
By: Delegate C. Davis

Introduced and read first time: February 23, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Parole Commission - Criteria for Parole Release**

3 FOR the purpose of replacing the factors that a hearing examiner or member of the
4 Maryland Parole Commission must consider when determining whether an inmate
5 is suitable for release on parole with a new set of factors; requiring a hearing
6 examiner or member of the Commission to make certain objective and subjective
7 evaluations; and generally relating to the evaluation by a hearing examiner or
8 member of the Maryland Parole Commission of an inmate's suitability for parole
9 release.

10 BY repealing

11 Article 41 - Governor - Executive and Administrative Departments
12 Section 4-506
13 Annotated Code of Maryland
14 (1993 Replacement Volume and 1995 Supplement)

15 BY adding to

16 Article 41 - Governor - Executive and Administrative Departments
17 Section 4-506
18 Annotated Code of Maryland
19 (1993 Replacement Volume and 1995 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article 41 - Governor - Executive and Administrative Departments**

23 [4-506.

24 Each hearing examiner and Commission member determining if an inmate is
25 suitable for release on parole shall consider:

26 (1) The circumstances surrounding the crime;

27 (2) The physical, mental, and moral qualification of the inmate eligible for
28 parole;

1 (3) The progress of the inmate during his confinement, including the
2 academic progress of the inmate in the mandatory education program required in §
3 22-102 of the Education Article;

4 (4) Whether or not there is reasonable probability that the inmate, if
5 released on parole, will remain at liberty without violating the law;

6 (5) Whether or not release on parole of the inmate is compatible with the
7 welfare of society;

8 (6) An updated victim impact statement or recommendation prepared
9 under § 4-504(d) of this subtitle;

10 (7) Any recommendation made by the sentencing judge at the time of
11 sentencing; and

12 (8) Any information that is presented to a Commission member at a meeting
13 with the victim.]

14 4-506.

15 (A) EACH HEARING EXAMINER OR COMMISSION MEMBER WHO DETERMINES
16 WHETHER AN INMATE IS SUITABLE FOR RELEASE ON PAROLE SHALL MAKE AN
17 OBJECTIVE AND A SUBJECTIVE EVALUATION OF THE INMATE'S STATUS IN
18 ACCORDANCE WITH THIS SECTION.

19 (B) IN MAKING AN OBJECTIVE EVALUATION, WHICH TO THE EXTENT
20 POSSIBLE SHALL BE BASED ON INDEPENDENT AND VERIFIABLE EVIDENCE, A
21 HEARING EXAMINER OR COMMISSION MEMBER SHALL CONSIDER:

22 (1) THE CIRCUMSTANCES SURROUNDING THE CRIME FOR WHICH THE
23 INMATE IS INCARCERATED, THE INMATE'S PREVIOUS ADULT AND JUVENILE
24 CRIMINAL RECORD AND ANY PAROLE OR PROBATION HISTORY;

25 (2) RECOMMENDATIONS AND INSTRUCTIONS OF THE SENTENCING
26 JUDGE, WITH CONSIDERATION OF THE PAROLE POLICY OF THE STATE AT THE TIME
27 OF SENTENCING AND HOW THAT PAROLE POLICY MAY HAVE INFLUENCED THE
28 SENTENCING DECISION;

29 (3) THE INMATE'S INFRACTION RECORD WHILE INCARCERATED;

30 (4) DOCUMENTATION BY THE CLASSIFICATION STAFF OF THE DIVISION
31 OF PAROLE AND PROBATION, INCLUDING CLASSIFICATION INSTRUMENTS, CASE
32 MANAGEMENT PROGRAM OR MUTUAL AGREEMENT PROGRAM CONTRACTS, AND
33 STATUS REPORTS FOR WHICH THE INMATE HAS HAD THE OPPORTUNITY TO
34 CORRECT ERRORS OR DEFICIENCIES;

35 (5) THE INMATE'S PHYSICAL AND MENTAL CONDITION, INCLUDING:

36 (I) ANY MENTAL DISORDER THAT EXISTED AT THE TIME OF THE
37 OFFENSE OR PAROLE HEARING, INCLUDING POST-TRAUMATIC STRESS SYNDROME
38 THAT AFFECTS CERTAIN VETERANS OF THE VIETNAM WAR;

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1 (II) THE INMATE'S HISTORY OF ABUSE OF ALCOHOL OR
2 CONTROLLED DANGEROUS SUBSTANCES; AND

3 (III) ANY NUTRITIONAL DEFICIENCIES, UNHEALTHY EATING
4 HABITS, AND HYGIENE PROBLEMS;

5 (6) EVALUATIONS BY PHYSICIANS, PSYCHIATRISTS, PSYCHOLOGISTS, OR
6 LICENSED CERTIFIED SOCIAL WORKERS AND OTHER PROFESSIONAL CONSULTANTS
7 WHO HAVE EXAMINED OR TREATED THE INMATE;

8 (7) THE INMATE'S MEDICAL HISTORY BEFORE AND DURING
9 INCARCERATION;

