

I. AUTHORITY:

Authority for this policy is found in Chapters 12.1-34, 12-47, 12-59, 54-07 and 54-23.3 of the North Dakota Century Code (NDCC).

II. DEFINITIONS:

Parole Eligibility: A qualified inmate's tentative parole release date established by the Parole Board. The date is contingent upon the inmate's positive behavior, including compliance with all Division of Adult Services recommended treatment and programming, and the determination by the Board that the inmate will comply with the terms and conditions of parole and will not present a serious risk to the community.

III. POLICY:

- A. The vast majority of inmates confined in correctional facilities are eventually returned to the community. The Parole Board may grant parole to appropriate inmates subject to conditions of supervision that provide for public safety while helping the parolee engage in lawful behavior.
- B. The Parole Board will make decisions concerning requests for parole or other applicable reduction in custody level, as well as requests for the revocation of parole, in a manner that best protects society and aids in the rehabilitation of criminal offenders.

IV. PAROLE BOARD:

- A. Membership. The governor shall appoint six members to the Board to serve on a three-member panel on a rotating basis. Two members of a panel constitute a quorum.
 - 1. One member of the Board must be experienced in law enforcement, one member must be a licensed attorney and four members must be qualified by special experience in education or training.
 - 2. The governor shall appoint one member as the chairperson and one member as the vice-chairperson.
 - 3. The Board may only take action with the concurrence of at least two members.
 - 4. The director of the Division of Adult Services shall be the clerk of the Parole Board. The clerk of the Parole Board may appoint a deputy clerk

V. PROCEDURE:

- A. Meetings.

1. The Board shall schedule at least twelve meetings per year to conduct parole reviews. Meetings may be scheduled in coordination with Pardon Advisory Board meetings.
2. Teleconferences and video conferences may be used for any of the meetings, for miscellaneous reviews, and victim information in lieu of an appearance, and for offenders housed away from the location of the Parole Board meeting.

B. Rules.

1. The Parole Board is not an administrative agency as defined by NDCC 28-32-01 (1) (p) and is not subject to the Administrative Agencies Practice Act. Any rules the Board may adopt need not be published in the North Dakota Administrative Code.

C. Duties and responsibilities of the Board.

1. The Board shall consider inmates for parole based on the guidelines in this policy and applicable statutes.

D. Notifications.

1. Victims must be notified of Parole Board proceedings in accordance with state law and may provide information to the Board in person, in written form or via video tape, as allowed by the Board.
2. Notice of application for parole and of the time and place of hearing shall be given to the district court and the office of the states attorney where the offender was charged.

E. Parole review.

1. The Parole Board shall consider each qualified inmate's parole eligibility status within approximately sixty days of the inmate's arrival at a Department of Corrections Facility. This is referred to as the "Initial Parole Board Review."
 - a) DOCR personnel will provide appropriate information to the Parole Board to aid in their decision to grant or deny parole.
 - b) The clerk or designee will review all applications for emergency parole and make a recommendation to the Parole Board.
 - c) DOCR staff may recommend an earlier review of an inmate for extraordinary circumstances. The clerk or deputy clerk shall review recommendations for an early review based on guidance from the Board.
 - d) The Clerk, Deputy Clerk and staff, may review any case that has been deferred or is otherwise not scheduled for consideration for three years or

longer. Based upon treatment status, conduct in the institution, extraordinary circumstances and other relevant information, the Clerk or Deputy Clerk may recommend that the Board consider an earlier review of the case.

e) Those inmates having 45 days or less to serve after arriving at a DOCR institution will not have their case considered by the Parole Board because of the short period of their incarceration.

2. Parole Eligibility Date.

a) The Board will establish a parole eligibility date. The Board may reconsider the parole eligibility date at any time based on the inmate's performance, conduct in the institution, or other factors that come before the Board.

1. Exemplary performance by an inmate as documented and recommended by their case manager in writing to the Adult Services Case Planning Committee may result in an inmate being reviewed by an earlier parole board.

b) Inmates who are subject to mandatory sentencing requirements under state law, including NDCC §§ 12.1-32-02.1, (mandatory sentences for armed offenders) 39-08-01.2(2) (causing injury or death while driving under the influence), 39-30-02 (2nd chop shop violation) will not be eligible for parole while serving the mandatory portion of their sentence. Inmates whose sentences are subject to N.D.C.C. § 12.1-32-09.1 must serve eighty-five percent (85%) of their sentence in prison before they are eligible for parole.

3. When making decisions regarding parole eligibility, the Board may grant inmates a personal appearance or may review appropriate documents and make a decision without the inmate present. The clerk or deputy clerk shall schedule all reviews by the Board.

F. Parole Eligibility.

1. Consideration for parole. In order to determine whether an inmate may receive a parole, the Parole Board will consider all pertinent information regarding the inmate, including the circumstances of the offense, victim impact and concerns, the inmate's family, education, social history, and criminal record. The Board will consider the inmate's conduct, employment, and participation in education and treatment programs while incarcerated, parole plan, and the inmate's medical and psychological history and records. The Board may also consider whether the inmate will conform with terms and conditions of parole established by the Board and by the Division of Adult Services.

2. Setting parole expiration dates and Performance Based Parole Reduction (PBPR). The Board shall set a parole expiration date no earlier than the longest expiration date of the court-imposed sentence less the award of PBPR and

accrued Performance-Based Sentence Reduction (PBSR) at a rate up to 5 days per month.

