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Corrections

F-3 Prisoner Review Board

The Prisoner Review Board (Board) is the releasing authority for incarcerated offenders who have committed the most serious, heinous, and detrimental acts against society. The Board also performs a variety of additional functions in the Kansas criminal justice system. As an integral part of the Kansas criminal justice system and consistent with the agency mission, the Board continually strives to provide for public safety through its work with offenders, corrections professionals, victims, families, the public, law enforcement officials, and other criminal justice stakeholders.

The Board was created by Executive Reorganization Order (ERO) No. 34 in 2011 and succeeds to the powers, duties, and functions of the Kansas Parole Board, which was abolished by the same ERO. The Prisoner Review Board consists of three members appointed by the Secretary of Corrections who serve at the pleasure of the Secretary. The Board currently consists of one full-time member and two part-time members. The ERO required these members to be then-existing employees of the Department of Corrections.

Parole Suitability

Parole suitability determinations extend to two populations, those with offenses occurring prior to July 1, 1993, and those sentenced under the Kansas Sentencing Guidelines Act for crimes so detrimental to social well-being that they are sentenced to life with a mandatory minimum term. Offenders with pre-guidelines offenses are parole eligible after serving the court-imposed minimum sentence, less good time credits as awarded by the Department of Corrections pursuant to statute and regulation.¹ An offender who earns all available good time may be eligible for parole no sooner than upon completion of one-half of the court-imposed minimum sentence. For offenders convicted of very serious crimes and sentenced to “Off Grid” terms pursuant to the Kansas Sentencing Guidelines Act, a life sentence is prescribed by the Guidelines with a fixed, mandatory minimum term (*i.e.*, no good time is available to this group). Examples of this type of sentence include the “Hard 50” sentence and sentences for “Jessica’s Law” offenses. Upon serving the mandatory minimum term, these offenders also see the Board for determination of parole suitability.

¹ Good time credits are calculated according to statute. For this group, good time is earnable at a rate of one day for every day served for sentences with a maximum of two years.

Kansas law stipulates that the Board may release to parole an offender who satisfactorily has completed the Program Agreement, required by KSA 75-5210a, when the Board believes he or she is able and willing to fulfill the obligations of a law-abiding citizen, and when the Board is of the opinion that there is a reasonable probability that the inmate can be released without detriment to the community or to the inmate [KSA 22-3717(g)]. Satisfaction of these conditions constitutes “parole suitability.”

KSA 22-3717(h) directs the Board to consider whether the inmate has completed programs identified on a program agreement [KSA 75-5210a] and to consider “all pertinent information regarding such inmate, including, but not limited to” the following:

- Circumstances of the offense;
- Previous criminal history of the offender;
- Programs and program participation;
- Conduct, employment, attitude, and disciplinary history during incarceration;
- Reports of physical and mental examinations, including but not limited to any risk factors revealed by any risk assessments;
- Comments from public officials, victims or their families, offender family and friends, or any other interested member of the general public;
- Capacity of state correctional facilities;
- Input from staff where the offender is housed;
- Proportionality of time served to the sentence that would have been received under the Kansas sentencing guidelines for the conduct that resulted in the inmate’s incarceration; and
- Pre-sentence report.

The Board conducts a parole hearing with each eligible inmate the month prior to the inmate’s parole eligibility date. These hearings consist of interviews and reviews of all available reports and material pertinent to the case. The Board may parole the inmate if it believes the inmate is suitable for release. The Board also may decide to “continue,” which postpones the parole decision

for further deliberation or additional information. Finally, the Board may “pass” the inmate, which is a denial of parole for a specific period of time.

Imposition of Special Conditions of Supervised Release

For those offenders being released to postrelease supervision (rather than parole), the Board reviews the offender’s release plan and may impose any conditions it deems necessary in the interests of public safety or the reintegration of the inmate into the community [KSA 22-3717(i)].

Alleged Violations of Post-Incarceration Conditions

The Board hears testimony and weighs evidence for offenders who stand accused of allegedly violating community supervision conditions and then renders decisions regarding necessity of withdrawal of community-based liberties for those offenders. This hearing provides the second stage in the two-stage process consistent with the U.S. Supreme Court’s determinations found in *Morrissey v. Brewer*, 408 U.S. 471, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972).

If an offender sentenced to an indeterminate term of incarceration violates parole after being granted such privilege by the Board, the term of revocation is made at the Board’s discretion, within the boundaries of the sentence imposed by the court.

If an offender sentenced under the determinate sentencing guidelines is found to have violated the conditions of postrelease supervision, the Board may impose a revocation term of up to six months, unless the offender has acquired new convictions. This period of confinement may be reduced by up to three months based on the offender’s conduct, work, and program participation during the incarceration. If the violation and revocation result from a new felony or misdemeanor conviction, the Board may require the offender to be confined for a period up to the remaining balance of the period of postrelease supervision.

Executive Clemency Applications

Executive clemency applications made to the Governor come before the Board for a recommendation before being decided upon by the Governor. Each application and all file material is reviewed by the Board prior to making any recommendation for or against the clemency application [KSA 22-3701(4)].

Public Comment Sessions

Public comment sessions are open meetings where the Board may receive comments regarding an offender's potential release on parole. These are held every month in Wichita, Topeka, and Kansas City. Victims, family of victims, offender friends and family members, and volunteers who work with the offender in prison are some of the most common participants at these meetings. These meetings conform to the Kansas Open Meetings Act requirements [KSA 75-4318].

Additional Roles and Responsibilities

Additional roles and responsibilities of the Board include:

- Review and rule on release requests from inmates who are functionally incapacitated [KSA 22-3728];
- Review and rule on release requests from inmates who are terminally ill [KSA 22-3729];
- Review and rule on early discharge requests [KSA 22-3722 and KSA 22-3717]; and
- Serve as a member of the Kansas Sentencing Commission [KSA 74-9102].

Recent Legislation

SB 411 (2008). The Legislature adopted the recommendation of the 2007 Special Committee on Judiciary by adding three factors to those that must be considered by the Board when making parole suitability determinations:

- Risk factors revealed by any risk assessment of the inmate;
- Recommendations by staff at the facility where the offender is housed; and
- Proportionality of time the inmate has served to the sentence a person would have been received under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration.

HB 2060 (2009). This bill required that the Board make available to the then-newly created Joint Committee on Parole Board Oversight redacted documents, records, and reports concerning 30 cases selected by the Secretary of Corrections. It also required the Board to provide to the Joint Committee a summary of each case, listing the factors and rationale used to grant or deny parole. The Joint Committee was required to submit a final report to the Legislature on or before January 1, 2010. These provisions expired on January 1, 2010.

SB 434 (2010). This bill required that any offender sentenced for a class A or B felony who had not had a parole board hearing in the five years prior to July 1, 2010, be reviewed by the parole board on or before July 1, 2012, if the review could be done within the Board's existing resources or with funding subject to appropriation.

Senate Resolution 1817 (2011). This resolution would have disapproved ERO No. 34 abolishing the Kansas Parole Board and establishing the Prisoner Review Board. Thus, passage of the resolution would have maintained the Kansas Parole Board as it existed prior to the ERO. The resolution failed to pass the Senate, and therefore ERO No. 34 went into effect on July 1, 2011.

House Sub. for Sub. for SB 159 (2012). This bill updated statutory references to reflect the transfer of duties from the Kansas Parole Board to the Prisoner Review Board. It also required the Board to order parolees or persons on postrelease supervision to agree to new search provisions established by the bill.

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