

STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS	Title PAROLE REVIEWS AND RECOMMENDATIONS		Page 1 of 4
Chapter: Classification and Case Planning	# 371.25	Supersedes: #371.25, <i>Parole Reviews and Recommendations dated 09/30/2013</i>	
Local Procedure(s) Required: No Applicability: All staff (including contractors and volunteers) Security Level: "B" – Anyone may have access to this document.			
Approved:			
<u>SIGNED</u> James W. Baker, Commissioner	<u>12/23/2020</u> Date Signed	<u>1/01/2021</u> Date Effective	

PURPOSE

The purpose of this directive is to establish the process to review and refer offenders to the Parole Board.

AUTHORITY & REFERENCES

28 V.S.A § 204b, 353, 362, 402, 403, 501, 501a, 502, and 725.

The Vermont Parole Board Manual; Administrative Directives, #348 *Supervision of Sentence Offenders in the Community*; #371.02, *Case Management*; #371.08, *Classification of Offenders Convicted of Listed Offenses*; #418.01, *Offender Out of State Movement and The Interstate Compact*; 502.01 *Victim Services and Notifications*.

POLICY

It is the policy of the Department of Corrections (DOC) to supervise offenders in the least restrictive setting consistent with public safety. It is also DOC policy to recommend appropriate and eligible offenders for parole at their minimum release date. Parole is a legal status that enables DOC to provide services and supervision commensurate with the offender’s risk and severity of offense. The DOC policy is to encourage all offenders to attend their parole board hearings in person.

GENERAL GUIDELINES

A. Eligibility for Initial Parole Review

1. Offenders are eligible for parole consideration once they have reached their minimum release date.¹
2. Offenders with a zero, or no, total effective minimum sentence are eligible for parole consideration within 12 months after commitment to the Commissioner of Corrections.
3. The presumptive parole eligibility process will be completed for all offenders, except those designated high-risk pursuant to 28 V.S.A. § 204b, once they have reached their minimum release date.
4. Offenders meet the presumptive parole eligibility process criteria if they:
 - a. have not acquired any new criminal conviction while incarcerated or on supervision for the current sentence;
 - b. have no outstanding warrants, detainers, commitments, or pending charges;
 - c. have been compliant with required services and risk-reduction programming
 - i. for the past 90 days; or
 - ii. during their incarceration period if incarcerated for less than 90 days;
 - d. have no major A or B disciplinary rule violation, pending or adjudicated,
 - i. for the past 12 months; or
 - ii. during their incarceration period if incarcerated for less than 12 months;
 - e. are supervised on a community furlough status² prior to their minimum release date and are compliant with the conditions of supervision during
 - i. the entire period of supervision if the term of supervision is less than 90 days; or
 - ii. the 90 days prior to the consideration of parole eligibility, if the term of supervision is 90 days or more;
 - f. have not had parole revoked on their current sentence; and
 - g. are not serving a sentence for committing a crime specified in 13 V.S.A. § 5301 (*i.e., listed offenses*).
5. If an offender referred for presumptive parole becomes ineligible based on the criteria outlined above in subsection A.4. after the referral is made, the DOC will notify the Parole Board.
6. Offenders who do not meet the presumptive parole eligibility criteria will be referred for parole according to the statutorily-defined parole process.

B. Initial Referral and Recommendation for Parole

1. 90 days prior to the offender's minimum release date, the responsible Corrections Services Specialist (CSS) or Probation and Parole Officer (PPO) shall:
 - a. conduct the presumptive parole eligibility review process outlined above in subsection A.4.; and
 - b. for each eligible offender determine if, based on clear and convincing evidence, there is a reasonable probability that the offender's release would result in a detriment to the community, or if the offender is not willing and capable of fulfilling the obligations of parole.
 - i. The DOC Central Case Staffing Determination Committee shall review all cases where there may be reason to refute presumptive parole and for all sex offenders who meet the

¹ Sex offenders designated high-risk pursuant to 28 V.S.A. § 204b will not be eligible for parole or presumptive parole until the expiration of 70% of their maximum sentence for the qualifying offense.

