

1 HB243
2 216839-1
3 By Representatives Rafferty, Coleman and England
4 RFD: Judiciary
5 First Read: 02-FEB-22

SYNOPSIS: Under existing law, the Board of Pardons and Paroles is required to consider certain factors in determining whether to grant parole.

This bill would revise the criteria for parole consideration.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to parole; to amend Section 15-22-24, as last amended by Act 2021-545, 2021 Regular Session, and Sections 15-22-26 and 15-22-37, Code of Alabama 1975; to further provide for parole consideration; and to also make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 15-22-24, as last amended by Act
2 2021-545, 2021 Regular Session, and Sections 15-22-26 and
3 15-22-37, Code of Alabama 1975, are amended to read as
4 follows:

5 "§15-22-24.

6 "(a) The Board of Pardons and Paroles shall be
7 charged with all of the following:

8 "(1) Determining which prisoners serving sentences
9 in the jails and prisons of the State of Alabama may be
10 released on parole and when and under what conditions.

11 "(2) Supervising all prisoners released on parole or
12 placed on probation by courts exercising criminal
13 jurisdiction.

14 "(3) Conducting investigations that may be necessary
15 by the courts or the board regarding parolees and
16 probationers.

17 "(4) Implementing the use of validated risk and
18 needs assessments, as defined in Section 12-25-32, by
19 probation and parole officers.

20 "(5) Determining whether a parolee or probationer
21 has violated the conditions of his or her parole or probation.
22 Regarding parolees, deciding what action should be taken for a
23 parole violation. Regarding probationers, reporting any
24 probation violations to the judges of the courts having
25 jurisdiction of the probationers.

26 "(6) Aiding parolees and probationers to secure
27 employment.

1 "(b) Between October 1 and December 31 of each year,
2 the board shall report its activities and functions during the
3 preceding year to the Governor, to the Secretary of State, and
4 to the Department of Archives and History. A copy shall be
5 maintained in the permanent records of the board.

6 "(c) The board may accept grants, gifts, or other
7 funds for the operation of the board.

8 "(d) The board may enter into contracts to
9 accomplish the objectives of the board.

10 "(e) The board shall adopt policy and procedural
11 guidelines for establishing initial parole consideration
12 dockets based on all of the following:

13 "(1) Evaluation of a prisoner's prior record.

14 "(2) The nature and severity of the present offense.

15 "(3) The potential for future violence.

16 "(4) The community attitude toward the offender to
17 include input from the victim or victims, the family of the
18 victim or victims, prosecutors, and law enforcement entities.

19 "(5) Any other criteria established by the board
20 pursuant to Section 15-22-37.

21 "(f) Any individual who retires from the Board of
22 Pardons and Paroles as a probation and parole officer shall
23 receive his or her badge and pistol as part of the retirement
24 benefits, without cost to him or her.

25 "(g) [Reserved]

26 "(h) No state official shall appear or otherwise
27 represent an applicant before the board for any consideration

1 or thing of value unless the official was counsel of record
2 for the applicant during a trial or hearing in the regular
3 judicial process that led to the applicant's present status;
4 however, no state official shall be prohibited from appearing
5 without consideration before the board or board panel on
6 behalf of an applicant.

7 "(i) The board may conditionally transfer a prisoner
8 to the authorities of the federal government or any other
9 jurisdiction entitled to his or her custody to answer pending
10 charges or to begin serving a sentence in response to a
11 properly filed detainer from the other jurisdiction. The
12 conditionally transferred prisoner shall remain in the legal
13 custody of the warden of the institution from which he or she
14 was transferred. Should any conditionally transferred prisoner
15 satisfy all detainers against him or her prior to completion
16 of the Alabama sentence, the prisoner may not be released from
17 custody without further order of the board.

18 "(j) The board and its agents may administer oaths
19 and affirmations, examine witnesses, and receive evidence on
20 all matters to be considered by the board.

21 "(k) The board shall develop and adopt guidelines
22 and policies to ensure that any treatment programs or
23 providers utilized by the board in the supervision of
24 probationers and parolees implement evidence-based practices,
25 as defined in Section 12-25-32, designed to reduce recidivism
26 among probationers and parolees and shall cooperate with the
27 Office of the Governor in evaluating the programs and

1 providers. The Office of the Governor shall ensure that
2 treatment programs and providers that receive funding from the
3 state or through court-ordered monies utilize funding and
4 monies for programs reasonably expected to reduce recidivism
5 among probationers and parolees.

