Public Law 94-233
94th Congress

An Act

To establish an independent and regionalized United States Parole Commission, to provide fair and equitable parole procedures, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Parole Commission and Reorganization Act”.

UNITED STATES PAROLE COMMISSION; PAROLE PROCEDURES, CONDITIONS, ETC.

SEC. 2. Title 18 of the United States Code is amended by repealing chapter 311 (relating to parole) and inserting in lieu thereof the following new chapter to read as follows:

“Chapter 311—PAROLE

§ 4201. Definitions

“(1) ‘Commission’ means the United States Parole Commission;
“(2) ‘Commissioner’ means any member of the United States Parole Commission;
“(3) ‘Director’ means the Director of the Bureau of Prisons;
“(4) ‘Eligible prisoner’ means any Federal prisoner who is eligible for parole pursuant to this title or any other law including any Federal prisoner whose parole has been revoked and who is not otherwise ineligible for parole;
“(5) ‘Parolee’ means any eligible prisoner who has been released on parole or deemed as if released on parole under section 4164 or section 4205(f); and
“(6) ‘Rules and regulations’ means rules and regulations promulgated by the Commission pursuant to section 4203 and section 555 of title 5, United States Code.

§ 4202. Parole Commission created

“There is hereby established, as an independent agency in the Department of Justice, a United States Parole Commission which shall
Term.

Compensation.


§ 4203. Powers and duties of the Commission

(a) The Commission shall meet at least quarterly, and by majority vote shall—

(1) promulgate rules and regulations establishing guidelines for the powers enumerated in subsection (b) of this section and such other rules and regulations as are necessary to carry out a national parole policy and the purposes of this chapter;

(2) create such regions as are necessary to carry out the provisions of this chapter, but in no event less than five; and

(3) ratify, revise, or deny any request for regular, supplemental, or deficiency appropriations, prior to the submission of the requests to the Office of Management and Budget by the Chairman, which requests shall be separate from those of any other agency of the Department of Justice.

(b) The Commission, by majority vote, and pursuant to the procedures set out in this chapter, shall have the power to—

(1) grant or deny an application or recommendation to parole any eligible prisoner;

(2) impose reasonable conditions on an order granting parole;

(3) modify or revoke an order paroling any eligible prisoner; and

(4) request probation officers and other individuals, organizations, and public or private agencies to perform such duties with respect to any parolee as the Commission deems necessary for maintaining proper supervision of and assistance to such parolees; and so as to assure that no probation officers, individuals, organizations, or agencies shall bear excessive caseloads.

(c) The Commission, by majority vote, and pursuant to rules and regulations—

(1) may delegate to any Commissioner or commissioners powers enumerated in subsection (b) of this section;

(2) may delegate to hearing examiners any powers necessary to conduct hearings and proceedings, take sworn testimony, obtain and make a record of pertinent information, make findings of probable cause and issue subpoenas for witnesses or evidence in parole revocation proceedings, and recommend disposition of any matters enumerated in subsection (b) of this section, except that any such findings or recommendations shall be based upon the concurrence of not less than two hearing examiners;

(3) may delegate authority to conduct hearings held pursuant to section 4214 to any officer or employee of the executive or judicial branch of Federal or State government; and

(4) may review, or may delegate to the National Appeals Board the power to review, any decision made pursuant to subparagraph (1) of this subsection except that any such decision
so reviewed must be reaffirmed, modified or reversed within thirty
days of the date the decision is rendered, and, in case of such
review, the individual to whom the decision applies shall be
informed in writing of the Commission's actions with respect
thereto and the reasons for such actions.

"(d) Except as otherwise provided by law, any action taken by
the Commission pursuant to subsection (a) of this section shall be
taken by a majority vote of all individuals currently holding office as
members of the Commission which shall maintain and make available
for public inspection a record of the final vote of each member on
statements of policy and interpretations adopted by it. In so acting,
each Commissioner shall have equal responsibility and authority, shall
have full access to all information relating to the performance of
such duties and responsibilities, and shall have one vote.