² Pre-minimum legal statuses are Treatment Furlough (referred to as Pre-Approved Furlough or PAF) and Reintegration Furlough (RF). RF was repealed as a legal status on January 1, 2021. Offenders placed on RF prior to the repeal date will be reviewed per the presumptive parole process at their minimum release date.

presumptive parole eligibility.

2. If an offender's minimum sentence is shorter than 90 days, the DOC may concurrently pursue furlough and parole eligibility for that offender.
3. Between 90 and 60 days prior to the offender's minimum release date, the CSS shall work with the PPO to develop any recommendations for special conditions of supervision.
4. 60 days prior to the offender's minimum release date responsible staff shall:
 - a. notify the Parole Board of each offender meeting the presumptive parole eligibility criteria and each eligible offender for whom the DOC refutes presumptive parole based on the Central Case Staffing Determination Process.
 - b. recommend offenders serving a sentence in a correctional facility for parole if they did not meet the presumptive parole eligibility criteria and the DOC plans to release the person on community supervision furlough.
 - c. recommend offenders sentenced to Supervised Community Sentence (SCS) for discharge upon reaching their minimum release date if they have successfully completed all conditions imposed by the court and are compliant with community supervision on their SCS sentence.
 - d. recommend offenders on Preapproved Furlough (PAF) who have reached their minimum release date but do not meet the presumptive parole eligibility criteria.
 - e. recommend eligible offenders, excluding sex offenders, to be paroled in the following circumstances:
 - i. the offender is accepted by the receiving state for an out of state placement through the Interstate Compact for Adult Offender Supervision (ICAOS); or
 - ii. the offender can be paroled to another state or Federal authority if they meet parole requirements in Vermont and the other authority has filed a detainer with DOC.
 - f. review Release Sensitive Notification (RSN) cases and/or cases that require the offender to register as a sex offender (to include previous convictions) and recommend for parole if the offender:
 - i. is eligible for parole (as defined in the sections above),
 - ii. meets the requirements for their current status, and
 - iii. is approved for parole by the Central Case Staffing Determination Committee.
 - g. submit a *Parole Board Summary Form* (including recommended special conditions requested by the DOC) for all offenders (including presumptive release cases).

C. Subsequent Consideration for Parole

1. The Parole Board shall conduct the following for incarcerated offenders who have been denied parole at their minimum release date:
 - a. review of offender's record once every 12 months;
 - b. offender interview at the request of the DOC; and
 - c. annual offender interview upon the offender's written request.

Note: CSS/PPO staff shall submit a *Parole Board Summary Form* to the Parole Board 60 days in advance of the annual review date.

2. Offenders Supervised on Furlough
 - a. PPOs shall monitor their caseload to determine if an offender meets the following criteria for a parole recommendation:
 - i. was awarded their earned good time;
 - ii. has no outstanding warrants, detainers, commitments, or pending charges; and

- iii. has not violated a risk-related condition directly impacting public safety.
- b. An offender supervised for a listed crime must meet the criteria for 180 consecutive days; and an offender supervised for a non-listed crime must meet the criteria for 90 consecutive days.
- c. PPO staff shall submit a *Parole Board Summary Form* to the Parole Board within 30 days of an offender meeting the criteria.

D. Victim Notification

1. Staff shall follow the victim notification procedures outlined in the DOC directive on Victim Services and Notification.
2. The Parole Board may decide to have a hearing in cases referred to administrative review based on the presumptive parole review process if it determines that there is a victim, or victims, who should be notified. In this circumstance, the Board is expected to notify the DOC that a hearing shall be held. The DOC shall notify the victim(s) and the Board shall provide them with the opportunity to participate in a parole hearing.

E. Waivers

1. Waivers may be issued only when an offender indicates an unwillingness to accept parole or declines to be interviewed by the Board. The offender shall provide a written reason on the waiver form to explain their request to waive a hearing.
2. Staff shall encourage all eligible offenders to meet with the Parole Board.