

1  
2  
3  
4  
5  
6  
7  
8  
9  
  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

H.844

Introduced by Representatives Rachelson of Burlington and Colburn of  
Burlington

Referred to Committee on

Date:

Subject: Corrections; parole; presumptive parole

Statement of purpose of bill as introduced: This bill proposes to institute a  
system of presumptive parole, reform aspects of the discretionary parole  
system, and abolish reintegration furloughs.

An act relating to reforming the parole system

It is hereby enacted by the General Assembly of the State of Vermont:

\* \* \* Presumptive Parole \* \* \*

Sec. 1. 28 V.S.A. § 501 is amended to read:

§ 501. ELIGIBILITY FOR PAROLE OR PAROLE CONSIDERATION

(a) An inmate who is serving a sentence of imprisonment shall be eligible  
for parole consideration as follows:

(1) If the inmate's sentence has no minimum term or a zero minimum  
term, the inmate shall be eligible for parole consideration within ~~12 months~~  
30 days after commitment to a correctional facility.

1           (2) If the inmate's sentence has a minimum term, the inmate shall be  
2 eligible for parole consideration after the inmate has served the minimum term  
3 of the sentence.

4           **(b) An inmate who is serving a sentence of imprisonment shall be released**  
5 **on parole by written order of the Parole Board upon completion of two-thirds**  
6 **of the inmate's maximum sentence, except that no inmate shall be granted**  
7 **parole under this subsection until the end of any period of disciplinary**  
8 **segregation. An inmate sentenced to a maximum term of life shall not be**  
9 **paroled under this subsection. An inmate who is granted parole under this**  
10 **subsection and is later reconfined due to a parole violation may not again be**  
11 **granted parole under this subsection for the same sentence.**

12       Sec. 2. 28 V.S.A. § 502 is amended to read:

13       § 502. PAROLE INTERVIEWS AND REVIEWS

14           (a) The ~~board~~ Board shall interview each inmate eligible for parole  
15 consideration under ~~section~~ subsection 501(a) of this title before ordering the  
16 inmate released on parole. The ~~board~~ Board shall consider all pertinent  
17 information regarding an inmate in order to determine the inmate's eligibility  
18 for parole. The ~~board~~ Board may grant parole under subsection 501(a) of this  
19 title only after an inmate is interviewed in accordance with this section. The  
20 ~~parole-board~~ Parole Board may conduct the interview in person, by telephone,  
21 or by videoconference, or by any other method it deems appropriate.

1 (b) An initial interview of the inmate shall occur on or before five business  
2 days from the date when the inmate becomes eligible for parole consideration  
3 under ~~section~~ subsection 501(a) of this title.

4 (c) An inmate eligible for parole consideration under subsection 501(a) of  
5 this title shall, subsequent to the initial interview provided for ~~above~~ in this  
6 section, be reviewed and interviewed thereafter, as follows:

7 (1) If the inmate is serving a maximum sentence of less than 15 years:

8 (A) the ~~board~~ Board shall review the inmate's record once every  
9 ~~12~~ three months; and

10 (B) the ~~board~~ Board shall conduct an interview of the inmate at the  
11 request of the ~~department~~ Department; and

12 (C) upon written request of the inmate, the ~~board~~ Board shall conduct  
13 an interview, but ~~no~~ not more than once in any ~~two-year~~ one-year period.

14 (2) If the inmate is serving a sentence with a maximum of 15 years up to  
15 a maximum of life:

16 (A) the ~~board~~ Board shall review the inmate's record once every ~~two~~  
17 ~~years~~ year;

18 (B) the ~~board~~ Board shall conduct an interview of the inmate at the  
19 request of the ~~department~~ Department; and

20 (C) upon written request of the inmate, the ~~board~~ Board may conduct  
21 an interview, but ~~no~~ not more than once in any ~~two-year~~ one-year period.

1       (d) The Board shall interview each inmate entitled to parole under  
2       subsection 501(b) of this title prior to the date on which the inmate is entitled  
3       to parole in order to determine appropriate terms and conditions of parole.

4       (e) The ~~board~~ Board in its discretion may hear from attorneys or other  
5       persons with an interest in the case before the ~~board~~ Board. A person  
6       presenting statements to the ~~board~~ Board may be required to submit the  
7       statement in writing.

8       ~~(e)~~(f) Interviews and reviews shall be conducted in accordance with the  
9       rules ~~and regulations~~ established by the ~~board~~ Board, which shall be consistent  
10      with this section.

11      ~~(f)~~(g) The ~~board~~ Board may when formulating the conditions of a parole,  
12      shall take into consideration the emotional needs of the victim of an offender's  
13      crime plus the needs of the victim's family.

14      Sec. 3. 28 V.S.A. § 502a is amended to read:

15      § 502a. RELEASE ON PAROLE

16      (a) No inmate serving a sentence with a minimum term shall be released on  
17      parole until the inmate has served the minimum term of the sentence, less any  
18      reductions for good behavior, except as required by subsection 501(b) of this  
19      title.

20      (b) An inmate shall be released on parole by the written order of the Parole  
21      Board under subsection 501(a) of this title if the Board determines:

1 (1) the inmate is eligible for parole;

2 (2) there is a reasonable probability that the inmate can be released  
3 without ~~detriment to the community or to the inmate~~ the evidence-based  
4 likelihood of specific, physical injury to one or more members of the  
5 community; and

6 (3) the inmate is willing and capable of fulfilling the obligations of a  
7 law-abiding citizen.