6 "(1) The board shall develop and adopt guidelines
7 and policies to ensure that the supervision and treatment of
8 probationers and parolees be based on the individual
9 probationer's or parolee's risk of reoffending, as determined
10 through a validated risk and needs assessment as defined in
11 Section 12-25-32, and that supervision and treatment resources
12 of the board are prioritized to focus on those probationers
13 and parolees with the highest risk of reoffending. The board
14 shall include resources available to veterans and service
15 members and shall annually coordinate with the Department of
16 Veterans Affairs to ensure the most current benefits and
17 services are identified and available. Supervision and
18 treatment of probationers and parolees shall include all of
19 the following:

20 "(1) Use of a validated risk and needs assessment,
21 as defined in Section 12-25-32.

22 "(2) Use of assessment results to guide the
23 appropriate level of supervision responses consistent with the
24 level of supervision and evidence-based practices used to
25 reduce recidivism.

26 "(3) Collateral and personal contacts with the
27 probationer or parolee and community that may be unscheduled

1 and that shall occur as often as needed based on the
2 probationer's or parolee's supervision level. The supervision
3 level shall be based on risk of reoffense as determined
4 through a validated risk and needs assessment. The contacts
5 shall keep the supervising officers informed of the
6 probationer's or parolee's conduct, compliance with
7 conditions, and progress in community-based intervention.

8 "(4) Case planning for each probationer or parolee
9 based on risk of reoffense and needs identified and
10 prioritized based on associated risk.

11 "(5) Use of practical and suitable methods that are
12 consistent with evidence-based practices to aid and encourage
13 the probationer or parolee to improve his or her conduct and
14 circumstances so as to reduce his or her level of risk.

15 "(m) The board shall require all probation and
16 parole officers to complete all of the following training
17 requirements within two years of their hire date:

18 "(1) Assessment techniques.

19 "(2) Case planning.

20 "(3) Risk reduction strategies.

21 "(4) Effective communication skills.

22 "(5) Behavioral health needs.

23 "(6) Application of core correctional practices,
24 including motivational interviewing, basic principles of
25 cognitive therapy, structured skill building, problem solving,
26 reinforcement, and use of proper authority.

27 "(7) Mental health training.

1 "~~(7)~~(8) Other topics identified by the board as
2 evidence-based practices as defined in Section 12-25-32.

3 "(n) The board may expend funds appropriated for the
4 purposes of recruitment materials and training of law
5 enforcement officers and support staff, educating the public,
6 and promoting the agency's mission.

7 "(o) The board may not regulate or exercise
8 authority over, or related to, the operation, management,
9 regulations, policies, or procedures of any local confinement
10 facility, including, but not limited to, county jails,
11 community corrections programs, or drug courts.

12 "§15-22-26.

13 "~~(a) No prisoner shall be released on parole merely
14 as a reward for good conduct or efficient performance of
15 duties assigned in prison, but only if the Board of Pardons
16 and Paroles is of the opinion that the prisoner meets criteria
17 and guidelines established by the board to determine a
18 prisoner's fitness for parole and to ensure public safety. The
19 guidelines shall serve as an aid in the parole process and
20 shall promote the use of prison space for the most violent and
21 greatest risk offenders, while recognizing that the board's
22 paramount duty is to protect public safety. The guidelines
23 shall be structured, actuarially based, reviewed every three
24 years by the board, after a specified open comment period
25 determined by the board, and posted on the website of the
26 board and include, but not be limited to, the following Parole
27 shall be granted to any prisoner appearing before the board~~

1 who is eligible for release on parole, unless the parole case
2 file demonstrates there is a current and unreasonable risk the
3 prisoner will violate the law if released and the risk cannot
4 be mitigated by parole supervision. In making the parole
5 release decision, all of the following shall be considered:

6 ~~"(1) The prisoner's risk to reoffend, based upon a~~
7 ~~validated risk and needs assessment as defined in Section~~
8 ~~12-25-32~~ The institutional record, including program goals and
9 accomplishments, academic achievements, vocational education,
10 training or work assignments, therapy, and interactions with
11 staff and other prisoners.

12 ~~"(2) Progress by the prisoner and the Department of~~
13 ~~Corrections to plan for reentry~~ Release plans, including
14 community resources, employment, education, and training and
15 support services available to the prisoner.

