

S.237

Introduced by Senator Vyhovsky

Referred to Committee on

Date:

Subject: Corrections; Parole Board

Statement of purpose of bill as introduced: This bill proposes to structure the Parole Board with one full-time chair and four members; provide the Parole Board with a staff attorney and additional administrative assistant; require training for the Parole Board; require the Parole Board to submit a budget directly to the Governor; require that an offender who is sentenced to a minimum term have no pending criminal charges to be eligible for parole; clarify victims' rights in a parole hearing; permit a parolee to relinquish parole status; and permit a parolee to benefit from earned time.

An act relating to restructuring the Parole Board

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

Sec. 1. 13 V.S.A. § 5305 is amended to read:

§ 5305. INFORMATION CONCERNING RELEASE FROM CUSTODY

(a) Victims and affected persons shall have the right to request notification by the agency having custody of the defendant before the defendant is released, including a release on bail or conditions of release, furlough, or other

1 community program; upon termination or discharge from probation; or  
2 whenever the defendant escapes, is recaptured, dies, or receives a pardon or  
3 commutation of sentence. Notice shall be given to the victim or affected  
4 person as expeditiously as possible at the address or telephone number  
5 provided to the agency having custody of the defendant by the person  
6 requesting notice. Any address or telephone number so provided shall be kept  
7 confidential. The prosecutor's office shall ensure that victims are made aware  
8 of their right to notification of an offender's scheduled release date pursuant to  
9 this section. Notwithstanding this subsection, the right to information for  
10 victims of delinquent acts is governed by 33 V.S.A. chapters 52 and 52A.

11 (b) If the defendant is released on conditions at arraignment, the  
12 prosecutor's office shall inform the victim of a listed crime of the conditions of  
13 release.

14 (c)(1) If requested by a victim of a listed crime, the Department of  
15 Corrections shall:

16 ~~(1)(A)~~ at least 30 days before a ~~parole board~~ Parole Board hearing  
17 concerning the defendant, inform the victim of the hearing and of the victim's  
18 right to testify before the ~~parole board~~ Parole Board or to submit a written  
19 statement for the ~~parole board~~ Parole Board to consider; and

(2) Unless waived by the victim of a listed crime, the inmate shall not be present when the victim testifies at the parole eligibility hearing.

## § 403. POWERS AND RESPONSIBILITIES OF THE COMMISSIONER

The Commissioner is charged with the following powers and responsibilities regarding the administration of parole:

(6) To provide regular training for the Parole Board, at least annually, in collaboration with the Parole Board Director, on topics related to making determinations of parole, criminogenic behavior, mental health disorders, substance use treatment, trauma-informed work with victims of crime, and serious crime rehabilitation.

## § 451. CREATION OF BOARD

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1 Governor, with the advice and consent of the Senate, shall appoint ~~five regular~~  
2 the chair and members ~~and two alternates~~ for terms of three years in such a  
3 manner that not more than three terms shall expire annually. Initial terms may  
4 be less than three years. No member shall serve more than two consecutive  
5 terms. Each member ~~and alternate~~ shall hold office until a successor is  
6 appointed and qualified. ~~The Governor shall designate the Board's chair.~~ As  
7 far as practicable, the Governor shall appoint as members persons who have  
8 knowledge of and experience in ~~correctional treatment, crime prevention, or~~  
9 human relations, criminogenic behavior, mental health treatment, substance  
10 use disorder, or serious crime rehabilitation and shall give consideration, as far  
11 as practicable, to geographic representation of the State. The Board shall  
12 select one of its members to serve as ~~Vice Chair~~ vice chair of the Board. If the  
13 Chair resigns or is otherwise permanently unable to serve on the Board, the  
14 Vice Chair shall serve as interim chair until the Governor designates a new  
15 chair pursuant to this section. ~~The Chair or the executive director may assign~~  
16 ~~alternates to serve on the Board in the absence of a regular member and such~~  
17 ~~alternates shall have all the powers and authority of a regular member when so~~  
18 ~~assigned.~~

19 (b) Three members of the Board shall constitute a quorum for the conduct  
20 of a meeting. Notwithstanding 1 V.S.A. § 172, the concurrence of a majority

1 of members present at a Parole Board meeting shall be necessary and sufficient  
2 for Board action.

3 (c) The Chair of the Parole Board shall be ~~entitled to compensation in the~~  
4 ~~amount of \$20,500.00 annually, effective on the first pay period in fiscal year~~  
5 ~~2006, which shall be in lieu of any per diem otherwise authorized by law a~~  
6 full-time, exempt employee. If the Vice Chair assumes the duties of the Chair  
7 for a period in excess of 30 consecutive days, the compensation otherwise  
8 payable to the Chair during ~~his or her~~ the Chair's absence shall be paid to the  
9 Vice Chair.

