

109TH CONGRESS
1ST SESSION

H. R. 3072

To revive the system of parole for Federal prisoners, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2005

Mr. DAVIS of Illinois introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To revive the system of parole for Federal prisoners, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PAROLE.**

4 Part III of title 18, United States Code, is amended
5 by inserting before chapter 313 the following:

6 **“CHAPTER 312—PAROLE**

“Sec.

“4201. Definitions.

“4202. Parole Commission created.

“4203. Powers and duties of the Commission.

“4204. Powers and duties of the Chairman.

“4205. Time of eligibility for release on parole.

“4206. Parole determination criteria.

“4207. Information considered.

“4208. Parole determination proceeding; time.

“4209. Conditions of parole.

“4210. Jurisdiction of Commission.

“4211. Early termination of parole.

“4212. Aliens.

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

“4214. Revocation of parole.

“4215. Appeal.

“4216. Applicability of Administrative Procedure Act.

1 **“§ 4201. Definitions**

2 “As used in this chapter—

3 “(1) the term ‘Commission’ means the United
4 States Parole Commission;

5 “(2) the term ‘Commissioner’ means any mem-
6 ber of the United States Parole Commission;

7 “(3) the term ‘Director’ means the Director of
8 the Bureau of Prisons;

9 “(4) the term ‘eligible prisoner’ means any Fed-
10 eral prisoner who is eligible for parole pursuant to
11 this title or any other law, including any Federal
12 prisoner whose parole has been revoked and who is
13 not otherwise ineligible for parole;

14 “(5) the term ‘parolee’ means any eligible pris-
15 oner who has been released on parole or deemed as
16 if released on parole under section 4164 or section
17 4205(f); and

18 “(6) the term ‘rules’ means rules made by the
19 Commission under section 4203.

20 **“§ 4202. Parole Commission created**

21 “(a) GENERALLY.—There is hereby established, as
22 an independent agency in the Department of Justice, a

1 United States Parole Commission which shall be com-
2 prised of nine members appointed by the President, by and
3 with the advice and consent of the Senate. The President
4 shall designate from among the Commissioners one to
5 serve as Chairman.

6 “(b) TERM.—The term of office of a Commissioner
7 shall be six years, except that the term of a person ap-
8 pointed as a Commissioner to fill a vacancy shall expire
9 six years from the date upon which such person was ap-
10 pointed and qualified. Upon the expiration of a term of
11 office of a Commissioner, the Commissioner shall continue
12 to act until a successor has been appointed and qualified,
13 except that no Commissioner may serve in excess of twelve
14 years.

15 “(c) COMPENSATION.—Commissioners shall be com-
16 pensated at the highest rate now or hereafter prescribed
17 for grade 18 of the General Schedule pay rates (5 U.S.C.
18 5332).

19 **“§ 4203. Powers and duties of the Commission**

20 “(a) ADMINISTRATIVE POWERS.—The Commission
21 shall meet at least quarterly, and by majority vote shall—

22 “(1) make rules establishing guidelines for the
23 powers enumerated in subsection (b) of this section
24 and such other rules and regulations as are nec-

1 necessary to carry out a national parole policy and the
2 purposes of this chapter;

3 “(2) create such regions as are necessary to
4 carry out this chapter; and

5 “(3) ratify, revise, or deny any request for reg-
6 ular, supplemental, or deficiency appropriations,
7 prior to the submission of the requests to the Office
8 of Management and Budget by the Chairman, which
9 requests shall be separate from those of any other
10 agency of the Department of Justice.

11 “(b) SUBSTANTIVE POWERS.—The Commission, by
12 majority vote, and pursuant to the procedures set out in
13 this chapter, shall have the power to—

14 “(1) grant or deny an application or rec-
15 ommendation to parole any eligible prisoner;

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

18 “(3) modify or revoke an order paroling any eli-
19 gible prisoner; and

20 “(4) request probation officers and other indi-
21 viduals, organizations, and public or private agencies
22 to perform such duties with respect to any parolee
23 as the Commission deems necessary for maintaining
24 proper supervision of and assistance to such parol-
25 ees; and so as to assure that no probation officers,

1 individuals, organizations, or agencies shall bear ex-
2 cessive caseloads.

3 “(c) DELEGATION.—The Commission, by majority
4 vote, and pursuant to rules and regulations—

5 “(1) may delegate to any Commissioner or com-
6 missioners powers enumerated in subsection (b) of
7 this section;

8 “(2) may delegate to administrative law judges
9 any powers necessary to conduct hearings and pro-
10 ceedings, take sworn testimony, obtain and make a
11 record of pertinent information, make findings of
12 probable cause and issue subpoenas for witnesses or
13 evidence in parole revocation proceedings, and rec-
14 ommend disposition of any matters enumerated in
15 subsection (b) of this section, except that any such
16 findings or recommendations shall be based upon the
17 concurrence of not less than two hearing examiners;

18 “(3) may delegate authority to conduct hear-
19 ings held pursuant to section 4214 to any officer or
20 employee of the executive or judicial branch of Fed-
21 eral or State government; and

22 “(4) may review, or may delegate to the Na-
23 tional Appeals Board the power to review, any deci-
24 sion made pursuant to subparagraph (1) of this sub-
25 section except that any such decision so reviewed

1 must be reaffirmed, modified or reversed within thir-
2 ty days of the date the decision is rendered, and, in
3 case of such review, the individual to whom the deci-
4 sion applies shall be informed in writing of the Com-
5 mission's actions with respect thereto and the rea-
6 sons for such actions.