"§ 4204. Powers and duties of the Chairman

18 USC 4204.

"(a) The Chairman shall—

"(1) convene and preside at meetings of the Commission pur­
suant to section 4203 and such additional meetings of the
Commission as the Chairman may call or as may be requested in
writing by at least three Commissioners;

"(2) appoint, fix the compensation of, assign, and supervise
all personnel employed by the Commission except that—

"(A) the appointment of any hearing examiner shall be
subject to approval of the Commission within the first year
of such hearing examiner's employment; and

"(B) regional Commissioners shall appoint and supervise
such personnel employed regularly and full time in their
respective regions as are compensated at a rate up to and
including grade 9 of the General Schedule pay rates (5
U.S.C. 5332);

"(3) assign duties among officers and employees of the Com­
mision, including Commissioners, so as to balance the workload
and provide for orderly administration;

"(4) direct the preparation of requests for appropriations for
the Commission, and the use of funds made available to the
Commission;

"(5) designate three Commissioners to serve on the National
Appeals Board of whom one shall be so designated to serve as
vice chairman of the Commission (who shall act as Chairman
of the Commission in the absence or disability of the Chairman
or in the event of the vacancy of the Chairmanship), and desig­
nate, for each such region established pursuant to section 4203,
one Commissioner to serve as regional Commissioner in each such
region; except that in each such designation the Chairman shall
consider years of service, personal preference and fitness, and no
such designation shall take effect unless concurred in by the
President, or his designee;

"(6) serve as spokesman for the Commission and report
annually to each House of Congress on the activities of the Com­
mission; and

"(7) exercise such other powers and duties and perform such
other functions as may be necessary to carry out the purposes
of this chapter or as may be provided under any other provision
of law.

"(b) The Chairman shall have the power to—

"(1) without regard to section 3648 of the Revised Statutes
of the United States (31 U.S.C. 529), enter into and perform
such contracts, leases, cooperative agreements, and other trans-
actions as may be necessary in the conduct of the functions of
the Commission, with any public agency, or with any person,
firm, association, corporation, educational institution, or nonprofit
organization;

"(2) accept voluntary and uncompensated services, notwith-
standing the provisions of section 3679 of the Revised Statutes
of the United States (31 U.S.C. 665(b)) ;

"(3) procure for the Commission temporary and intermittent
services to the same extent as is authorized by section 3109(b)
of title 5, United States Code;

"(4) collect systematically the data obtained from studies,
research, and the empirical experience of public and private agen-
cies concerning the parole process;

"(5) carry out programs of research concerning the parole
process to develop classification systems which describe types of
offenders, and to develop theories and practices which can be
applied to the different types of offenders;

"(6) publish data concerning the parole process;

"(7) devise and conduct, in various geographical locations,
seminars, workshops and training programs providing continuing
studies and instruction for personnel of Federal, State and local
agencies and private and public organizations working with
parolees and connected with the parole process; and

"(8) utilize the services, equipment, personnel, information,
facilities, and instrumentalities with or without reimbursement
thereof of other Federal, State, local, and private agencies with
their consent.

"(c) In carrying out his functions under this section, the Chairman
shall be governed by the national parole policies promulgated by the
Commission.

18 USC 4205.

"§ 4205. Time of eligibility for release on parole

"(a) Whenever confined and serving a definite term or terms of
more than one year, a prisoner shall be eligible for release on parole
after serving one-third of such term or terms or after serving ten years
of a life sentence or of a sentence of over thirty years, except to the
extent otherwise provided by law.

"(b) Upon entering a judgment of conviction, the court having
jurisdiction to impose sentence, when in its opinion the ends of justice
and best interest of the public require that the defendant be sentenced
to imprisonment for a term exceeding one year, may (1) designate in
the sentence of imprisonment imposed a minimum term at the expira-
tion of which the prisoner shall become eligible for parole, which term
may be less than but shall not be more than one-third of the maximum
sentence imposed by the court, or (2) the court may fix the maximum
sentence of imprisonment to be served in which event the court may
specify that the prisoner may be released on parole at such time as the
Commission may determine.

"(c) If the court desires more detailed information as a basis for
determining the sentence to be imposed, the court may commit the
defendant to the custody of the Attorney General, which commitment
shall be deemed to be for the maximum sentence of imprisonment pre-
scribed by law, for a study as described in subsection (d) of this
section. The results of such study, together with any recommendations
which the Director of the Bureau of Prisons believes would be helpful
in determining the disposition of the case, shall be furnished to the
court within three months unless the court grants time, not to exceed
an additional three months, for further study. After receiving such reports and recommendations, the court in its discretion may:

1. Place the offender on probation as authorized by section 3651; or
2. Affirm the sentence of imprisonment originally imposed, or reduce the sentence of imprisonment, and commit the offender under any applicable provision of law. The term of the sentence shall run from the date of original commitment under this section.

(d) Upon commitment of a prisoner sentenced to imprisonment under the provisions of subsections (a) or (b) of this section, the Director shall cause a complete study to be made of the prisoner and shall furnish to the Commission a summary report together with any recommendations which in his opinion would be helpful in determining the suitability of the prisoner for parole. This report may include but shall not be limited to data regarding the prisoner's previous delinquency or criminal experience, pertinent circumstances of his social background, his capabilities, his mental and physical health, and such other factors as may be considered pertinent. The Commission may make such other investigation as it deems necessary.

