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3 SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR SB42
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8 SYNOPSIS: Under existing law when there is a vacancy
9 on the Board of Pardons and Paroles, a replacement
10 is selected by the Governor, with advice and
11 consent of the Senate, from a list provided by a
12 nominating committee.

13 This bill would authorize the Governor, with
14 the advice and consent of the Senate, to fill a
15 vacant seat on the board, and would further provide
16 for the membership of the board.

17 This bill would authorize the Governor to
18 appoint a Director of Pardons and Paroles and would
19 establish the director's responsibilities.

20 This bill would set criteria to be used by
21 the board in determining a prisoner's initial
22 parole consideration date.

23 This bill would further set parameters to be
24 used if the board deviates from the standards
25 regarding a prisoner's initial parole consideration
26 date.

1 This bill would further require approval by
2 the deputy Attorney General or an assistant
3 Attorney General if the board deviates from the
4 standards regarding a prisoner's initial parole
5 consideration date.

6 Under existing law, a victim, victim's
7 representative, or other interested individual is
8 provided notice of the board's intent to take
9 action, only if the victim, victim's
10 representative, or other interested individual
11 provided a preferred method of communication. If no
12 preferred method of communication was provided, the
13 board could take action without informing the
14 victim, victim's representative, or other
15 interested individual.

16 This bill would require the board to work
17 with the district attorney or Attorney General's
18 Office, to exercise due diligence to locate the
19 victim, victim's representative, or other
20 interested individual prior to the board taking
21 action.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 Relating to pardons and paroles; to amend Sections
2 15-22-20, 15-22-21, 15-22-26, 15-22-28, 15-22-36, and
3 15-22-37, Code of Alabama 1975, to authorize the Governor,
4 with the advice and consent of the Senate, to fill a vacant
5 seat on the board; to further provide for the membership of
6 the board; to authorize the Governor to appoint a Director of
7 Pardons and Paroles and establish the director's
8 responsibilities; to set criteria to be used by the board to
9 determine a prisoner's initial parole consideration date; to
10 set parameters to be used if the board deviates from the
11 standards when setting a prisoner's initial parole
12 consideration date; to require approval by the deputy Attorney
13 General or assistant Attorney General if the board deviates
14 from the standards when setting a prisoner's initial parole
15 consideration date; and to require the board work with the
16 district attorney or Attorney General's Office to notify a
17 victim, victim's representative, or other interested party
18 prior to the board taking action.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 15-22-20, 15-22-21, 15-22-26,
21 15-22-28, 15-22-36, and 15-22-37, Code of Alabama 1975, are
22 amended to read as follows:

23 "§15-22-20.

24 "(a) There shall be a Board of Pardons and Paroles
25 which shall consist of three members. The membership of the
26 board shall be inclusive and reflect the racial, gender,
27 geographic, urban/rural, or economic diversity of the state.

1 At least one member shall be a current or former law
2 enforcement officer with a minimum of 10 years' experience in
3 or with a law enforcement agency which has among its primary
4 duties and responsibilities the investigation of violent
5 crimes or the apprehension, arrest, or supervision of the
6 perpetrators thereof.

7 "(b) Any vacancy occurring on the board, whether for
8 an expired or unexpired term, shall be filled by appointment
9 by the Governor, with the advice and consent of the Senate,
10 ~~from a list of five qualified persons nominated by a board~~
11 ~~consisting of the Chief Justice of the Supreme Court as~~
12 ~~chairman, the presiding judge of the Court of Criminal~~
13 ~~Appeals, the Lieutenant Governor, the Speaker of the House,~~
14 ~~and the President Pro Tempore of the Senate. The nominating~~
15 ~~board shall as soon as practicable after a vacancy occurs,~~
16 ~~whether for an expired or unexpired term, meet and select by~~
17 ~~majority vote the names of five persons to be submitted to the~~
18 ~~Governor. It shall immediately thereafter submit its~~
19 ~~nominations to the Governor, who shall make his appointment~~
20 ~~from such list within 10 days thereafter. Appointees shall~~
21 begin serving immediately upon appointment, until confirmed or
22 rejected by the Senate. Appointments made at times when the
23 Senate is not in regular session shall be effective ad
24 interim. Any appointment made by the Governor while the Senate
25 is in regular session must be submitted ~~by him~~ to the Senate
26 not later than the third legislative day following the date of
27 the appointment; any appointment made while the Senate is not