7 “(d) QUORUM.—Except as otherwise provided by law,
8 any action taken by the Commission pursuant to sub-
9 section (a) of this section shall be taken by a majority
10 vote of all individuals currently holding office as members
11 of the Commission which shall maintain and make avail-
12 able for public inspection a record of the final vote of each
13 member on statements of policy and interpretations adopt-
14 ed by it. In so acting, each Commissioner shall have equal
15 responsibility and authority, shall have full access to all
16 information relating to the performance of such duties and
17 responsibilities, and shall have one vote.

18 “(e) COOPERATION WITH STATES.—

19 “(1) GENERALLY.—The Commission shall,
20 upon the request of the head of any law enforcement
21 agency of a State or of a unit of local government
22 in a State, make available as expeditiously as pos-
23 sible to such agency, with respect to individuals who
24 are under the jurisdiction of the Commission, who
25 have been convicted of felony offenses against the

1 United States, and who reside, are employed, or are
2 supervised in the geographical area in which such
3 agency has jurisdiction, the following information
4 maintained by the Commission (to the extent that
5 the Commission maintains such information)—

6 “(A) the names of such individuals;

7 “(B) the addresses of such individuals;

8 “(C) the dates of birth of such individuals;

9 “(D) the Federal Bureau of Investigation
10 numbers assigned to such individuals;

11 “(E) photographs and fingerprints of such
12 individuals; and

13 “(F) the nature of the offenses against the
14 United States of which each such individual has
15 been convicted and the factual circumstances
16 relating to such offense.

17 “(2) NONDISSEMINATION REQUIREMENT.—Any
18 law enforcement agency which receives information
19 under this subsection shall not disseminate such in-
20 formation outside of such agency.

21 **“§ 4204. Powers and duties of the Chairman**

22 “(a) GENERALLY.—The Chairman shall—

23 “(1) convene and preside at meetings of the
24 Commission under section 4203 and such additional
25 meetings of the Commission as the Chairman may

1 call or as may be requested in writing by at least
2 three Commissioners;

3 “(2) appoint, fix the compensation of, assign,
4 and supervise all personnel employed by the Com-
5 mission except that—

6 “(A) the appointment of any administra-
7 tive law judge shall be subject to approval of
8 the Commission within the first year of judge’s
9 employment; and

10 “(B) regional Commissioners shall appoint
11 and supervise such personnel employed regu-
12 larly and full time in their respective regions as
13 are compensated at a rate up to and including
14 grade 11 of the General Schedule pay rates (5
15 U.S.C. 5332);

16 “(3) assign duties among officers and employ-
17 ees of the Commission, including Commissioners, so
18 as to balance the workload and provide for orderly
19 administration;

20 “(4) direct the preparation of requests for ap-
21 propriations for the Commission, and the use of
22 funds made available to the Commission;

23 “(5) designate not fewer than three Commis-
24 sioners to serve on the National Appeals Board of
25 whom one shall be so designated to serve as vice

1 chairman of the Commission (who shall act as
2 Chairman of the Commission in the absence or dis-
3 ability of the Chairman or in the event of the va-
4 cancy of the Chairmanship), and designate, for each
5 such region established under section 4203, one
6 Commissioner to serve as regional Commissioner in
7 each such region, but in each such designation the
8 Chairman shall consider years of service, personal
9 preference and fitness, and no such designation shall
10 take effect unless concurred in by the President, or
11 his designee;

12 “(6) serve as spokesman for the Commission
13 and report annually to Congress on the activities of
14 the Commission; and

15 “(7) exercise such other powers and duties and
16 perform such other functions as may be necessary to
17 carry out the purposes of this chapter or as may be
18 otherwise provided by law.

19 “(b) ADMINISTRATIVE POWERS.—The Chairman
20 shall have the power to—

21 “(1) without regard to section 3324(a) and (b)
22 of title 31, enter into and perform such contracts,
23 leases, cooperative agreements, and other trans-
24 actions as may be necessary in the conduct of the
25 functions of the Commission, with any public agen-

1 cy, or with any person, firm, association, corpora-
2 tion, educational institution, or nonprofit organiza-
3 tion;

4 “(2) accept voluntary and uncompensated serv-
5 ices, notwithstanding section 1342 of title 31;

6 “(3) procure for the Commission temporary and
7 intermittent services under section 3109(b) of title
8 5, United States Code;

9 “(4) collect systematically the data obtained
10 from studies, research, and the empirical experience
11 of public and private agencies concerning the parole
12 process;

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

18 “(6) publish data concerning the parole process;

19 “(7) devise and conduct, in various geographical
20 locations, seminars, workshops and training pro-
21 grams providing continuing studies and instruction
22 for personnel of Federal, State and local agencies
23 and private and public organizations working with
24 parolees and connected with the parole process; and

1 “(8) use the services, equipment, personnel, in-
2 formation, facilities, and instrumentalities with or
3 without reimbursement therefor of other Federal,
4 State, local, and private agencies with their consent.

5 “(c) POLICIES TO BE FOLLOWED.—In carrying out
6 his functions under this section, the Chairman shall be
7 governed by the national parole policies promulgated by
8 the Commission.

9 “§ 4205. **Time of eligibility for release on parole**

10 “(a) GENERALLY.—Whenever confined and serving a
11 definite term or terms of one year or more, a prisoner
12 shall be eligible for release on parole after serving one-
13 third of such term or terms or after serving ten years of
14 a life sentence or of a sentence of over 25 years notwith-
15 standing any other statute to the contrary. A prisoner con-
16 victed under the law of the District of Columbia shall be
17 subject to the guidelines used by the former District of
18 Columbia board of parole.

19 “(b) COURTS’ POWER AT TIME OF SENTENCING.—
20 Upon entering a judgment of conviction, the court having
21 jurisdiction to impose sentence, when in its opinion the
22 ends of justice and best interest of the public require that
23 the defendant be sentenced to imprisonment for a term
24 exceeding one year, may—

1 “(1) designate in the sentence of imprisonment
2 imposed a minimum term at the expiration of which
3 the prisoner shall become eligible for parole, which
4 term may be less than but shall not be more than
5 ten years; or

6 “(2) fix the maximum sentence of imprisonment
7 to be served in which event the court may specify
8 that the prisoner may be released on parole at such
9 time as the Commission may determine.