(e) Upon request of the Commission, it shall be the duty of the various probation officers and government bureaus and agencies to furnish the Commission information available to them concerning any eligible prisoner or parolee and whenever not incompatible with the public interest, their views and recommendations with respect to any matter within the jurisdiction of the Commission.

(f) Any prisoner sentenced to imprisonment for a term or terms of not less than six months but not more than one year shall be released at the expiration of such sentence less good time deductions provided by law, unless the court which imposed sentence, shall, at the time of sentencing, provide for the prisoner's release as if on parole after service of one-third of such term or terms notwithstanding the provisions of section 4164. This subsection shall not prevent delivery of any person released on parole to the authorities of any State otherwise entitled to his custody.

(g) At any time upon motion of the Bureau of Prisons, the court may reduce any minimum term to the time the defendant has served. The court shall have jurisdiction to act upon the application at any time and no hearing shall be required.

(h) Nothing in this chapter shall be construed to provide that a prisoner shall be eligible for release on parole if such prisoner is ineligible for such release under any other provision of law.

§ 4206. Parole determination criteria

(a) If an eligible prisoner has substantially observed the rules of the institution or institutions to which he has been confined, and if the Commission, upon consideration of the nature and circumstances of the offense and the history and characteristics of the prisoner, determines:

(1) that release would not depreciate the seriousness of his offense or promote disrespect for the law; and

(2) that release would not jeopardize the public welfare; subject to the provisions of subsections (b) and (c) of this section, and pursuant to guidelines promulgated by the Commission pursuant to section 4203(a)(1), such prisoner shall be released.

(b) The Commission shall furnish the eligible prisoner with a written notice of its determination not later than twenty-one days,
excluding holidays, after the date of the parole determination proceeding. If parole is denied such notice shall state with particularity the reasons for such denial.

"(c) The Commission may grant or deny release on parole notwithstanding the guidelines referred to in subsection (a) of this section if it determines there is good cause for so doing: Provided, That the prisoner is furnished written notice stating with particularity the reasons for its determination, including a summary of the information relied upon.

"(d) Any prisoner, serving a sentence of five years or longer, who is not earlier released under this section or any other applicable provision of law, shall be released on parole after having served two-thirds of each consecutive term or terms, or after serving thirty years of each consecutive term or terms of more than forty-five years including any life term, whichever is earlier: Provided, however, that the Commission shall not release such prisoner if it determines that he has seriously or frequently violated institution rules and regulations or that there is a reasonable probability that he will commit any Federal, State, or local crime.

18 USC 4207. 

"§ 4207. Information considered"

"In making a determination under this chapter (relating to release on parole) the Commission shall consider, if available and relevant:

"(1) reports and recommendations which the staff of the facility in which such prisoner is confined may make;

"(2) official reports of the prisoner's prior criminal record, including a report or record of earlier probation and parole experiences;

"(3) presentence investigation reports;

"(4) recommendations regarding the prisoner's parole made at the time of sentencing by the sentencing judge; and,

"(5) reports of physical, mental, or psychiatric examination of the offender.

There shall also be taken into consideration such additional relevant information concerning the prisoner (including information submitted by the prisoner) as may be reasonably available.

18 USC 4208. 

"§ 4208. Parole determination proceeding; time"

"(a) In making a determination under this chapter (relating to parole) the Commission shall conduct a parole determination proceeding unless it determines on the basis of the prisoner's record that the prisoner will be released on parole. Whenever feasible, the initial parole determination proceeding for a prisoner eligible for parole pursuant to subsections (a) and (b) (1) of section 4205 shall be held not later than thirty days before the date of such eligibility for parole. Whenever feasible, the initial parole determination proceeding for a prisoner eligible for parole pursuant to subsection (b) (2) of section 4205 or released on parole and whose parole has been revoked shall be held not later than one hundred and twenty days following such prisoner's imprisonment or reimprisonment in a Federal institution, as the case may be. An eligible prisoner may knowingly and intelligently waive any proceeding.

"(b) At least thirty days prior to any parole determination proceeding, the prisoner shall be provided with (1) written notice of the time and place of the proceeding, and (2) reasonable access to a report or other document to be used by the Commission in making its determination. A prisoner may waive such notice, except that if notice is not waived the proceeding shall be held during the next regularly
scheduled proceedings by the Commission at the institution in which
the prisoner is confined.

