

1 SENATE BILL NO. 2169

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee for Courts of Justice

4 on \_\_\_\_\_)

5 (Patron Prior to Substitute--Senator Morrissey)

6 A BILL to amend and reenact §§ 53.1-136, 53.1-154, and 53.1-155 of the Code of Virginia, relating to  
7 Parole Board; decision requirements; annual reports.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That §§ 53.1-136, 53.1-154, and 53.1-155 of the Code of Virginia are amended and reenacted as**  
10 **follows:**

11 **§ 53.1-136. Powers and duties of Board; notice of release of certain inmates.**

12 In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

13 1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and  
14 eligibility requirements, which shall be published and posted for public review;

15 2. Adopt, subject to approval by the Governor, rules providing for the granting of parole to those  
16 prisoners who are eligible for parole pursuant to § 53.1-165.1 on the basis of demonstrated maturity and  
17 rehabilitation and the lesser culpability of juvenile offenders;

18 3. a. Release on parole for such time and upon such terms and conditions as the Board shall  
19 prescribe; persons convicted of felonies and confined under the laws of the Commonwealth in any  
20 correctional facility in Virginia when those persons become eligible and are found suitable for parole,  
21 according to those rules adopted pursuant to subdivisions 1 and 2. No decision to grant discretionary  
22 parole shall be made by the Board unless such decision was discussed and debated at a meeting at which  
23 all Board members were present. If the Board grants discretionary parole to an inmate, each Board member  
24 shall identify his reasoning for such decision at the time such member's vote is cast;

25 b. Establish the conditions of postrelease supervision authorized pursuant to § 18.2-10 and  
26 subsection A of § 19.2-295.2;

27 c. Notify the Department of Corrections of its decision to grant discretionary parole or conditional  
28 release to an inmate. The Department of Corrections shall set the release date for such inmate no sooner  
29 than 30 business days from the date that the Department of Corrections receives such notification from  
30 the Chairman of the Board, except that the Department of Corrections may set an earlier release date in  
31 the case of an inmate granted conditional release pursuant to § 53.1-40.02. In the case of an inmate granted  
32 parole who was convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted  
33 conditional release, the Board shall notify the attorney for the Commonwealth in the jurisdiction where  
34 the inmate was sentenced (i) by electronic means at least 21 business days prior to such inmate's release  
35 that such inmate has been granted discretionary parole or conditional release pursuant to § 53.1-40.01 or  
36 53.1-40.02 or (ii) by telephone or other electronic means prior to such inmate's release that such inmate  
37 has been granted conditional release pursuant to § 53.1-40.02 where death is imminent. Nothing in this  
38 section shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to  
39 release on discretionary parole;

40 d. Provide that in any case where a person who is released on parole or postrelease supervision has  
41 been committed to the Department of Behavioral Health and Developmental Services under the provisions  
42 of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 the conditions of his parole or postrelease supervision shall  
43 include the requirement that the person comply with all conditions given him by the Department of  
44 Behavioral Health and Developmental Services and that he follow all of the terms of his treatment plan;

45 4. Revoke parole and any period of postrelease and order the reincarceration of any parolee or  
46 felon serving a period of postrelease supervision or impose a condition of participation in any component  
47 of the Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et  
48 seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his  
49 parole or postrelease supervision or is otherwise unfit to be on parole or on postrelease supervision;

50 5. Issue final discharges to persons released by the Board on parole when the Board is of the  
51 opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of  
52 society. Final discharges shall be granted only upon approval by a majority of Board members. The Board  
53 shall publish an annual report regarding final discharges issued by the Board during the previous 12

54 months. The report shall include (i) the name of each prisoner granted final discharge, (ii) the offense of  
55 which the prisoner was convicted; (iii) the jurisdiction in which such offense was committed, (iv) the  
56 length of the prisoner's sentence and the date such sentence was imposed, (v) the amount of time the  
57 prisoner has been on parole or postrelease supervision in the community, (vi) the basis for the final  
58 discharge, and (vii) the vote of each Board member;

59           6. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve  
60 or remission of fine, or penalty when requested by the Governor;

61           7. Publish a statement regarding the action taken by the Board on the parole of prisoners within 30  
62 days of such action. The statement shall list (i) the name of each prisoner considered for parole, (ii) the  
63 offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed,  
64 (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the amount of time  
65 the prisoner has served, (vi) whether the prisoner was granted or denied parole, and (vii) the basis for the  
66 grant or denial of parole. However, in the case of a prisoner granted parole, the information set forth in  
67 clauses (i) through (vii) regarding such prisoner shall be included in the statement published in the month  
68 immediately succeeding the month in which notification of the decision to grant parole was given to the  
69 attorney for the Commonwealth and any victims; and

70           8. Ensure that each person eligible for parole receives a timely and thorough review of his  
71 suitability for release on parole, including a review of any relevant post-sentencing information. If parole  
72 is denied, the basis for the denial of parole shall be in writing and shall give specific reasons for such  
73 denial to such inmate.

