

1 H.324

2 Introduced by Representatives Rachelson of Burlington, McCullough of

3 Williston, Mrowicki of Putney, Walz of Barre City, and White

4 of Hartford

5 Referred to Committee on

6 Date:

7 Subject: Corrections; parole; furlough

8 Statement of purpose of bill as introduced: This bill proposes to increase the  
9 opportunity for parole for low-risk offenders and reduce reincarceration for  
10 offenders for furlough violations when there is no risk to public safety.

11 An act relating to parole eligibility and furlough violations

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

13 Sec. 1. 28 V.S.A. § 402 is amended to read:

14 § 402. DEFINITIONS

15 Whenever used in this chapter:

16 (1) “Board” means the Parole Board.

17 (2) “Parole” means the release of an inmate to the community by the

18 ~~parole board~~ Board before the end of the inmate’s sentence subject to

19 conditions imposed by the ~~board~~ Board and subject to the supervision and

20 control of the ~~commissioner~~ Commissioner. If a court or other authority files a

1 warrant or detainer against an inmate, the ~~board~~ Board may release him or her  
2 on parole to answer the warrant and serve any subsequent sentences.

3 ~~(2)~~(3) “Interview” means an appearance by the inmate at a meeting of  
4 the ~~parole board~~ Board.

5 ~~(3)~~(4) “Review” means an evaluation of an inmate’s records without an  
6 appearance by the inmate before the ~~parole board~~ Board.

7 Sec. 2. 28 V.S.A. § 501 is amended to read:

8 § 501. ELIGIBILITY FOR PAROLE OR PAROLE CONSIDERATION

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

11 (1) If the inmate’s sentence has no minimum term or a zero minimum  
12 term, the inmate shall be eligible for parole consideration within ~~12 months~~  
13 30 days after commitment to a correctional facility.

14 (2) If the inmate’s sentence has a minimum term, the inmate shall be  
15 eligible for parole consideration after the inmate has served the minimum term  
16 of the sentence.

17 (b) An inmate who is released on furlough status pursuant to section 808 of  
18 this title and who poses a low risk to public safety or victim safety as  
19 determined by a validated risk assessment tool shall be released on parole. The  
20 Board shall not deny release for an inmate who qualifies under this subsection,  
21 notwithstanding any other provision of this chapter. For purposes of this

1 subsection, the Board shall establish only those terms and conditions of parole  
2 that are reasonably related to the underlying offense for which the inmate was  
3 incarcerated.

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

5 § 502. PAROLE INTERVIEWS AND REVIEWS

6 (a) The ~~board~~ Board shall interview each inmate eligible for parole  
7 consideration under ~~section~~ subsection 501(a) of this title before ordering the  
8 inmate released on parole. The ~~board~~ Board shall consider all pertinent  
9 information regarding an inmate ~~in order to determine~~ for the purpose of  
10 determining the inmate's eligibility for parole. The ~~board~~ Board may grant  
11 parole under subsection 501(a) of this title only after an inmate is interviewed  
12 in accordance with this section. The ~~parole board~~ Board may conduct the  
13 interview in person, by telephone, or by videoconference, or by any other  
14 method it deems appropriate.

15 (b) An initial interview of the inmate shall occur when the inmate becomes  
16 eligible for parole consideration under ~~section~~ subsection 501(a) of this title.

17 (c) ~~An~~ After the initial interview, an inmate eligible for parole  
18 consideration under subsection 501(a) of this title shall, ~~subsequent to the~~  
19 ~~initial interview provided for above,~~ be reviewed and interviewed thereafter, as  
20 follows:

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

1 (A) the ~~board~~ Board shall review the inmate's record once every  
2 ~~12~~ six months; and

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

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

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

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

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

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

15 (d) The ~~board~~ Board in its discretion may hear from attorneys or other  
16 persons with an interest in the case before the ~~board~~ Board. A person  
17 presenting statements to the ~~board~~ Board may be required to submit the  
18 statement in writing.

19 (e) Interviews and reviews shall be conducted in accordance with the rules  
20 ~~and regulations~~ established by the ~~board~~ Board, which shall be consistent with  
21 this section.

1 (f) ~~The board may when~~ When formulating the conditions of a parole, the  
2 Board shall take into consideration the emotional needs of the victim of an  
3 offender's crime plus the needs of the victim's family.

