

**CHAPTER 282****PAROLE BOARD AND PROCEDURES***S.F. 519*

AN ACT relating to the administration of criminal justice, by providing for review of an offender's record, revocation of an offender's parole, restructuring the board of parole, and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 904A.1, Code 1989, is amended to read as follows:

**904A.1 BOARD OF PAROLE**

The board of parole is created to consist of five members; ~~three members who shall devote their full time to the parole and work release system and two members who shall be part-time.~~ Each member, except the chairperson, shall be compensated on a day-to-day basis. Each member shall serve a term of four years beginning and ending as provided by section 69.19 July 1, except appointments for members appointed to fill vacancies who shall serve for the balance of the unexpired term. The terms shall be staggered. The chairperson of the board shall be elected by the members of the board to a term of one year and ~~may serve more than one term consecutively~~ be a full-time, salaried member of the board. A majority of the members of the board constitutes a quorum to transact business.

Sec. 2. Section 904A.3, Code 1989, is amended to read as follows:

**904A.3 APPOINTMENT TO BOARD OF PAROLE.**

The governor shall appoint the chairperson and other members of the board of parole, subject to confirmation by the senate. The chairperson shall serve at the pleasure of the governor. Vacancies shall be filled in the same manner as regular appointments are made.

Sec. 3. Section 904A.4, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

**904A.4 DUTIES OF THE BOARD OF PAROLE.**

1. The board of parole shall interview and consider inmates for parole and work release and a majority vote of the members is required to grant a parole or work release.

2. The board of parole shall interview inmates according to administrative rules adopted by the board.

3. The board of parole shall gather and review information regarding new parole and work release programs being instituted or considered nationwide and determine which programs may be useful for this state. The board shall review the current parole and work release programs and procedures used in this state on an annual basis.

4. The board of parole shall increase utilization of data processing and computerization to assist in the orderly conduct of the parole and work release system.

5. The board of parole shall conduct such studies of the parole and work release system as are requested by the governor and the general assembly.

6. The board of parole shall provide technical assistance and counseling related to the board's purposes to public and private entities.

7. The board of parole shall review and make recommendations to the governor regarding all applications for reprieves, pardons, commutation of sentences, remission of fines or forfeitures, or restoration of citizenship rights as required by chapter 248A.

8. The board of parole shall implement a risk assessment program which shall provide risk assessment analysis for the board.

**Sec. 4. NEW SECTION. 904A.4A CHAIRPERSON OF THE BOARD OF PAROLE – DUTIES.**

The chairperson of the board of parole shall do all of the following:

1. Act as the board's liaison with the governor regarding executive clemency, parole, and work release matters.

2. Direct, supervise, evaluate, and assign the day-to-day administration of the board of parole.
3. Supervise and monitor parole revocations and appeals.
4. Supervise final work release revocation case reviews.
5. Supervise the development of rules, policies, and procedures, subject to the approval of the board, in cooperation with the department of corrections, pertaining to the supervision of executive clemency, parole, and work release.
6. Supervise the development of long-range parole and work release planning.

Sec. 5. NEW SECTION. 904A.4B EXECUTIVE DIRECTOR OF THE BOARD OF PAROLE – DUTIES.

The chief administrative officer of the board of parole shall be the executive director. The executive director shall be appointed by the chairperson, subject to the approval of the board and shall serve at the pleasure of the board. The executive director shall do all of the following:

1. Advise the board on matters relating to parole, work release, and executive clemency, and advise the board on matters involving automation and word processing.
2. Carry out all directives of the board.
3. Hire and supervise all of the board's staff pursuant to the provisions of chapter 19A.
4. Act as the board's liaison with the general assembly.
5. Prepare a budget for the board, subject to the approval of the board, and prepare all other reports required by law.
6. Develop long-range parole and work release planning, in cooperation with the department of corrections.

Sec. 6. Section 904A.5, Code 1989, is amended to read as follows:

904A.5 ADMINISTRATION OF BOARD OF PAROLE.

The chairperson of the board of parole is responsible directly to the governor. The board of parole is attached to the department of corrections for routine administrative and support services only. ~~The board of parole shall appoint an executive secretary and employ a clerical staff sufficient to carry on the necessary duties of the board. The board shall also employ personnel to serve as liaisons between the board, inmates, and staff at the state's penal and correctional facilities and to perform other duties designated by the board. The board shall submit to the director of the department of management an estimate of the funds needed for salaries, maintenance, and supplies as provided in section 8.23.~~

Sec. 7. Section 904A.6, Code 1989, is amended to read as follows:

904A.6 SALARIES AND EXPENSES.

Each member, ~~except the chairperson,~~ of the board shall be paid a salary per diem as determined by the general assembly. ~~The chairperson of the board shall be paid a salary as determined by the general assembly.~~ Each member of the board, ~~the executive secretary,~~ and all employees are entitled to receive, in addition to their per diem or salary, their necessary maintenance and travel expenses while engaged in official business.

Sec. 8. Section 906.5, Code 1989, is amended to read as follows:

906.5 RECORD REVIEWED – RULES.

1. Within one year after the commitment of a person other than a class "A" felon, class "B" felon convicted of murder in the second degree and serving a sentence of more than twenty-five years, or a felon serving a mandatory minimum sentence, other than a class "A" felon, to the custody of the director of the Iowa department of corrections, a member of the board shall interview the person. Thereafter, at regular intervals, not to exceed one year, the board shall interview the person and consider the person's prospects for parole or work release. However, if the registration of a victim prohibits conducting a timely interview as provided in this subsection, the interview may be conducted within a reasonable period of time after the one-year period or interval has expired in order to provide the victim notice as provided in section 910A.10, subsection 1, paragraph "a".

