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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

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, reprieve, 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

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

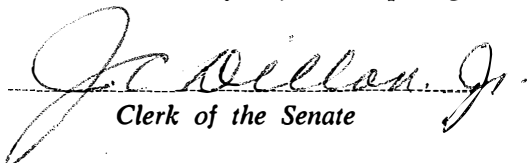
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee


Chairman House Committee

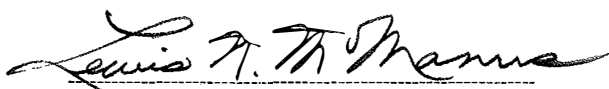
Originated in the House.

Takes effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within  this the 
day of , 1976.


Governor



PRESENTED TO THE
GOVERNOR

Date 3/15/76

Time 2:00 p.m.