

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

SENATE BILL NO. 395

(By Mr. Comm on Jud.)

PASSED Mar 12 1955

In Effect 90 days from Passage



Filed in the Office of the Secretary of State
of West Virginia MAR 17 1955

D. PITT O'BRIEN
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 395

(Originating in the Committee on the Judiciary)

[Passed March 12, 1955; in effect ninety days from passage.]

AN ACT to amend and reenact sections twelve and thirteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to repeal section sixteen of said article of said chapter; and to amend article twelve of said chapter by adding thereto a new section, to be designated section thirteen-a, all relating to the improvement and clarification of the procedure of probation and parole.

Be it enacted by the Legislature of West Virginia:

That sections twelve and thirteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that section sixteen of said article of said chapter be repealed, and that article twelve of said chapter be amended by adding thereto a new section, to be designated section thirteen-a, all to read as follows:

Section 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 politi-
6 cal party. The board shall be appointed by the governor
7 by and with the advice and consent of the senate. Each
8 member of the board shall have had experience in the
9 fields of social science or administration of penal institu-
10 tions and shall be familiar with the principles, practices
11 and problems thereof and shall be otherwise competent
12 to perform the duties of his office. The members shall be
13 appointed for overlapping terms of six years, except that

14 the original appointments shall be for terms of two, four
15 and six years, respectively, such appointments to be made
16 beginning on the first day of July, one thousand nine hun-
17 dred fifty-three. Any member shall be eligible for re-
18 appointment. The members shall receive an annual sal-
19 ary, to be fixed by the governor, not to exceed seventy-
20 two hundred dollars and necessary expenses incurred in
21 the discharge of their official duties. The members of the
22 board shall devote their full time and attention to their
23 duties as members thereof.

Sec. 13. Powers and Duties of the Board; Eligibility;

2 *Notice.*—The board of probation and parole, whenever
3 it shall be of the opinion that the best interests of the
4 state and of the prisoner will be subserved thereby, and
5 subject to the limitations hereinafter provided, shall have
6 authority to release any such prisoner on parole for such
7 terms and upon such conditions as are provided by this
8 article. Any prisoner of a penitentiary of this state, to
9 be eligible for parole,
10 (1) Shall have served the minimum term of his in-

11 determinate sentence, or shall have served one-third of
12 his definite term sentence, as the case may be;

13 (2) Shall not be under punishment or in solitary con-
14 finement for any infraction of prison rules;

15 (3) Shall have maintained a record of good conduct
16 in prison for a period of at least three months immedi-
17 ately preceding the date of his release on parole;

18 (4) Shall have satisfied the board that, if released on
19 parole, he will conduct himself in a lawful manner and
20 that his release is not incompatible with the best interests
21 and welfare of society generally.

22 Except in the case of one serving a life sentence, no
23 person who has been previously twice convicted of felony
24 may be released on parole until he has served the mini-
25 mum term provided by law for the crime for which he
26 was convicted. No person sentenced for life may be pa-
27 roled until he has served ten years, and no person sen-
28 tenced for life who has been previously twice convicted
29 of felony may be paroled until he has served fifteen years.

30 In the case of a person sentenced to any penal institution
31 of this state, it shall be the duty of the board, as soon as

32 such person becomes eligible, to consider the advisability
33 of his or her release on parole. If, upon such consider-
34 ation, parole be denied, the board shall at least once a
35 year reconsider and review the case of every prisoner so
36 eligible, which reconsideration and review shall be by
37 the entire board. If parole be denied, the prisoner shall
38 be promptly notified.

39 In the case of any person sentenced to or confined under
40 sentence in any city or county jail in this state, the board
41 shall act only upon written application for parole. If such
42 jail prisoner be under sentence on a felony conviction,
43 the provisions hereof relating to penitentiary prisoners
44 shall apply to and control his release on parole. If such
45 person be serving time on a misdemeanor conviction, he
46 shall be eligible for parole consideration, upon receipt of
47 his written parole application and after time for proba-
48 tion release by the sentencing court or judge has expired.