"(c) Subparagraph (2) of subsection (b) shall not apply to—

"(1) diagnostic opinions which, if made known to the eligible
prisoner, could lead to a serious disruption of his institutional
program;

"(2) any document which reveals sources of information
obtained upon a promise of confidentiality; or

"(3) any other information which, if disclosed, might result
in harm, physical or otherwise, to any person.

If any document is deemed by either the Commission, the Bureau of
Prisons, or any other agency to fall within the exclusionary provisions
of subparagraphs (1), (2), or (3) of this subsection, then it shall
become the duty of the Commission, the Bureau, or such other agency,
as the case may be, to summarize the basic contents of the material
withheld, bearing in mind the need for confidentiality or the impact
on the inmate, or both, and furnish such summary to the inmate.

"(d) (1) During the period prior to the parole determination pro­
ceeding as provided in subsection (b) of this section, a prisoner may
consult, as provided by the director, with a representative as referred
to in subparagraph (2) of this subsection, and by mail or otherwise
with any person concerning such proceeding.

"(2) The prisoner shall, if he chooses, be represented at the parole
determination proceeding by a representative who qualifies under rules
and regulations promulgated by the Commission. Such rules shall not
exclude attorneys as a class.

"(e) The prisoner shall be allowed to appear and testify on his own
behalf at the parole determination proceeding.

"(f) A full and complete record of every proceeding shall be
retained by the Commission. Upon request, the Commission shall make
available to any eligible prisoner such record as the Commission may
retain of the proceeding.

"(g) If parole is denied, a personal conference to explain the
reasons for such denial shall be held, if feasible, between the prisoner
and the Commissioners or examiners conducting the proceeding at
the conclusion of the proceeding. When feasible, the conference shall
include advice to the prisoner as to what steps may be taken to
enhance his chance of being released at a subsequent proceeding.

"(h) In any case in which release on parole is not granted, sub­
sequent parole determination proceedings shall be held not less
frequently than:

"(1) eighteen months in the case of a prisoner with a term or
terms of more than one year but less than seven years; and

"(2) twenty-four months in the case of a prisoner with a term
or terms of seven years or longer.

"§ 4209. Conditions of parole

"(a) In every case, the Commission shall impose as a condition
of parole that the parolee not commit another Federal, State, or local
crime. The Commission may impose or modify other conditions of
parole to the extent that such conditions are reasonably related to—

"(1) the nature and circumstances of the offense; and

"(2) the history and characteristics of the parolee;
and may provide for such supervision and other limitations as are
reasonable to protect the public welfare.

"(b) The conditions of parole should be sufficiently specific to serve
as a guide to supervision and conduct, and upon release on parole the
parolee shall be given a certificate setting forth the conditions of his
parole. An effort shall be made to make certain that the parolee understands the conditions of his parole.

“(c) Release on parole or release as if on parole may as a condition of such release require—

“(1) a parolee to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of such parole;

“(2) a parolee, who is an addict within the meaning of section 4251(a), or a drug dependent person within the meaning of section 2(q) of the Public Health Service Act, as amended (42 U.S.C. 201), to participate in the community supervision programs authorized by section 4255 for all or part of the period of parole.

A parolee residing in a residential community treatment center pursuant to subparagraph (1) or (2) of this subsection, may be required to pay such costs incident to residence as the Commission deems appropriate.

“(d)(1) The Commission may modify conditions of parole pursuant to this section on its own motion, or on the motion of a United States probation officer supervising a parolee: Provided, That the parolee receives notice of such action and has ten days after receipt of such notice to express his views on the proposed modification. Following such ten-day period, the Commission shall have twenty-one days, exclusive of holidays, to act upon such motion or application.

“(2) A parolee may petition the Commission on his own behalf for a modification of conditions pursuant to this section.

“(3) The provisions of this subsection shall not apply to modifications of parole conditions pursuant to a revocation proceeding under section 4214.

§ 4210. Jurisdiction of Commission

“(a) A parolee shall remain in the legal custody and under the control of the Attorney General, until the expiration of the maximum term or terms for which such parolee was sentenced.

“(b) Except as otherwise provided in this section, the jurisdiction of the Commission over the parolee shall terminate no later than the date of the expiration of the maximum term or terms for which he was sentenced, except that—

“(1) such jurisdiction shall terminate at an earlier date to the extent provided under section 4164 (relating to mandatory release) or section 4211 (relating to early termination of parole supervision), and

“(2) in the case of a parolee who has been convicted of a Federal, State, or local crime committed subsequent to his release on parole, and such crime is punishable by a term of imprisonment, detention or incarceration in any penal facility, the Commission shall determine, in accordance with the provisions of section 4214 (b) or (c), whether all or any part of the unexpired term being served at the time of parole shall run concurrently or consecutively with the sentence imposed for the new offense, but in no case shall such service together with such time as the parolee has previously served in connection with the offense for which he was paroled, be longer than the maximum term for which he was sentenced in connection with such offense.

