

1 HB579
2 210901-1
3 By Representative England
4 RFD: Judiciary
5 First Read: 01-APR-21

SYNOPSIS: Under existing law, the Board of Pardons and Paroles is required to consider certain factors in determining whether to grant parole.

This bill would revise the criteria for parole consideration.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to parole; to amend Section 15-22-24 and Sections 15-22-26 and 15-22-37, as last amended by Act 2019-393, 2019 Regular Session, Code of Alabama 1975; to further provide for parole consideration; and would also make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 15-22-24 and Sections 15-22-26
2 and 15-22-37, as last amended by Act 2019-393, 2019 Regular
3 Session, Code of Alabama 1975, are amended to read as follows:

4 "§15-22-24.

5 "(a) The Board of Pardons and Paroles, ~~hereinafter~~
6 ~~referred to as "the board,"~~ shall be charged with ~~the duty of~~
7 ~~determining, through use of a validated risk and needs~~
8 ~~assessment as defined in Section 12-25-32, what prisoners~~ all
9 of the following:

10 "a. Determining which prisoners serving sentences in
11 the jails and prisons of the State of Alabama may be released
12 on parole and when and under what conditions. ~~Such board shall~~
13 ~~also be charged with the duty of supervising~~

14 "b. Supervising all prisoners released on parole
15 ~~from the jails or prisons of the state and of lending its~~
16 ~~assistance to the courts in the supervision of all prisoners~~
17 or placed on probation by courts exercising criminal
18 jurisdiction ~~and making such.~~

19 "c. Conducting investigations ~~as~~ that may be
20 necessary ~~in connection therewith, of implementing~~ by the
21 courts or the board regarding parolees and probationers.

22 "d. Implementing the use of validated risk and needs
23 assessments, as defined in Section 12-25-32, by probation and
24 parole officers, ~~of determining.~~

25 "e. Determining whether ~~violation of a parolee or~~
26 probationer has violated the conditions of his or her parole
27 ~~or probation conditions exist in specific cases, deciding, in~~

1 ~~the case of.~~ Regarding parolees, deciding what action should
2 be taken ~~with reference thereto, causing, in the case of~~ for a
3 parole violation. Regarding probationers, ~~reports of such~~
4 ~~investigations to be made~~ reporting any probation violations
5 to the judges of the courts having jurisdiction of the
6 probationers ~~and of aiding.~~

7 "f. Aiding parolees and probationers to secure
8 employment.

9 "(b) Between October 1 and December 31 of each year,
10 the board shall ~~make a full report of~~ its activities and
11 functions during the preceding year, ~~and such report shall be~~
12 ~~prepared in quadruplicate, with one copy thereof lodged with~~
13 to the Governor, ~~one filed in the office of~~ to the Secretary
14 of State, ~~one filed in the office of~~ and to the Department of
15 Archives and History, ~~and one.~~ A copy retained shall be
16 maintained in the permanent records of the board.

17 "(c) The board may accept grants, ~~devices, bequeaths~~
18 ~~[bequests]~~ or gifts and ~~make expenditures therefrom for the~~
19 ~~operations of the board and not individually as board members,~~
20 or other funds for the operation of the board.

21 "(d) The board ~~shall have the power and authority to~~
22 may enter into contracts to accomplish the objectives of the
23 board.

24 "(e) The board shall adopt policy and procedural
25 guidelines for establishing parole consideration eligibility
26 ~~dockets based on its evaluation of a prisoner's prior record,~~
27 ~~nature and severity of the present offense, potential for~~

1 ~~future violence, and community attitude toward the offender to~~
2 ~~include input from the victim or victims, the family of the~~
3 ~~victim or victims, prosecutors, and law enforcement entities~~
4 ~~or other criteria established by the board pursuant to Section~~
5 ~~15-22-37.~~

6 "(f) Any ~~person~~ individual who, ~~at the time of his~~
7 ~~retirement, is employed by~~ retires from the Board of Pardons
8 and Paroles as a probation and parole officer, shall receive
9 his or her badge and pistol as part of ~~his~~ the retirement
10 benefits, without cost to him, ~~his badge, and pistol~~ or her.

11 "(g) The board ~~is hereby authorized and empowered to~~
12 ~~promulgate~~ may adopt rules ~~and regulations~~ to establish a
13 program that will authorize the board to expend state ~~moneys~~
14 funds not to exceed two hundred fifty dollars (\$250.00) per
15 year for awarding recognition incentive awards for outstanding
16 employees.