10 (d) At least annually, each member of the Parole Board shall attend  
11 trainings designated by the Parole Board Director.

12 Sec. 4. 28 V.S.A. § 455 is amended to read:

13 § 455. DIRECTOR

14 (a) The position of Parole Board Director is created. The Director shall be  
15 appointed by the Governor after consultation with the Board.

16 (b) The Director shall serve for a term of four years commencing on March  
17 1 and continuing until ~~his or her~~ a successor is appointed.

18 (c) The Director shall be exempt from classified State service.

19 (d) The Secretary of Human Services, in consultation with the Parole Board  
20 and the Department of Human Resources, shall establish the minimum and  
21 preferred qualifications, duties, and compensation of the Director.

1       (e) The Director shall be responsible for the overall function of the Parole  
2       Board, ensuring legal compliance, developing and implementing all policies  
3       and procedures of the Board, and developing and providing training to the  
4       Board, in collaboration with the Commissioner.

5       Sec. 5. 28 V.S.A. § 456 is amended to read:

6       § 456. PAROLE BOARD INDEPENDENCE

7       (a) The Parole Board shall be an independent and impartial body.

8       (b) In a pending parole revocation hearing, the Parole Board shall not be  
9       counseled by:

10       (1) Assistant Attorneys General; and

11       (2) any attorney employed by the Department of Corrections.

12       (c) If any attorney employed by the Department of Corrections or an  
13       Assistant Attorney General or the direct supervisor of an Assistant Attorney  
14       General who represents the Department of Corrections in parole revocation  
15       hearings provides training to the Parole Board members on the subject of  
16       parole revocation hearings, the Defender General shall be notified prior to the  
17       training and given the opportunity to participate.

18       (d) The Parole Board shall be responsible for submission of an annual  
19       budget to the Governor.

1 Sec. 6. 28 V.S.A. § 501 is amended to read:

2 § 501. ELIGIBILITY FOR PAROLE CONSIDERATION

3 An inmate who is serving a sentence of imprisonment who is not eligible  
4 for presumptive parole pursuant to section 501a of this title shall be eligible for  
5 parole consideration as follows:

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

9 (2) If the inmate's sentence has a minimum term, the inmate shall be  
10 eligible for parole consideration after the inmate has served the minimum term  
11 of the sentence and has no additional pending criminal charges.

12 Sec. 7. 28 V.S.A. § 502c is amended to read:

13 § 502c. PAROLE AGREEMENT

14 (a) When an inmate is paroled, the Parole Board shall issue a parole  
15 agreement, which shall set forth the name of the inmate paroled, the crime the  
16 inmate was convicted of, the date and place of trial, the sentence, and the terms  
17 and conditions of the parole. A copy of the parole agreement shall be  
18 furnished to the parolee and the Commissioner.

19 (b) The parole agreement shall not become effective until it is signed by the  
20 inmate. The Parole Board may withdraw the granting of parole at any time  
21 before the parole agreement is signed by the inmate. After the parole

1 agreement is signed by the parolee, parole can only be revoked in accordance  
2 with subchapter 4 of this chapter or if the parolee requests to voluntarily  
3 relinquish parole.

4 (c) A copy of the parole agreement shall be full authority for the  
5 Commissioner to exercise all supervision and control over the parolee  
6 prescribed by law, and shall be sufficient warrant for the detention of the  
7 parolee as provided in subdivision 403(2) of this title.

8 Sec. 8. 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 13 V.S.A. § 5301(7), shall be notified as to the time~~  
12 ~~and location of the hearing. Such notification may be waived by the victim in~~  
13 ~~writing.~~

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

17 ~~(c) Parole Board proceedings shall be subject to the Vermont Open~~  
18 ~~Meeting Law.~~

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

20 ~~(1) a victim of the listed crime for which the Parole Board is~~  
21 ~~determining the inmate’s eligibility for parole; and~~



1           ~~(2) a victim of a listed crime of which the inmate was convicted other~~  
2           ~~than the listed crime for which the Parole Board is determining the inmate's~~  
3           ~~eligibility for parole. [Repealed.]~~

4           Sec. 9. 28 V.S.A. § 818 is amended to read:

5           § 818. EARNED TIME; REDUCTION OF TERM

6           (a) On or before September 1, 2020, the Department of Corrections shall  
7           file a proposed rule pursuant to 3 V.S.A. chapter 25 implementing an earned  
8           time program to become effective on January 1, 2021. The Commissioner  
9           shall adopt rules to carry out the provisions of this section as an emergency  
10          rule and concurrently propose them as a permanent rule. The emergency rule  
11          shall be deemed to meet the standard for the adoption of emergency rules  
12          pursuant to 3 V.S.A. § 844(a).

