

STATE BOARD OF PARDONS AND PAROLES



Garland R. Hunt, Esq.
Chairman

2 Martin Luther King, Jr., Drive, S.E.
Balcony Level, East Tower
Atlanta, Georgia 30334-4909
(404) 656-5651
www.pap.state.ga.us

L. Gale Buckner
Vice-Chair
Garfield Hammonds, Jr.
Member
Milton E. "Buddy" Nix, Jr.
Member
Robert E. Keller
Member

November 8, 2007

Sewell Brumby
Legislative Counsel
316 State Capitol
Atlanta, Ga. 30334

Re: Proposed Amendments to an Agency Rule, entitled: Parole Consideration and numbered 475-3-.05.

Dear Mr. Brumby:

Attached you will find three copies of proposed amendments to Board Rule 475-3-.5., relating to Parole Consideration. The proposed amendments renumber paragraph seven as paragraph nine and amend said paragraph; renumber paragraph eight as paragraph 18; and add new paragraphs seven, eight, ten, 11, 12, 13, 14, 15, 16 and 17.

These amendments were proposed at an open meeting of the Parole Board on this date and will be considered at the next open Parole Board meeting on December 7, 2007.

Senior Assistant Attorney General Joseph Drolet has reviewed said proposed amendments. If you have any questions, please call me at 404.651.6671.

Sincerely,

A handwritten signature in black ink that reads "Tracy D. Masters".

Tracy D. Masters
Director of Legal Services

Attachments

Tracy Masters
12/10/2007 03:25 PM

To: adminrules@sos.state.ga.us
cc: .Board, Beth Oxford/Director/pap, La'Quandra Smith/LegalSvc/pap,
Subject: Parole Board Rule Amendments

December 10, 2007

Coral G. White
Deputy Director
Administrative Procedure Division
Office of Secretary of State
Suite 816, 200 Piedmont Avenue
Atlanta, GA 30334

Re: Letter of Transmittal
Board of Pardons and Paroles
Rules 475-3-.05 Parole Consideration.

Dear Ms. White:

In accordance with the provisions of the Georgia Administrative Procedures Act and Secretary of State Rule 590-2-1-.04, please see the accompanying Rule 475-3-.05 amendments and certification page, in Microsoft Word format. In addition, this letter of transmittal, the certification page, and amended Rule 475-3-.05 has been scanned and submitted from the Pardons and Paroles Board's electronic mail communications system.

The Parole Board amended its Agency Rule 475-3-.05, relating to Parole Consideration, by renumbering paragraph seven as paragraph nine and amending said paragraph; and renumbering paragraph eight as paragraph 18; and adding new paragraphs seven, eight, ten, 11, 12, 13, 14, 15, 16 and 17. The Parole Board voted to make these amendments effective January 1, 2008.

Should questions arise concerning this amendment, please contact me or Assistant Director of Legal Services La'Quandra Smith at 404.651.6671.

Sincerely,

Tracy D. Masters
Secretary to the Board and
Director of Legal Services



secretary of state - ltr of transmittal.doc



certification - sec of state.doc



Rule 475-3-.05.doc

Tracy Dean Masters
Director of Legal Services
Georgia Board of Pardons & Paroles

----- Forwarded by Tracy Masters/LegalSvc/pap on 12/10/2007 03:24 PM -----



<legalservices@pap.state.ga.us>

12/10/2007 04:14 PM

To: "Tracy Masters" <tracy_masters@pap.state.ga.us>

cc:

Subject:

Please open the attached document. It was scanned and sent to you using a Xerox WorkCentre.

Attachment file type : PDF
Device Name : PAROLE BD LEGAL
Device Location :

For more information on Xerox products and solutions, please visit
<http://www.xerox.com>.



001.pdf XeroxAttach.txt

STATE BOARD OF PARDONS AND PAROLES



Garland R. Hunt, Esq.
Chairman

2 Martin Luther King, Jr., Drive, S.E.
Balcony Level, East Tower
Atlanta, Georgia 30334-4909
(404) 656-5651
www.pap.state.ga.us

L. Gale Buckner
Vice-Chair
Garfield Hammonds, Jr.
Member
Milton E. "Buddy" Nix, Jr.
Member
Robert E. Keller
Member

December 10, 2007

Coral G. White
Deputy Director
Administrative Procedure Division
Office of Secretary of State
Suite 816, 200 Piedmont Avenue
Atlanta, GA 30334

Re: Letter of Transmittal
Board of Pardons and Paroles
Rules 475-3-.05 Parole Consideration.