1 in regular session shall be submitted not later than the third
2 legislative day following the reconvening of the Legislature
3 in regular session. ~~In the event the Senate fails or refuses~~
4 ~~to act on the appointment within five legislative days after~~
5 ~~its submission, the appointment shall be void, and the person~~
6 ~~whose name was thus submitted shall not thereafter be~~
7 ~~reappointed. In the event an appointee is not confirmed by the~~
8 ~~Senate, the nominating board shall make five nominations; one~~
9 ~~of them shall be appointed, and his appointment shall be~~
10 ~~submitted to the Senate as provided in this section. The~~
11 ~~nominating and appointing procedure required in this section~~
12 ~~shall be continued and followed until an appointment is made~~
13 ~~and completed. If the Senate fails to vote on an appointee's~~
14 ~~confirmation before adjourning sine die during the regular~~
15 ~~session in which the appointee is appointed, the appointee is~~
16 ~~deemed to be confirmed.~~

17 "(c) Members of the board shall be appointed for
18 terms of six years commencing on July 1 in the years 1953,
19 1955, and 1957, and shall serve until their successors ~~shall~~
20 have been appointed and ~~shall~~ have been qualified. Any person
21 appointed to fill the vacancy for an unexpired term shall
22 vacate the office upon the expiration of that unexpired term.

23 "(d) The Governor shall designate one of the members
24 as ~~chairman~~ chair, and ~~such chairman~~ the chair shall preside
25 at sessions of the board.

26 "(e) Each member shall take the constitutional oath
27 of office and shall be subject to impeachment for any of the

1 causes specified in Section 173 of the Constitution; and the
2 procedure in cases of impeachment shall be in the manner
3 provided by Section 175 of the Constitution; provided,
4 however, that in the event the Governor shall determine that
5 any member of the board shall have become incapacitated by
6 reason of physical or mental disability or illness to the
7 extent that he cannot efficiently perform the duties of his
8 office, he or she shall direct the Attorney General to proceed
9 to the determination of that issue in an inquisition
10 proceeding instituted by him or her in the Circuit Court of
11 Montgomery County, Alabama. In the event the issue is
12 determined in such court against the board member, the court
13 shall declare the office vacant, and the same shall be vacated
14 and a successor appointed, as provided in this section.

15 "(f) Two members of the board shall constitute a
16 quorum for the transaction of the official business of the
17 board.

18 "(g) The members of the board ~~shall devote their~~
19 ~~full time to their official duties~~ and shall hold no other
20 office of profit during their incumbency.

21 "(h) The annual compensation of the chairman and
22 each associate member of the Board of Pardons and Paroles
23 shall be ~~such~~ an amount as is provided by law. ~~Such~~ The
24 salaries shall be paid in equal installments from the State
25 Treasury in the same manner that salaries of other state
26 officers are paid.

1 ~~"(i) The Governor is hereby authorized to appoint~~
2 ~~four persons to serve as special members of the board. The~~
3 ~~four special members shall be appointed to reflect the racial,~~
4 ~~gender, and geographic diversity of this state. The special~~
5 ~~members shall serve a single term beginning October 1, 2003~~
6 ~~and ending September 30, 2006. The provisions on appointment~~
7 ~~in subsection (b), oath and incapacity in subsection (e),~~
8 ~~devotion to duties in subsection (g), and compensation in~~
9 ~~subsection (h) shall apply to special members to the same~~
10 ~~extent they apply to members of the board. The special members~~
11 ~~shall be appointed and serve for the limited purpose of~~
12 ~~conducting hearings and making determinations concerning~~
13 ~~pardons, paroles, restorations of political and civil rights,~~
14 ~~remission of fines and forfeitures, and revocations.~~

15 ~~"(j) During the term of the special members of the~~
16 ~~board, the board shall sit in two panels of three for the~~
17 ~~purpose of conducting hearings and making determinations~~
18 ~~concerning pardons, paroles, restorations of political and~~
19 ~~civil rights, remission of fines and forfeitures, and~~
20 ~~revocations. Membership on each panel shall be designated by~~
21 ~~the chairman of the board from among the remaining regular and~~
22 ~~special members of the board as the chairman determines from~~
23 ~~time to time shall be necessary to hear all pending matters in~~
24 ~~an expeditious manner. The chairman of the board shall serve~~
25 ~~as an alternate with members of either panel and shall~~
26 ~~re-designate panel membership as necessary to carry out the~~

1 ~~hearing duties of the board. Two members of each panel shall~~
2 ~~constitute a quorum for the transaction of official business.~~

3 ~~"(k) When the board sits in panels of three members~~
4 ~~as herein authorized, each panel shall act in the same manner~~
5 ~~and under the same authority as the full board. All authority,~~
6 ~~duties, powers, and responsibilities of the board on any~~
7 ~~matter brought before the panel for hearing shall be exercised~~
8 ~~by the panel as though heard and decided by the full board.~~
9 ~~Decisions of each panel shall constitute a decision of the~~
10 ~~board. All procedures of the board relating to the conduct of~~
11 ~~hearings shall apply to hearings before either panel of the~~
12 ~~board.~~