17 "(h) No state official shall appear or otherwise
18 represent an applicant before the board for any consideration
19 or thing of value unless ~~said~~ the official was counsel of
20 record for the applicant during a trial or hearing in the
21 regular judicial process that led to ~~said~~ the applicant's
22 present status; however, no state official shall be prohibited
23 from appearing without consideration before the board or board
24 panel on behalf of an applicant.

25 "(i) The board ~~shall have the power, authority, and~~
26 ~~jurisdiction to~~ may conditionally transfer a prisoner to the
27 authorities of the federal government or any other

1 jurisdiction entitled to his or her custody to answer pending
2 charges or to begin serving a sentence in response to a
3 properly filed detainer from the other jurisdiction. ~~Such~~ The
4 conditionally transferred prisoner shall remain in the legal
5 custody of the warden of the institution from which he or she
6 was transferred. Should any ~~such~~ conditionally transferred
7 prisoner satisfy all detainers against him or her prior to
8 completion of ~~his~~ the Alabama sentence, ~~said~~ the prisoner
9 ~~shall~~ may not be released from custody without further order
10 of the ~~Board of Pardons and Paroles~~ board.

11 "(j) The board and its agents ~~shall have the power~~
12 ~~and authority to~~ may administer oaths and affirmation, examine
13 witnesses, and receive evidence on all matters to be
14 considered by the board.

15 "(k) The board shall develop and adopt guidelines
16 and policies to ensure that any treatment programs or
17 providers utilized by the board in the supervision of
18 probationers and parolees implement evidence-based practices,
19 as defined in Section 12-25-32, designed to reduce recidivism
20 among ~~such~~ probationers and parolees and shall cooperate with
21 the Office of the Governor in evaluating ~~such~~ the programs and
22 providers. The Office of the Governor shall ensure that
23 treatment programs and providers that receive funding from the
24 state or through court-ordered monies utilize ~~such~~ funding and
25 monies for programs reasonably expected to reduce recidivism
26 among probationers and parolees.

1 "(1) The board shall develop and adopt guidelines
2 and policies to ensure that the supervision and treatment of
3 probationers and parolees ~~shall be~~ are based on the individual
4 probationer's or parolee's risk of reoffending, as determined
5 through a validated risk and needs assessment as defined in
6 Section 12-25-32, and that supervision and treatment resources
7 of the board are prioritized to focus on those probationers
8 and parolees with the highest risk of reoffending. The board
9 shall include resources available to veterans and ~~servicemen~~
10 service members and shall annually coordinate with the
11 Department of Veterans Affairs to ensure the most current
12 benefits and services are identified and available. ~~The board~~
13 ~~shall maximize case supervision practices such that no~~
14 ~~probation and parole officer is assigned more than 20 active~~
15 ~~high-risk cases at any one time.~~ Supervision and treatment of
16 probationers and parolees shall include all of the following:

17 "(1) Use of a validated risk and needs assessment,
18 as defined in Section 12-25-32.

19 "(2) Use of assessment results to guide the
20 appropriate level of supervision responses consistent with the
21 level of supervision and evidence-based practices used to
22 reduce recidivism.

23 "(3) Collateral and personal contacts with the
24 probationer or parolee and community that may be unscheduled
25 and that shall occur as often as needed based on the
26 probationer's or parolee's supervision level, ~~which, in turn,~~
27 should. The supervision level shall be based on risk of

1 reoffense as determined through a validated risk and needs
2 assessment. ~~Such~~ The contacts shall ~~serve the purpose of~~
3 ~~keeping~~ keep the supervising officers informed of the
4 probationer's or parolee's conduct, compliance with
5 conditions, and progress in community-based intervention~~7.~~

6 "(4) Case planning for each probationer or parolee
7 based on risk of reoffense and needs identified and
8 prioritized based on associated risk~~7.~~~~and.~~

9 "(5) Use of practical and suitable methods that are
10 consistent with evidence-based practices to aid and encourage
11 the probationer or parolee to improve his or her conduct and
12 circumstances so as to reduce his or her level of risk.