Dear Ms. White:

In accordance with the provisions of the Georgia Administrative Procedures Act and Secretary of State Rule 590-2-1-.04, please see the accompanying Rule 475-3-.05 amendments and certification page, in Microsoft Word format. In addition, this letter of transmittal, the certification page, and amended Rule 475-3-.05 has been scanned and submitted from the Pardons and Paroles Board's electronic mail communications system.

The Parole Board amended its Agency Rule 475-3-.05, relating to Parole Consideration, by renumbering paragraph seven as paragraph nine and amending said paragraph; and renumbering paragraph eight as paragraph 18; and adding new paragraphs seven, eight, ten, 11, 12, 13, 14, 15, 16 and 17. The Parole Board voted to make these amendments effective January 1, 2008.

Should questions arise concerning this amendment, please contact me or Assistant Director of Legal Services La'Quandra Smith at 404.651.6671.

Sincerely,

A handwritten signature in blue ink that reads "Tracy D. Masters".

Tracy D. Masters
Secretary to the Board and
Director of Legal Services

CERTIFICATION PAGE

CERTIFICATION OF ADMINISTRATIVE RULES FILED
WITH SECRETARY OF STATE KAREN HANDEL

(Pursuant to O.C.G.A. §50-13-3, §50-13-4, §50-13-6)

I do hereby certify that the attached amendment is a correct copy as promulgated and adopted on the 10th day of December, 2007, to become effective January 1, 2008.

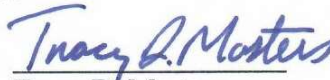
STATE BOARD OF PARDONS AND PAROLES

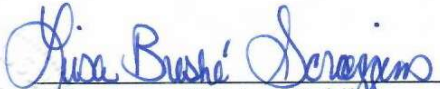
(Filing date: December 10, 2007)

Pursuant to the provisions of the Administrative Procedures Act, during an Open Meeting on December 10, 2007, the State Board of Pardons and Paroles amended its Agency Rule 475-3.05, relating to Parole Consideration, by renumbering paragraph seven as paragraph nine and amending said paragraph; and renumbering paragraph eight as paragraph 18; and adding new paragraphs seven, eight, ten, 11, 12, 13, 14, 15, 16 and 17.

Citation of applicable Authority: Ga.Const.1983 Art.4, § 2, ¶ 2; O.C.G.A. § 42-9-1; O.C.G.A. § 42-9-40; O.C.G.A. § 42-9-42; O.C.G.A. § 42-9-43 and O.C.G.A. § 42-9-45.

Sworn to and subscribed before
me this 10th day of December, 2007.


Tracy D. Masters
Secretary to the Board


(Signature of Notary Public)

(Notary Public Seal)

Notary Public, Clayton County, Georgia

My commission expires 

475-3-.05 Parole Consideration.

(1) Consideration is automatic for all offenders serving sentences imposed by a court of this State and who are in the custody of the Department of Corrections, except that no parole consideration shall ever be given to offenders serving sentences for which parole is not authorized by law. No application is required. Persons ordered to serve consecutive county misdemeanor confinement sentences exceeding 12 months must request consideration. The request may be in any written form and must contain name under which convicted, where incarcerated, offense(s), date and court of conviction, and length of sentence(s). The request should be submitted as early as possible to allow enough time for necessary investigations.

(2) Reconsideration of those inmates serving life sentences who have been denied parole shall take place at least every eight years. The Board will inform inmates denied parole of the reasons for such denial without disclosing confidential sources of information or possible discouraging diagnostic opinions.

(3) Inmates who have escaped will not be considered for parole until their return to custody of penal authorities of this State. If initial parole consideration was given prior to the escape of a life sentence inmate, the next consideration will be scheduled for one to eight years after recapture.

(4) A person who is returned to prison because of violation of the conditions of parole or other conditional release will be scheduled for parole consideration six months to one year after revocation unless the Board directs otherwise in its order of revocation, votes to consider the case earlier, or unless a new sentence supersedes the revoked sentence for the purpose of computing parole eligibility.

