

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953

ENROLLED

Committee Substitute
for SENATE BILL NO. 29
Originating in the Committee
(By ~~Mr.~~ *On the Judiciary*)

PASSED March, 13, 1953

In Effect July 1, 1953 Passage



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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 29

(Originating in the Committee on the Judiciary)

[Passed March 13, 1953; in effect July 1, 1953.]

AN ACT to amend and reenact sections nine, eleven, twelve, thirteen, fourteen, fifteen, seventeen, eighteen, nineteen and twenty-one, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to probation and parole.

Be it enacted by the Legislature of West Virginia:

That sections nine, eleven, twelve, thirteen, fourteen, fifteen, seventeen, eighteen, nineteen and twenty-one, article twelve, chapter sixty-two of the code of West Virginia, one

thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 9. *Conditions of Release on Probation.*—Release

2 on probation shall be upon the following conditions:

3 (1) That the probationer shall not, during the term
4 of his probation, violate any criminal law of this or any
5 other state, or of the United States.

6 (2) That he shall not, during the term of his probation,
7 leave the State without the consent of the court which
8 placed him on probation.

9 (3) That he shall comply with the rules and regula-
10 tions prescribed by the court or by the board of probation
11 and parole, as the case may be, for his supervision by the
12 probation officer.

13 In addition, the court may impose, subject to modifi-
14 cation at any time, any other conditions which it may
15 deem advisable, including but not limited to any of the
16 following:

17 (1) That he shall make restitution or reparation, in
18 whole or in part, immediately or within the period of
19 probation, to any party injured by the crime for which
20 he has been convicted.

21 (2) That he shall pay any fine assessed and the costs
22 of the proceeding in such installments as the court may
23 direct.

24 (3) That he shall make contribution from his earnings,
25 in such sums as the court may direct, for the support of
26 his dependents.

Sec. 11. *Probation Period; Termination or Extension;*
2 *Discharge; Record.*—The period of probation together
3 with any extension thereof shall not exceed five years.
4 Upon the termination of the probation period, the pro-
5 bation officer shall report to the court the conduct of the
6 probationer during the period of his probation, and the
7 court may thereupon discharge the probationer or extend
8 the probation period. Whenever, before the end of the
9 probation period the probationer has satisfactorily com-
10 plied with all the conditions of his probation and it ap-
11 pears to the court that it is no longer necessary to con-
12 tinue his supervision, the court may discharge him. All
13 orders extending the probation period and all orders of
14 discharge shall be entered in the records of the court,
15 and a copy of all such orders shall be sent by the clerk

16 of the court to the board within five days after the making
17 of the order.

Sec. 12. *Board of Probation and Parole.*—There shall
2 be a state board of probation and parole, known as the
3 “West Virginia Board of Probation and Parole”. The
4 board shall consist of three members, not more than two
5 of whom shall at any one time belong to the same polit-
6 ical party, and at least one of whom shall be a member
7 of the Bar of this state, who shall be appointed by the
8 governor by and with the advice and consent of the
9 senate. The members shall be appointed for overlapping
10 terms of six years, except that the original appointments
11 shall be for terms of two, four and six years, respectively,
12 such appointments to be made beginning the first day
13 of July, one thousand nine hundred fifty-three. Any
14 member shall be eligible for reappointment. The mem-
15 bers shall receive an annual salary, to be fixed by the
16 governor, not to exceed seventy-two hundred dollars and
17 necessary expenses incurred in the discharge of their
18 official duties. The members of the board shall devote
19 their full time and attention to their duties as members
20 thereof.

Sec. 13. *Power and Duties of the Board.*—The board
2 of probation and parole, whenever it shall be of the
3 opinion that the best interests of the state and of the
4 prisoner will be subserved thereby, shall have authority
5 to release on parole, with the approval of the governor,
6 for such terms and upon such conditions as are provided
7 by this article, any person who is eligible for parole. In
8 the case of a person sentenced to any penal or correc-
9 tional institution of this state, it shall be the duty of the
10 board, as soon as such person becomes eligible, to con-
11 sider the advisability of his or her release on parole.
12 In considering such eligibility the board shall meet at
13 each penal or correctional institution within the state
14 at least twice a year and consider the case of every per-
15 son so eligible, which consideration shall include a per-
16 sonal interview by the board or a member thereof. If
17 parole be denied, the board shall furnish the prisoner
18 so refused parole with a written statement of the reasons
19 therefor. In the case of a person sentenced to any city
20 or county jail in the state, the board shall act only upon
21 written application for parole. No order of the board

22 granting release on parole shall be valid unless signed
23 by the governor.

24 The board shall, with the approval of the governor,
25 adopt rules and regulations governing the procedure in
26 the granting of parole. It shall secure all available in-
27 formation which may aid in determining the advisability
28 of releasing a prisoner on parole, including such a report
29 as is required by section seven of this article in the case
30 of prospective probationers.

31 The board shall have general supervisory control over
32 all court or county probation officers. It shall be charged
33 with the duty of supervising all persons released on pro-
34 bation and placed in the charge of a state probation and
35 parole officer, and of all persons released on parole under
36 this or any former law of this state. It shall also be
37 charged with the duty of supervising all probationers
38 and parolees whose supervision may have been under-
39 taken by this state by reason of any interstate compact
40 entered into pursuant to the uniform act for out-of-state
41 parolee supervision. The board shall prescribe rules and
42 regulations for the supervision of probationers and pa-

43 rolees. All information, records and reports received by
44 it shall be kept on permanent file.

45 The board and its designated agents shall at all times
46 have access to inmates imprisoned in any penal or cor-
47 rectional institution of this state or in any city or county
48 jail in this state, and shall have power to obtain any
49 information or aid necessary to the performance of their
50 duties from other departments and agencies of the state
51 or from any political subdivision thereof.