“(c) In the case of any parolee found to have intentionally refused or failed to respond to any reasonable request, order, summons, or warrant of the Commission or any member or agent thereof, the jurisdiction of the Commission may be extended for the period during which the parolee so refused or failed to respond.
“(d) The parole of any parolee shall run concurrently with the period of parole or probation under any other Federal, State, or local sentence.

“(e) The parole of any prisoner sentenced before June 29, 1932, shall be for the remainder of the term or terms specified in his sentence, less good time allowances provided by law.

“(f) Upon the termination of the jurisdiction of the Commission over any parolee, the Commission shall issue a certificate of discharge to such parolee and to such other agencies as it may determine.

“§ 4211. Early termination of parole

“(a) Upon its own motion or upon request of the parolee, the Commission may terminate supervision over a parolee prior to the termination of jurisdiction under section 4210.

“(b) Two years after each parolee's release on parole, and at least annually thereafter, the Commission shall review the status of the parolee to determine the need for continued supervision. In calculating such two-year period there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

“(c) (1) Five years after each parolee's release on parole, the Commission shall terminate supervision over such parolee unless it is determined, after a hearing conducted in accordance with the procedures prescribed in section 4214(a)(2), that such supervision should not be terminated because there is a likelihood that the parolee will engage in conduct violating any criminal law.

“(2) If supervision is not terminated under subparagraph (1) of this subsection the parolee may request a hearing annually thereafter, and a hearing, with procedures as provided in subparagraph (1) of this subsection shall be conducted with respect to such termination of supervision not less frequently than biennially.

“(3) In calculating the five-year period referred to in subparagraph (1), there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

“§ 4212. Aliens

“When an alien prisoner subject to deportation becomes eligible for parole, the Commission may authorize the release of such prisoner on condition that such person be deported and remain outside the United States.

“Such prisoner when his parole becomes effective, shall be delivered to the duly authorized immigration official for deportation.

“§ 4213. Summons to appear or warrant for retaking of parolee

“(a) If any parolee is alleged to have violated his parole, the Commission may—

“(1) summon such parolee to appear at a hearing conducted pursuant to section 4214; or

“(2) issue a warrant and retake the parolee as provided in this section.

“(b) Any summons or warrant issued under this section shall be issued by the Commission as soon as practicable after discovery of the alleged violation, except when delay is deemed necessary. Imprisonment in an institution shall not be deemed grounds for delay of such issuance, except that, in the case of any parolee charged with a criminal offense, issuance of a summons or warrant may be suspended pending disposition of the charge.
“(c) Any summons or warrant issued pursuant to this section shall provide the parolee with written notice of—

“(1) the conditions of parole he is alleged to have violated as provided under section 4209;

“(2) his rights under this chapter; and

“(3) the possible action which may be taken by the Commission.

“(d) Any officer of any Federal penal or correctional institution, or any Federal officer authorized to serve criminal process within the United States, to whom a warrant issued under this section is delivered, shall execute such warrant by taking such parolee and returning him to the custody of the regional commissioner, or to the custody of the Attorney General, if the Commission shall so direct.

18 USC 4214.

§ 4214. Revocation of parole

“(a) (1) Except as provided in subsections (b) and (c), any alleged parole violator summoned or retaken under section 4213 shall be accorded the opportunity to have—

Hearing. “(A) a preliminary hearing at or reasonably near the place of the alleged parole violation or arrest, without unnecessary delay, to determine if there is probable cause to believe that he has violated a condition of his parole; and upon a finding of probable cause a digest shall be prepared by the Commission setting forth in writing the factors considered and the reasons for the decision, a copy of which shall be given to the parolee within a reasonable period of time; except that after a finding of probable cause the Commission may restore any parolee to parole supervision if:

“(i) continuation of revocation proceedings is not warranted; or

“(ii) incarceration of the parolee pending further revocation proceedings is not warranted by the alleged frequency or seriousness of such violation or violations;

“(iii) the parolee is not likely to fail to appear for further proceedings; and

“(iv) the parolee does not constitute a danger to himself or others.