10 “(c) INFORMATION FOR COURT.—

11 “(1) COMMITMENT FOR STUDY.—If the court
12 desires more detailed information as a basis for de-
13 termining the sentence to be imposed, the court may
14 commit the defendant to the custody of the Attorney
15 General, which commitment shall be deemed to be
16 for the maximum sentence of imprisonment pre-
17 scribed by law, for a study as described in subsection
18 (d).

19 “(2) REPORT TO COURT.—The results of such
20 study, together with any recommendations which the
21 Director of the Bureau of Prisons believes would be
22 helpful in determining the disposition of the case,
23 shall be furnished to the court within three months
24 unless the court grants time, not to exceed an addi-
25 tional three months, for further study.

1 “(3) COURT ORDER.—After receiving such re-
2 ports and recommendations, the court may in its
3 discretion—

4 “(A) place the offender on probation as au-
5 thorized by section 3561; or

6 “(B) affirm the sentence of imprisonment
7 originally imposed, or reduce the sentence of
8 imprisonment, and commit the offender under
9 any applicable provision of law.

10 “(4) COMMENCEMENT OF TERM OF SEN-
11 TENCE.—The term of the sentence shall run from
12 the date of original commitment under this section.

13 “(d) STUDY OF PRISONER SENTENCED TO IMPRIS-
14 ONMENT.—Upon commitment of a prisoner sentenced to
15 imprisonment under subsection (a) or (b), the Director,
16 under such regulations as the Attorney General may pre-
17 scribe, shall cause a complete study to be made of the pris-
18 oner and shall furnish to the Commission a summary re-
19 port together with any recommendations which in his opin-
20 ion would be helpful in determining the suitability of the
21 prisoner for parole. This report may include data regard-
22 ing the prisoner’s previous delinquency or criminal convic-
23 tions, pertinent circumstances of the prisoner’s social
24 background and capabilities, the prisoner’s mental and
25 physical health, and such other factors the Director con-

1 siders pertinent. The Commission may make such other
2 investigation as it may deem necessary.

3 “(e) DUTY OF PROBATION OFFICERS.—Upon request
4 of the Commission, it shall be the duty of the various pro-
5 bation officers and government bureaus and agencies to
6 furnish the Commission information available to such offi-
7 cer, bureau, or agency, concerning any eligible prisoner or
8 parolee and whenever not incompatible with the public in-
9 terest, their views and recommendation with respect to
10 any matter within the jurisdiction of the Commission.

11 “(f) SHORT PRISON TERMS.—Any prisoner sen-
12 tenced to imprisonment for a term or terms of not less
13 than six months but not more than one year shall be re-
14 leased at the expiration of such sentence less good time
15 deductions provided by law, unless the court which im-
16 posed sentence, shall, at the time of sentencing, provide
17 for the prisoner’s release as if on parole after service of
18 one-third of such term or terms notwithstanding section
19 4164. This subsection does not prevent delivery of any
20 person released on parole to the authorities of any State
21 otherwise entitled to his custody.

22 “(g) REDUCTION IN SENTENCE.—At any time upon
23 motion of the Bureau of Prisons, the court may reduce
24 any minimum term to the time the defendant has served.

1 The court shall have jurisdiction to act upon the applica-
2 tion at any time and no hearing shall be required.

3 **“§ 4206. Parole determination criteria**

4 “(a) **GENERALLY.**—An eligible prisoner shall be
5 granted parole, subject to subsections (b) and (c), and
6 pursuant to guidelines issued by the Commission, if the
7 eligible prisoner has substantially observed the rules of the
8 institution or institutions to which he has been confined,
9 and if the Commission, upon consideration of the nature
10 and circumstances of the offense and the history and char-
11 acteristics of the prisoner, determines that release would
12 not—

13 “(1) depreciate the seriousness of his offense or
14 promote disrespect for the law; or

15 “(2) jeopardize the public welfare;, such pris-
16 oner shall be released.

17 “(b) **NOTICE TO PRISONER.**—The Commission shall
18 furnish the eligible prisoner with a written notice of its
19 determination not later than twenty-one days, excluding
20 holidays, after the date of the parole determination pro-
21 ceeding. If parole is denied such notice shall state with
22 particularity the reasons for such denial.

23 “(c) **GOOD CAUSE EXCEPTION.**—The Commission
24 may grant or deny release on parole notwithstanding the
25 guidelines referred to in subsection (a) of this section if

1 it determines there is good cause for so doing, if the pris-
2 oner is furnished written notice stating with particularity
3 the reasons for its determination, including in detail the
4 information relied upon.

5 “(d) RELEASE AFTER $\frac{2}{3}$ OF SENTENCE.—Any pris-
6 oner, serving a sentence of five years or longer, who is
7 not earlier released under this section or any other appli-
8 cable provision of law, shall be released on parole after
9 having served two-thirds of each consecutive term or
10 terms, or after serving 30 years of each consecutive term
11 or terms of more than 45 years including any life term,
12 whichever is earlier, but the Commission shall not release
13 such prisoner if it determines that the prisoner has seri-
14 ously or frequently violated institution rules and regula-
15 tions or that there is a reasonable probability that he will
16 commit any Federal, State, or local crime.

