.153

(e) In this section, “close relative of a deceased victim,” “guardian of a victim,” and “victim” have the meanings assigned by Section 508.117.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 856, § 6, eff. Sept. 1, 2001; Acts 2003, 78th Leg., 3rd C.S., ch. 3, § 11.19, eff. Jan. 11, 2004.

V. T. C. A., Government Code § 508.153, TX GOVT § 508.153

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§ 508.1531. Contact with Victim, TX GOVT § 508.1531

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Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter E. Parole and Mandatory Supervision; Release Procedures

V.T.C.A., Government Code § 508.1531

§ 508.1531. Contact with Victim

Effective: September 1, 2011
Currentness

A parole panel considering the release of an inmate on parole or to mandatory supervision may consider whether the inmate violated a policy adopted by the department under Section 498.0042(a) or a court order entered under Article 42.24, Code of Criminal Procedure.

Credits

Added by Acts 2011, 82nd Leg., ch. 491 (H.B. 1028), § 4, eff. Sept. 1, 2011.

V. T. C. A., Government Code § 508.1531, TX GOVT § 508.1531
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§ 508.154. Contract on Release, TX GOVT § 508.154

Vernon's Texas Statutes and Codes Annotated
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Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter E. Parole and Mandatory Supervision; Release Procedures

V.T.C.A., Government Code § 508.154

§ 508.154. Contract on Release

Currentness

- (a) An inmate to be released on parole shall be furnished a contract stating in clear and intelligible language the conditions and rules of parole.
- (b) Acceptance, signing, and execution of the contract by the inmate to be paroled is a precondition to release on parole.
- (c) An inmate released to mandatory supervision shall be furnished a written statement stating in clear and intelligible language the conditions and rules of mandatory supervision.
- (d) A releasee while on parole or mandatory supervision must be amenable to the conditions of supervision ordered by a parole panel.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997.

Notes of Decisions (3)

V. T. C. A., Government Code § 508.154, TX GOVT § 508.154

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

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§ 508.155. Completion of Parole Period, TX GOVT § 508.155

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter E. Parole and Mandatory Supervision; Release Procedures

V.T.C.A., Government Code § 508.155

§ 508.155. Completion of Parole Period

Effective: June 15, 2007
Currentness

- (a) To complete a parole period, a releasee must serve the entire period of parole.
- (b) The time on parole is computed as calendar time.
- (c) The division may allow a releasee to serve the remainder of the releasee's sentence without supervision and without being required to report if a parole supervisor at the regional level has approved the releasee's early release from supervision under Section 508.1555.
- (d) The division may require a person released from supervision and reporting under Subsection (c) to resubmit to supervision and resume reporting at any time and for any reason.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 2007, 80th Leg., ch. 1308, § 41, eff. June 15, 2007.

V. T. C. A., Government Code § 508.155, TX GOVT § 508.155
Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

§ 508.156. Determinate Sentence Parole, TX GOVT § 508.156

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter E. Parole and Mandatory Supervision; Release Procedures

V.T.C.A., Government Code § 508.156

§ 508.156. Determinate Sentence Parole

Effective: September 1, 2011
Currentness

(a) Before the release of a person who is transferred under Section 245.051(c) or 245.151(e), Human Resources Code, to the department for release on parole, a parole panel shall review the person's records and may interview the person or any other person the panel considers necessary to determine the conditions of parole. The panel may impose any reasonable condition of parole on the person that the panel may impose on an adult inmate under this chapter.

(b) The panel shall furnish the person with a written statement clearly describing the conditions and rules of parole. The person must accept and sign the statement as a precondition to release on parole.

(c) While on parole, the person remains in the legal custody of the state and shall comply with the conditions of parole ordered by a panel under this section.

(d) The period of parole for a person released on parole under this section is the term for which the person was sentenced less calendar time served at the Texas Youth Commission and in a juvenile detention facility in connection with the conduct for which the person was adjudicated.

(e) If a parole panel revokes the person's parole, the panel may require the person to serve the remaining portion of the person's sentence in the institutional division. The remaining portion of the person's sentence is computed without credit for the time from the date of the person's release to the date of revocation. The panel may not recommit the person to the Texas Youth Commission.

(f) For purposes of this chapter, a person released from the Texas Youth Commission on parole under this section is considered to have been convicted of the offense for which the person has been adjudicated.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 2007, 80th Leg., ch. 263, § 19, eff. June 8, 2007; Acts 2011, 82nd Leg., ch. 85 (S.B. 653), § 3.014, eff. Sept. 1, 2011.