13 ~~"(l) This section does not affect in any way the~~
14 ~~authority of the original board members to carry out all~~
15 ~~administrative, supervisory, and personnel duties existing on~~
16 ~~September 25, 2003.~~

17 ~~"§15-22-21.~~

18 ~~"(a) The Board of Pardons and Paroles, with the~~
19 ~~approval of the Governor, may shall appoint a secretary~~
20 ~~Director of Pardons and Paroles, who shall serve at the~~
21 ~~pleasure of the Governor.~~

22 ~~"(b) The Director of Pardons and Paroles shall serve~~
23 ~~as the chief executive officer of the Board of Pardons and~~
24 ~~Paroles and be vested with all power necessary to perform the~~
25 ~~duties assigned to the board by law except the board's power~~
26 ~~to adopt rules, guidelines, or other policies and to make~~
27 ~~individual determinations concerning the grant or denial of~~

1 pardons, the grant or denial of paroles, the restorations of
2 political and civil rights, the remission of fines and
3 forfeitures, and the revocation of parole. As chief executive
4 officer, the director shall be responsible for all of the
5 following:

6 "(1) Appointing and supervising, subject to the
7 provisions of the Merit System, and such clerical,
8 stenographic, supervisory and expert assistants as may be
9 employees necessary to carry out the provisions duties of this
10 article; provided, however, that the selection of such
11 assistants and the fixation of their salaries shall be subject
12 to the provisions of the Merit System the board.

13 "(2) Performing, on behalf of the board, all fiscal
14 and budgetary requirements imposed on the board by law.

15 "(3) Developing and implementing, on behalf of the
16 board, all policies and procedures for the effective
17 supervision of parolees released to supervision by the board
18 as well as those individuals granted probation by the
19 sentencing court.

20 "(4) Attending all meetings of the board, in person
21 or by designee, to act as the board's secretary, and to
22 maintain a record of the board's official actions.

23 "(5) Preparing and recommending rules for
24 consideration by the board as the director shall deem
25 necessary for the effective and efficient performance of the
26 board's duties.

27 "§15-22-26.

1 "(a) No prisoner shall be released on parole merely
2 as a reward for good conduct or efficient performance of
3 duties assigned in prison, but only if the Board of Pardons
4 and Paroles is of the opinion that the prisoner meets criteria
5 and guidelines established by the board to determine a
6 prisoner's fitness for parole and to ensure public safety. The
7 guidelines shall serve as an aid in the parole decision making
8 process and shall promote the use of prison space for the most
9 violent and greatest risk offenders, while recognizing that
10 the board's paramount duty is to protect public safety. The
11 guidelines shall be structured, actuarially based, reviewed
12 every three years by the board, after a specified open comment
13 period determined by the board, and posted on the website of
14 the board and include, but not be limited to, the following:

15 "(1) The prisoner's risk to reoffend, based upon a
16 validated risk and needs assessment as defined in Section
17 12-25-327.

18 "(2) Progress by the prisoner and the Department of
19 Corrections to plan for reentry7.

20 "(3) Input from the victim or victims, the family of
21 the victim or victims, prosecutors, and law enforcement
22 entities7.

23 "(4) Participation in risk-reduction programs while
24 incarcerated7.

25 "(5) Institutional behavior of the prisoner while
26 incarcerated;~~and~~.

1 "(6) Severity of the underlying offense for which
2 the prisoner was sentenced to incarceration.

3 "(b) ~~If~~ Except as provided in Section 15-22-37, if
4 the board ~~shall so determine, such~~ grants a prisoner parole,
5 the prisoner shall be allowed to go upon parole outside of
6 released from prison walls and enclosure upon such the terms
7 and conditions ~~as set by the board shall prescribe, but to,~~
8 and while released on parole, shall remain while thus on
9 ~~parole~~ in the legal custody of the warden of the prison from
10 which he or she is paroled until the expiration of the maximum
11 term specified in his or her sentence or until he or she is
12 fully pardoned.

13 "(c) The board shall clearly articulate its reasons
14 for approval or denial of parole for each prisoner, based on
15 its established guidelines, and shall provide the reasons for
16 approval or denial to the prisoner, the victim, the Department
17 of Corrections, or any other interested party upon written
18 request submitted to the board. The use of established
19 guidelines for parole consideration shall not create a right
20 or expectation by a prisoner to parole release. Additionally,
21 the articulated reasons for denial of parole release shall not
22 create a right or expectation for parole release. The
23 guidelines shall serve as an aid in the parole decision making
24 process, and the decision concerning parole release shall be
25 at the complete discretion of the board.