17 **“§ 4207. Information considered**

18 “In making a determination under this chapter (re-
19 lating to release on parole) the Commission shall consider,
20 if available and relevant—

21 “(1) reports and recommendations which the
22 staff of the facility in which such prisoner is con-
23 fined may make;

1 “(2) official reports of the prisoner’s prior
2 criminal record, including a report or record of ear-
3 lier probation and parole experiences;

4 “(3) presentence investigation reports;

5 “(4) recommendations regarding the prisoner’s
6 parole made at the time of sentencing by the sen-
7 tencing judge;

8 “(5) a statement, which may be presented oral-
9 ly or otherwise, by any victim of the offense for
10 which the prisoner is imprisoned about the financial,
11 social, psychological, and emotional harm done to, or
12 loss suffered by such victim;

13 “(6) reports of physical, mental, or psychiatric
14 examination of the offender;

15 “(7) release plans submitted by the prisoner
16 and correctional staff; and

17 “(8) such additional relevant information con-
18 cerning the prisoner (including information sub-
19 mitted by the prisoner) as may be reasonably avail-
20 able.

21 **“§ 4208. Parole determination proceeding; time**

22 “(a) GENERAL RULE.—In making a determination
23 under this chapter (relating to parole) the Commission
24 shall conduct a parole determination proceeding unless it
25 determines on the basis of the prisoner’s record that the

1 prisoner will be released on parole. Whenever feasible, the
2 initial parole determination proceeding for a prisoner eligi-
3 ble for parole under subsections (a) and (b)(1) of section
4 4205 shall be held not later than 60 days before the date
5 of such eligibility for parole. Whenever feasible, the initial
6 parole determination proceeding for a prisoner eligible for
7 parole pursuant to subsection (b)(2) of section 4205 or
8 released on parole and whose parole has been revoked shall
9 be held not later than 90 days following such prisoner's
10 imprisonment or reimprisonment in a Federal institution,
11 as the case may be. An eligible prisoner may knowingly
12 and intelligently waive any proceeding.

13 “(b) PREPARATION.—(1) At least 60 days before any
14 parole determination proceeding, the prisoner shall be pro-
15 vided with—

16 “(A) written notice of the time and place of the
17 proceeding; and

18 “(B) reasonable access to a report or other doc-
19 ument to be used by the Commission in making its
20 determination, including the parole analyst sum-
21 mary.

22 “(2) A prisoner may waive such notice, but if notice
23 is not waived the proceeding shall be held during the next
24 regularly scheduled proceedings by the Commission at the
25 institution in which the prisoner is confined.

1 “(c) EXCEPTIONS TO DISCLOSURE.—(1) Subsection
2 (b)(1)(B) does not apply to—

3 “(A) diagnostic opinions which, if made known
4 to the eligible prisoner, could lead to a serious dis-
5 ruption of his institutional program;

6 “(B) any document which reveals sources of in-
7 formation obtained upon a promise of confiden-
8 tiality; or

9 “(C) any other information which, if disclosed,
10 might result in harm, physical or otherwise, to any
11 person.

12 “(2) If any document is deemed by either the Com-
13 mission, the Bureau of Prisons, or any other agency to
14 fall within the exclusionary provisions of paragraph (1),
15 then it shall become the duty of the Commission, the Bu-
16 reau, or such other agency, as the case may be, to summa-
17 rize the basic contents of the material withheld, bearing
18 in mind the need for confidentiality or the impact on the
19 inmate, or both, and furnish such summary to the inmate.

20 “(d) CONSULTATION.—(1) During the period before
21 the parole determination proceeding as provided in sub-
22 section (b), a prisoner may consult, as provided by the
23 director, with a representative as referred to in subpara-
24 graph (2) of this subsection, and by mail or otherwise with
25 any person concerning such proceeding.

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

6 “(e) PERSONAL APPEARANCE OF PRISONER.—The
7 prisoner shall be allowed to appear and testify on his own
8 behalf at the parole determination proceeding, and may
9 be accompanied by a legal spouse if the spouse is approved
10 for visitation at the facility in which the prisoner is
11 housed.

12 “(f) RECORD.—A full and complete audio and video
13 record of every proceeding shall be retained by the Com-
14 mission. Upon request, the Commission shall make avail-
15 able to any eligible prisoner such record as the Commis-
16 sion may retain of the proceeding.

17 “(g) PERSONAL CONFERENCE.—If parole is denied,
18 a personal conference to explain the reasons for such de-
19 nial shall be held, if feasible, between the prisoner and
20 a representative of the Commission at the conclusion of
21 the proceeding. When feasible, the conference shall include
22 advice to the prisoner as to what steps may be taken to
23 enhance his chance of being released at a subsequent pro-
24 ceeding.

1 “(h) FREQUENCY OF PAROLE DETERMINATION PRO-
2 CEEDINGS.—In any case in which release on parole is not
3 granted, subsequent parole determination proceedings
4 shall be held not less frequently than:

5 “(1) 12 months in the case of a prisoner with
6 a term or terms of more than one year but less than
7 ten years; and

8 “(2) 18 months in the case of a prisoner with
9 a term or terms of ten years or longer.

10 **“§ 4209. Conditions of parole**

11 “(a) MANDATORY CONDITIONS.—In every case, the
12 Commission shall impose as conditions of parole that the
13 parolee not commit another Federal, State, or local crime,
14 that the parolee not possess illegal controlled substances,
15 and, if a fine was imposed, that the parolee make a dili-
16 gent effort to pay the fine in accordance with the judg-
17 ment. In every case, the Commission shall impose as a
18 condition of parole for a person described in section
19 4042(c)(4), that the parolee report the address where the
20 parolee will reside and any subsequent change of residence
21 to the probation officer responsible for supervision, and
22 that the parolee register in any State where the parolee
23 resides, is employed, carries on a vocation, or is a student
24 (as such terms are defined under section 170101(a)(3) of
25 the Violent Crime Control and Law Enforcement Act of