§ 508.156. Determinate Sentence Parole, TX GOVT § 508.156

V. T. C. A., Government Code § 508.156, TX GOVT § 508.156

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

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§ 508.157. Temporary Housing on Release, TX GOVT § 508.157

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter E. Parole and Mandatory Supervision; Release Procedures

V.T.C.A., Government Code § 508.157

§ 508.157. Temporary Housing on Release

Effective: June 17, 2011

Currentness

(a) This section applies only to inmates who are eligible for release on parole or to mandatory supervision and to releasees.

(a-1) In this section, “residential correctional facility” means a facility operated by or under contract with the department to provide housing, supervision, and programmatic support to individuals released on parole or to mandatory supervision. The term includes a halfway house described by Section 508.118 or a community residential facility described by Section 508.119. The term does not include a transitional treatment center, a substance abuse felony punishment facility, or any other facility operated by or under contract with the department the primary purpose of which is to provide substance abuse treatment or aftercare.

(b) If the department does not operate or contract for the operation of a residential correctional facility in the county of legal residence of an inmate or releasee, the department may issue, for an inmate described by Subsection (a) or for a releasee, payment for the cost of temporary post-release housing that:

(1) meets any conditions or requirements imposed by a parole panel;

(2) is located in the county of legal residence of the inmate or releasee; and

(3) except as provided by Subsection (e-1), is in a structure that existed on June 1, 2009, as a multifamily residence or as a motel to which Section 156.001, Tax Code, applies.

(c) The amount of payment issued under Subsection (b) may not exceed an amount that is equal to the cost the department would incur, for the period for which the payment is issued, to:

(1) incarcerate the inmate or releasee in a facility operated by or under contract with the department; or

(2) house the inmate or releasee in a residential correctional facility.

§ 508.157. Temporary Housing on Release, TX GOVT § 508.157

(d) The department shall issue payment under Subsection (b) out of funds appropriated by the legislature to the department for use in administering the parole system with respect to the housing of inmates on their release.

(e) The executive director of the Texas Department of Criminal Justice shall adopt rules as necessary to implement this section.

(e-1) The department may issue payment for post-release housing under Subsection (b) for a structure not described by Subsection (b)(3) if, before issuing payment, the department or the owner of the structure provides, in the same manner as required for a community corrections facility under Section 509.010, notice of the proposed use of the structure under this section and a hearing on the issue of whether the use is appropriate.

<Text of subsec. (f) effective until Jan. 1, 2014>

(f) Not later than September 30 of each year, the department shall submit to the presiding officer of each legislative standing committee with primary jurisdiction over the department a report that covers the period of August 1 of the year preceding the year in which the report is submitted through September 1 of the year in which the report is submitted and that includes:

(1) the total number of inmates and releasees on whose behalf payment is issued under this section;

(2) the total dollar amount of payments issued under this section; and

(3) the county of release and the county of legal residence of each inmate or releasee on whose behalf payment is issued under this section.

<Text of subsec. (g) effective until Jan. 1, 2014. >

(g) This subsection and Subsection (f) expire January 1, 2014.

Credits

Added by Acts 2009, 81st Leg., ch. 944, § 1, eff. June 19, 2009. Amended by Acts 2011, 82nd Leg., ch. 286 (H.B. 1770), § 1, eff. June 17, 2011.

V. T. C. A., Government Code § 508.157, TX GOVT § 508.157

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

§ 508.184. Controlled Substance Testing, TX GOVT § 508.184

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter F. Mandatory Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.184

§ 508.184. Controlled Substance Testing

Currentness

(a) A parole panel shall require as a condition of parole or mandatory supervision that a releasee submit to testing for controlled substances on evidence that:

- (1) a controlled substance is present in the releasee's body;
- (2) the releasee has used a controlled substance; or
- (3) the use of a controlled substance is related to the offense for which the releasee was convicted.

(b) The Texas Board of Criminal Justice by rule shall adopt procedures for the administration of a test required under this section.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997.

V. T. C. A., Government Code § 508.184, TX GOVT § 508.184

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

§ 508.185. Substance Abuse Treatment, TX GOVT § 508.185

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter F. Mandatory Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.185

§ 508.185. Substance Abuse Treatment

Currentness

(a) A parole panel shall require as a condition of release on parole or release to mandatory supervision that an inmate who immediately before release is a participant in the program established under Section 501.0931 participate as a releasee in a drug or alcohol abuse continuum of care treatment program.