“(B) upon a finding of probable cause under subparagraph (1) (A), a revocation hearing at or reasonably near the place of the alleged parole violation or arrest within sixty days of such determination of probable cause except that a revocation hearing may be held at the same time and place set for the preliminary hearing.

Hearings. “(2) Hearings held pursuant to subparagraph (1) of this subsection shall be conducted by the Commission in accordance with the following procedures:

“(A) notice to the parolee of the conditions of parole alleged to have been violated, and the time, place, and purposes of the scheduled hearing;

“(B) opportunity for the parolee to be represented by an attorney (retained by the parolee, or if he is financially unable to retain counsel, counsel shall be provided pursuant to section 3006A) or, if he so chooses, a representative as provided by rules and regulations, unless the parolee knowingly and intelligently waives such representation.

“(C) opportunity for the parolee to appear and testify, and present witnesses and relevant evidence on his own behalf; and

“(D) opportunity for the parolee to be apprised of the evidence against him and, if he so requests, to confront and cross-examine
adverse witnesses, unless the Commission specifically finds substantial reason for not so allowing.

For the purposes of subparagraph (1) of this subsection, the Commission may subpena witnesses and evidence, and pay witness fees as established for the courts of the United States. If a person refuses to obey such a subpena, the Commission may petition a court of the United States for the judicial district in which such parole proceeding is being conducted, or in which such person may be found, to request such person to attend, testify, and produce evidence. The court may issue an order requiring such person to appear before the Commission, when the court finds such information, thing, or testimony directly related to a matter with respect to which the Commission is empowered to make a determination under this section. Failure to obey such an order is punishable by such court as a contempt. All process in such a case may be served in the judicial district in which such a parole proceeding is being conducted, or in which such person may be found.

"(b) (1) Conviction for a Federal, State, or local crime committed subsequent to release on parole shall constitute probable cause for purposes of subsection (a) of this section. In cases in which a parolee has been convicted of such a crime and is serving a new sentence in an institution, a parole revocation warrant or summons issued pursuant to section 4213 may be placed against him as a detainer. Such detainer shall be reviewed by the Commission within one hundred and eighty days of notification to the Commission of placement. The parolee shall receive notice of the pending review, have an opportunity to submit a written application containing information relative to the disposition of the detainer, and, unless waived, shall have counsel as provided in subsection (a) (2) (B) of this section to assist him in the preparation of such application.

"(2) If the Commission determines that additional information is needed to review a detainer, a dispositional hearing may be held at the institution where the parolee is confined. The parolee shall have notice of such hearing, be allowed to appear and testify on his own behalf, and, unless waived, shall have counsel as provided in subsection (a) (2) (B) of this section.

"(3) Following the disposition review, the Commission may:

"(A) let the detainer stand; or

"(B) withdraw the detainer.

"(c) Any alleged parole violator who is summoned or retaken by warrant under section 4213 who knowingly and intelligently waives his right to a hearing under subsection (a) of this section, or who knowingly and intelligently admits violation at a preliminary hearing held pursuant to subsection (a) (1) (A) of this section, or who is retaken pursuant to subsection (b) of this section, shall receive a revocation hearing within ninety days of the date of retaking. The Commission may conduct such hearing at the institution to which he has been returned, and the alleged parole violator shall have notice of such hearing, be allowed to appear and testify on his own behalf, and, unless waived, shall have counsel or another representative as provided in subsection (a) (2) (B) of this section.

"(d) Whenever a parolee is summoned or retaken pursuant to section 4213, and the Commission finds pursuant to the procedures of this section and by a preponderance of the evidence that the parolee has violated a condition of his parole the Commission may take any of the following actions:

"(1) restore the parolee to supervision;

"(2) reprimand the parolee;
“(3) modify the parolee's conditions of the parole;
“(4) refer the parolee to a residential community treatment center for all or part of the remainder of his original sentence; or
“(5) formally revoke parole or release as if on parole pursuant to this title.

The Commission may take any such action provided it has taken into consideration whether or not the parolee has been convicted of any Federal, State, or local crime subsequent to his release on parole, and the seriousness thereof, or whether such action is warranted by the frequency or seriousness of the parolee's violation of any other condition or conditions of his parole.

“(e) The Commission shall furnish the parolee with a written notice of its determination not later than twenty-one days, excluding holidays, after the date of the revocation hearing. If parole is revoked, a digest shall be prepared by the Commission setting forth in writing the factors considered and reasons for such action, a copy of which shall be given to the parolee.