1 1994). In every case, the Commission shall impose as a
2 condition of parole that the parolee cooperate in the collec-
3 tion of a DNA sample from the parolee, if the collection
4 of such a sample is authorized pursuant to section 3 or
5 section 4 of the DNA Analysis Backlog Elimination Act
6 of 2000 or section 1565 of title 10. In every case, the
7 Commission shall also impose as a condition of parole that
8 the parolee pass a drug test prior to release and refrain
9 from any unlawful use of a controlled substance and sub-
10 mit to at least 2 periodic drug tests (as determined by
11 the Commission) for use of a controlled substance. The
12 condition stated in the preceding sentence may be amelio-
13 rated or suspended by the Commission for any individual
14 parolee if it determines that there is good cause for doing
15 so. The results of a drug test administered in accordance
16 with the provisions of the preceding sentence shall be sub-
17 ject to confirmation only if the results are positive, the
18 defendant is subject to possible imprisonment for such
19 failure, and either the defendant denies the accuracy of
20 such test or there is some other reason to question the
21 results of the test. A drug test confirmation shall be a
22 urine drug test confirmed using gas chromatography/mass
23 spectrometry techniques or such test as the Director of
24 the Administrative Office of the United States Courts
25 after consultation with the Secretary of Health and

1 Human Services may determine to be of equivalent accu-
2 racy. The Commission shall consider whether the avail-
3 ability of appropriate substance abuse treatment pro-
4 grams, or an individual's current or past participation in
5 such programs, warrants an exception.

6 “(b) OTHER CONDITIONS.—The Commission may
7 impose or modify other conditions of parole to the extent
8 that such conditions are reasonably related to—

9 “(1) the nature and circumstances of the of-
10 fense; and

11 “(2) the history and characteristics of the pa-
12 rolee;

13 and may provide for such supervision and other limitations
14 as are reasonable to protect the public welfare.

15 “(c) SPECIFICITY OF CONDITIONS.—The conditions
16 of parole should be sufficiently specific to serve as a guide
17 to supervision and conduct, and upon release on parole
18 the parolee shall be given a certificate setting forth the
19 conditions of his parole. An effort shall be made to make
20 certain that the parolee understands the conditions of his
21 parole.

22 “(d) ADDITIONAL CONDITIONS.—(1) Release on pa-
23 role or release as if on parole (or probation, or supervised
24 release where applicable) may as a condition of such re-
25 lease require—

1 “(A) a parolee to reside in or participate in the
2 program of a residential community treatment cen-
3 ter, or both, for all or part of the period of such pa-
4 role; or

5 “(B) a parolee to remain at his place of resi-
6 dence during nonworking hours and, if the Commis-
7 sion so directs, to have compliance with this condi-
8 tion monitored by telephone or electronic signaling
9 devices, except that a condition under this para-
10 graph may be imposed only as an alternative to in-
11 carceration.

12 “(2) A parolee residing in a residential community
13 treatment center pursuant to paragraph (1)(A) may be re-
14 quired to pay such costs incident to such residence as the
15 Commission deems appropriate.

16 “(e) MODIFICATION.—(1) The Commission may mod-
17 ify conditions of parole pursuant to this section on its own
18 motion, or on the motion of a United States probation offi-
19 cer supervising a parolee, if the parolee receives notice of
20 such action and has ten days after receipt of such notice
21 to express views on the proposed modification. Following
22 such ten-day period, the Commission shall have 21 days,
23 exclusive of holidays, to act upon such motion or applica-
24 tion. Notwithstanding any other provision of this para-
25 graph, the Commission may modify conditions of parole,

1 without regard to such ten-day period, on any such motion
2 if the Commission determines that the immediate modi-
3 fication of conditions of parole is required to prevent harm
4 to the parolee or to the public.

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

8 “(3) The provisions of this subsection shall not apply
9 to modifications of parole conditions pursuant to a revoca-
10 tion proceeding under section 4214.

11 **“§ 4210. Jurisdiction of Commission**

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

16 “(b) TERMINATION.—Except as otherwise provided
17 in this section, the jurisdiction of the Commission over the
18 parolee shall terminate no later than the date of the expi-
19 ration of the maximum term or terms for which he was
20 sentenced, except that—

21 “(1) such jurisdiction shall terminate at an ear-
22 lier date to the extent provided under section 4164
23 (relating to mandatory release) or section 4211 (re-
24 lating to early termination of parole supervision),
25 and

1 “(2) in the case of a parolee who has been con-
2 victed of any criminal offense committed subsequent
3 to his release on parole, and such offense is punish-
4 able by a term of imprisonment, detention or incar-
5 ceration in any penal facility, the Commission shall
6 determine, in accordance with the provisions of sec-
7 tion 4214(b) or (c), whether all or any part of the
8 unexpired term being served at the time of parole
9 shall run concurrently or consecutively with the sen-
10 tence imposed for the new offense, but in no case
11 shall such service together with such time as the pa-
12 rolee has previously served in connection with the of-
13 fense for which he was paroled, be longer than the
14 maximum term for which he was sentenced in con-
15 nection with such offense.

16 “(c) EXTENSION.—In the case of any parolee found
17 to have intentionally refused or failed to respond to any
18 reasonable request, order, summons, or warrant of the
19 Commission or any member or agent thereof, the jurisdic-
20 tion of the Commission may be extended for the period
21 during which the parolee so refused or failed to respond.

22 “(d) CONCURRENCE OF RUNNING OF TERM.—The
23 parole of any parolee shall run concurrently with the pe-
24 riod of parole or probation under any other Federal, State,
25 or local sentence.

1 “(e) CERTIFICATE OF DISCHARGE.—Upon the termi-
2 nation of the jurisdiction of the Commission over any pa-
3 rolee, the Commission shall issue a certificate of discharge
4 to such parolee and to such other agencies as it may deter-
5 mine.

