

1 HB57
2 216025-1
3 By Representative England
4 RFD: Judiciary
5 First Read: 11-JAN-22
6 PFD: 01/06/2022

1
2
3
4
5
6
7
8 SYNOPSIS: This bill would create the Criminal Justice
9 Policy Development Council to oversee the
10 development and implementation of validated risk
11 and needs assessments for offenders, parole
12 guidelines, and classification guidelines of
13 inmates.

14 Under existing law, the Board of Pardons and
15 Paroles uses the parole release guidelines as an
16 aid in the parole process.

17 This bill would require the Board of Pardons
18 and Paroles to use parole release guidelines in its
19 parole decisions.

20 This bill would provide that if the board
21 deviates from the parole release guidelines, it
22 would be required to state its reasons for the
23 deviation.

24 This bill would also provide appellate
25 relief for prisoners who are negatively affected by
26 the board's deviation from the parole release
27 guidelines.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT
5

6 Relating to criminal justice; to create the Criminal
7 Justice Policy Development Council; to specify the membership
8 of the council; to specify the duties of the council; and to
9 amend Section 15-22-26, Code of Alabama 1975, to require the
10 Board of Pardons and Paroles to use parole release guidelines;
11 to revise certain parole proceedings; and to provide appellate
12 review of certain parole decisions.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. (a) The Criminal Justice Policy
15 Development Council is created to oversee the development and
16 implementation of certain policies and guidelines relating to
17 offenders in the criminal justice system as provided in this
18 section.

19 (b) (1) The council shall be composed of the
20 following members:

21 a. The Executive Director of the Alabama Sentencing
22 Commission.

23 b. The Secretary of the Department of Corrections.

24 c. The Director of the Board of Pardons and Paroles.

25 d. The Director of the Legislative Services Agency.

1 (2) The council shall select a member to serve as
2 its chair and vice chair at its first meeting, to be held no
3 later than August 1, 2022.

4 (3) Members of the council shall serve without
5 compensation, but may be reimbursed for necessary expenses in
6 attending meetings of the council according to policies and
7 procedures of their respective appointing authority or
8 employing agency.

9 (c) (1) By October 1, 2024, the council shall
10 complete all of the following:

11 a. Update the inmate classification system for
12 implementation by the Department of Corrections.

13 b. Create and adopt parole guidelines to be
14 implemented by the Board of Pardons and Paroles.

15 c. Adopt a validated risk and needs assessment that
16 has been created and validated for the Alabama felony offender
17 population to be implemented by the Department of Corrections
18 and the Board of Pardons and Paroles.

19 (2) The council may contract with third parties to
20 develop and validate the systems, policies, and guidelines
21 required in subdivision (1).

22 (d) The council may meet as often as necessary at
23 the call of the chair or a majority of the members.

24 (e) Beginning on October 1, 2022, and quarterly
25 thereafter, the council shall submit a written report to the
26 Legislature on its progress with the development and
27 implementation of the systems, policies, and guidelines as

1 required in this section. Upon adoption of each system,
2 policy, and guideline, the council shall certify to the
3 Legislature that it has completed that task.

4 (f) (1) Upon the adoption of the systems, policies,
5 and guidelines by the council, as provided by this section,
6 the Department of Corrections and the Board of Pardons and
7 Paroles shall implement the use of the systems, policies, and
8 guidelines.

9 (2) Within 60 days of the council's certification to
10 the Legislature as required in subsection (e), the Department
11 of Corrections and the Board of Pardons and Paroles shall
12 report to the Legislature in writing how it has implemented
13 the particular system, policy, or guideline.

14 (g) The Legislative Services Agency, the
15 Administrative Office of Courts, the Department of
16 Corrections, the Board of Pardons and Paroles, the Alabama
17 State Law Enforcement Agency, and any other entities as
18 designated by the council shall provide assistance to the
19 council as necessary.

20 (h) The council shall stand dissolved on January 1,
21 2025, unless extended by an act of the Legislature.

22 Section 2. Section 15-22-26, Code of Alabama 1975,
23 is amended to read as follows:

24 "§15-22-26.

25 "(a) (1) ~~No prisoner shall be released on parole~~
26 ~~merely as a reward for good conduct or efficient performance~~
27 ~~of duties assigned in prison, but only if the Board of Pardons~~

1 ~~and Paroles is of the opinion that the prisoner meets criteria~~
2 ~~and guidelines established by the board~~ The Board of Pardons
3 and Paroles, by rule, shall establish parole release
4 guidelines to determine a prisoner's fitness for parole and to
5 ensure public safety.

6 "(2) The parole release guidelines shall ~~serve as an~~
7 ~~aid~~ be used by the board in the parole process and shall
8 promote the use of prison space for the most violent and
9 greatest risk offenders, while recognizing that the board's
10 paramount duty is to protect public safety.

11 "(3) The parole release guidelines shall be
12 structured, and actuarially based, ~~reviewed every three years~~
13 ~~by the board, after a specified open comment period determined~~
14 ~~by the board, and posted on the website of the board and~~
15 ~~include, but not be limited to, the following:.~~

16 "(4) The parole release guidelines shall assess all
17 of the following:

18 "~~(1)~~ a. The prisoner's risk to reoffend, based upon
19 a validated risk and needs assessment, as defined in Section
20 12-25-32.

21 "~~(2)~~ b. Progress by the prisoner ~~and~~ in complying
22 with the Department of ~~Corrections to~~ Corrections' plan for
23 reentry.

24 "~~(3)~~ c. Input from the victim or victims, the family
25 of the victim or victims, prosecutors, and law enforcement
26 entities.

1 "~~(4)~~ d. Participation in risk-reduction programs
2 while incarcerated.

3 "~~(5)~~ e. Institutional behavior of the prisoner while
4 incarcerated.

5 "~~(6)~~ f. Severity of the underlying offense for which
6 the prisoner was sentenced to incarceration.

7 "g. Any interview or statement from the prisoner.

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

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

1 ~~release. The guidelines shall serve as an aid in the parole~~
2 ~~decisionmaking process, and the decision concerning parole~~
3 ~~release shall be at the complete discretion of the board.~~

4 "(c) Departures from the parole release guidelines
5 shall be subject to appellate review as provided in this
6 subsection. The board shall provide written notice to the
7 prisoner that he or she has a right to appeal the denial of
8 parole.

9 "(1) Within 30 days of the board denying a prisoner
10 parole, a prisoner who is aggrieved by the deviation from the
11 parole release guidelines may appeal the decision.

12 "(2) The venue for an appeal shall be the Criminal
13 Division of the Circuit Court of Montgomery County.

14 "(3) The petition shall be heard by a circuit judge
15 of Montgomery County or a circuit judge designated by the
16 Chief Justice of the Alabama Supreme Court or by the Alabama
17 Supreme Court.

18 "(4) Review by the court shall be without a jury and
19 be limited to review of the prisoner's parole file, including
20 any written or electronic statements of the parolee.

21 "(5) The decision by the circuit court shall be
22 final.

23 "(d) If the board grants a prisoner parole, the
24 prisoner shall be released from prison upon the terms and
25 conditions set by the board, and while released on parole,
26 shall remain in the legal custody of the warden of the prison
27 from which he or she is paroled until the expiration of the

1 maximum term specified in his or her sentence or until he or
2 she is granted a full pardon."

3 Section 3. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.