16 "(3) Input from the victim or victims, the family of
17 the victim or victims, the sentencing judge, prosecutors, and
18 law enforcement entities.

19 "(4) Participation in risk-reduction programs while
20 incarcerated.

21 "(5) Institutional behavior of the prisoner while
22 incarcerated.

23 "(6) Severity of the underlying offense for which
24 the prisoner was sentenced to incarceration, with due
25 consideration to the type of sentence, length of sentence, the
26 pre-sentence report, consideration of any mitigating and

1 aggravating factors, and activities following arrest prior to
2 confinement.

3 "(7) Performance, if any, as a participant in a
4 temporary release program.

5 "(8) Prior criminal record, including the nature and
6 pattern of offenses, adjustment to any previous probation or
7 parole supervision, and institutional confinement.

8 "(9) All evidence of rehabilitation and reform.

9 "(b) Except as provided in Section 15-22-37, if the
10 board grants a prisoner parole, the prisoner shall be released
11 from prison upon the terms and conditions set by the board,
12 and while released on parole, shall remain in the legal
13 custody of the warden of the prison from which he or she is
14 paroled until the expiration of the maximum term specified in
15 his or her sentence or until he or she is fully pardoned.

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

1 ~~process, and the decision concerning parole release shall be~~
2 ~~at the complete discretion of the board.~~

3 "§15-22-37.

4 "(a) The Board of Pardons and Paroles may adopt
5 rules, not inconsistent with the provisions of this article,
6 ~~touching upon~~ relating to all matters dealt with in this
7 article, including, among others, practice and procedure in
8 matters pertaining to paroles, pardons, and remission of fines
9 and forfeitures; provided, however, that no rule adopted by
10 the board ~~shall have the effect of denying~~ may deny to any
11 person whose application for parole or the revocation of whose
12 parole is being considered by the board from having the
13 benefit of counsel or witnesses ~~upon~~ during the hearing.

14 "(b) The Board of Pardons and Paroles shall adopt
15 rules to do all the following:

16 "(1) Establish a program of limited supervision for
17 parolees who qualify addressing eligibility using validated
18 risk and needs assessments, as defined in Section 12-25-32,
19 transfers among levels of supervision, to include guidelines
20 for the transfer of lower-risk individuals to an
21 administrative form of parole, and reporting requirements.

22 "(2) Develop policies and procedures for screening,
23 assessment, and referral for parolees to connect with
24 recidivism reduction services including, but not limited to,
25 cognitive behavioral intervention and substance abuse
26 treatment.

1 "(3) Establish a matrix of rewards for compliance
2 and pro-social behaviors and swift, certain, and graduated
3 sanctions to be imposed by the board, as provided under
4 subsections (e) and (f) of Section 15-22-32, in response to
5 corresponding violations of parole terms or conditions
6 imposed.

7 "(4) Establish clear guidelines and procedures that
8 retain the board's discretion in individual parole release
9 cases. The guidelines shall provide that, if a prisoner
10 convicted of a nonviolent offense, as defined in Section
11 12-25-32, with a sentence of 20 years or less is denied
12 parole, the board shall reconsider releasing the prisoner on
13 parole no more than two years after such parole release
14 denial. ~~The guidelines shall allow a current validated risk
15 and needs assessment as defined in Section 12-25-32, past
16 criminal history, program completion, institutional
17 misconduct, and other individual characteristics related to
18 the likelihood of offending in the future to be factored into
19 the release decision while working to allocate prison space
20 for the most violent and greatest risk prisoners.~~

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

24 "(6) Establish criteria, guidelines, and procedures
25 to discharge parolees from parole supervision requirements
26 prior to the expiration of the full maximum term for which the
27 parolee was sentenced, unless the parolee was convicted of a

1 violent offense as defined in Section 12-25-32, which shall
2 include review of a parolee for discharge from parole
3 supervision at least every two years if the parolee has
4 satisfied all financial obligations owed to the court,
5 including restitution, and has not had his or her supervision
6 revoked.

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

19 "(d) The Director of Pardons and Paroles shall post
20 on the board's website the board's existing rules, procedures,
21 guidelines, or other policies concerning the grant or denial
22 of pardons, the grant or denial of paroles, the restoration of
23 political and civil rights, the remission of fines and
24 forfeitures, and the revocation of parole."

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