8 (c) A parole under subsection 501(a) of this title shall be ordered only for  
9 the best ~~interest~~ interests of the community and of the inmate, and any parole  
10 under section 501 of this title shall not be regarded as an award of clemency, a  
11 reduction of sentence, or a conditional pardon.

12 \* \* \*

13 Sec. 4. 28 V.S.A. § 502c(b) is amended to read:

14 (b) The parole agreement shall not become effective until it is signed by the  
15 inmate. The ~~parole board~~ Parole Board may withdraw the granting of parole  
16 under subsection 501(a) of this title at any time before the parole agreement is  
17 signed by the inmate. After the parole agreement is signed by the parolee,  
18 parole can only be revoked in accordance with subchapter 4 of this chapter.

19 Sec. 5. 28 V.S.A. § 505(b) is amended to read:

20 (b) Officials in charge of correctional facilities shall give to the Board, or  
21 its properly accredited representatives, access at all reasonable times to any

1 inmate over whom the Board has jurisdiction under this chapter and provide  
2 the Board or its representatives facilities for communicating with and  
3 observing the inmate, and furnish to the Board such documents as the Board  
4 may require concerning the conduct and character of any inmate in their  
5 custody and any other facts considered by the Board pertinent in determining  
6 whether the inmate shall be paroled under subsection 501(a) of this title or  
7 what terms and conditions of parole to establish, or both.

8 Sec. 6. 28 V.S.A. § 507 is amended to read:

9 § 507. NOTIFICATION TO VICTIM AND OPPORTUNITY TO TESTIFY

10 (a) At least 30 days prior to a parole ~~eligibility~~ hearing, the victim of a  
11 listed crime as defined in ~~subdivision 13 V.S.A. § 5301(7) of Title 13,~~ shall be  
12 notified as to the time and location of the hearing. Such notification may be  
13 waived by the victim in writing.

14 (b) At a parole ~~eligibility~~ hearing, unless waived by the victim of a listed  
15 crime as defined in ~~subdivision 13 V.S.A. § 5301(7) of Title 13,~~ the inmate  
16 shall not be present when the victim testifies before the ~~parole board~~ Parole  
17 Board.

18 (c) Parole ~~board~~ Board proceedings shall be subject to the Vermont open  
19 meeting law.

1 (d) As used in this section, “victim” means:

2 (1) a victim of the listed crime for which the ~~parole board~~ Parole Board  
3 is determining the inmate’s eligibility for parole or the terms and conditions of  
4 parole, or both; and

5 (2) a victim of a listed crime of which the inmate was convicted other  
6 than the listed crime for which the ~~parole board~~ Parole Board is determining  
7 the inmate’s eligibility for parole or the terms and conditions of parole, or both.

8 Sec. 7. 28 V.S.A. § 553 is amended to read:

9 § 553. INELIGIBILITY FOR FUTURE PAROLE

10 (a) An inmate who has been ~~re-confined~~ reconfined following parole may  
11 be reparaoled by the ~~board~~ Board under subsection 501(a) of this title and shall  
12 be reparaoled if eligible under subsection 501(b) of this title.

13 (b) ~~No~~ Notwithstanding subsection (a) of this section, no person having  
14 been found guilty of more than two violations of parole by the commission of  
15 any offense whose maximum term of imprisonment is more than two years or  
16 life or which may be punished by death shall be eligible for future parole  
17 during the balance of his or her original sentence.

18 Sec. 8. TIMELINE FOR INITIAL GRANTS OF PRESUMPTIVE PAROLE

19 Notwithstanding 28 V.S.A. §§ 501(b) and 502(d), for an inmate who has  
20 served or will have served two-thirds of his or her maximum sentence on or

1 before March 1, 2019 and is otherwise eligible for parole under 28 V.S.A.

2 § 501(b):

3 (1) The Parole Board shall interview and parole the inmate on or before  
4 March 1, 2019.

5 (2) The Parole Board shall parole the inmate on or after the date on  
6 which the inmate has served two-thirds of his or her maximum sentence.

7 \* \* \* Conforming Amendments \* \* \*

8 Sec. 9. 13 V.S.A. § 1501(b)(1) is amended to read:

9 (b)(1) A person shall not, while in lawful custody:

10 \* \* \*

11 (B) fail to return from furlough to the correctional facility at the  
12 specified time, or visits other than the specified place, as required by the order  
13 issued in accordance with 28 V.S.A. § 808, 808a, or 808b, ~~or 808e~~;

14 \* \* \*

15 Sec. 10. 28 V.S.A. § 808 is amended to read:

16 § 808. FURLOUGHS GRANTED TO OFFENDERS

17 \* \* \*

18 (g) Subsections (b)-(f) of this section shall also apply to ~~sections~~ section  
19 808a and 808e of this title.

1 Sec. 11. 28 V.S.A. § 808d is amended to read:

2 § 808d. DEFINITION; ELIGIBLE MISDEMEANOR; FURLOUGH AT THE  
3 DISCRETION OF THE DEPARTMENT

4 For purposes of sections ~~808a-808e~~ 808a and 808b of this title, “eligible  
5 misdemeanor” means a misdemeanor crime that is not one of the following  
6 crimes:

7 \* \* \*

8 \* \* \* Repeal of Reintegration Furlough \* \* \*

9 Sec. 12. REPEAL

10 28 V.S.A. § 808c (reintegration furlough) is repealed.

11 \* \* \* Effective Date \* \* \*

12 Sec. 13. EFFECTIVE DATE

13 This act shall take effect on January 1, 2019.