18 USC 4215.

“§ 4215. Reconsideration and appeal
“(a) Whenever parole release is denied under section 4206, parole conditions are imposed or modified under section 4209, parole discharge is denied under section 4211 (c), or parole is modified or revoked under section 4214, the individual to whom any such decision applies may have the decision reconsidered by submitting a written application to the regional commissioner not later than thirty days following the date on which the decision is rendered. The regional commissioner, upon receipt of such application, must act pursuant to rules and regulations within thirty days to reaffirm, modify, or reverse his original decision and shall inform the applicant in writing of the decision and reasons therefor.

“(b) Any decision made pursuant to subsection (a) of this section which is adverse to the applicant for reconsideration may be appealed by such individual to the National Appeals Board by submitting a written notice of appeal not later than thirty days following the date on which such decision is rendered. The National Appeals Board, upon receipt of the appellant's papers, must act pursuant to rules and regulations within sixty days to reaffirm, modify, or reverse the decision and shall inform the appellant in writing of the decision and reasons therefor.

“(c) The National Appeals Board may review any decision of a regional commissioner upon the written request of the Attorney General filed not later than thirty days following the decision and, by majority vote, shall reaffirm, modify, or reverse the decision within sixty days of the receipt of the Attorney General's request. The Board shall inform the Attorney General and the individual to whom the decision applies in writing of its decision and the reasons therefor.

18 USC 4216.

“§ 4216. Young adult offenders
“In the case of a defendant who has attained his twenty-second birthday but has not attained his twenty-sixth birthday at the time of conviction, if, after taking into consideration the previous record of the defendant as to delinquency or criminal experience, his social background, capabilities, mental and physical health, and such other factors as may be considered pertinent, the court finds that there are reasonable grounds to believe that the defendant will benefit from the treatment provided under the Federal Youth Corrections Act (18 U.S.C., chap. 402) sentence may be imposed pursuant to the provisions of such Act.
"§ 4217. Warrants to retake Canal Zone parole violators

“An officer of a Federal penal or correctional institution, or a Federal officer authorized to serve criminal process within the United States, to whom a warrant issued by the Governor of the Canal Zone for the retaking of a parole violator is delivered, shall execute the warrant by taking the prisoner and holding him for delivery to a representative of the Governor of the Canal Zone for return to the Canal Zone.

"§ 4218. Applicability of Administrative Procedure Act

“(a) For purposes of the provisions of chapter 5 of title 5, United States Code, other than sections 554, 555, 556, and 557, the Commission is an ‘agency’ as defined in such chapter.

“(b) For purposes of subsection (a) of this section, section 553(b)(3)(A) of title 5, United States Code, relating to rulemaking, shall be deemed not to include the phrase ‘general statements of policy’.

“(c) To the extent that actions of the Commission pursuant to section 4203(a)(1) are not in accord with the provisions of section 553 of title 5, United States Code, they shall be reviewable in accordance with the provisions of sections 701 through 706 of title 5, United States Code.

“(d) Actions of the Commission pursuant to paragraphs (1), (2), and (3) of section 4203(b) shall be considered actions committed to agency discretion for purposes of section 701(a)(2) of title 5, United States Code.”.

SEC. 3. Section 5005 of title 18, United States Code, is amended to read as follows:

"§ 5005. Youth correction decisions

“The Commission and, where appropriate, its authorized representatives as provided in section 4203(c), may grant or deny any application or recommendation for conditional release, or modify or revoke any order of conditional release, of any person sentenced pursuant to this chapter, and perform such other duties and responsibilities as may be required by law. Except as otherwise provided, decisions of the Commission shall be made in accordance with the procedures set out in chapter 311 of this title.”.

SEC. 4. Section 5006 of title 18, United States Code, is amended to read as follows:

"§ 5006. Definitions

“As used in this chapter—

“(a) ‘Commission’ means the United States Parole Commission;

“(b) ‘Bureau’ means the Bureau of Prisons;

“(c) ‘Director’ means the Director of the Bureau of Prisons;

“(d) ‘youth offender’ means a person under the age of twenty-two years at the time of conviction;

“(e) ‘committed youth offender’ is one committed for treatment hereunder to the custody of the Attorney General pursuant to sections 5010(b) and 5010(c) of this chapter;

“(f) ‘treatment’ means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youth offenders; and

“(g) ‘conviction’ means the judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere.”.

SEC. 5. Sections 5007, 5008, and 5009 of title 18, United States Code, are repealed.