26 "§15-22-28.

1 "(a) It shall be the duty of the Board of Pardons
2 and Paroles, upon its own initiative, to make an investigation
3 of any and all prisoners confined in the jails and prisons of
4 the state, through use of a validated risk and needs
5 assessment as defined in Section 12-25-32, with a view of
6 determining the feasibility of releasing the prisoners on
7 parole and effecting their reclamation. Reinvestigations shall
8 be made from time to time as the board may determine or as the
9 Department of Corrections may request. The investigations
10 shall include such reports and other information as the board
11 may require from the Department of Corrections or any of its
12 officers, agents, or employees.

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

17 "(c) Temporary leave from prison, including
18 Christmas furloughs, may be granted only by the Commissioner
19 of Corrections to a prisoner for good and sufficient reason
20 and may be granted within or without the state; provided, that
21 Christmas furloughs shall not be granted to any prisoner
22 convicted of drug peddling, child molesting or rape, or to any
23 maximum security prisoner. A permanent, written record of all
24 ~~such~~ temporary leaves, together with the reasons therefor,
25 shall be kept by ~~such~~ the commissioner. He or she shall
26 furnish the ~~Pardon and Parole~~ Board of Pardons and Paroles
27 with a record of each ~~such~~ leave granted and the reasons

1 therefor, and the same shall be placed by the board in the
2 prisoner's file.

3 "(d) No prisoner shall be released on parole except
4 by a majority vote of the board. The board shall not parole
5 any prisoner for employment by any official of the State of
6 Alabama, nor shall any parolee be employed by an official of
7 the State of Alabama and be allowed to remain on parole;
8 provided, however, that this provision shall not apply in the
9 case of a parolee whose employer, at the time of the parolee's
10 original employment, was not a state official.

11 "~~(e) For violent offenses as defined in Section~~
12 ~~12-25-32, the board shall not grant a parole to any prisoner~~
13 ~~who has not served at least one third or 10 years of his~~
14 ~~sentence, whichever is the lesser, except by a unanimous~~
15 ~~affirmative vote of the board. The board shall set a~~
16 ~~prisoner's initial parole consideration date according to the~~
17 ~~following schedules:~~

18 "(1) For prisoners receiving sentence deductions
19 pursuant to the Alabama Correctional Incentive Time Act,
20 Article 3, Chapter 9, Title 14, the following schedule shall
21 apply:

22 "a. For terms of five years or less, the prisoner
23 shall be scheduled for initial parole consideration on the
24 current docket.

25 "b. For terms over five years and up to 10 years,
26 the prisoner shall be scheduled for initial parole

1 consideration approximately 18 months prior to the minimum
2 release date.

3 "c. For terms of more than 10 years and up to 15
4 years, the prisoner shall be scheduled for initial parole
5 consideration approximately two years and six months prior to
6 the minimum release date.

7 "(2) For prisoners convicted on or after March 21,
8 2001, of one or more of the following Class A felonies, the
9 initial parole consideration date shall be set for a date once
10 a prisoner has completed 85 percent of his or her total
11 sentence or 15 years, whichever is less.

12 "a. Rape in the first degree.

13 "b. Kidnapping in the first degree.

14 "c. Murder.

15 "d. Attempted murder.

16 "e. Sodomy in the first degree.

17 "f. Sexual torture.

18 "g. Robbery in the first degree with serious
19 physical injury as defined in Section 13A-1-2.

20 "h. Burglary in the first degree with serious
21 physical injury as defined in Section 13A-1-2.

22 "i. Arson in the first degree with serious physical
23 injury as defined in Section 13A-1-2.

24 "(3) For all other prisoners, the initial parole
25 consideration date shall be set for a date following
26 completion of one-third of the prisoner's sentence or 10
27 years, whichever is less.

1 "(4) If the prisoner is serving consecutive
2 sentences, the initial parole consideration date may not be
3 set for a date before the prisoner has separately served the
4 time prescribed in this subsection for each consecutive
5 sentence imposed.

6 "(f) (1) The board may deviate from the initial
7 parole consideration date established in subdivision (e) (1) or
8 any reconsideration date prescribed by the board's rules only
9 in either of the following circumstances:

10 "a. To comply with the policy and procedural
11 guidelines in effect on or before January 1, 2019, issued by
12 the board under Section 15-22-24(e).

13 "b. If the prisoner shows, by clear and convincing
14 evidence, that he or she is more likely than not to be granted
15 parole and that he or she would have been considered for
16 parole on an earlier date under generally applicable rules or
17 policies previously in effect.