13 "(m) The board shall require all probation and
14 parole officers ~~employed on January 30, 2016,~~ to complete all
15 of the following training requirements ~~set forth in this~~
16 ~~subsection on or before January 1, 2017.~~ All probation and
17 ~~parole officers hired after January 30, 2016,~~ shall complete
18 ~~the training requirements set forth in this subsection~~ within
19 two years of their hire date. ~~The training and professional~~
20 ~~development services shall include:~~

21 "(1) Assessment techniques~~7.~~

22 "(2) Case planning~~7.~~

23 "(3) Risk reduction strategies~~7.~~

24 "(4) Effective communication skills~~7.~~

25 "(5) Behavioral health needs~~7.~~

26 "(6) Application of core correctional practices,
27 including motivational interviewing, basic principles of

1 cognitive therapy, structured skill building, problem solving,
2 reinforcement, and use of proper authority.

3 ~~"(7) Training for supervising officers to become
4 training capacity in the state; and~~

5 "(7) Mental health training.

6 "(8) Other topics identified by the board as
7 evidence-based practices as defined in Section 12-25-32.

8 "(n) The board ~~shall~~ may ~~not have the power,~~
9 ~~authority, or jurisdiction to~~ regulate or exercise authority
10 over, or related to, the operation, management, regulations,
11 policies, or procedures of any local confinement facility,
12 including, but not limited to, county jails, community
13 corrections programs, or drug courts.

14 "§15-22-26.

15 "(a) ~~No prisoner shall be released on parole merely
16 as a reward for good conduct or efficient performance of
17 duties assigned in prison, but only if the Board of Pardons
18 and Paroles is of the opinion that the prisoner meets criteria
19 and guidelines established by the board to determine a
20 prisoner's fitness for parole and to ensure public safety. The
21 guidelines shall serve as an aid in the parole process and
22 shall promote the use of prison space for the most violent and
23 greatest risk offenders, while recognizing that the board's
24 paramount duty is to protect public safety. The guidelines
25 shall be structured, actuarially based, reviewed every three
26 years by the board, after a specified open comment period
27 determined by the board, and posted on the website of the~~

1 ~~board and include, but not be limited to, the following~~ Parole
2 shall be granted to any prisoner appearing before the board
3 who is eligible for release on parole, unless the parole case
4 file demonstrates there is a current and unreasonable risk the
5 prisoner will violate the law if released and the risk cannot
6 be mitigated by parole supervision. In making the parole
7 release decision, all of the following shall be considered:

8 ~~"(1) The prisoner's risk to reoffend, based upon a~~
9 ~~validated risk and needs assessment as defined in Section~~
10 ~~12-25-32~~ The institutional record, including program goals and
11 accomplishments, academic achievements, vocational education,
12 training or work assignments, therapy, and interactions with
13 staff and other prisoners.

14 ~~"(2) Progress by the prisoner and the Department of~~
15 ~~Corrections to plan for reentry~~ Release plans, including
16 community resources, employment, education, and training and
17 support services available to the prisoner.

18 ~~"(3) Input from the victim or victims, the family of~~
19 ~~the victim or victims, the sentencing judge, prosecutors, and~~
20 ~~law enforcement entities.~~

21 ~~"(4) Participation in risk-reduction programs while~~
22 ~~incarcerated.~~

23 ~~"(5) Institutional behavior of the prisoner while~~
24 ~~incarcerated.~~

25 ~~"(6) Severity of the underlying offense for which~~
26 ~~the prisoner was sentenced to incarceration, with due~~
27 consideration to the type of sentence, length of sentence, the

1 pre-sentence report, consideration of any mitigating and
2 aggravating factors, and activities following arrest prior to
3 confinement.

4 "(7) Performance, if any, as a participant in a
5 temporary release program.

6 "(8) Prior criminal record, including the nature and
7 pattern of offenses, adjustment to any previous probation or
8 parole supervision, and institutional confinement.

9 "(9) All evidence of rehabilitation and reform.

10 "(b) Except as provided in Section 15-22-37, if the
11 board grants a prisoner parole, the prisoner shall be released
12 from prison upon the terms and conditions set by the board,
13 and while released on parole, shall remain in the legal
14 custody of the warden of the prison from which he or she is
15 paroled until the expiration of the maximum term specified in
16 his or her sentence or until he or she is fully pardoned.