6 “§ 4211. **Early termination of parole**

7 “(a) IN GENERAL.—Upon its own motion or upon re-
8 quest of the parolee, the Commission may terminate su-
9 pervision over a parolee prior to the termination of juris-
10 diction under section 4210.

11 “(b) REVIEW.—(1) Two years after each parolee’s re-
12 lease on parole, and at least annually thereafter, the Com-
13 mission shall review the status of the parolee to determine
14 the need for continued supervision. In calculating such
15 two-year period there shall not be included any period of
16 release on parole prior to the most recent such release,
17 nor any period served in confinement on any other sen-
18 tence.

19 “(2) The Commission shall establish early termi-
20 nation guidelines and there shall be a presumption that
21 the parolee shall be terminated at the designated time un-
22 less detailed written reasons are offered by the Commis-
23 sion that prove the parolee would be a danger to the public
24 safety.

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

9 “(2) If supervision is not terminated under subpara-
10 graph (1) of this subsection the parolee may request a
11 hearing annually thereafter, and a hearing, with proce-
12 dures as provided in subparagraph (1) of this subsection
13 shall be conducted with respect to such termination of su-
14 pervision not less frequently than biennially.

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

20 **“§ 4212. Aliens**

21 “When an alien prisoner subject to deportation be-
22 comes eligible for parole, the Commission may authorize
23 the release of such prisoner on condition that such person
24 be deported and remain outside the United States. Such
25 prisoner when his parole becomes effective, shall be deliv-

1 ered to the duly authorized immigration official for depor-
2 tation.

3 **“§ 4213. Summons to appear or warrant for retaking**
4 **of parolee**

5 “(a) IN GENERAL.—If any parolee is alleged to have
6 violated his parole, the Commission may—

7 “(1) summon such parolee to appear at a hear-
8 ing conducted pursuant to section 4213; or

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

11 “(b) ISSUANCE.—Any summons or warrant issued
12 under this section shall be issued by the Commission as
13 soon as practicable after discovery of the alleged violation,
14 except when delay is deemed necessary. Imprisonment in
15 an institution shall not be deemed grounds for delay of
16 such issuance, except that, in the case of any parolee
17 charged with a criminal offense, issuance of a summons
18 or warrant may be suspended pending disposition of the
19 charge.

20 “(c) CONTENTS.—Any summons or warrant issued
21 pursuant to this section shall provide the parolee with
22 written notice of—

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

1 “(2) the parolee’s rights under this chapter;
2 and

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

5 “(d) EXECUTION OF WARRANT.—Any officer of any
6 Federal penal or correctional institution, or any Federal
7 officer authorized to serve criminal process within the
8 United States, to whom a warrant issued under this sec-
9 tion is delivered, shall execute such warrant by taking such
10 parolee and returning the parolee to the custody of the
11 regional commissioner, or to the custody of the Attorney
12 General, if the Commission shall so direct.

13 **“§ 4214. Revocation of parole**

14 “(a) RIGHTS OF PAROLEE.—(1) Except as provided
15 in subsections (b) and (c), any alleged parole violator sum-
16 moned or retaken under section 4213 shall be accorded
17 the opportunity to have—

18 “(A) a preliminary hearing at or reasonably
19 near the place of the alleged parole violation or ar-
20 rest, without unnecessary delay, to determine if
21 there is probable cause to believe that he has vio-
22 lated a condition of his parole; and upon a finding
23 of probable cause a digest shall be prepared by the
24 Commission setting forth in writing the factors con-
25 sidered and the reasons for the decision, a copy of

1 which shall be given to the parolee within a reason-
2 able period of time; except that after a finding of
3 probable cause the Commission may restore any pa-
4 rolee to parole supervision if—

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

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

11 “(iii) the parolee is not likely to fail to ap-
12 pear for further proceedings; and

13 “(iv) the parolee does not constitute a dan-
14 ger to himself or others; and

15 “(B) upon a finding of probable cause under
16 subparagraph (1)(A), a revocation hearing at or rea-
17 sonably near the place of the alleged parole violation
18 or arrest within 60 days of such determination of
19 probable cause, except that a revocation hearing may
20 be held at the same time and place set for the pre-
21 liminary hearing.

22 “(2) Hearings held pursuant to subparagraph (1)
23 shall be conducted by the Commission in accordance with
24 the following procedures:

1 “(A) Notice to the parolee of the conditions of
2 parole alleged to have been violated, and the time,
3 place, and purposes of the scheduled hearing.

4 “(B) Opportunity for the parolee to be rep-
5 resented by an attorney (retained by the parolee, or
6 if he is financially unable to retain counsel, counsel
7 shall be provided pursuant to section 3006A) or, if
8 he so chooses, a representative as provided by rules
9 and regulations, unless the parolee knowingly and
10 intelligently waives such representation.

11 “(C) Opportunity for the parolee to appear and
12 testify, and present witnesses and relevant evidence.

13 “(D) Opportunity for the parolee to be apprised
14 of the evidence against the parolee and, if the pa-
15 rolee so requests, to confront and cross-examine ad-
16 verse witnesses, unless the Commission specifically
17 finds substantial reason for not so allowing.

18 “(3) For the purposes of subparagraph (1) of this
19 subsection, the Commission may subpoena witnesses and
20 evidence, and pay witness fees as established for the courts
21 of the United States. If a person refuses to obey such a
22 subpoena, the Commission may petition a court of the
23 United States for the judicial district in which such parole
24 proceeding is being conducted, or in which such person
25 may be found, to request such person to attend, testify,

1 and produce evidence. The court may issue an order re-
2 quiring such person to appear before the Commission,
3 when the court finds such information, thing, or testimony
4 directly related to a matter with respect to which the Com-
5 mission is empowered to make a determination under this
6 section. Failure to obey such an order is punishable by
7 such court as a contempt. All process in such a case may
8 be served in the judicial district in which such a parole
9 proceeding is being conducted, or in which such person
10 may be found.