(5) In considering parole for persons who will become statutorily eligible for parole consideration and who are serving less than a life sentence, the Board shall review a recommendation as to months to serve. This recommendation will be obtained from the Parole Decision Guidelines system which accounts for the severity of the crime and the inmate's likelihood of success on parole. The inmate's likelihood of success on parole is measured by weighted factors concerning the inmate's criminal and social history which the Board has found to have value in predicting the probability of further criminal behavior and successful adjustment under parole supervision. The Parole Decision Guidelines System is an aid to the Board in making more consistent, soundly based and explainable parole decisions and does not create a liberty interest. The Board specifically reserves the right to exercise its discretion under Georgia Law to disagree with the recommendation resulting from application of the Parole Decision Guidelines and may make an independent decision to deny parole or establish a Tentative Parole Month at any time prior to sentence expiration. After the Board notifies the inmate of their decision, the inmate may contest either the Crime Severity Level or Parole Success Factor scores by writing within 30 days the Parole Guidelines Director in the Board's Central Office. Prior to an inmate being paroled the inmate's institutional conduct will be reviewed and institutional misconduct may result in a delay in parole release or a decision to deny parole. Any decision rendered under the Parole Decision Guidelines may be changed at the discretion of the Board at any time. The Board may modify any part of the Parole Decision Guidelines system at any time.

(6) Inmates considered under the Parole Decision Guidelines system, who are not paroled or discharged from prison earlier, will be reconsidered at least every five years

after the date recommended by the Parole Decision Guidelines.

(7) The minimum mid-point Parole Decision Guidelines recommendation for each Crime Severity Level represents one-third, or more, of the Statewide-average prison sentence for all crimes assigned said Crime Severity Level.

(8)(a) The Parole Board will use the following factors to compute a Risk to Re-Offend Score for each inmate it considers for parole using its Parole Guidelines System.

(b) Number of Felony Convictions: (none = 0 pts.), (1-2 = 1 pt.), (3 = 2 pts.), (4-5 = 3 pts.), (6-7 = 4 pts.), (8 = 5 pts.), (9 or more = 6 pts.).

(c) Number of Prior Prison Incarcerations: (none = 0 pts.), (1 = 1 pt.), (2 = 3 pts.), (3 = 4 pts.), (4 or more = 6 pts.).

(d) Current Prison Sentenced Offenses (score is cumulative) includes: (offense(s) not listed = 0 pts.), (burglary = 1 pt.), (drug possession = 1 pt.), (forgery = 2 pts.), (felony obstruction of an officer = 3 pts.), (theft = 5 pts.).

(e) Age at Current Prison Admission: (20 or less = 0 pts.), (more than 20 to 40 = minus 1 pt.), (more than 40 = minus 2 pts.).

(f) History of drug or alcohol abuse: (no = 0 pts.), (yes = 2 pts.).

(g) Employed at time of current arrest: (no = 0 pts.), (yes = minus 3 pts.).

(9)(a) Offenders considered for parole using the Parole Decision Guidelines System who have been convicted of the following crimes shall be assigned a Crime Severity Level of VIII: voluntary manslaughter, statutory rape, homicide by vehicle while under the influence of alcohol/drugs or as a habitual traffic violator, aggravated battery on a police officer, aggravated assault on a police officer, attempted rape, involuntary manslaughter, hijacking a motor vehicle, criminal attempt to murder, aggravated assault (with injury or weapon), enticing a child for an indecent purpose, cruelty to children, child molestation, feticide by vehicle, incest, bus hijacking, robbery, aggravated stalking, aggravated battery, burglary of an occupied residence, VGCSA - Cocaine or Methamphetamine – 400 or more grams, VGCSA - Marijuana -10,000 or more pounds, or VGCSA - Opiates – 28 or more grams.

(b) Crime Severity Level VIII offenders with a Risk to Re-Offend Score of seven or more shall receive a Parole Guidelines recommendation of 90% of the prison sentence.

(c) Crime Severity Level VIII offenders with a Risk to Re-Offend Score of three to six shall receive a Parole Guidelines recommendation of 75% of the prison sentence.