18 "(2) Any decision by the board to invoke the
19 procedures of this subsection shall be subject to legal review
20 by the deputy Attorney General or assistant Attorney General
21 assigned to the board, prior to the issuance of a parole
22 certificate and the prisoner's release. If it is determined
23 that the grant of parole consideration failed to satisfy the
24 requirements of this subsection or any rule adopted pursuant
25 to this subsection, the decision shall be reversed and the
26 prisoner shall be notified by the board.

1 "(3) For purposes of paragraph (f)(1)b., the board
2 shall adopt rules to determine whether a prisoner is more
3 likely than not to be granted parole. These rules shall be
4 designed to minimize the risk a prisoner will be prejudiced by
5 any statutory or administrative changes in parole standards or
6 procedures that have occurred since the date of the prisoner's
7 conviction and shall include, but are not limited to the
8 following:

9 "a. A requirement that the prisoner has completed a
10 minimum total period of incarceration.

11 "b. A requirement that the prisoner complete certain
12 programs while in custody of the Department of Corrections.

13 "c. A requirement that the prisoner provide a
14 statement of support from a Department of Corrections staff
15 member.

16 "d. A requirement that the prisoner have no violent
17 disciplinaries during a prescribed period preceding the
18 prisoner's current application for parole consideration.

19 "e. A requirement that the prisoner have no
20 disciplinaries of any kind within a prescribed period
21 preceding the prisoner's current application for parole
22 consideration.

23 "f. A requirement that the prisoner's risk of
24 re-offense is determined to be medium or low following the
25 completion of a validated risk and needs assessment conducted
26 by a trained probation and parole officer.

1 "(4) A 30 days' written notice shall be provided to
2 the Governor and Attorney General for any parole consideration
3 date set by the board under subdivision (f) (1). The Governor
4 and Attorney General shall have 14 days from the time notice
5 is received to object to the grant of parole. If the board
6 grants parole consideration under subdivision (f) (1) and did
7 not give adequate notice to the Governor or Attorney General
8 or granted parole consideration despite an objection from the
9 Governor or Attorney General, the decision shall be reversed
10 and the prisoner shall be notified by the board.

11 "§15-22-36.

12 "(a) In all cases, except treason and impeachment
13 and cases in which sentence of death is imposed and not
14 commuted, as is provided by law, the Board of Pardons and
15 Paroles shall have the authority and power, after conviction
16 and not otherwise, to grant pardons and paroles and to remit
17 fines and forfeitures.

18 "(b) Each member of the Board of Pardons and Paroles
19 favoring a pardon, parole, remission of a fine or forfeiture,
20 or restoration of civil and political rights shall enter in
21 the file his or her reasons in detail, which entry and the
22 order shall be public records, but all other portions of the
23 file shall be privileged.

24 "(c) No pardon shall relieve one from civil and
25 political disabilities unless specifically expressed in the
26 pardon. No pardon shall be granted unless the prisoner has
27 successfully completed at least three years of permanent

1 parole or until the expiration of his or her sentence if his
2 or her sentence was for less than three years. Notwithstanding
3 the foregoing, a pardon based on innocence may be granted upon
4 the unanimous affirmative vote of the board following receipt
5 and filing of clear proof of his or her innocence of the crime
6 for which he or she was convicted and the written approval of
7 the judge who tried ~~his or her~~ the case or district attorney
8 or with the written approval of a circuit judge in the circuit
9 where he or she was convicted if the judge who tried his or
10 her case is dead or no longer serving.

11 "(d) The Board of Pardons and Paroles shall have no
12 power to grant a pardon, order a parole, remit a fine or
13 forfeiture, or restore civil and political rights until 30
14 days' notice that the prisoner is being considered ~~therefor~~
15 has been given by the board to the Attorney General, the judge
16 who presided over the case, the district attorney who tried
17 the subject's case, the chief of police in the municipality in
18 which the crime occurred, if the crime was committed in an
19 incorporated area with a police department, and to the sheriff
20 of the county where convicted, and to the same officials of
21 the county where the crime occurred if different from the
22 county of conviction; provided, however, that if they are dead
23 or not serving, the notice shall be given to the district
24 attorney, incumbent sheriff, and one of the judges of the
25 circuit in which the subject was convicted. The board also
26 shall be required to provide the same notice to the Crime
27 Victims Compensation Commission.