49 The board shall, with the approval of the governor,
50 adopt rules and regulations governing the procedure in
51 the granting of parole. No provision of this article and
52 none of the rules and regulations adopted hereunder are

53 intended or shall be construed to contravene, limit or
54 otherwise interfere with or affect the authority of the
55 governor to grant pardons and reprieves, commute sen-
56 tences, remit fines or otherwise exercise his constitutional
57 powers of executive clemency.

58 The board shall have general supervisory control over
59 all court or county probation officers. It shall be charged
60 with the duty of supervising all probationers and parolees
61 whose supervision may have been undertaken by this
62 state by reason of any interstate compact entered into
63 pursuant to the uniform act for out-of-state parolee
64 supervision.

65 When considering a penitentiary prisoner for release
66 on parole, the board of parole shall have before it an
67 authentic copy of or report on the prisoner's current crim-
68 inal record as provided through the department of public
69 safety of West Virginia, the United States department of
70 justice or other reliable criminal information sources and
71 written reports of the warden or superintendent of the
72 penitentiary, as the case may be, to which such prisoner
73 is sentenced,

74 (1) On the prisoner's conduct record while in prison,
75 including a detailed statement showing any and all in-
76 fractions of prison rules by the prisoner and the nature
77 and extent of discipline and punishment administered
78 therefor;

79 (2) On improvement or other changes noted in the
80 prisoner's mental and moral condition while in prison,
81 including a statement expressive of the prisoner's current
82 attitude toward society in general, toward the judge who
83 sentenced him, toward the prosecuting attorney who pros-
84 ecuted him, toward the policeman or other officer who
85 arrested him and toward the crime for which he is under
86 sentence and his previous criminal record.

87 (3) On the prisoner's industrial record while in prison,
88 showing the nature of his prison work or occupation and
89 the average number of hours per day he has been em-
90 ployed in prison industry and recommending the nature
91 and kinds of employment which he is best fitted to per-
92 form and in which he is most likely to succeed when he
93 leaves prison.

94 (4) On physical, mental and psychiatric examinations
95 of the prisoner conducted, insofar as practicable, within
96 the two months next preceding parole consideration by
97 the board.

98 The board may waive the requirement of any such re-
99 port when not available or not applicable as to any pris-
100 oner considered for parole but, in every such case, shall
101 enter in the record thereof its reason for such waiver.

102 Before releasing any penitentiary prisoner on parole,
103 the board of parole shall arrange for him to appear in
104 person before the board and the board may examine and
105 interrogate him on any matters pertaining to his parole,
106 including reports before the board made pursuant to the
107 provisions hereof. The board shall reach its own written
108 conclusions as to the desirability of releasing such pris-
109 oner on parole. The warden or superintendent shall fur-
110 nish all necessary assistance and cooperate to the fullest
111 extent with the board of parole. All information, records
112 and reports received by the board shall be kept on per-
113 manent file.

114 The board and its designated agents shall at all times

115 have access to inmates imprisoned in any penal or cor-
116 rectional institutions of this state or in any city or county
117 jail in this state, and shall have power to obtain any in-
118 formation or aid necessary to the performance of their
119 duties from other departments and agencies of the state
120 or from any political subdivision thereof.

121 The board shall, if so requested by the governor, inves-
122 tigate and consider all applications for pardon, reprieve
123 or commutation, and shall make recommendation thereon
124 to the governor.

Sec. 13-a. *Eligibility Date for Parole.*—When the pris-
2 oner has received an indeterminate sentence, the mini-
3 mum sentence shall be considered as an eligibility date
4 for parole consideration but does not confer in the pris-
5 oner the right to be released as of that date.

Filed in the Office of the Secretary of State
of West Virginia

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D. PITT O'BRIEN
SECRETARY OF STATE

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

Clawson
Chairman Senate Committee

W. T. Battulae Jr
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

Howard Taylor
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

Ralph Rosen
President of the Senate

W. E. Flannery
Speaker House of Delegates

The within approved this the 16
day of March, 1955.

William C. Marland
Governor.

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MAR 17 1955

of West Virginia
B. PITT O'BRIEN
SECRETARY OF STATE