4 Sec. 4. 28 V.S.A. § 502a is amended to read:

5 § 502a. RELEASE ON PAROLE

6 \* \* \*

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

9 (1) the inmate is eligible for parole; and

10 (2) there is a reasonable probability that the inmate can be released  
11 without detriment to public safety, to the community, or to the inmate; ~~and~~

12 ~~(3) the inmate is willing and capable of fulfilling the obligations of a~~  
13 ~~law-abiding citizen.~~

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

18 \* \* \*

19 Sec. 5. 28 V.S.A. § 502c(b) is amended to read:

20 (b) The parole agreement shall not become effective until it is signed by the  
21 inmate. The ~~parole board~~ Board may withdraw the granting of parole under

1 subsection 501(a) of this title at any time before the parole agreement is signed  
2 by the inmate. After the parole agreement is signed by the parolee, parole can  
3 only be revoked in accordance with subchapter 4 of this chapter.

4 Sec. 6. 28 V.S.A. § 505(b) is amended to read:

5 (b) Officials in charge of correctional facilities shall give to the Board, or  
6 its properly accredited representatives, access at all reasonable times to any  
7 inmate over whom the Board has jurisdiction under this chapter and provide  
8 the Board or its representatives facilities for communicating with and  
9 observing the inmate, and furnish to the Board such documents as the Board  
10 may require concerning the conduct and character of any inmate in their  
11 custody and any other facts considered by the Board pertinent in determining  
12 whether the inmate shall be paroled under subsection 501(a) of this title or  
13 what terms and conditions of parole to establish, or both.

14 Sec. 7. 28 V.S.A. § 507 is amended to read:

15 § 507. NOTIFICATION TO VICTIM AND OPPORTUNITY TO TESTIFY

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

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

4 (c) ~~Parole board~~ Board proceedings shall be subject to the Vermont open  
5 meeting law pursuant to 1 V.S.A. § 312.

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

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

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

13 Sec. 8. 28 V.S.A. § 808 is amended to read:

14 § 808. FURLOUGHS GRANTED TO OFFENDERS

15 \* \* \*

16 (d)(1) ~~When any~~ An offender may be returned to a correctional facility in  
17 the following circumstances:

18 (A) Any enforcement officer, as defined in 23 V.S.A. § 4, employee  
19 of the Department, or correctional officer responsible for supervising an  
20 offender believes the offender is in violation of ~~any verbal or written a~~  
21 condition of ~~the~~ his or her furlough and the offender is a danger to self or

1 others, a danger to the community, or a threat to abscond, the officer or  
2 employee may immediately lodge the offender at a correctional facility ~~or~~ if  
3 the risk to public safety cannot be controlled in the community, or if there is a  
4 verifiable threat to abscond. The officer or employee may, orally or in writing,  
5 deputize any law enforcement officer or agency to arrest and lodge the  
6 offender at such a facility if such conditions exist. The officer or employee  
7 shall subsequently document the reason for taking ~~such~~ action pursuant to this  
8 subdivision.

9 (B) An offender is convicted of a new crime.

10 (2) An offender who is returned to a correctional facility pursuant to  
11 subdivision (1)(A) of this subsection (d) shall be entitled to an administrative  
12 hearing on the violation within four days following the offender's return to  
13 custody. Inmates shall have a right to be represented by the Prisoner's Rights  
14 Office during the administrative hearings.

15 (3)(A) Prior to the maximum date of a sentence of incarceration:

16 (i) the first time an offender is returned to a correctional facility  
17 pursuant to subdivision (1)(A) of this subsection (d) he or she shall not remain  
18 in the correctional facility for more than 15 days;

19 (ii) the second time an offender is returned to a correctional  
20 facility pursuant to subdivision (1)(A) of this subsection (d) he or she shall not  
21 remain in the correctional facility for more than 60 days; and

1                   (iii) the term of a subsequent return shall be at the discretion of the  
2                   Department of Corrections.

3                   (B) The time limitations of subdivisions (3)(A)(i)–(iii) shall not apply  
4                   to offenders who are subject to disciplinary action within the correctional  
5                   facility during the term of their return.

6                   Sec. 9. EFFECTIVE DATE

7                   This act shall take effect on July 1, 2019.