

**HB131 ENROLLED**



1 MRP8WW-2  
2 By Representative Kitchens  
3 RFD: Judiciary  
4 First Read: 21-Mar-23  
5 2023 Regular Session



## HB131 Enrolled

1 Enrolled, An Act,

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4 Relating to parole; to amend Section 15-22-28, Code of  
5 Alabama 1975, to provide that a prisoner is not eligible for  
6 parole of he or she has been duly charged with a new offense  
7 that has not been disposed.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

11 "§15-22-28

12 (a) It shall be the duty of the Board of Pardons and  
13 Paroles, upon its own initiative, to make an investigation of  
14 any and all prisoners confined in the jails and prisons of the  
15 state, through use of a validated risk and needs assessment as  
16 defined in Section 12-25-32, with a view of determining the  
17 feasibility of releasing the prisoners on parole and effecting  
18 their reclamation. Reinvestigations shall be made from time to  
19 time as the board may determine or as the Department of  
20 Corrections may request. The investigations shall include such  
21 reports and other information as the board may require from  
22 the Department of Corrections or any of its officers, agents,  
23 or employees.

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

27 (c) Temporary leave from prison, including Christmas  
28 furloughs, may be granted only by the Commissioner of



## HB131 Enrolled

29 Corrections to a prisoner for good and sufficient reason and  
30 may be granted within or without the state; provided, that  
31 Christmas furloughs shall not be granted to any prisoner  
32 convicted of drug peddling, child molesting, or rape, or to  
33 any maximum security prisoner. A permanent, written record of  
34 all temporary leaves, together with the reasons therefor,  
35 shall be kept by the commissioner. He or she shall furnish the  
36 Board of Pardons and Paroles with a record of each leave  
37 granted and the reasons therefor, and the same shall be placed  
38 by the board in the prisoner's file.

39 (d) No prisoner shall be released on parole except by a  
40 majority vote of the board. The board shall not parole any  
41 prisoner for employment by any official of the State of  
42 Alabama, nor shall any parolee be employed by an official of  
43 the State of Alabama and be allowed to remain on parole;  
44 provided, however, that this provision shall not apply in the  
45 case of a parolee whose employer, at the time of the parolee's  
46 original employment, was not a state official.

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

49 (1) For prisoners receiving sentence deductions  
50 pursuant to the Alabama Correctional Incentive Time Act,  
51 Article 3 of Chapter 9 of Title 14, the following schedule  
52 shall apply:

53 a. For terms of five years or less, the prisoner shall  
54 be scheduled for initial parole consideration on the current  
55 docket.

56 b. For terms over five years and up to 10 years, the



## HB131 Enrolled

57 prisoner shall be scheduled for initial parole consideration  
58 approximately 18 months prior to the minimum release date.

59 c. For terms of more than 10 years and up to 15 years,  
60 the prisoner shall be scheduled for initial parole  
61 consideration approximately two years and six months prior to  
62 the minimum release date.

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

68 a. Rape in the first degree.

69 b. Kidnapping in the first degree.

70 c. Murder.

71 d. Attempted murder.

72 e. Sodomy in the first degree.

73 f. Sexual torture.

74 g. Robbery in the first degree with serious physical  
75 injury as defined in Section 13A-1-2.

76 h. Burglary in the first degree with serious physical  
77 injury as defined in Section 13A-1-2.

78 i. Arson in the first degree with serious physical  
79 injury as defined in Section 13A-1-2.

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

84 (4) If the prisoner is serving consecutive sentences,



## HB131 Enrolled

85 the initial parole consideration date may not be set for a  
86 date before the prisoner has separately served the time  
87 prescribed in this subsection for each consecutive sentence  
88 imposed.

89 (f) (1) The board may deviate from the initial parole  
90 consideration date established in subsection (e) or any  
91 reconsideration date prescribed by the board's rules only in  
92 either of the following circumstances:

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

96 b. If the prisoner shows, by clear and convincing  
97 evidence, that he or she is more likely than not to be granted  
98 parole and that he or she would have been considered for  
99 parole on an earlier date under generally applicable rules or  
100 policies previously in effect.

101 (2) Any decision by the board to invoke the procedures  
102 of this subsection shall be subject to legal review by the  
103 deputy Attorney General or assistant Attorney General assigned  
104 to the board, prior to the issuance of a parole certificate  
105 and the prisoner's release. If it is determined that the grant  
106 of parole consideration failed to satisfy the requirements of  
107 this subsection or any rule adopted pursuant to this  
108 subsection, the decision shall be reversed and the prisoner  
109 shall be notified by the board.

110 (3) For purposes of paragraph (f) (1)b., the board shall  
111 adopt rules to determine whether a prisoner is more likely  
112 than not to be granted parole. These rules shall be designed



## HB131 Enrolled

113 to minimize the risk a prisoner will be prejudiced by any  
114 statutory or administrative changes in parole standards or  
115 procedures that have occurred since the date of the prisoner's  
116 conviction and shall include, but are not limited to the  
117 following:

118 a. A requirement that the prisoner has completed a  
119 minimum total period of incarceration.

120 b. A requirement that the prisoner complete certain  
121 programs while in custody of the Department of Corrections.

122 c. A requirement that the prisoner provide a statement  
123 of support from a Department of Corrections staff member.

124 d. A requirement that the prisoner have no violent  
125 disciplinarys during a prescribed period preceding the  
126 prisoner's current application for parole consideration.

127 e. A requirement that the prisoner have no  
128 disciplinarys of any kind within a prescribed period  
129 preceding the prisoner's current application for parole  
130 consideration.

131 f. A requirement that the prisoner's risk of re-offense  
132 is determined to be medium or low following the completion of  
133 a validated risk and needs assessment conducted by a trained  
134 probation and parole officer.

135 (4) A 30 days' written notice shall be provided to the  
136 Governor and Attorney General for any parole consideration  
137 date set by the board under subdivision (f)(1). The Governor  
138 and Attorney General shall have 14 days from the time notice  
139 is received to object to the grant of parole. If the board  
140 grants parole consideration under subdivision (f)(1) and did



## HB131 Enrolled

141 not give adequate notice to the Governor or Attorney General  
142 or granted parole consideration despite an objection from the  
143 Governor or Attorney General, the decision shall be reversed  
144 and the prisoner shall be notified by the board.

145 (g) (1) Notwithstanding any law to the contrary, any  
146 prisoner who is duly charged with a new federal, state, or  
147 local offense punishable by a term of imprisonment exceeding  
148 ~~six~~12 months shall not be considered for parole until after  
149 the charge has been disposed, whether by trial or other means.

150 (2) A prisoner shall immediately be notified by the  
151 Department of Corrections of any new charges pursuant to  
152 subdivision (1)."

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



**HB131 Enrolled**

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 20-Apr-23.

John Treadwell  
Clerk

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Senate **24-May-23**

Passed

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House **25-May-23**

Concurred in  
Senate Amendment