(b) The Texas Commission on Alcohol and Drug Abuse shall develop the continuum of care treatment program.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997.

V. T. C. A., Government Code § 508.185, TX GOVT § 508.185

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

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§ 508.186. Sex Offender Registration, TX GOVT § 508.186

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter F. Mandatory Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.186

§ 508.186. Sex Offender Registration

Effective: September 1, 2005
Currentness

A parole panel shall require as a condition of parole or mandatory supervision that a releasee required to register as a sex offender under Chapter 62, Code of Criminal Procedure:

(1) register under that chapter; and

(2) submit a blood sample or other specimen to the Department of Public Safety under Subchapter G, Chapter 411,¹ for the purpose of creating a DNA record of the releasee, unless the releasee has already submitted the required specimen under other state law.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, § 10.25, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 211, § 16, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1300, § 9, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1008, § 1.06, eff. Sept. 1, 2005.

Notes of Decisions (3)

Footnotes

¹ V.T.C.A., Government Code § 411.141 et seq.

V. T. C. A., Government Code § 508.186, TX GOVT § 508.186

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

§ 508.1861. Prohibitions on Internet Access for Certain Sex..., TX GOVT § 508.1861

Vernon's Texas Statutes and Codes Annotated

Government Code (Refs & Annos)

Title 4. Executive Branch (Refs & Annos)

Subtitle G. Corrections

Chapter 508. Parole and Mandatory Supervision (Refs & Annos)

Subchapter F. Mandatory Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.1861

§ 508.1861. Prohibitions on Internet Access for Certain Sex Offenders

Effective: September 1, 2009

Currentness

(a) This section applies only to a person who, on release, will be required to register as a sex offender under Chapter 62, Code of Criminal Procedure, by court order or otherwise, and:

(1) is serving a sentence for an offense under Section 21.11, 22.011(a)(2), 22.021(a)(1)(B), 33.021, or 43.25, Penal Code;

(2) used the Internet or any other type of electronic device used for Internet access to commit the offense or engage in the conduct for which the person is required to register under Chapter 62, Code of Criminal Procedure; or

(3) is assigned a numeric risk level of three based on an assessment conducted under Article 62.007, Code of Criminal Procedure.

(b) If the parole panel releases on parole or to mandatory supervision a person described by Subsection (a), the parole panel as a condition of parole or mandatory supervision shall prohibit the releasee from using the Internet to:

(1) access material that is obscene as defined by Section 43.21, Penal Code;

(2) access a commercial social networking site, as defined by Article 62.0061(f), Code of Criminal Procedure;

(3) communicate with any individual concerning sexual relations with an individual who is younger than 17 years of age; or

(4) communicate with another individual the releasee knows is younger than 17 years of age.

(c) The parole panel may modify at any time the condition described by Subsection (b)(4) if:

§ 508.1861. Prohibitions on Internet Access for Certain Sex..., TX GOVT § 508.1861

(1) the condition interferes with the releasee's ability to attend school or become or remain employed and consequently constitutes an undue hardship for the releasee; or

(2) the releasee is the parent or guardian of an individual who is younger than 17 years of age and the releasee is not otherwise prohibited from communicating with that individual.

Credits

Added by Acts 2009, 81st Leg., ch. 755, § 10, eff. Sept. 1, 2009.

V. T. C. A., Government Code § 508.1861, TX GOVT § 508.1861

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§ 508.187. Child Safety Zone, TX GOVT § 508.187

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter F. Mandatory Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.187

§ 508.187. Child Safety Zone

Effective: September 1, 2011
Currentness

(a) This section applies only to a releasee serving a sentence for an offense under:

(1) Section 43.25 or 43.26, Penal Code;

(2) Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code;

(3) Section 20.04(a)(4), Penal Code, if the releasee committed the offense with the intent to violate or abuse the victim sexually;

(4) Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the releasee committed the offense with the intent to commit a felony listed in Subdivision (2) or (3);

(5) Section 43.05(a)(2), Penal Code; or

(6) Section 20A.02, Penal Code, if the defendant:

(A) trafficked the victim with the intent or knowledge that the victim would engage in sexual conduct, as defined by Section 43.25, Penal Code; or

(B) benefited from participating in a venture that involved a trafficked victim engaging in sexual conduct, as defined by Section 43.25, Penal Code.