(d) Crime Severity Level VIII offenders with a Risk to Re-Offend Score of two or less shall receive a Parole Guidelines recommendation of 65% of the prison sentence.

(10)(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of VII: attempted aggravated child molestation, attempted armed robbery, attempted kidnapping, attempted aggravated sexual battery, attempted aggravated sodomy, pimping or pandering a child under the age of 18, RICO, probation revocation based in a Level VIII offense, or probation revocation based on a Serious Violent Felony.

(b) Crime Severity Level VII offenders with a Risk to Re-Offend Score of seven or more shall receive a Parole Guidelines recommendation of 60 to 102 months.

(c) Crime Severity Level VII offenders with a Risk to Re-Offend Score of three to six shall receive a Parole Guidelines recommendation of 48 to 78 months.

(d) Crime Severity Level VII offenders with a Risk to Re-Offend Score of two or less shall receive a Parole Guidelines recommendation of 40 to 60 months.

(11)(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of VI: burglary of an unoccupied dwelling, VGCSA - Cocaine or Methamphetamine – 200 to 399 grams, VGCSA - Marijuana – 2,000 to 9,999 pounds, or VGCSA - Opiates - 0 to 27 grams.

(b) Crime Severity Level VI offenders with a Risk to Re-Offend Score of seven or more shall receive a Parole Guidelines recommendation of 52 to 78 months.

(c) Crime Severity Level VI offenders with a Risk to Re-Offend Score of three to six shall receive a Parole Guidelines recommendation of 40 to 60 months.

(d) Crime Severity Level VI offenders with a Risk to Re-Offend Score of two or less shall receive a Parole Guidelines recommendation of 36 to 52 months.

(12)(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of V: aggravated assault (no injury or weapon), arson I, VGCSA - Cocaine or Methamphetamine - 28 to 199 grams, identity fraud, VGCSA - Marijuana - 10 to 1,999 pounds, manufacturing Methamphetamine – 2nd offense or child injured, VGCSA – Opiates – 4 to 0 grams, VGCSA – sale/distribution/intent to sell Schedule I or II drugs – 3rd offense, or VGCSA – Methamphetamine Trafficking – less than 200 grams.

(b) Crime Severity Level V offenders with a Risk to Re-Offend Score of seven or more shall receive a Parole Guidelines recommendation of 40 to 60 months.

(c) Crime Severity Level V offenders with a Risk to Re-Offend Score of three to six shall receive a Parole Guidelines recommendation of 34 to 52 months.

(d) Crime Severity Level V offenders with a Risk to Re-Offend Score of two or less shall receive a Parole Guidelines recommendation of 30 to 40 months.

(13)(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of IV: arson II - \$2,000, burglary - non-dwelling, over \$5,000 or six or more counts, homicide by vehicle – not DUI/habitual violator, manufacturing Methamphetamine – near a child, serious injury by vehicle, theft of vehicle – four or more counts or 4th or more offense, theft – over \$10,000, VGCSA – sale/distribution/intent to sell Schedule I or II drugs – 2nd offense.

(b) Crime Severity Level IV offenders with a Risk to Re-Offend Score of seven or more shall receive a Parole Guidelines recommendation of 28 to 38 months.

(c) Crime Severity Level IV offenders with a Risk to Re-Offend Score of three to six shall receive a Parole Guidelines recommendation of 24 to 34 months.

(d) Crime Severity Level IV offenders with a Risk to Re-Offend Score of two or less shall receive a Parole Guidelines recommendation of 22 to 26 months.

(14)(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of III: burglary – non-dwelling – two to five counts - \$2,001 to \$5,000, credit card fraud – more than 10 counts or \$1,000, criminal damage – life in danger or over \$2,000, destroying or injuring police dog or horse, forgery I – over 10 counts or \$1,000, manufacturing Methamphetamine – 1st offense, obstruction of officer, possession/theft of material to manufacture illegal drugs – 2nd offense, terroristic threat, theft - \$5,000 to \$10,000, theft of vehicle – for profit or 2nd and 3rd counts not for profit or 3rd offense, or VGCSA - sale or possession – 2nd and 3rd offense.

(b) Crime Severity Level III offenders with a Risk to Re-Offend Score of seven or more shall receive a Parole Guidelines recommendation of 26 to 32 months.