74           **§ 53.1-154. Times at which Virginia Parole Board to review cases.**

75           The Virginia Parole Board shall by regulation divide each calendar year into such equal parts as it  
76 may deem appropriate to the efficient administration of the parole system. Unless there ~~be~~ is reasonable  
77 cause for extension of the time within which to review and decide a case, the Board shall review and  
78 decide the case of each prisoner no later than that part of the calendar year in which he becomes eligible  
79 for parole, and at least annually thereafter, until he is released on parole or discharged, except that upon  
80 any such review the Board may schedule the next review as much as three years thereafter, provided there

81 are ~~ten~~ 10 years or more or life imprisonment remaining on the sentence in such case. Such reviews shall  
82 include a live interview of the prisoner by a Board member or a staff member designated by the Board.  
83 Such interviews may be conducted in person or by videoconference or telephone at the discretion of the  
84 Board. Absent imminent death of the prisoner or other extraordinary circumstances, which shall be  
85 documented by the Board in the prisoner's file, the Board shall not grant parole to any prisoner who has  
86 not received a live interview within the prior calendar year. Notwithstanding any other provision of this  
87 article, in the case of a parole revocation, if such person is otherwise eligible for parole, the Board shall  
88 review and decide his case no later than that part of the calendar year one year subsequent to the part of  
89 the calendar year in which he was returned to a facility as provided in § 53.1-161. Thereafter, his case  
90 shall be reviewed as specified in this section. The Board, in addition, may review the case of any prisoner  
91 eligible for parole at any other time and may review the case of any prisoner prior to that part of the year  
92 otherwise specified. In the discretion of the Board, interviews may be conducted by the Board or its  
93 representatives and may be either public or private.

94 **§ 53.1-155. Investigation prior to release; transition assistance.**

95 A. No person shall be released on parole by the Board until a thorough investigation has been made  
96 into the prisoner's history, physical and mental condition, and character and his conduct, employment, and  
97 attitude while in prison. The Board shall also determine that his release on parole will not be incompatible  
98 with the interests of society or of the prisoner. The provisions of this section shall not be applicable to  
99 persons released on parole pursuant to § 53.1-159.

100 B. An investigation conducted pursuant to this section shall include notification that a victim may  
101 submit to the Virginia Parole Board evidence concerning the impact that the release of the prisoner will  
102 have on such victim. This notification shall be sent to the last address provided to the Board by any victim  
103 of a crime for which the prisoner was incarcerated. If additional victim research is necessary, electronic  
104 notification shall be sent to the attorney for the Commonwealth and the director of the victim/witness  
105 program, if one exists, of the jurisdiction in which the offense occurred. The Board shall endeavor  
106 diligently to contact the victim prior to making any decision to release any inmate on discretionary parole.  
107 The victim of a crime for which the prisoner is incarcerated may present to the Board oral, including by

108 virtual means, or written testimony concerning the impact that the release of the prisoner will have on the  
109 victim, and the Board shall consider such testimony in its review. Once testimony is submitted by a victim,  
110 such testimony shall remain in the prisoner's parole file and shall be considered by the Board at every  
111 parole review. The victim of a crime for which the prisoner is incarcerated may submit a request in writing  
112 or by electronic means to the Board to be notified of (i) the prisoner's parole eligibility date and mandatory  
113 release date as determined by the Department of Corrections, (ii) any parole-related interview dates, and  
114 (iii) the Board's decision regarding parole for the prisoner. The victim may request that the Board only  
115 notify the victim if, following its review, the Board is inclined to grant parole to the prisoner, in which  
116 case the victim shall have ~~forty five~~ 45 days to present written or oral testimony for the Board's  
117 consideration. If the victim has requested to be notified only if the Board is inclined to grant parole and  
118 no testimony, either written or oral, is received from the victim within at least ~~forty five~~ 45 days of the  
119 date of the Board's notification, the Board shall render its decision based on information available to it in  
120 accordance with subsection A. The definition of victim in § 19.2-11.01 shall apply to this section.

121 Although any information presented by the victim of a crime for which the prisoner is incarcerated  
122 shall be retained in the prisoner's parole file and considered by the Board, such information shall not  
123 infringe on the Board's authority to exercise its decision-making authority.

124 C. Notwithstanding the provisions of subsection A, if a physical or mental examination of a  
125 prisoner eligible for parole has been conducted within the last ~~twelve~~ 12 months, and the prisoner has not  
126 required medical or psychiatric treatment within a like period while incarcerated, the prisoner may be  
127 released on parole by the Parole Board directly from a local correctional facility.

128 The Department shall offer each prisoner to be released on parole or under mandatory release who  
129 has been sentenced to serve a term of imprisonment of at least three years the opportunity to participate  
130 in a transition program within six months of such prisoner's projected or mandatory release date. The  
131 program shall include advice for job training opportunities, recommendations for living a law-abiding life,  
132 and financial literacy information. The Secretary of Public Safety and Homeland Security shall prescribe  
133 guidelines to govern these programs.

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