(b) A parole panel shall establish a child safety zone applicable to a releasee if the panel determines that a child as defined by Section 22.011(c), Penal Code, was the victim of the offense, by requiring as a condition of parole or mandatory supervision that the releasee:

§ 508.187. Child Safety Zone, TX GOVT § 508.187

(1) not:

(A) supervise or participate in any program that includes as participants or recipients persons who are 17 years of age or younger and that regularly provides athletic, civic, or cultural activities; or

(B) go in, on, or within a distance specified by the panel of premises where children commonly gather, including a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility; and

(2) attend for a period of time determined necessary by the panel psychological counseling sessions for sex offenders with an individual or organization that provides sex offender treatment or counseling as specified by the parole officer supervising the releasee after release.

(c) A parole officer who under Subsection (b)(2) specifies a sex offender treatment provider to provide counseling to a releasee shall:

(1) contact the provider before the releasee is released;

(2) establish the date, time, and place of the first session between the releasee and the provider; and

(3) request the provider to immediately notify the officer if the releasee fails to attend the first session or any subsequent scheduled session.

(d) At any time after the imposition of a condition under Subsection (b)(1), the releasee may request the parole panel to modify the child safety zone applicable to the releasee because the zone as created by the panel:

(1) interferes with the releasee's ability to attend school or hold a job and consequently constitutes an undue hardship for the releasee; or

(2) is broader than necessary to protect the public, given the nature and circumstances of the offense.

(e) A parole officer supervising a releasee may permit the releasee to enter on an event-by-event basis into the child safety zone that the releasee is otherwise prohibited from entering if:

(1) the releasee has served at least two years of the period of supervision imposed on releasee;

§ 508.187. Child Safety Zone, TX GOVT § 508.187

- (2) the releasee enters the zone as part of a program to reunite with the releasee's family;

- (3) the releasee presents to the parole officer a written proposal specifying:
 - (A) where the releasee intends to go within the zone;

 - (B) why and with whom the releasee is going; and

 - (C) how the releasee intends to cope with any stressful situations that occur;

- (4) the sex offender treatment provider treating the releasee agrees with the officer that the releasee should be allowed to attend the event; and

- (5) the officer and the treatment provider agree on a chaperon to accompany the releasee, and the chaperon agrees to perform that duty.

- (f) In this section, “playground,” “premises,” “school,” “video arcade facility,” and “youth center” have the meanings assigned by Section 481.134, Health and Safety Code.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 978, § 2, eff. Sept. 1, 2001; Acts 2007, 80th Leg., ch. 593, § 3.41, eff. Sept. 1, 2007; Acts 2011, 82nd Leg., ch. 515 (H.B. 2014), § 3.03, eff. Sept. 1, 2011.

Notes of Decisions (2)

V. T. C. A., Government Code § 508.187, TX GOVT § 508.187

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

§ 508.188. Community Service for Certain Releasees, TX GOVT § 508.188

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter F. Mandatory Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.188

§ 508.188. Community Service for Certain Releasees

Currentness

A parole panel shall require as a condition of parole or mandatory supervision that a releasee for whom the court has made an affirmative finding under Article 42.014, Code of Criminal Procedure, perform not less than 300 hours of community service at a project designated by the parole panel that primarily serves the person or group that was the target of the releasee.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997.

V. T. C. A., Government Code § 508.188, TX GOVT § 508.188

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

§ 508.189. Parole Fee for Certain Releasees, TX GOVT § 508.189

Vernon's Texas Statutes and Codes Annotated

Government Code (Refs & Annos)

Title 4. Executive Branch (Refs & Annos)

Subtitle G. Corrections

Chapter 508. Parole and Mandatory Supervision (Refs & Annos)

Subchapter F. Mandatory Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.189

§ 508.189. Parole Fee for Certain Releasees

Effective: September 1, 2007

Currentness

(a) A parole panel shall require as a condition of parole or mandatory supervision that a releasee convicted of an offense under Section 21.02, 21.08, 21.11, 22.011, 22.021, 25.02, 43.25, or 43.26, Penal Code, pay to the division a parole supervision fee of \$5 each month during the period of parole supervision.

(b) The division shall send fees collected under this section to the comptroller. The comptroller shall deposit the fees in the general revenue fund to the credit of the sexual assault program fund established under Section 44.0061, Health and Safety Code.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 2007, 80th Leg., ch. 593, § 3.42, eff. Sept. 1, 2007.