11 “(b) EFFECT OF CONVICTION.—(1) Conviction for
12 any criminal offense committed subsequent to release on
13 parole shall constitute probable cause for purposes of sub-
14 section (a) of this section. In cases in which a parolee has
15 been convicted of such an offense and is serving a new
16 sentence in an institution, a parole revocation warrant or
17 summons issued pursuant to section 4213 may be placed
18 against the parolee as a detainer. Such detainer shall be
19 reviewed by the Commission within one hundred and
20 eighty days of notification to the Commission of place-
21 ment. The parolee shall receive notice of the pending re-
22 view, have an opportunity to submit a written application
23 containing information relative to the disposition of the
24 detainer, and, unless waived, shall have counsel as pro-

1 vided in subsection (a)(2)(B) of this section to assist him
2 in the preparation of such application.

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

10 “(3) Following the disposition review, the Commis-
11 sion may:

12 “(A) let the detainer stand; or

13 “(B) withdraw the detainer.

14 “(c) HEARING.—Any alleged parole violator who is
15 summoned or retaken by warrant under section 4213 who
16 knowingly and intelligently waives the right to a hearing
17 under subsection (a) of this section, or who knowingly and
18 intelligently admits violation at a preliminary hearing held
19 pursuant to subsection (a)(1)(A) of this section, or who
20 is retaken pursuant to subsection (b) of this section, shall
21 receive a revocation hearing within 90 days of the date
22 of retaking. The Commission may conduct such hearing
23 at the institution to which he has been returned, and the
24 alleged parole violator shall have notice of such hearing,
25 be allowed to appear and testify on his own behalf, and,

1 unless waived, shall have counsel or another representative
2 as provided in subsection (a)(2)(B) of this section.

3 “(d) ACTIONS OF THE COMMISSION.—Whenever a
4 parolee is summoned or retaken pursuant to section 4213,
5 and the Commission finds pursuant to the procedures of
6 this section and by a preponderance of the evidence that
7 the parolee has violated a condition of his parole the Com-
8 mission may take any of the following actions:

9 “(1) Restore the parolee to supervision.

10 “(2) Reprimand the parolee.

11 “(3) Modify the parolee’s conditions of the pa-
12 role.

13 “(4) Refer the parolee to a residential commu-
14 nity treatment center for all or part of the remain-
15 der of his original sentence.

16 “(5) Formally revoke parole or release as if on
17 parole pursuant to this title.

18 The Commission may take any such action provided it has
19 taken into consideration whether or not the parolee has
20 been convicted of any Federal, State, or local crime subse-
21 quent to his release on parole, and the seriousness thereof,
22 or whether such action is warranted by the frequency or
23 seriousness of the parolee’s violation of any other condi-
24 tion or conditions of his parole.

1 “(e) WRITTEN NOTICE.—The Commission shall fur-
2 nish the parolee with a written notice of its determination
3 not later than 21 days, excluding holidays, after the date
4 of the revocation hearing. If parole is revoked, a digest
5 shall be prepared by the Commission setting forth in writ-
6 ing the factors considered and reasons for such action, a
7 copy of which shall be given to the parolee.

8 **“§ 4215. Appeal**

9 “(a) APPLICATION.—Whenever an individual dis-
10 puts the time of eligibility for release under section 4205,
11 parole release is denied under section 4206, parole condi-
12 tions are imposed or modified under section 4209, parole
13 discharge is denied under section 4211(b) or (c), or parole
14 is modified or revoked under section 4214, the individual
15 to whom any such decision applies may appeal such deci-
16 sion by submitting a written application to the National
17 Appeal (Appeals) Board not later than 60 days following
18 the date on which the decision is rendered.

19 “(b) REQUIREMENT TO ACT.—The National Appeals
20 Board, upon receipt of the appellant’s papers, must act
21 pursuant to rules and regulations within 60 days to reaf-
22 firm, modify, or reverse the decision and shall inform the
23 appellant in writing of the decision and the reasons there-
24 for.

1 “(c) ATTORNEY GENERAL’S REQUEST.—The Na-
2 tional Appeals Board may review any decision of a re-
3 gional commissioner upon the written request of the Attor-
4 ney General filed not later than 30 days following the deci-
5 sion and, by majority vote, shall reaffirm, modify, or re-
6 verse the decision within 60 days of the receipt of the At-
7 torney General’s request. The Board shall inform the At-
8 torney General and the individual to whom the decision
9 applies in writing of its decision and the reasons therefor.

10 **“§ 4216. Applicability of Administrative Procedure**
11 **Act**

12 “(a) GENERALLY.—For purposes of the provisions of
13 chapter 5 of title 5, United States Code, other than sec-
14 tions 554, 555, 556, and 557, the Commission is an ‘agen-
15 cy’ as defined in such chapter.

16 “(b) SPECIAL RULE.—For purposes of subsection (a)
17 of this section, section 553(b)(3)(A) of title 5, United
18 States Code, relating to rulemaking, does not include the
19 phrase ‘general statements of policy’.

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

1 **SEC. 2. CLERICAL AMENDMENT.**

2 The table of chapters at the beginning of part III
3 of title 18, United States Code, is amended by inserting
4 before the item relating to chapter 313 the following new
5 item:

“312. Parole 4201”.

6 **SEC. 3. GOOD TIME CREDITS.**

7 Part III of title 18, United States Code, is amended
8 by inserting after chapter 309 the following:

9 **“CHAPTER 310—GOOD TIME CREDITS**

“Sec.

“4161. Computation generally.

“4162. Industrial good time.

“4163. Discharge.