(c) Crime Severity Level III offenders with a Risk to Re-Offend Score of three to six shall receive a Parole Guidelines recommendation of 22 to 28 months.

(d) Crime Severity Level III offenders with a risk to Re-Offend Score of two or less shall receive a Parole Guidelines recommendation of 20 to 24 months.

(15)(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of II: bad checks - \$2,000 or more, burglary - non-dwelling - \$300 to \$2,000 - one count, credit card fraud – 10 or less counts or less than \$1,000, criminal damage II - \$300 to \$2,000, forgery I – 10 or less counts or less than \$1,000, possession of illegal firearm or explosives, possession/theft of materials to manufacture illegal drugs - 1st offense, reckless conduct by HIV-infected person, theft - \$1,000 to \$4,999, theft of vehicle - not for profit - 2nd offense, VGCSA -possession - 2nd offense, or VGCSA - sale/intent to sell/distribution - 1st offense.

(b) Crime Severity Level II offenders with a Risk to Re-Offend Score of seven or more shall receive a Parole Guidelines recommendation of 24 to 28 months.

(c) Crime Severity Level II offenders with a Risk to Re-Offend Score of three to six shall receive a Parole Guidelines recommendation of 20 to 24 months.

(d) Crime Severity Level II offenders with a Risk to Re-Offend Score of two or less shall receive a Parole Guidelines recommendation of 18 to 22 months.

(16)(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of I: bad checks - under \$2,000, burglary - non-dwelling, less than \$300 - one count, credit card theft, criminal interference with government property, escape - no weapon, aiding escape - no weapon, forgery II - 10 or less counts or less than \$1000, habitual violator, possession/passing forged prescriptions - 1st offense, possession of tools to commit a crime, theft – less than \$1,000, theft of vehicle - not for profit - one count - 1st offense, or VGCSA - possession - one count.

(b) Crime Severity Level I offenders with a Risk to Re-Offend Score of seven or more shall receive a Parole Guidelines recommendation of 20 to 26 months.

(c) Crime Severity Level I offenders with a Risk to Re-Offend Score of three to six shall receive a Parole Guidelines recommendation of 17 to 22 months.

(d) Crime Severity Level I offenders with a Risk to Re-Offend Score of two or less shall receive a Parole Guidelines recommendation of 15 to 19 months.

(17) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for an offense or offenses not otherwise specified in this rule will be assigned the Crime Severity Level of the specified offense most similar to their most serious offense.

(18) Inmates serving prison sentences for sex crimes and crimes against minors will receive a risk assessment evaluation prior to a final decision to grant parole to determine the likelihood that he or she will engage in another sex crime or a crime against a minor.

Authority O.C.G.A. Secs. 16-8-83, 17-10-6, 17-10-6.1, 17-10-17, 42-9-20, 42-9-39, 42-9-40, 42-9-42, 42-9-45, 42-9-46. **History.** Original Rule entitled "Parole Consideration" adopted. F. and eff. Jan. 7, 1970. **Amended:** F. Oct. 8, 1971; eff. Oct. 28, 1971. **Amended:** F. Jan. 20, 1972; eff. Feb. 9, 1972. **Amended:** F. Jan. 8, 1974; eff. Jan. 28, 1974. **Amended:** F. June 30, 1976; eff. July 20, 1976. **Amended:** F. Mar. 15, 1979; eff. Apr. 4, 1979. **Amended:** F. Nov. 8, 1979; eff. Dec. 1, 1979, as specified by the Agency. **Repealed:** New Rule, same title adopted. F. Nov. 21, 1983; eff. Dec. 11, 1983. **Amended:** F. Jan. 7, 1985; eff. Feb. 1, 1985; as specified by the Agency. **Amended:** F. Apr. 29, 1985; eff. May 19, 1985. **Amended:** F. Aug. 23, 1993; eff. Sept. 12, 1993. **Repealed:** New Rule, same title adopted. F. July 9, 2001; eff. July 29, 2001. **Amended:** F. Dec. 9, 2005; eff. Jan. 1, 2006, as specified by the Agency. **Amended:** F. Jan. 4, 2007; eff. Jan. 24, 2007. **Amended:** F. Dec. 10, 2007; eff. Jan. 1, 2008, as specified by the Agency.