V. T. C. A., Government Code § 508.189, TX GOVT § 508.189

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

§ 508.190. Avoiding Victim of Stalking Offense, TX GOVT § 508.190

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter F. Mandatory Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.190

§ 508.190. Avoiding Victim of Stalking Offense

Currentness

(a) A parole panel shall require as a condition of parole or mandatory supervision that a releasee serving a sentence for an offense under Section 42.072, Penal Code, not:

- (1) communicate directly or indirectly with the victim;
- (2) go to or near the residence, place of employment, or business of the victim; or
- (3) go to or near a school, day-care facility, or similar facility where a dependent child of the victim is in attendance.

(b) If a parole panel requires the prohibition contained in Subsection (a)(2) or (3) as a condition of parole or mandatory supervision, the parole panel shall specifically describe the prohibited locations and the minimum distances, if any, that the releasee must maintain from the locations.

Credits

Added by Acts 1999, 76th Leg., ch. 62, § 10.26, eff. Sept. 1, 1999.

V. T. C. A., Government Code § 508.190, TX GOVT § 508.190

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

§ 508.192. Reentry Into the United States Prohibited, TX GOVT § 508.192

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter F. Mandatory Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.192

§ 508.192. Reentry Into the United States Prohibited

Effective: September 1, 2011
Currentness

(a) In this section, “illegal criminal alien” has the meaning assigned by Section 493.015.

(b) A parole panel shall require as a condition of parole or mandatory supervision that an illegal criminal alien released to the custody of United States Immigration and Customs Enforcement:

(1) regardless of whether a final order of deportation is issued with reference to the illegal criminal alien, leave the United States as soon as possible after release; and

(2) not unlawfully return to or unlawfully reenter the United States in violation of the Immigration Reform and Control Act of 1986 (8 U.S.C. Section 1101 et seq.).

Credits

Added by Acts 2011, 82nd Leg., ch. 1025 (H.B. 2734), § 1, eff. Sept. 1, 2011.

V. T. C. A., Government Code § 508.192, TX GOVT § 508.192

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

§ 508.221. Conditions Permitted Generally, TX GOVT § 508.221

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter G. Discretionary Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.221

§ 508.221. Conditions Permitted Generally

Currentness

A parole panel may impose as a condition of parole or mandatory supervision any condition that a court may impose on a defendant placed on community supervision under Article 42.12, Code of Criminal Procedure, including the condition that a releasee submit to testing for controlled substances or submit to electronic monitoring if the parole panel determines that without testing for controlled substances or participation in an electronic monitoring program the inmate would not be released on parole.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997.

Notes of Decisions (13)

V. T. C. A., Government Code § 508.221, TX GOVT § 508.221

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§ 508.222. Payment of Certain Damages, TX GOVT § 508.222

Vernon's Texas Statutes and Codes Annotated

Government Code (Refs & Annos)

Title 4. Executive Branch (Refs & Annos)

Subtitle G. Corrections

Chapter 508. Parole and Mandatory Supervision (Refs & Annos)

Subchapter G. Discretionary Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.222

§ 508.222. Payment of Certain Damages

Currentness

A parole panel may require as a condition of parole or mandatory supervision that a releasee make payments in satisfaction of damages for which the releasee is liable under Section 500.002.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997.

Notes of Decisions (32)

V. T. C. A., Government Code § 508.222, TX GOVT § 508.222

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§ 508.223. Psychological Counseling, TX GOVT § 508.223

Vernon's Texas Statutes and Codes Annotated

Government Code (Refs & Annos)

Title 4. Executive Branch (Refs & Annos)

Subtitle G. Corrections

Chapter 508. Parole and Mandatory Supervision (Refs & Annos)

Subchapter G. Discretionary Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.223

§ 508.223. Psychological Counseling

Currentness

A parole panel may require as a condition of parole or mandatory supervision that a releasee serving a sentence for an offense under Section 42.072, Penal Code, attend psychological counseling sessions of a type and for a duration as specified by the parole panel, if the parole panel determines in consultation with a local mental health services provider that appropriate mental health services are available through the Texas Department of Mental Health and Mental Retardation in accordance with Section 534.053, Health and Safety Code, or through another mental health services provider.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, § 10.28, eff. Sept. 1, 1999.

V. T. C. A., Government Code § 508.223, TX GOVT § 508.223

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§ 508.224. Substance Abuse Counseling, TX GOVT § 508.224

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter G. Discretionary Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.224

§ 508.224. Substance Abuse Counseling

Currentness

A parole panel may require as a condition of parole or mandatory supervision that the releasee attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Texas Commission on Alcohol and Drug Abuse if:

- (1) the releasee was sentenced for an offense involving a controlled substance; or
- (2) the panel determines that the releasee's substance abuse was related to the commission of the offense.

