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OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA

**WEST VIRGINIA LEGISLATURE**  
**REGULAR SESSION, 1976**



**ENROLLED**

*Committee Substitute for*

**HOUSE BILL No. 1469**

(By Mr. *Toney & Mr. Tompkins*)



PASSED *March 11,* 1976

In Effect *ninety days from* Passage



FILED IN THE OFFICE  
JAMES R. MCCARTNEY  
SECRETARY OF STATE

THIS DATE *3/23/76*

*1469*

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**H. B. 1469**

(By MR. TONEY and MR. TOMPKINS)

(Originating in the House Committee on the Judiciary.)

[Passed March 11, 1976; in effect ninety days from passage.]

AN ACT to amend and reenact section thirteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to pardon, re-prieve, commutation or parole; notice to be given to sentencing judge and prosecuting attorney.”

*Be it enacted by the Legislature of West Virginia:*

That section thirteen, 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:

**ARTICLE 12. PROBATION AND PAROLE.**

**§62-12-13. Powers and duties of board; eligibility for parole; procedure for granting paroles.**

1 The board of probation and parole, whenever it shall be of  
2 the opinion that the best interests of the state and of the  
3 prisoner will be subserved thereby, and subject to the limita-  
4 tions hereinafter provided, shall have authority to release any  
5 such prisoner on parole for such terms and upon such con-

6 ditions as are provided by this article. Any prisoner of a peni-  
7 tentiary of this state, to be eligible for parole:

8 (1) Shall have served the minimum term of his indeter-  
9 minate sentence, or shall have served one third of his definite  
10 term sentence, as the case may be;

11 (2) Shall not be under punishment or in solitary confine-  
12 ment for any infraction of prison rules;

13 (3) Shall have maintained a record of good conduct in  
14 prison for a period of at least three months immediately pre-  
15 ceding the date of his release on parole;

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

20 Except in the case of one serving a life sentence, no  
21 person who has been previously twice convicted of a felony may  
22 be released on parole until he has served the minimum term  
23 provided by law for the crime for which he was convicted.  
24 No person sentenced for life may be paroled until he has  
25 served ten years, and no person sentenced for life who has  
26 been previously twice convicted of a felony may be paroled  
27 until he has served fifteen years. In the case of a person  
28 sentenced to any penal institution of this state, it shall  
29 be the duty of the board, as soon as such person becomes  
30 eligible, to consider the advisability of his or her release  
31 on parole. If, upon such consideration, parole be denied,  
32 the board shall at least once a year reconsider and review  
33 the case of every prisoner so eligible, which reconsideration  
34 and review shall be by the entire board. If parole be denied,  
35 the prisoner shall be promptly notified.

36 In the case of any person sentenced to or confined under  
37 sentence in any city or county jail in this state, the board  
38 shall act only upon written application for parole. If such  
39 jail prisoner be under sentence on a felony conviction, the  
40 provisions hereof relating to penitentiary prisoners shall apply  
41 to and control his release on parole. If such person be serving  
42 time on a misdemeanor conviction, he shall be eligible  
43 for parole consideration, upon receipt of his written parole

44 application and after time for probation release by the sen-  
45 tencing court or judge has expired.

46 The board shall, with the approval of the governor,  
47 adopt rules and regulations governing the procedure in  
48 the granting of parole. No provision of this article and  
49 none of the rules and regulations adopted hereunder are  
50 intended or shall be construed to contravene, limit or  
51 otherwise interfere with or affect the authority of the gover-  
52 nor to grant pardons and reprieves, commute sentences, remit  
53 fines or otherwise exercise his constitutional powers of execu-  
54 tive clemency.

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

61 When considering a penitentiary prisoner for release on  
62 parole, the board of parole shall have before it an authen-  
63 tic copy of or report on the prisoner's current criminal  
64 record as provided through the department of public safety  
65 of West Virginia, the United States department of justice  
66 or other reliable criminal information sources and written  
67 reports of the warden or superintendent of the penitentiary,  
68 as the case may be, to which such prisoner is sentenced:

69 (1) On the prisoner's conduct record while in prison,  
70 including a detailed statement showing any and all infrac-  
71 tions of prison rules by the prisoner and the nature and  
72 extent of discipline and punishment administered therefor;

73 (2) On improvement or other changes noted in the pris-  
74 oner's mental and moral condition while in prison, including  
75 a statement expressive of the prisoner's current attitude  
76 toward society in general, toward the judge who sentenced  
77 him, toward the prosecuting attorney who prosecuted him,  
78 toward the policeman or other officer who arrested him and  
79 toward the crime for which he is under sentence and his  
80 previous criminal record;

81 (3) On the prisoner's industrial record while in prison,  
82 showing the nature of his prison work or occupation and  
83 the average number of hours per day he has been employed  
84 in prison industry and recommending the nature and kinds of  
85 employment which he is best fitted to perform and in which  
86 he is most likely to succeed when he leaves prison;

87 (4) On physical, mental and psychiatric examinations, of the  
88 prisoner conducted, insofar as practicable, within the two  
89 months next preceding parole consideration by the board.  
90 The board may waive the requirement of any such report  
91 when not available or not applicable as to any prisoner  
92 considered for parole but, in every such case, shall enter  
93 in the record thereof its reason for such waiver.

94 Before releasing any penitentiary prisoner on parole,  
95 the board of parole shall arrange for him to appear in  
96 person before the board and the board may examine and  
97 interrogate him on any matters pertaining to his parole,  
98 including reports before the board made pursuant to the  
99 provisions hereof. The board shall reach its own written  
100 conclusions as to the desirability of releasing such pris-  
101 oner on parole. The warden or superintendent shall furnish  
102 all necessary assistance and cooperate to the fullest  
103 extent with the board of parole. All information, records  
104 and reports received by the board shall be kept on permanent  
105 file.

106 The board and its designated agents shall at all times have  
107 access to inmates imprisoned in any penal or correctional  
108 institutions of this state or in any city or county jail in this  
109 state, and shall have power to obtain any information or aid  
110 necessary to the performance of their duties from other de-  
111 partments and agencies of the state or from any political sub-  
112 division thereof.

113 The board shall, if so requested by the governor, investigate  
114 and consider all applications for pardon, reprieve or com-  
115 mutation and shall make recommendation thereon to the  
116 governor.

117 Prior to making such recommendation and prior to releasing  
118 any penitentiary person on parole the board shall notify the

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119 sentencing judge and prosecuting attorney at least ten days  
120 before such recommendation or parole.

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

*James L. Davis*  
Chairman Senate Committee

*Clarence C. Coltrane*  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*J. P. O'Connell, Jr.*  
Clerk of the Senate

*V. A. Blankenship*  
Clerk of the House of Delegates

*W. T. Burtcher, Jr.*  
President of the Senate

*Lewis R. McManus*  
Speaker House of Delegates

The within *approved* this the *19th*  
day of *March*, 1976.

*Arch A. Shaw, Jr.*  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/15/76

Time 2:00 p.m.