SEC. 6. Section 5014 of title 18, United States Code, is amended to read as follows:
§ 5014. Classification studies and reports

"The Director shall provide classification centers and agencies. Every committed youth offender shall first be sent to a classification center or agency. The classification center or agency shall make a complete study of each committed youth offender, including a mental and physical examination, to ascertain his personal traits, his capabilities, pertinent circumstances of his school, family life, any previous delinquency or criminal experience, and any mental or physical defect or other factor contributing to his delinquency. In the absence of exceptional circumstances, such study shall be completed within a period of thirty days. The agency shall promptly forward to the Director and to the Commission a report of its findings with respect to the youth offender and its recommendations as to his treatment. As soon as practicable after commitment, the youth offender shall receive a parole interview.".

Sec. 7. Section 5017(a) of title 18, United States Code, is amended to read as follows:

"(a) The Commission may at any time after reasonable notice to the Director release conditionally under supervision a committed youth offender in accordance with the provisions of section 4206 of this title. When, in the judgment of the Director, a committed youth offender should be released conditionally under supervision he shall so report and recommend to the Commission.".

Sec. 8. Section 5020 of title 18, United States Code, is amended to read as follows:

§ 5020. Apprehension of released offenders

"If, at any time before the unconditional discharge of a committed youth offender, the Commission is of the opinion that such youth offender will be benefited by further treatment in an institution or other facility the Commission may direct his return to custody or if necessary may issue a warrant for the apprehension and return to custody of such youthful offender and cause such warrant to be executed by a United States probation officer, an appointed supervisory agent, a United States marshal, or any officer of a Federal penal or correctional institution. Upon return to custody, such youth offender shall be given a revocation hearing by the Commission.".

Sec. 9. Chapter 402 of title 18, United States Code, is amended by deleting the term "division" whenever it appears therein and inserting in lieu thereof the word "Commission".

Sec. 10. The table of sections for chapter 402 of title 18, United States Code, is amended to read as follows:

"Sec. 5005. Youth correction decisions.
"5006. Definitions.
"5010. Sentence.
"5011. Treatment.
"5012. Certificate as to availability of facilities.
"5013. Provision of facilities.
"5014. Classification studies and reports.
"5015. Powers of Director as to placement of youth offenders.
"5016. Reports concerning offenders.
"5017. Release of youth offenders.
"5018. Revocation of Commission orders.
"5019. Supervision of released youth offenders.
"5020. Apprehension for released offenders.
"5021. Certificate setting aside conviction.
"5022. Applicable date.
"5023. Relationship to Probation and Juvenile Delinquency Acts.
"5024. Where applicable.
"5025. Applicability to the District of Columbia.
"5026. Parole of other offenders not affected.".
Sec. 11. Section 5041 of title 18, United States Code, is amended to read as follows:

"§ 5041. Parole

A juvenile delinquent who has been committed may be released on parole at any time under such conditions and regulations as the United States Parole Commission deems proper in accordance with the provisions in section 4206 of this title."

Sec. 12. Whenever in any of the laws of the United States or the District of Columbia the term "United States Parole Board", or any other term referring thereto, is used, such term or terms, on and after the date of the effective date of this Act, shall be deemed to refer to the United States Parole Commission as established by the amendments made by this Act.

Sec. 13. Section 5108(c)(7) of title 5, United States Code, is amended to read as follows:

"(7) the Attorney General, without regard to any other provision of this section, may place a total of ten positions of warden in the Bureau of Prisons in GS-16;"

Sec. 14. Section 3655 of title 18, United States Code, relating to duties of probation officers, is amended by striking out "Attorney General" in the last sentence and inserting in lieu thereof "United States Parole Commission".

Sec. 15. There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes of the amendments made by this Act.

Sec. 16. (a) There are hereby transferred to the Chairman of the United States Parole Commission, all personnel, liabilities, contracts, property and records as are employed, held, used, arising from, available or to be made available of the United States Board of Parole with respect to all functions, powers, and duties transferred by this Act to the United States Parole Commission.

(b) This Act shall take effect sixty days after the date of enactment, except that the provisions of section 4208(h) of this Act shall take effect one hundred twenty days after the date of enactment.

(c) Each person holding office as a member of the United States Board of Parole on the day before the effective date of the Parole Commission and Reorganization Act shall be a Commissioner whose term as such shall expire on the date of the expiration of the term for which such person was appointed as a member of the Board of Parole.

(d) For the purpose of section 4202 of title 18, United States Code, service by an individual as a member of the United States Board of Parole shall not constitute service as a Commissioner.

Approved March 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-184 (Comm. on the Judiciary) and No. 94-838 (Comm. of Conference).

SENATE REPORTS: No. 94-369 (Comm. on the Judiciary) and No. 94-648 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): May 21, considered and passed House.

Sept. 16, considered and passed Senate, amended.


Mar. 3, House agreed to conference report.

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