Credits

Added by Acts 1997, 75th Leg., ch. 165, § 12.01, eff. Sept. 1, 1997.

V. T. C. A., Government Code § 508.224, TX GOVT § 508.224

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§ 508.225. Child Safety Zone, TX GOVT § 508.225

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 4. Executive Branch (Refs & Annos)
Subtitle G. Corrections
Chapter 508. Parole and Mandatory Supervision (Refs & Annos)
Subchapter G. Discretionary Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.225

§ 508.225. Child Safety Zone

Currentness

(a) If the nature of the offense for which an inmate is serving a sentence warrants the establishment of a child safety zone, a parole panel may establish a child safety zone applicable to an inmate serving a sentence for an offense listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure, or for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure, by requiring as a condition of parole or release to mandatory supervision that the inmate not:

(1) supervise or participate in any program that includes as participants or recipients persons who are 17 years of age or younger and that regularly provides athletic, civic, or cultural activities; or

(2) go in or on, or within a distance specified by the panel of, a premises where children commonly gather, including a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility.

(b) At any time after the imposition of a condition under Subsection (a), the inmate may request the parole panel to modify the child safety zone applicable to the inmate because the zone as created by the panel:

(1) interferes with the ability of the inmate to attend school or hold a job and consequently constitutes an undue hardship for the inmate; or

(2) is broader than is necessary to protect the public, given the nature and circumstances of the offense.

(c) This section does not apply to an inmate described by Section 508.187.

(d) In this section, “playground,” “premises,” “school,” “video arcade facility,” and “youth center” have the meanings assigned by Section 481.134, Health and Safety Code.

Credits

Added by Acts 1999, 76th Leg., ch. 56, § 2, eff. Sept. 1, 1999.

§ 508.225. Child Safety Zone, TX GOVT § 508.225

Notes of Decisions (6)

V. T. C. A., Government Code § 508.225, TX GOVT § 508.225

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

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§ 508.226. Orchiectomy as Condition Prohibited, TX GOVT § 508.226

Vernon's Texas Statutes and Codes Annotated

Government Code (Refs & Annos)

Title 4. Executive Branch (Refs & Annos)

Subtitle G. Corrections

Chapter 508. Parole and Mandatory Supervision (Refs & Annos)

Subchapter G. Discretionary Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.226

§ 508.226. Orchiectomy as Condition Prohibited

Effective: September 1, 2001

Currentness

A parole panel may not require an inmate to undergo an orchiectomy as a condition of release on parole or to mandatory supervision.

Credits

Added by Acts 1999, 76th Leg., ch. 62, § 10.29, eff. Sept. 1, 1999. Renumbered from § 508.225 by Acts 2001, 77th Leg., ch. 1420, § 21.001(45), eff. Sept. 1, 2001.

V. T. C. A., Government Code § 508.226, TX GOVT § 508.226

Current through Chapters effective immediately through Chapter 65 of the 2013 Regular Session of the 83rd Legislature

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§ 508.227. Electronic Monitoring of Certain Members of..., TX GOVT § 508.227

Vernon's Texas Statutes and Codes Annotated

Government Code (Refs & Annos)

Title 4. Executive Branch (Refs & Annos)

Subtitle G. Corrections

Chapter 508. Parole and Mandatory Supervision (Refs & Annos)

Subchapter G. Discretionary Conditions of Parole or Mandatory Supervision

V.T.C.A., Government Code § 508.227

§ 508.227. Electronic Monitoring of Certain Members of Criminal Street Gang

Effective: September 1, 2009

Currentness

(a) This section applies only to a releasee who:

(1) is identified as a member of a criminal street gang in an intelligence database established under Chapter 61, Code of Criminal Procedure; and

(2) has three or more times been convicted of, or received a grant of deferred adjudication community supervision or another functionally equivalent form of community supervision or probation for, a felony offense under the laws of this state, another state, or the United States.

(b) A parole panel may require as a condition of release on parole or to mandatory supervision that a releasee described by Subsection (a) submit to tracking under an electronic monitoring service or other appropriate technological service designed to track a person's location.

Credits

Added by Acts 2009, 81st Leg., ch. 1130, § 20, eff. Sept. 1, 2009.

V. T. C. A., Government Code § 508.227, TX GOVT § 508.227

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