Not less than twenty days prior to conducting a hearing at which the board will interview the person, the board shall notify the department of corrections of the scheduling of the interview, and the department shall make the person available to the board at the person's institutional residence as scheduled in the notice. However, if health, safety, or security conditions require moving the person to another institution or facility prior to the scheduled interview, the department of corrections shall so notify the board.

2. At the time of an interview required under this section, the board shall consider all pertinent information regarding the person, including the circumstances of the person's offense, any presentence report which is available, the previous social history and criminal record of the person, the person's conduct, work, and attitude in prison, and the reports of physical and mental examinations that have been made.

3. A person while on parole or work release is under the supervision of the district department of correctional services of the district designated by the board of parole. The department of corrections shall prescribe rules for governing persons on parole or work release. The board may adopt other rules not inconsistent with the rules of the department of corrections as the board deems proper or necessary for the performance of its functions.

Sec. 9. Section 908.4, Code 1989, is amended to read as follows:

#### 908.4 PAROLE REVOCATION HEARING.

The parole revocation hearing shall be conducted by ~~a~~ an administrative parole revocation officer judge who is an attorney appointed pursuant to ~~section 904A.5~~. The revocation hearing shall determine the following:

1. Whether the alleged parole violation occurred.
2. Whether the violator's parole should be revoked.

The ~~administrative parole revocation officer judge~~ shall make a verbatim record of the proceedings. The alleged violator shall be informed of the evidence against the violator, shall be given an opportunity to be heard, shall have the right to present witnesses and other evidence, and shall have the right to cross-examine adverse witnesses, except if the ~~revocation officer judge~~ finds that a witness would be subjected to risk or harm if the witness' identity were disclosed. The revocation hearing may be conducted electronically.

Sec. 10. Section 908.5, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

#### 908.5 DISPOSITION.

If a violation of parole is established, the administrative parole judge may continue the parole with or without any modification of the conditions of parole. The administrative parole judge may revoke the parole and require the parolee to serve the sentence originally imposed, or may revoke the parole and reinstate the parolee's work release status. The order of the administrative parole judge shall contain findings of fact, conclusions of law, and a disposition of the matter.

Sec. 11. Section 908.6, Code 1989, is amended to read as follows:

#### 908.6 APPEAL OR REVIEW.

The order of the ~~administrative parole revocation officer judge~~ shall become the final decision of the board of parole unless, within the time provided by rule, the parole violator appeals the decision or a panel of the board reviews the decision on its own motion. On appeal or review of the ~~administrative parole revocation officer's judge's~~ administrative parole revocation officer's judge's decision, the board panel has all the power which it would have in initially making the revocation hearing decision. The appeal or review shall be conducted pursuant to rules adopted by the board of parole. The record on appeal or review shall be the record made at the parole revocation hearing conducted by the ~~administrative parole revocation officer judge~~.

Sec. 12. Section 908.7, Code 1989, is amended to read as follows:

**908.7 WAIVER OF PAROLE REVOCATION HEARING.**

The alleged parole violator may waive the parole revocation hearing, in which event the administrative parole revocation officer judge shall proceed to determine the disposition of the matter. The administrative parole revocation officer judge shall dispose of the case as provided in section 908.4. The administrative parole revocation officer judge shall make a verbatim record of the proceedings. The waiver proceeding may be conducted electronically.

Sec. 13. Section 908.10, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

**908.10 CONVICTION OF A FELONY WHILE ON PAROLE.**

When a person is convicted and sentenced to incarceration in this state for a felony committed while on parole, or is convicted and sentenced to incarceration under the laws of any other state of the United States or a foreign government or country for an offense committed while on parole, and which if committed in this state would be a felony, the person's parole shall be deemed revoked as of the date of the commission of the new felony offense.

The parole officer shall inform the sentencing judge that the convicted defendant is a parole violator. The term for which the defendant shall be imprisoned as a parole violator shall be the same as that provided in cases of revocation of parole for violation of the conditions of parole. The new sentence of imprisonment for conviction of a felony shall be served consecutively with the term imposed for the parole violation, unless a concurrent term of imprisonment is ordered by the court.

The parolee shall be notified in writing that parole has been revoked on the basis of the new felony conviction, and a copy of the commitment order shall accompany the notification. The inmate's record shall be reviewed pursuant to the provisions of section 906.5, or as soon as practical after a final reversal of the new felony conviction.

An inmate may appeal the revocation of parole under this section according to the board of parole's rules relating to parole revocation appeals. Neither the administrative parole judge nor the board panel shall retry the facts underlying any conviction.

Sec. 14. **TRANSITION — TERMS OF BOARD MEMBERS.** The terms of all persons serving on the board of parole on June 30, 1989, expire on that date. Notwithstanding the four-year term specified in section 904A.1, appointments of the new members of the board of parole shall be as follows:

1. One member to serve from July 1, 1989, to June 30, 1990.
  2. One member to serve from July 1, 1989, to June 30, 1991.
  3. One member to serve from July 1, 1989, to June 30, 1992.
  4. Two members to serve from July 1, 1989, to June 30, 1993.
- Thereafter, all appointments shall be for four-year terms.

Sec. 15. Section 904A.7, Code 1989, is repealed.

Sec. 16. Section 14 of this Act takes effect June 30, 1989.

Approved June 1, 1989