

1 HB632  
2 213417-1  
3 By Representatives Chestnut, Jones (S), Ball and Hill  
4 RFD: Judiciary  
5 First Read: 15-APR-21

SYNOPSIS: Under existing law, if a prisoner is serving consecutive sentences, a parole date may not be set for the prisoner until the time of each consecutive sentence has been served.

This bill would remove the restrictions on setting a parole date for a prisoner serving consecutive sentences.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to pardons and paroles; to amend Section 15-22-28, Code of Alabama 1975; to remove certain regulations regarding parole dates for prisoners serving consecutive sentences.

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.

1           "(a) It shall be the duty of the Board of Pardons  
2 and Paroles, upon its own initiative, to make an investigation  
3 of any and all prisoners confined in the jails and prisons of  
4 the state, through use of a validated risk and needs  
5 assessment as defined in Section 12-25-32, with a view of  
6 determining the feasibility of releasing the prisoners on  
7 parole and effecting their reclamation. Reinvestigations shall  
8 be made from time to time as the board may determine or as the  
9 Department of Corrections may request. The investigations  
10 shall include such reports and other information as the board  
11 may require from the Department of Corrections or any of its  
12 officers, agents, or employees.

13           "(b) It shall be the duty of the Department of  
14 Corrections to cooperate with the Board of Pardons and Paroles  
15 for the purpose of carrying out this article.

16           "(c) Temporary leave from prison, including  
17 Christmas furloughs, may be granted only by the Commissioner  
18 of Corrections to a prisoner for good and sufficient reason  
19 and may be granted within or without the state; provided, that  
20 Christmas furloughs shall not be granted to any prisoner  
21 convicted of drug peddling, child molesting or rape, or to any  
22 maximum security prisoner. A permanent, written record of all  
23 temporary leaves, together with the reasons therefor, shall be  
24 kept by the commissioner. He or she shall furnish the Board of  
25 Pardons and Paroles with a record of each leave granted and  
26 the reasons therefor, and the same shall be placed by the  
27 board in the prisoner's file.

1           "(d) No prisoner shall be released on parole except  
2 by a majority vote of the board. The board shall not parole  
3 any prisoner for employment by any official of the State of  
4 Alabama, nor shall any parolee be employed by an official of  
5 the State of Alabama and be allowed to remain on parole;  
6 provided, however, that this provision shall not apply in the  
7 case of a parolee whose employer, at the time of the parolee's  
8 original employment, was not a state official.

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

11           "(1) For prisoners receiving sentence deductions  
12 pursuant to the Alabama Correctional Incentive Time Act,  
13 Article 3 of Chapter 9 of Title 14, the following schedule  
14 shall apply:

15           "a. For terms of five years or less, the prisoner  
16 shall be scheduled for initial parole consideration on the  
17 current docket.

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

22           "c. For terms of more than 10 years and up to 15  
23 years, the prisoner shall be scheduled for initial parole  
24 consideration approximately two years and six months prior to  
25 the minimum release date.

26           "(2) For prisoners convicted on or after March 21,  
27 2001, of one or more of the following Class A felonies, the

1 initial parole consideration date shall be set for a date once  
2 a prisoner has completed 85 percent of his or her total  
3 sentence or 15 years, whichever is less.

4 "a. Rape in the first degree.

5 "b. Kidnapping in the first degree.

6 "c. Murder.

7 "d. Attempted murder.

8 "e. Sodomy in the first degree.

9 "f. Sexual torture.

10 "g. Robbery in the first degree with serious  
11 physical injury as defined in Section 13A-1-2.

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

14 "i. Arson in the first degree with serious physical  
15 injury as defined in Section 13A-1-2.

16 "(3) For all other prisoners, the initial parole  
17 consideration date shall be set for a date following  
18 completion of one-third of the prisoner's sentence or 10  
19 years, whichever is less.

20 ~~"(4) If the prisoner is serving consecutive~~  
21 ~~sentences, the initial parole consideration date may not be~~  
22 ~~set for a date before the prisoner has separately served the~~  
23 ~~time prescribed in this subsection for each consecutive~~  
24 ~~sentence imposed.~~

25 "(f) (1) The board may deviate from the initial  
26 parole consideration date established in subsection (e) or any

1 reconsideration date prescribed by the board's rules only in  
2 either of the following circumstances:

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

6 "b. If the prisoner shows, by clear and convincing  
7 evidence, that he or she is more likely than not to be granted  
8 parole and that he or she would have been considered for  
9 parole on an earlier date under generally applicable rules or  
10 policies previously in effect.

11 "(2) Any decision by the board to invoke the  
12 procedures of this subsection shall be subject to legal review  
13 by the deputy Attorney General or assistant Attorney General  
14 assigned to the board, prior to the issuance of a parole  
15 certificate and the prisoner's release. If it is determined  
16 that the grant of parole consideration failed to satisfy the  
17 requirements of this subsection or any rule adopted pursuant  
18 to this subsection, the decision shall be reversed and the  
19 prisoner shall be notified by the board.

20 "(3) For purposes of paragraph (f)(1)b., the board  
21 shall adopt rules to determine whether a prisoner is more  
22 likely than not to be granted parole. These rules shall be  
23 designed to minimize the risk a prisoner will be prejudiced by  
24 any statutory or administrative changes in parole standards or  
25 procedures that have occurred since the date of the prisoner's  
26 conviction and shall include, but are not limited to the  
27 following:

1           "a. A requirement that the prisoner has completed a  
2 minimum total period of incarceration.

3           "b. A requirement that the prisoner complete certain  
4 programs while in custody of the Department of Corrections.

5           "c. A requirement that the prisoner provide a  
6 statement of support from a Department of Corrections staff  
7 member.

8           "d. A requirement that the prisoner have no violent  
9 disciplinarys during a prescribed period preceding the  
10 prisoner's current application for parole consideration.

11           "e. A requirement that the prisoner have no  
12 disciplinarys of any kind within a prescribed period  
13 preceding the prisoner's current application for parole  
14 consideration.

15           "f. A requirement that the prisoner's risk of  
16 re-offense is determined to be medium or low following the  
17 completion of a validated risk and needs assessment conducted  
18 by a trained probation and parole officer.

19           "(4) A 30 days' written notice shall be provided to  
20 the Governor and Attorney General for any parole consideration  
21 date set by the board under subdivision (f)(1). The Governor  
22 and Attorney General shall have 14 days from the time notice  
23 is received to object to the grant of parole. If the board  
24 grants parole consideration under subdivision (f)(1) and did  
25 not give adequate notice to the Governor or Attorney General  
26 or granted parole consideration despite an objection from the

1 Governor or Attorney General, the decision shall be reversed  
2 and the prisoner shall be notified by the board."

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