17 "(c) The board shall clearly articulate its reasons
18 for approval or denial of parole for each prisoner, ~~based on~~
19 ~~its established guidelines,~~ and shall provide the reasons for
20 approval or denial to the prisoner, the victim, the Department
21 of Corrections, or any other interested party upon written
22 request submitted to the board. ~~The use of established~~
23 ~~guidelines for parole consideration shall not create a right~~
24 ~~or expectation by a prisoner to parole release. Additionally,~~
25 ~~the articulated reasons for denial of parole release shall not~~
26 ~~create a right or expectation for parole release. The~~
27 ~~guidelines shall serve as an aid in the parole decisionmaking~~

1 ~~process, and the decision concerning parole release shall be~~
2 ~~at the complete discretion of the board.~~

3 "§15-22-37.

4 "(a) The Board of Pardons and Paroles may adopt
5 rules, not inconsistent with the provisions of this article,
6 ~~touching upon~~ relating to all matters dealt with in this
7 article, including, among others, practice and procedure in
8 matters pertaining to paroles, pardons, and remission of fines
9 and forfeitures; provided, however, that no rule adopted by
10 the board ~~shall have the effect of denying~~ may deny to any
11 person whose application for parole or the revocation of whose
12 parole is being considered by the board from having the
13 benefit of counsel or witnesses ~~upon~~ during the hearing.

14 "(b) The Board of Pardons and Paroles shall adopt
15 rules to do all the following:

16 "(1) Establish a program of limited supervision for
17 parolees who qualify addressing eligibility using validated
18 risk and needs assessments, as defined in Section 12-25-32,
19 transfers among levels of supervision, to include guidelines
20 for the transfer of lower-risk individuals to an
21 administrative form of parole, and reporting requirements.

22 "(2) Develop policies and procedures for screening,
23 assessment, and referral for parolees to connect with
24 recidivism reduction services including, but not limited to,
25 cognitive behavioral intervention and substance abuse
26 treatment.

1 "(3) Establish a matrix of rewards for compliance
2 and pro-social behaviors and swift, certain, and graduated
3 sanctions to be imposed by the board, as provided under
4 subsections (e) and (f) of Section 15-22-32, in response to
5 corresponding violations of parole terms or conditions
6 imposed.

7 "(4) Establish clear guidelines and procedures that
8 retain the board's discretion in individual parole release
9 cases. The guidelines shall provide that, if a prisoner
10 convicted of a nonviolent offense, as defined in Section
11 12-25-32, with a sentence of 20 years or less is denied
12 parole, the board shall reconsider releasing the prisoner on
13 parole no more than two years after such parole release
14 denial. ~~The guidelines shall allow a current validated risk
15 and needs assessment as defined in Section 12-25-32, past
16 criminal history, program completion, institutional
17 misconduct, and other individual characteristics related to
18 the likelihood of offending in the future to be factored into
19 the release decision while working to allocate prison space
20 for the most violent and greatest risk prisoners.~~

21 "(5) Ensure that the provisions of subsections (k)
22 and (l) of Section 15-22-24 are implemented relating to the
23 supervision and treatment of parolees.

24 "(6) Establish criteria, guidelines, and procedures
25 to discharge parolees from parole supervision requirements
26 prior to the expiration of the full maximum term for which the
27 parolee was sentenced, unless the parolee was convicted of a

1 violent offense as defined in Section 12-25-32, which shall
2 include review of a parolee for discharge from parole
3 supervision at least every two years if the parolee has
4 satisfied all financial obligations owed to the court,
5 including restitution, and has not had his or her supervision
6 revoked.

7 "(c) Notwithstanding any other provision of law to
8 the contrary, Section 41-22-5(a)-(c), Section 41-22-5.1(b),
9 Section 41-22-6, and Section 41-22-23(a)-(e), (g) of the
10 Alabama Administrative Procedure Act shall apply to the
11 board's adoption, amendment, or repeal of rules, procedures,
12 guidelines, or other policies, except rules, procedures,
13 guidelines, or other policies concerning the supervision of
14 parolees or probationers. The Alabama Administrative Procedure
15 Act shall not otherwise apply to the board. The notice
16 required by subdivision (a)(1) of Section 41-22-5 shall be
17 given, and notice shall be given to the Governor and Attorney
18 General or their designees.

19 "(d) The Director of Pardons and Paroles shall post
20 on the board's website the board's existing rules, procedures,
21 guidelines, or other policies concerning the grant or denial
22 of pardons, the grant or denial of paroles, the restoration of
23 political and civil rights, the remission of fines and
24 forfeitures, and the revocation of parole."

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