10 (8) ACCOMPLISHMENTS IN WORK, SCHOOL, AND SPORTS ACTIVITIES
11 DURING THE 5 YEARS PREVIOUS TO THE PAROLE HEARING THAT HAVE BEEN
12 VERIFIED;

13 (9) DIRECT OBSERVATION OF THE INMATE BY COMMISSION MEMBERS
14 OR HEARING EXAMINERS DURING THE PAROLE INTERVIEW;

15 (10) THE INMATE'S HOME SITUATION, INCLUDING UNMARRIED
16 RELATIONSHIPS OF LONG STANDING AND THE FAMILY'S WILLINGNESS AND ABILITY
17 TO PROVIDE FOOD, SHELTER, AND OTHER NECESSITIES IMMEDIATELY UPON
18 RELEASE;

19 (11) THE PROBABLE COMMUNITY WHERE THE INMATE WOULD LIVE
20 AND WORK IF RELEASED ON PAROLE, AND THE LIKELIHOOD OF THAT COMMUNITY
21 ENCOURAGING A RECURRENCE OF THE CRIME FOR WHICH THE INMATE IS
22 INCARCERATED OR FOR WHICH THE INMATE WAS INCARCERATED IN THE PAST;

23 (12) AVAILABILITY OF EMPLOYMENT IN THE COMMUNITY WHERE THE
24 INMATE WOULD BE RELEASED ON PAROLE;

25 (13) THE INMATE'S LEVEL OF EDUCATION, INCLUDING THE AMOUNT OF
26 ADVANCEMENT ACHIEVED DURING THE TIME INCARCERATED;

27 (14) WORK HISTORY BEFORE AND DURING INCARCERATION;

28 (15) PARTICIPATION DURING INCARCERATION IN:

29 (I) SELF-HELP PROGRAMS;

30 (II) SPORTS OR RECREATION PROGRAMS;

31 (III) SCHOOL OR EDUCATION PROGRAMS;

32 (IV) OTHER MUTUAL OR COOPERATIVE GROUP ACTIVITIES; OR

33 (V) RELIGIOUSLY-ORIENTED GROUPS; AND

34 (16) REPORTS OR RECOMMENDATIONS FROM NONPROFESSIONAL OR
35 INSTITUTIONAL PERSONNEL SUCH AS CLASSIFICATION COUNSELORS, TEACHERS,
36 LIBRARIANS, MEMBERS OF THE CLERGY, CIVILIAN ADVISORS, AND SECURITY
37 STAFF.

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1 (C) IN MAKING A SUBJECTIVE EVALUATION, WHICH SHALL BE BASED ON
2 SUBJECTIVE JUDGMENT AND PERSONAL EXPERIENCE, A HEARING EXAMINER OR
3 COMMISSION MEMBER SHALL CONSIDER:

4 (1) THE INMATE'S EMOTIONAL AND PSYCHOLOGICAL MATURITY AND
5 METHODS OF DEALING WITH PROBLEMS OR ADVERSITY;

6 (2) THE INMATE'S ATTITUDE TOWARD AUTHORITY FIGURES,
7 INCLUDING EMPLOYERS, SUPERVISORS, AND LAW ENFORCEMENT OFFICERS;

8 (3) THE INMATE'S ABILITY TO ADJUST TO BEING APART FROM THE
9 PRISON ENVIRONMENT;

10 (4) THE LIKELIHOOD THAT THE INMATE WILL NOT VIOLATE THE LAW
11 OR CONDITIONS OF PAROLE;

12 (5) WHETHER CONTINUED INCARCERATION MAY HELP THE INMATE TO
13 LEAD A LAW-ABIDING LIFE AT A LATER DATE;

14 (6) WHETHER RELEASE AT THE TIME OF THE HEARING WOULD BE
15 PERCEIVED BY THE INMATE OR OTHERS AS LESSENING THE SERIOUSNESS OF THE
16 CRIME FOR WHICH THE INMATE IS INCARCERATED OR AS AN INVITATION TO
17 REPEAT THE SAME OR SIMILAR CRIME;

18 (7) WHETHER SOCIETY WOULD HAVE MORE TO GAIN WITH THE
19 INMATE OUTSIDE AN INSTITUTION THAN INCARCERATED; AND

20 (8) WHETHER THE INSTITUTION MAY BE DISRUPTED IF THE INMATE IS
21 RELEASED.

22 (D) (1) THIS SECTION DOES NOT PREVENT THE COMMISSION FROM
23 OBTAINING INFORMATION OTHER THAN THAT MADE AVAILABLE BY THE
24 INSTITUTION OR INMATE.

25 (2) THE ABSENCE OR UNAVAILABILITY OF EVIDENTIARY OR
26 SUPPORTING MATERIALS IN ACCORDANCE WITH THIS SECTION MAY NOT CAUSE
27 THE DENIAL OR POSTPONEMENT OF A PAROLE DECISION FOR MORE THAN 90 DAYS
28 IF THE INMATE BEING CONSIDERED FOR PAROLE DOES NOT HAVE ACCESS TO THE
29 MATERIALS.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 1996.