

1 SB245
2 217649-1
3 By Senator Stutts
4 RFD: Judiciary
5 First Read: 22-FEB-22

SYNOPSIS: Under existing law, a prisoner who is convicted of certain felonies is not eligible for parole until he or she has completed 85 percent of the sentence or served 15 years, whichever is less.

This bill would provide that a person convicted of manslaughter would not be eligible for parole until he or she has completed 85 percent of the sentence or has served 15 years, whichever is less.

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 15-22-28, Code of Alabama 1975, to provide that a person convicted of manslaughter not be eligible for parole until he or she has

1 completed 85 percent of the sentence or has served 15 years,
2 whichever is less; and to make nonsubstantive, technical
3 revisions to update the existing code language to current
4 style.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 15-22-28, Code of Alabama 1975,
7 is amended to read as follows:

8 "§15-22-28.

9 "(a) ~~It shall be the duty of the~~ The Board of
10 Pardons and Paroles, ~~upon its own initiative, to make an~~
11 ~~investigation of any and~~ shall investigate all prisoners
12 confined in the jails and prisons of the state, through use of
13 a validated risk and needs assessment as defined in Section
14 12-25-32, ~~with a view of determining the feasibility of~~
15 ~~releasing the prisoners on parole and effecting their~~
16 ~~reclamation~~ to determine whether to parole a prisoner.

17 Reinvestigations shall be ~~made from time to time~~ performed as
18 determined by the board ~~may determine~~ or ~~as~~ when requested by
19 the Department of Corrections ~~may request~~. The investigations
20 shall include ~~such~~ reports and other information as the board
21 may require from the Department of Corrections or any of its
22 officers, agents, or employees.

23 "(b) ~~It shall be the duty of the~~ The Department of
24 Corrections ~~to~~ and its officers, agents, and employees shall
25 cooperate with the ~~Board of Pardons and Paroles~~ board for the
26 purpose of carrying out this article.

1 "(c) Temporary leave from prison, including
2 Christmas furloughs, may only be granted ~~only~~ by the
3 Commissioner of the Department of Corrections to a prisoner
4 for good and sufficient reason and may be granted within or
5 without the state; provided, that Christmas furloughs ~~shall~~
6 may not be granted to any prisoner convicted of drug ~~peddling~~
7 distribution, child molesting or rape, or to any maximum
8 security prisoner. A permanent~~7~~ written record of all
9 temporary leaves, ~~together with the~~ including the reasons
10 ~~therefor~~ the leave was granted, shall be kept by the
11 commissioner. He or she shall furnish the ~~Board of Pardons and~~
12 ~~Paroles~~ board with a record of each leave granted and the
13 reasons ~~therefor~~ leave was granted, and the same shall be
14 placed by the board in the prisoner's file.

15 "(d) No prisoner ~~shall~~ may be released on parole
16 except by a majority vote of the board. The board ~~shall~~ may
17 not parole any prisoner for employment by any official of the
18 State of Alabama, nor shall any parolee be employed by an
19 official of the State of Alabama and be allowed to remain on
20 parole; provided, however, that this ~~provision shall~~
21 subsection does not apply in the case of a parolee whose
22 employer, at the time of the parolee's original employment,
23 was not a state official.

24 "(e) The board shall set a prisoner's initial parole
25 consideration date according to the following schedules:

26 "(1) For prisoners receiving sentence deductions
27 pursuant to the Alabama Correctional Incentive Time Act,

1 Article 3, commencing with Section 14-9-40, of Chapter 9 of
2 Title 14, the following schedule shall apply:

3 "a. For terms of five years or less, the prisoner
4 shall be scheduled for initial parole consideration on the
5 current docket.

6 "b. For terms over five years and up to 10 years,
7 the prisoner shall be scheduled for initial parole
8 consideration approximately 18 months prior to the minimum
9 release date.

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

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

19 "a. Rape in the first degree.

20 "b. Kidnapping in the first degree.

21 "c. Murder.

22 "d. Attempted murder.

23 "e. Manslaughter that involves the use or attempted
24 use of a deadly weapon or dangerous instrument as defined in
25 Section 13A-1-2.

26 "~~e.~~ f. Sodomy in the first degree.

27 "~~f.~~ g. Sexual torture.

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

3 "~~h.~~ i. Burglary in the first degree with serious
4 physical injury as defined in Section 13A-1-2.

5 "~~i.~~ j. Arson in the first degree with serious
6 physical injury as defined in Section 13A-1-2.

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

11 "(4) If the prisoner is serving consecutive
12 sentences, the initial parole consideration date may not be
13 set for a date before the prisoner has separately served the
14 time prescribed in this subsection for each consecutive
15 sentence imposed.

16 "(f) (1) The board may deviate from the initial
17 parole consideration date established in subsection (e) or any
18 reconsideration date prescribed by the board's rules only in
19 either of the following circumstances:

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

23 "b. If the prisoner ~~shows~~, by clear and convincing
24 evidence, shows that he or she is more likely than not to be
25 granted parole and that he or she would have been considered
26 for parole on an earlier date under generally applicable rules
27 or policies previously in effect.

1 "(2) Any decision by the board to invoke the
2 procedures of this subsection shall be subject to legal review
3 by the deputy Attorney General or assistant Attorney General
4 assigned to the board, prior to the issuance of a parole
5 certificate and the prisoner's release. If it is determined
6 that the grant of parole consideration failed to satisfy the
7 requirements of this subsection or any rule adopted pursuant
8 to this subsection, the decision shall be reversed and the
9 prisoner shall be notified by the board.

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

18 "a. A requirement that the prisoner has completed a
19 minimum total period of incarceration.

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

22 "c. A requirement that the prisoner provide a
23 statement of support from a Department of Corrections staff
24 member.

25 "d. A requirement that the prisoner have no violent
26 disciplinarys during a prescribed period preceding the
27 prisoner's current application for parole consideration.

1 "e. A requirement that the prisoner have no
2 disciplinaries of any kind within a prescribed period
3 preceding the prisoner's current application for parole
4 consideration.

5 "f. A requirement that the prisoner's risk of
6 re-offense is determined to be medium or low following the
7 completion of a validated risk and needs assessment, as
8 defined in Section 12-25-32, conducted by a trained probation
9 and parole officer.

10 " (4) A 30 days' written notice shall be provided to
11 the Governor and Attorney General for any parole consideration
12 date set by the board under subdivision (f) (1). The Governor
13 and Attorney General shall have 14 days from the time notice
14 is received to object to the grant of parole. If the board
15 grants parole consideration under subdivision (f) (1) and did
16 not give adequate notice to the Governor or Attorney General
17 or granted parole consideration despite an objection from the
18 Governor or Attorney General, the decision shall be reversed
19 and the prisoner shall be notified by the board."

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