1 "(e) (1) If a victim, victim's representative, or any
2 other interested individual has provided a preferred method of
3 communication to the board, at least 45 days prior to the
4 board's actions, the board may not approve or order a parole,
5 pardon, remission of fine or forfeiture, restoration of civil
6 and political rights, furlough, leave, or early release of a
7 prisoner, unless a ~~Until and unless at least~~ 30 days' written
8 notice of the board's action to be considered ~~has been given~~
9 ~~by the board~~ has been provided to the victim named in the
10 indictment, the victim's representative, ~~and~~ or any other
11 interested individuals, ~~after the board has received a request~~
12 ~~that includes the preferred mode or modes of notification from~~
13 ~~the victim, the victim's representative, and other interested~~
14 ~~individuals and is submitted 45 days or more in advance of the~~
15 ~~board action to be considered either through the automated~~
16 ~~victim notification system or by a direct request to the board~~
17 ~~or other authorized individual, the Board of Pardons and~~
18 ~~Pardons shall have no power or authority to in any way approve~~
19 ~~or order any parole, pardon, remission of fine or forfeiture,~~
20 ~~restoration of civil and political rights, furlough, leave or~~
21 ~~early release of a person convicted of the following offenses:~~

22 ~~"a. A Class A felony.~~

23 ~~"b. Any felony committed prior to the first day of~~
24 ~~January, 1980, which if committed after the first day of~~
25 ~~January, 1980, would be designated a Class A felony.~~

26 ~~"c. Any felony involving violence, death, or any~~
27 ~~physical injury to the person of another.~~

1 ~~"d. Any felony involving unlawful sexual assault or~~
2 ~~other unlawful sexual conduct on the person of another.~~

3 ~~"e. Any felony involving sexual assault, or a lewd~~
4 ~~or lascivious act upon a child under the age of 16 years or~~
5 ~~attempt thereof.~~

6 ~~"f. Sexual abuse or any other criminal conduct~~
7 ~~committed prior to the first day of January, 1980, which if~~
8 ~~committed after the first day of January, 1980, would be~~
9 ~~defined as sexual abuse under the Alabama Criminal Code.~~

10 ~~"g. Child abuse or any criminal conduct committed~~
11 ~~prior to the first day of January, 1980, which if committed~~
12 ~~after the first day of January, 1980, would be defined as~~
13 ~~child abuse under the Alabama Criminal Code.~~

14 ~~"h. Sodomy or any criminal conduct committed prior~~
15 ~~to the first day of January, 1980, which if committed after~~
16 ~~the first day of January, 1980, would be defined as sodomy~~
17 ~~under the Alabama Criminal Code.~~

18 ~~"i. Any violation of Section 13A-6-69, as amended.~~

19 "(2) To foster notification, the victim, victim's
20 representative, or other interested individuals should have a
21 preferred mode or modes of notification on file with the
22 board, submitted through the automated victim notification
23 system or by direct request to the board or another authorized
24 individual.

25 ~~"(2) (3) If, however,~~ the victim, victim's
26 representative, ~~and~~ or other interested individual has not
27 been registered for notice through the automated victim

1 notification system or otherwise made a direct request to the
2 board for notice or to another authorized individual, if the
3 victim's information has not been updated, or particular modes
4 of notification have not been requested at least 45 days ~~or~~
5 ~~more~~ in advance of the board's action to be considered, the
6 board, working with the appropriate district attorney and the
7 Attorney General's Office, shall exercise due diligence in
8 locating the victim or the victim's immediate family members.
9 If all attempts to locate a victim or his or her immediate
10 family members has failed, and the agent of the board
11 certifies that due diligence has been exercised, the board
12 shall not be limited in power or authority in any way to
13 approve or order any parole, pardon, remission of fine or
14 forfeiture, restoration of civil and political rights,
15 furlough, leave, or early release of a ~~person convicted of the~~
16 ~~offenses named in subsection (e) (1) a. to i., inclusive~~
17 prisoner.

18 "~~(3)~~ (4) The notice shall be given by U.S. certified
19 mail, return receipt requested, U.S. mail, electronic
20 transmission, or by other commonly accepted method of
21 delivery, upon a request made through the automated victim
22 notification system or otherwise upon direct request made to
23 the board or other authorized individual 45 days or more in
24 advance of the board's action to be considered and shall
25 include:

26 "a. The name of the prisoner or defendant involved.

1 "b. The crime for which the prisoner or defendant
2 was convicted.

3 "c. The date of the sentence.

4 "d. The court in which the conviction occurred.

5 "e. The sentence imposed.

6 "f. The actual time the prisoner has been held in
7 confinement and the prisoner's minimum release date, as
8 computed by the Department of Corrections.

9 "g. The action to be considered by the board.

10 "h. The date, time, and location of the board
11 meeting at which the action is to be considered.

12 "i. The right of the victim named in the indictment,
13 a victim's representative, or if the victim is deceased as a
14 result of the offense, the victim's immediate family, as
15 defined by the board's operating rules, or, in the event there
16 is no immediate family, a relative of a victim, if any, to
17 present his or her views to the board in person or in writing.