52 The board shall, if so requested by the governor, in-
53 vestigate and consider all applications for pardon, re-
54 prieve or commutation, and shall make recommendations
55 thereon to the governor.

Sec. 14. *Officers and Staff.*—The board shall have au-
2 thority to appoint such state probation and parole of-
3 ficers as may be necessary to the proper administration
4 of this article, and to employ clerical assistants. It shall
5 determine the qualifications of probation and parole
6 officers and may from time to time conduct competitive
7 examinations as a basis for their selection.

8 The state probation and parole officers shall receive an-

9 nual salaries not in excess of four thousand eight hundred
10 dollars, to be fixed in each case by the board. The board
11 shall also fix the salary of all clerical assistants. All per-
12 sons appointed or employed by the board shall be paid
13 all necessary expenses incurred in the discharge of their
14 duties.

Sec. 15. *Powers and Duties of State Probation and*
2 *Parole Officers.*—Each state probation and parole officer
3 shall investigate all cases referred to him for investiga-
4 tion by any court or by the board and shall report in
5 writing thereon. He shall furnish to each person re-
6 leased on probation or parole under his supervision a
7 written statement of the conditions of his probation or
8 parole together with a copy of the rules and regulations
9 prescribed by the court or by the board, as the case may
10 be, for the supervision of probationers and parolees. He
11 shall keep himself informed concerning the conduct and
12 condition of each person under his supervision and shall
13 report thereon in writing as often as the court or the
14 board may require. He shall use all practicable and suit-
15 able methods to aid and encourage persons on probation

16 or parole and to bring about improvement in their con-
17 duct and condition. He shall keep detailed records of his
18 work, shall keep accurate and complete accounts of and
19 give receipts for all money collected from persons under
20 his supervision, and shall pay over the money to such
21 persons as the court or the board may designate. He shall
22 give bond with good security, to be approved by the di-
23 rector, in a penalty of not less than one thousand nor
24 more than three thousand dollars, as the board may de-
25 termine. He shall also perform such other duties as the
26 board may require. He shall have authority, with or
27 without an order or warrant, to arrest any probationer or
28 parolee. He shall have all the powers of a notary public,
29 with authority to act as such anywhere within the state.

Sec. 17. *Conditions of Release on Parole.*—Release on

2 parole shall be upon the following conditions:

3 (1) That the parolee shall not, during the period of
4 his parole, violate any criminal law of this or any other
5 state, or of the United States.

6 (2) That he shall not, during the period of his parole,
7 leave the state without the consent of the board.

8 (3) That he shall comply with the rules and regula-
9 tions prescribed by the board for his supervision by the
10 probation and parole officer.

11 In addition, the board may impose, subject to modifica-
12 tion at any time, any other conditions which the board
13 may deem advisable.

Sec. 18. *Period of Parole; Discharge.*—The period of
2 parole shall be the maximum period for which, at the
3 time of his release, the parolee was subject to imprison-
4 ment under his definite term or general sentence, as the
5 case may be. At any time after the expiration of his defi-
6 nite term or general sentence, less time deductions for
7 good conduct and work as provided by law for inmates
8 of the penitentiary, the board may, when in its judgment
9 the ends of parole have been attained, release the parolee
10 from further supervision and discharge him from parole.

Sec. 19. *Violation of Parole; Revocation and Arrest.*—
2 If at any time during the period of parole, there shall be
3 reasonable cause to believe that the parolee has violated
4 any of the conditions of his parole, the probation and
5 parole officer may arrest him with or without an order

6 or warrant, or the board of probation and parole may
7 issue a written order for his arrest, which order shall be
8 a sufficient warrant for his arrest by any officer charged
9 with the duty of executing an ordinary criminal process;
10 whereupon, unless the board shall otherwise order, he
11 shall be returned to the prison from which he was re-
12 leased. Any such parolee shall be given a prompt and
13 summary hearing, at which the parolee and his counsel
14 shall be given an opportunity to attend. If at such hearing
15 it shall appear to the satisfaction of the board that the
16 parolee has violated any condition of parole, the board
17 may revoke the parole and may require him to serve in
18 prison the whole or any part of the maximum period for
19 which, at the time of his release, he was subject to im-
20 prisonment under his sentence: *Provided, however, That*
21 *if he has violated his parole by committing a felony, he*
22 *shall be required to serve such maximum period, and*
23 *during this period he shall be ineligible for further parole.*
24 If, despite a violation of the conditions of parole, the
25 board shall be of the opinion that the interests of justice
26 do not require that the parole be revoked, it may, except

27 when the violation was the commission of a felony, again
28 release him on parole.

Sec. 21. *Repeal of Inconsistent Laws.*—All other laws
2 or parts of laws inconsistent with this article are hereby
3 repealed: *Provided, however,* That nothing in this article
4 shall be construed to affect in any way the laws relating
5 to juvenile probation and parole. Wherever in the official
6 code of West Virginia the words “director of probation
7 and parole” are used they shall be construed to mean the
8 board of probation and parole.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

W. M. Kinley
Chairman Senate Committee

C. H. Aumbler
Chairman House Committee

Originated in the Senate.

Takes effect *July, 1, 1953* passage.

Thomas H. Byrnes
Clerk of the Senate

Ed Clipp
Clerk of the House of Delegates

Ralph Beane
President of the Senate

C. S. Farnham
Speaker House of Delegates

The within *approved* this the *19th*
day of *March*, 1953.

William C. Mailand
Governor.



FILED IN THE OFFICE OF THE SECRETARY OF STATE
OF THE COMMONWEALTH OF VIRGINIA
MAR 19 1953
D. PITT O'BRIEN,
SECRETARY OF STATE