- a) PBPR may be awarded on the condition the parolee is:
 - i. Gainfully employed, or
 - ii. Seeking employment, or
 - iii. Participating in recommended treatment, educational programs, or other recidivism reduction strategies, and
 - iv. Engaging in behavior reasonably consistent with the conditions of their release.
- b) The supervising parole officer may make a written report to the Board any time the offender is not complying with the PBPR rules. The Board shall make all final decisions regarding the loss of good time.
- c) The Board may set parole expiration dates beyond the longest expiration date of the court-imposed sentence not to exceed:
 - 1) Two (2) years for a misdemeanor
 - 2) Five (5) years for a felony
- d) The Board may terminate parole earlier than the parole expiration date in those cases that a parole expiration date was set beyond the court-imposed expiration of sentence.
 - 1) The Board may terminate parole earlier upon a motion by the board or upon the filing of a Petition to Terminate Parole with the Board by an officer of the DOCR-Field Services Division. The petition must state the reasons for the request. The DOCR-Division of Adult Services should consider the following factors when petitioning the Board for early termination:
 - i. Type of offense
 - ii. Prior record
 - iii. Victim issues
 - iv. Overall performance of the parolee while on parole
 - v. Recidivism reduction
 1. LSI-R Raw Score
 2. LSI-R Protective Factor Score
- e) The Board may not terminate supervision for a parolee who has a life sentence with opportunity for parole less than five (5) years from the established date of release on parole.

3. Terms and conditions of parole. If the Parole Board determines that an inmate may be granted a parole, the Parole Board shall establish terms and conditions of parole. The parolee must abide by the reasonable requests of the supervising parole officer, that may assist the parolee with his or her rehabilitation, and that may reasonably protect the safety of the community.
4. Intermediate terms and conditions of parole. In addition to the terms and conditions of parole the Parole Board establishes, the Division of Adult Services may establish intermediate conditions of parole, including incarceration for a period of up to seventy-two hours, and restitution, when the Division of Adult Services determines that intermediate terms and conditions of parole are necessary for the rehabilitation of the parolee, or are appropriate in lieu of revocation proceedings, or are necessary for the safety of the community.
5. Officers shall give written notice to the Parole Board when they institute a sanction for alleged violations of parole conditions. The Parole Board shall review the intermediate measures and make appropriate changes or direct the clerk to issue an Order to Apprehend.

G. Parole Revocation Procedures.

1. Arrest of Parolees and Revocation Hearings.
 - a. If a parolee has violated any of the terms or conditions of parole, the supervising parole officer may apply to the Director of Adult Services or designee, for a warrant of arrest and authority to hold. If the supervising parole officer has probable cause to believe a parolee has violated any of the terms or conditions of parole, the supervising parole officer may take the offender into custody and detain the offender in a correctional facility pending application for a warrant of arrest and authority to hold. The application for a warrant of arrest and authority to hold must be supported by a notarized affidavit showing probable cause. Unless there are extraordinary circumstances, the supervising parole officer shall first consult with a supervisor before taking an offender into custody.
 - b. As soon as reasonably possible after a offender has been taken into custody, the supervising parole officer shall advise the offender in writing of the alleged violations of the terms and conditions of parole and the offender's right to a preliminary parole revocation hearing and a final parole revocation hearing.
 - c. The preliminary parole revocation hearing is to determine whether there is probable cause to believe that the offender violated one or more of the terms or conditions of parole and whether further detention is warranted pending a final hearing for revocation of parole. The preliminary hearing may only be conducted by a parole officer not directly involved in the supervision of the offender and not involved in bringing the allegation of a violation of any of the terms or conditions of parole.

- d. The final parole revocation hearing must be held before an Administrative Law Judge designated by the North Dakota Office of Administrative Hearings. The offender is entitled to: 1) written notice of the purpose of the hearing and the alleged violations of the terms or conditions of parole; 2) the opportunity to be heard in person and to present testimony and evidence; 3) the opportunity to confront and cross-examine adverse witnesses, unless a determination has been made that there is a risk to safety and security; and 4) a written decision with findings of fact and reasons for the decision.
 - e. The offender may waive all hearings and admit to any or all of the alleged violations of parole. The offender may present a statement in mitigation of revocation of parole.
 - f. The Parole Board shall make the final determination whether the offender should be returned to physical custody to serve all or part of the remaining part of the offender's sentence that has not been served in custody.
 - g. The Deputy Director for Transitional Planning Services shall determine the appropriate placement for an offender who has been found guilty of, or who has pled guilty to, a violation of any of the terms and conditions of parole and has been ordered returned to the physical custody of the DOCR.
2. Unless the order specifies that they must serve out the remainder of their sentence, revoked inmates may again apply for parole.

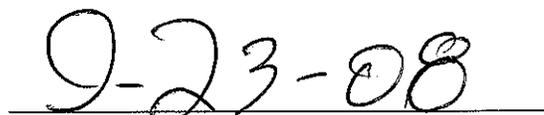
H. Parole Reconsideration

- 1. Pursuant to N.D.C.C. 12-59-12, the Board may reconsider its action granting parole prior to the inmate's release from prison. When doing so, the clerk or deputy clerk may suspend a parole date and shall place the case on the docket for reconsideration and action at the next regularly scheduled Board meeting.

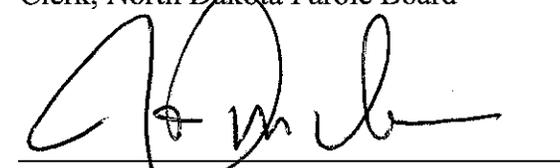
This policy with subsequent changes becomes effective when signed by the Director of the Division of Adult Services and the Chairperson of the North Dakota Parole Board.



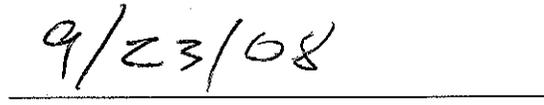
Warren R. Emmer
Clerk, North Dakota Parole Board



Date



John M. Olson
Chairperson, North Dakota Parole Board



Date