18 "Notice for robbery victims who were robbed while on
19 duty as an employee of a business establishment shall be
20 sufficient if mailed to the last address provided by the
21 victim or as otherwise noted on the indictment or in the board
22 files.

23 "~~(4)~~ (5) If a victim, victim's representative, ~~and~~
24 or otherwise interested individual requests not to be
25 notified, the request shall be made to the Board of Pardons
26 and Paroles in writing or by electronic signature.
27 Confirmation of a request to not be notified shall be provided

1 to the victim so requesting. After a request is received, the
2 board shall provide no further notifications, unless ~~and until~~
3 the victim, victim's representative, and otherwise interested
4 individual subsequently requests future notifications, at
5 least 45 days in advance of the board's action to be
6 considered through the automated victim notification system or
7 by contacting the board or other authorized individual in
8 writing, in person, or by telephone.

9 ~~"(5) Should a victim, victim's representative, and
10 otherwise interested person wish to receive notice of any
11 specific board hearing and action taken by the board, if any,
12 in a specific case, the individual may register to request the
13 notice through the automated victim notification system or
14 otherwise request notice by making a direct request to the
15 board or other authorized individual to receive notice at
16 least 45 days in advance of the board's action to be
17 considered. The individual shall be required to designate his
18 or her preferred mode or modes of communication.~~

19 ~~"(6) For any defendant convicted of the offenses
20 named in subsection (e)(1)a. to i., inclusive, and only after
21 After the most recent victim information has been furnished to
22 the ~~Board of Pardons and Paroles~~ board, pursuant to Section
23 12-17-184(9), ~~in those cases,~~ the probation and parole officer
24 assigned to prepare a pre-sentence or post-sentence
25 investigation report shall at that time register the most
26 recent information for the victim named in the indictment into
27 the automated victim notification system. In case of a~~

1 homicide, the information of immediate family members shall be
2 entered into the automated victim notification system. If a
3 surviving victim is a minor, information for parents or
4 guardians shall be entered into the automated victim
5 notification system. The probation and parole officer assigned
6 to prepare a pre-sentence or post-sentence investigation
7 report shall then report to the sentencing court that all most
8 current victim information has been ~~so~~ registered. The
9 sentencing court shall then record into the case record that
10 the victim information has been entered into the automated
11 victim notification system.

12 ~~"(7) For those cases in which a defendant has been~~
13 ~~convicted and sentenced prior to the implementation task force~~
14 ~~determining that the automated victim notification system~~
15 ~~complies with the requirements of this section and Sections~~
16 ~~15-22-23 and 15-22-36.2, for any homicide, and Class A felony,~~
17 ~~except Burglary I in which no victim was present, or any sex~~
18 ~~offense, as defined by Section 15-20A-5, the board shall~~
19 ~~exercise due diligence to locate the victim or victims and~~
20 ~~register the most recent victim information into the automated~~
21 ~~victim notification system. If all attempts to locate a~~
22 ~~victim, or in case of a homicide to locate immediate family~~
23 ~~member or members, have failed and the agent of the board has~~
24 ~~certified that due diligence has been exercised, no future~~
25 ~~location attempts shall be required.~~

26 "(f) After any board action is taken granting any
27 pardon or parole, the board shall promptly notify all persons

1 who timely requested notice, pursuant to this section as to
2 the action taken by the board and the conditions, if any, of
3 any such parole or pardon via electronic notification through
4 the automated victim notification system and posting publicly
5 on a state agency website.

6 "(g) Electronic notices as required by this section,
7 Section 14-14-5, Section 15-22-23, Section 15-22-36.2, Section
8 15-22-36.3, and Section 15-22-26.2 shall be produced through
9 the automated notification system developed and maintained by
10 the Alabama State Law Enforcement Agency. All data and records
11 required to produce the notices shall be provided to the
12 Alabama State Law Enforcement Agency to be incorporated into
13 the automated notification system. Board records and
14 information accessible to the public through the automated
15 notification system shall be limited to those notification
16 items specified in subdivision (3) of subsection (e), as well
17 as the offender's age, sex, race, and unique identifiers.
18 Records concerning the status of supervised offenders on
19 probation and parole shall also be made available to the
20 public, including information on when supervision began, the
21 date the supervision term will end, and information on whether
22 or how supervision was terminated. Otherwise, access to board
23 records and information through the automated notification
24 system shall be limited in use to the legitimate law
25 enforcement purpose of entering and updating contact
26 information on behalf of crime victims, assisting victims with
27 registration, and ensuring victims receive notice. Information

1 and records of the board accessible for law enforcement
2 purposes through the automated notification system, in
3 addition to that available to the public as specified above,
4 shall be limited to the offender's date of birth, the
5 supervising officer's name, the county of residence for those
6 offenders currently supervised in Alabama, and the supervising
7 officer's phone number. Misuse of the automated notification
8 system or records or information contained in the automated
9 notification system shall be subject to criminal prosecution
10 under Article 5A of Chapter 8 of Title 13A, as well as Section
11 41-9-601, Section 41-9-602, and any other law of this state.