13          (b) The earned time program implemented pursuant to this section shall  
14          comply with the following standards:

15               (1) The program shall be available for all sentenced offenders, including  
16               furloughed offenders and parolees, provided that the program shall not be  
17               available to offenders on probation ~~or parole~~, to offenders eligible for a  
18               reduction of term pursuant to section 811 of this title, to offenders sentenced to  
19               serve an interrupted sentence, or to offenders sentenced to life without parole.  
20               Offenders currently serving a sentence shall be eligible to begin earning a  
21               reduction in term when the earned time program becomes effective.

1 Notwithstanding this subdivision (~~4~~), when an offender has been convicted of a  
2 disqualifying offense, the offender's ability to participate and earn time in the  
3 program shall be determined pursuant to subdivision (5) of this subsection.

4 (2) Offenders shall earn a reduction of seven days in the minimum and  
5 maximum sentence for each month during which the offender:

6 (A) is not adjudicated of a major disciplinary rule violation; and

7 (B) is not reincarcerated from the community for a violation of  
8 release conditions, provided that an offender who loses a residence for a reason  
9 other than fault on the part of the offender shall not be deemed reincarcerated  
10 under this subdivision.

11 (3) An offender who receives post-adjudication treatment in a residential  
12 setting for a substance use disorder shall earn a reduction of one day in the  
13 minimum and maximum sentence for each day that the offender receives the  
14 inpatient treatment. While ~~a person~~ an offender is in residential substance  
15 abuse treatment, ~~he or she~~ the offender shall not be eligible for earned time  
16 except as provided in this subsection.

17 (4) The Department shall:

18 (A) ensure that all victims of record are notified of the earned time  
19 program at its outset and made aware of the option to receive notifications  
20 from the Department pursuant to this subdivision;

1 (B) provide timely notice not less frequently than every 90 days to  
2 the offender, and to any victim who opts to receive the notice, any time the  
3 offender receives a reduction in the offender's term of supervision pursuant to  
4 this section;

5 (C) maintain a system that documents and records all such reductions  
6 in each offender's permanent record; and

7 (D) record any reduction in an offender's term of supervision  
8 pursuant to this section on a monthly basis and ensure that victims who want  
9 information regarding changes in an offender's minimum release date have  
10 access to such information.

11 (5) Notwithstanding 1 V.S.A. § 214, an offender who was serving a  
12 sentence for a disqualifying offense on January 1, 2021, shall not earn any  
13 earned time sentence reductions under this section after the effective date of  
14 this act. This subdivision ~~(5)~~ shall not be construed to limit or affect earned  
15 time that an offender has earned on or before ~~the effective date of this act~~ April  
16 26, 2021.

17 (c) As used in this section:

18 (1) "Disqualifying offense" means:

19 (A) murder in violation of 13 V.S.A. § 2301;

20 (B) voluntary manslaughter in violation of 13 V.S.A. § 2304;

1 (C) kidnapping in violation of 13 V.S.A. § 2405;

2 (D) lewd and lascivious conduct with a child in violation of 13

3 V.S.A. § 2602, provided that the offense shall not be considered a

4 disqualifying offense if the offender is under 18 years of age, the child is at

5 least 12 years of age, and the conduct is consensual;

6 (E) sexual assault in violation of 13 V.S.A. § 3252(a) or (b);

7 (F) aggravated sexual assault in violation of 13 V.S.A. § 3253; or

8 (G) aggravated sexual assault of a child in violation of 13 V.S.A.

9 § 3253a.

10 (2) "Interrupted sentence" means a sentence that is not served

11 continuously, including a sentence to be served in intervals or a sentence to the

12 work crew.

13 Sec. 10. PAROLE BOARD; POSITIONS; APPROPRIATION

14 (a) The following permanent positions are created in the Parole Board:

15 (1) one full-time, exempt Chair of the Board;

16 (2) one full-time, exempt staff attorney; and

17 (3) one full-time, classified administrative assistant.

18 (b) There is appropriated to the Parole Board from the General Fund in

19 fiscal year 2027 the sum of:

20 (1) \$160,000.00 for the Chair of the Board;

21 (2) \$150,000.00 for the staff attorney;

1           (3) \$100,000.00 for the administrative assistant; and

2           (4) \$20,000.00 for training required by this act.

3       Sec. 11. EFFECTIVE DATE

4           This act shall take effect on July 1, 2026.