

**SB97 INTRODUCED**



1 P1NZRE-1  
2 By Senator Givhan  
3 RFD: Judiciary  
4 First Read: 21-Mar-23  
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SYNOPSIS:

Under existing law, prisoners in the custody of the Department of Corrections are eligible for parole in certain circumstances.

This bill would provide that a prisoner is not be eligible for parole if he or she has been duly charged with a new offense that has not been disposed.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to parole; to amend Section 15-22-28, Code of Alabama 1975, to provide that a prisoner is not eligible for parole of he or she has been duly charged with a new offense that has not been disposed.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 15-22-28, Code of Alabama 1975, is amended to read as follows:

"§15-22-28

(a) It shall be the duty of the Board of Pardons and Paroles, upon its own initiative, to make an investigation of any and all prisoners confined in the jails and prisons of the state, through use of a validated risk and needs assessment as



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29 defined in Section 12-25-32, with a view of determining the  
30 feasibility of releasing the prisoners on parole and effecting  
31 their reclamation. Reinvestigations shall be made from time to  
32 time as the board may determine or as the Department of  
33 Corrections may request. The investigations shall include such  
34 reports and other information as the board may require from  
35 the Department of Corrections or any of its officers, agents,  
36 or employees.

37 (b) It shall be the duty of the Department of  
38 Corrections to cooperate with the Board of Pardons and Paroles  
39 for the purpose of carrying out this article.

40 (c) Temporary leave from prison, including Christmas  
41 furloughs, may be granted only by the Commissioner of  
42 Corrections to a prisoner for good and sufficient reason and  
43 may be granted within or without the state; provided, that  
44 Christmas furloughs shall not be granted to any prisoner  
45 convicted of drug peddling, child molesting, or rape, or to  
46 any maximum security prisoner. A permanent, written record of  
47 all temporary leaves, together with the reasons therefor,  
48 shall be kept by the commissioner. He or she shall furnish the  
49 Board of Pardons and Paroles with a record of each leave  
50 granted and the reasons therefor, and the same shall be placed  
51 by the board in the prisoner's file.

52 (d) No prisoner shall be released on parole except by a  
53 majority vote of the board. The board shall not parole any  
54 prisoner for employment by any official of the State of  
55 Alabama, nor shall any parolee be employed by an official of  
56 the State of Alabama and be allowed to remain on parole;



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57 provided, however, that this provision shall not apply in the  
58 case of a parolee whose employer, at the time of the parolee's  
59 original employment, was not a state official.

60 (e) The board shall set a prisoner's initial parole  
61 consideration date according to the following schedules:

62 (1) For prisoners receiving sentence deductions  
63 pursuant to the Alabama Correctional Incentive Time Act,  
64 Article 3 of Chapter 9 of Title 14, the following schedule  
65 shall apply:

66 a. For terms of five years or less, the prisoner shall  
67 be scheduled for initial parole consideration on the current  
68 docket.

69 b. For terms over five years and up to 10 years, the  
70 prisoner shall be scheduled for initial parole consideration  
71 approximately 18 months prior to the minimum release date.

72 c. For terms of more than 10 years and up to 15 years,  
73 the prisoner shall be scheduled for initial parole  
74 consideration approximately two years and six months prior to  
75 the minimum release date.

76 (2) For prisoners convicted on or after March 21, 2001,  
77 of one or more of the following Class A felonies, the initial  
78 parole consideration date shall be set for a date once a  
79 prisoner has completed 85 percent of his or her total sentence  
80 or 15 years, whichever is less.

81 a. Rape in the first degree.

82 b. Kidnapping in the first degree.

83 c. Murder.

84 d. Attempted murder.



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85 e. Sodomy in the first degree.

86 f. Sexual torture.

87 g. Robbery in the first degree with serious physical  
88 injury as defined in Section 13A-1-2.

89 h. Burglary in the first degree with serious physical  
90 injury as defined in Section 13A-1-2.

91 i. Arson in the first degree with serious physical  
92 injury as defined in Section 13A-1-2.

93 (3) For all other prisoners, the initial parole  
94 consideration date shall be set for a date following  
95 completion of one-third of the prisoner's sentence or 10  
96 years, whichever is less.

97 (4) If the prisoner is serving consecutive sentences,  
98 the initial parole consideration date may not be set for a  
99 date before the prisoner has separately served the time  
100 prescribed in this subsection for each consecutive sentence  
101 imposed.

102 (f) (1) The board may deviate from the initial parole  
103 consideration date established in subsection (e) or any  
104 reconsideration date prescribed by the board's rules only in  
105 either of the following circumstances:

106 a. To comply with the policy and procedural guidelines  
107 in effect on or before January 1, 2019, issued by the board  
108 under Section 15-22-24(e).

109 b. If the prisoner shows, by clear and convincing  
110 evidence, that he or she is more likely than not to be granted  
111 parole and that he or she would have been considered for  
112 parole on an earlier date under generally applicable rules or



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113 policies previously in effect.

114 (2) Any decision by the board to invoke the procedures  
115 of this subsection shall be subject to legal review by the  
116 deputy Attorney General or assistant Attorney General assigned  
117 to the board, prior to the issuance of a parole certificate  
118 and the prisoner's release. If it is determined that the grant  
119 of parole consideration failed to satisfy the requirements of  
120 this subsection or any rule adopted pursuant to this  
121 subsection, the decision shall be reversed and the prisoner  
122 shall be notified by the board.

123 (3) For purposes of paragraph (f)(1)b., the board shall  
124 adopt rules to determine whether a prisoner is more likely  
125 than not to be granted parole. These rules shall be designed  
126 to minimize the risk a prisoner will be prejudiced by any  
127 statutory or administrative changes in parole standards or  
128 procedures that have occurred since the date of the prisoner's  
129 conviction and shall include, but are not limited to the  
130 following:

131 a. A requirement that the prisoner has completed a  
132 minimum total period of incarceration.

133 b. A requirement that the prisoner complete certain  
134 programs while in custody of the Department of Corrections.

135 c. A requirement that the prisoner provide a statement  
136 of support from a Department of Corrections staff member.

137 d. A requirement that the prisoner have no violent  
138 disciplinarys during a prescribed period preceding the  
139 prisoner's current application for parole consideration.

140 e. A requirement that the prisoner have no



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141 disciplinaries of any kind within a prescribed period  
142 preceding the prisoner's current application for parole  
143 consideration.

144 f. A requirement that the prisoner's risk of re-offense  
145 is determined to be medium or low following the completion of  
146 a validated risk and needs assessment conducted by a trained  
147 probation and parole officer.

148 (4) A 30 days' written notice shall be provided to the  
149 Governor and Attorney General for any parole consideration  
150 date set by the board under subdivision (f)(1). The Governor  
151 and Attorney General shall have 14 days from the time notice  
152 is received to object to the grant of parole. If the board  
153 grants parole consideration under subdivision (f)(1) and did  
154 not give adequate notice to the Governor or Attorney General  
155 or granted parole consideration despite an objection from the  
156 Governor or Attorney General, the decision shall be reversed  
157 and the prisoner shall be notified by the board.

158 (g) Notwithstanding any law to the contrary, any  
159 prisoner who is duly charged with a new federal, state, or  
160 local offense punishable by a term of imprisonment exceeding  
161 six months shall not be considered for parole until after the  
162 charge has been disposed, whether by trial or other means."

163 Section 2. This act shall become effective on the first  
164 day of the third month following its passage and approval by  
165 the Governor, or its otherwise becoming law.