

HB131 INTRODUCED



1 MRP8WW-1
2 By Representative Kitchens
3 RFD: Judiciary
4 First Read: 21-Mar-23
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SYNOPSIS:

Under existing law, prisoners in the custody of the Department of Corrections are eligible for parole in certain circumstances.

This bill would provide that a prisoner is not be eligible for parole if he or she has been duly charged with a new offense that has not been disposed.

A BILL
TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§15-22-28

(a) It shall be the duty of the Board of Pardons and Paroles, upon its own initiative, to make an investigation of any and all prisoners confined in the jails and prisons of the state, through use of a validated risk and needs assessment as



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29 defined in Section 12-25-32, with a view of determining the
30 feasibility of releasing the prisoners on parole and effecting
31 their reclamation. Reinvestigations shall be made from time to
32 time as the board may determine or as the Department of
33 Corrections may request. The investigations shall include such
34 reports and other information as the board may require from
35 the Department of Corrections or any of its officers, agents,
36 or employees.

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

40 (c) Temporary leave from prison, including Christmas
41 furloughs, may be granted only by the Commissioner of
42 Corrections to a prisoner for good and sufficient reason and
43 may be granted within or without the state; provided, that
44 Christmas furloughs shall not be granted to any prisoner
45 convicted of drug peddling, child molesting, or rape, or to
46 any maximum security prisoner. A permanent, written record of
47 all temporary leaves, together with the reasons therefor,
48 shall be kept by the commissioner. He or she shall furnish the
49 Board of Pardons and Paroles with a record of each leave
50 granted and the reasons therefor, and the same shall be placed
51 by the board in the prisoner's file.

52 (d) No prisoner shall be released on parole except by a
53 majority vote of the board. The board shall not parole any
54 prisoner for employment by any official of the State of
55 Alabama, nor shall any parolee be employed by an official of
56 the State of Alabama and be allowed to remain on parole;



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57 provided, however, that this provision shall not apply in the
58 case of a parolee whose employer, at the time of the parolee's
59 original employment, was not a state official.

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

62 (1) For prisoners receiving sentence deductions
63 pursuant to the Alabama Correctional Incentive Time Act,
64 Article 3 of Chapter 9 of Title 14, the following schedule
65 shall apply:

66 a. For terms of five years or less, the prisoner shall
67 be scheduled for initial parole consideration on the current
68 docket.

69 b. For terms over five years and up to 10 years, the
70 prisoner shall be scheduled for initial parole consideration
71 approximately 18 months prior to the minimum release date.

72 c. For terms of more than 10 years and up to 15 years,
73 the prisoner shall be scheduled for initial parole
74 consideration approximately two years and six months prior to
75 the minimum release date.

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

81 a. Rape in the first degree.

82 b. Kidnapping in the first degree.

83 c. Murder.

84 d. Attempted murder.



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85 e. Sodomy in the first degree.

86 f. Sexual torture.

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

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

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

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

97 (4) If the prisoner is serving consecutive sentences,
98 the initial parole consideration date may not be set for a
99 date before the prisoner has separately served the time
100 prescribed in this subsection for each consecutive sentence
101 imposed.

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

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

109 b. If the prisoner shows, by clear and convincing
110 evidence, that he or she is more likely than not to be granted
111 parole and that he or she would have been considered for
112 parole on an earlier date under generally applicable rules or



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113 policies previously in effect.

114 (2) Any decision by the board to invoke the procedures
115 of this subsection shall be subject to legal review by the
116 deputy Attorney General or assistant Attorney General assigned
117 to the board, prior to the issuance of a parole certificate
118 and the prisoner's release. If it is determined that the grant
119 of parole consideration failed to satisfy the requirements of
120 this subsection or any rule adopted pursuant to this
121 subsection, the decision shall be reversed and the prisoner
122 shall be notified by the board.

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

131 a. A requirement that the prisoner has completed a
132 minimum total period of incarceration.

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

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

137 d. A requirement that the prisoner have no violent
138 disciplinarys during a prescribed period preceding the
139 prisoner's current application for parole consideration.

140 e. A requirement that the prisoner have no



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141 disciplinaries of any kind within a prescribed period
142 preceding the prisoner's current application for parole
143 consideration.

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

148 (4) A 30 days' written notice shall be provided to the
149 Governor and Attorney General for any parole consideration
150 date set by the board under subdivision (f)(1). The Governor
151 and Attorney General shall have 14 days from the time notice
152 is received to object to the grant of parole. If the board
153 grants parole consideration under subdivision (f)(1) and did
154 not give adequate notice to the Governor or Attorney General
155 or granted parole consideration despite an objection from the
156 Governor or Attorney General, the decision shall be reversed
157 and the prisoner shall be notified by the board.

158 (g) Notwithstanding any law to the contrary, any
159 prisoner who is duly charged with a new federal, state, or
160 local offense punishable by a term of imprisonment exceeding
161 six months shall not be considered for parole until after the
162 charge has been disposed, whether by trial or other means."

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