12 "§15-22-37.

13 "(a) The Board of Pardons and Paroles may adopt ~~and~~
14 ~~promulgate~~ rules ~~and regulations~~, not inconsistent with the
15 provisions of this article, touching upon all matters dealt
16 with in this article, including, among others, practice and
17 procedure in matters pertaining to paroles, pardons and
18 remission of fines and forfeitures; provided, however, that no
19 rule ~~or regulation~~ adopted ~~and promulgated~~ by ~~such~~ the board
20 shall have the effect of denying to any person whose
21 application for parole or the revocation of whose parole is
22 being considered by ~~said~~ the board from having the benefit of
23 counsel or witnesses upon ~~said~~ the hearing.

24 "(b) The Board of Pardons and Paroles shall adopt
25 ~~and promulgate~~ rules ~~and regulations~~ to do the following:

26 "(1) Establish a program of limited supervision for
27 parolees who qualify addressing eligibility using validated

1 risk and needs assessments, as defined in Section 12-25-32,
2 transfers among levels of supervision, to include guidelines
3 for the transfer of lower-risk individuals to an
4 administrative form of parole, and reporting requirements~~7~~.

5 "(2) Develop policies and procedures for screening,
6 assessment, and referral for parolees to connect with
7 recidivism reduction services including, but not limited to,
8 cognitive behavioral intervention and substance abuse
9 treatment~~7~~.

10 "(3) Establish a matrix of rewards for compliance
11 and pro-social behaviors and swift, certain and graduated
12 sanctions to be imposed by the board, as provided under
13 subsections (e) and (f) of Section 15-22-32, in response to
14 corresponding violations of parole terms or conditions
15 imposed~~7~~.

16 "(4) Establish clear guidelines and procedures that
17 retain the board's discretion in individual parole release
18 cases. ~~Such~~ The guidelines shall provide that, if a prisoner
19 convicted of a nonviolent offense, as defined in Section
20 12-25-32, with a sentence of 20 years or less is denied
21 parole, the board shall reconsider releasing the prisoner on
22 parole no more than two years after such parole release
23 denial. ~~Such~~ The guidelines shall allow a current validated
24 risk and needs assessment as defined in Section 12-25-32, past
25 criminal history, program completion, institutional
26 misconduct, and other individual characteristics related to
27 the likelihood of offending in the future to be factored into

1 the release decision while working to allocate prison space
2 for the most violent and greatest risk prisoners~~7~~.

3 "(5) Ensure that the provisions of subsections (k)
4 and (l) of Section 15-22-24 are implemented relating to the
5 supervision and treatment of parolees~~7~~ and.

6 "(6) Establish criteria, guidelines, and procedures
7 to discharge parolees from parole supervision requirements
8 prior to the expiration of the full maximum term for which the
9 parolee was sentenced, unless the parolee was convicted of a
10 violent offense as defined in Section 12-25-32, which shall
11 include review of a parolee for discharge from parole
12 supervision at least every two years if the parolee has
13 satisfied all financial obligations owed to the court,
14 including restitution, and has not had his or her supervision
15 revoked.

16 "(c) Notwithstanding any other provision of law to
17 the contrary, Section 41-22-5(a)-(c), Section 41-22-5.1(b),
18 Section 41-22-6, and Section 41-22-23(a)-(e), (g) of the
19 Alabama Administrative Procedure Act shall apply to the
20 board's adoption, amendment, or repeal of rules, procedures,
21 guidelines, or other policies, except rules, procedures,
22 guidelines, or other policies concerning the supervision of
23 parolees or probationers. The Alabama Administrative Procedure
24 Act shall not otherwise apply to the board. The notice
25 required by subdivision (a) (1) of Section 41-22-5 shall be
26 given, and notice shall be given to the Governor and Attorney
27 General or their designees.

1 "(d) The Director of Pardons and Paroles shall post
2 on the board's website the board's existing rules, procedures,
3 guidelines, or other policies concerning the grant or denial
4 of pardons, the grant or denial of paroles, the restoration of
5 political and civil rights, the remission of fines and
6 forfeitures, and the revocation of parole."

7 Section 2. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.