“4164. Released prisoner as parolee.

“4165. Forfeiture for offense.

“4166. Restoration of forfeited commutation.

10 **“§ 4161. Computation generally**

11 “(a) Each prisoner convicted of an offense against
12 the United States and confined in a penal or correctional
13 institution for a definite term other than for life, whose
14 record of conduct shows that he has faithfully observed
15 all the rules and has not been subjected to punishment,
16 shall be entitled to a deduction from the term of his sen-
17 tence beginning with the day on which the sentence com-
18 mences to run, as follows:

19 “Five days for each month, if the sentence is
20 not less than six months and not more than one
21 year.

1 “Six days for each month, if the sentence is
2 more than one year and less than three years.

3 “Seven days for each month, if the sentence is
4 not less than three years and less than five years.

5 “Eight days for each month, if the sentence is
6 not less than five years and less than ten years.

7 “Ten days for each month, if the sentence is
8 ten years or more.

9 “(b) When two or more consecutive sentences are to
10 be served, the aggregate of the several sentences shall be
11 the basis upon which the deduction shall be computed.

12 **“§ 4162. Industrial good time**

13 “(a) A prisoner may, in the discretion of the Attorney
14 General, be allowed a deduction from his sentence of not
15 to exceed three days for each month of any year or any
16 part thereof.

17 “(b) In the discretion of the Attorney General such
18 allowance may also be made to a prisoner performing ex-
19 ceptionally meritorious service or performing duties of out-
20 standing importance in connection with institutional oper-
21 ations.

22 “(c) A prisoner may, in the discretion of the Attorney
23 General, be allowed a deduction from his sentence of up
24 to three additional days for each month or part thereof
25 for superior program achievement. Superior program

1 achievement includes, but is not limited to, satisfactory
2 progress towards degrees from accredited educational in-
3 stitutions or completion certificates from vocational tech-
4 nical or rehabilitative programs and teaching such courses
5 of study. Each inmate shall be permitted to substitute Bu-
6 reau certified educational programs in place of institu-
7 tional employment or be allowed to do both. Such extra
8 good time allowances shall be in addition to commutation
9 of time for good conduct under section 4161 and under
10 the same terms and conditions and without regard to
11 length of sentence.

12 **“§ 4163. Discharge**

13 “All current and future sentences shall be recal-
14 culated by the Director of the Bureau of Prisons based
15 upon the criteria set forth in sections 4161 and 4162(a),
16 (b), and (c), notwithstanding any other statute to the con-
17 trary. Except as hereinafter provided a prisoner shall be
18 released at the expiration of his term of sentence less the
19 time deducted for good conduct. A certificate of such de-
20 duction shall be entered on the commitment by the warden
21 or keeper. If such release date falls upon a Saturday, a
22 Sunday, or on a Monday which is a legal holiday at the
23 place of confinement, the prisoner may be released at the
24 discretion of the warden or keeper on the preceding Fri-
25 day. If such release date falls on a holiday which falls

1 other than on Saturday, Sunday, or Monday, the prisoner
 2 may be released at the discretion of the warden or keeper
 3 on the day preceding the holiday.

4 **“§ 4164. Released prisoner as parolee**

5 “A prisoner having served his term or terms less
 6 good-time deductions shall, upon release, be deemed as if
 7 released on parole until the expiration of the maximum
 8 term or terms for which he was sentenced less one hun-
 9 dred and eighty days. This section shall not prevent deliv-
 10 ery of a prisoner to the authorities of any State otherwise
 11 entitled to his custody.

12 **“§ 4165. Forfeiture for offense**

13 “If during the term of imprisonment a prisoner com-
 14 mits any offense or violates the rules of the institution,
 15 all or any part of his earned good time may be forfeited.

16 **“§ 4166. Restoration of forfeited commutation**

17 “The Attorney General may restore any forfeited or
 18 lost good time or such portion thereof as he deems proper
 19 upon recommendation of the Director of the Bureau of
 20 Prisons.”.

21 **SEC. 4. CLERICAL AMENDMENT.**

22 The table of chapters at the beginning of part III
 23 of title 18, United States Code, is amended by inserting
 24 after the item relating to chapter 309 the following new
 25 item:

“310. Good time credits 4161”.

1 **SEC. 5. PAROLE AUTHORITY FOR CERTAIN PERSONS.**

2 The United States Parole Commission created by the
3 amendments made by this Act shall also have jurisdiction
4 over the parole of persons whose parole was governed by
5 the Parole Commission Phase-Out Act of 1996 or section
6 11231 of Public Law 105–33, and shall exercise parole
7 authority with respect to those persons under the amend-
8 ments made by this Act.

9 **SEC. 6. COMPASSIONATE RELEASE.**

10 (a) **EARLIER POSSIBLE COMPASSIONATE RELEASE**
11 **UNDER EXISTING LAW.**—Section 3582(c) of title 18,
12 United States Code, is amended—

13 (1) by striking “70” and inserting “65”; and

14 (2) by striking “30” and inserting “25”.

15 (b) **NEW MANDATORY COMPASSIONATE RELEASE**
16 **OPTION.**—Section 3624 of title 18, United States Code,
17 is amended—

18 (1) in subsection (a), by inserting “at the early
19 release date provided in subsection (g), if applicable,
20 or otherwise” after “A prisoner shall be released by
21 the Bureau of Prisons”; and

22 (2) by adding at the end the following:

23 “(g) **COMPASSIONATE RELEASE.**—Notwithstanding
24 any other provision of law, the Bureau of Prisons shall
25 consider release from confinement if that prisoner—

1 “(1) has served 25 years or more of his term
2 of imprisonment (including any consecutive term or
3 terms of imprisonment);

4 “(2) has reached the age of 65; and

5 “(3) has not engaged in any violation of institu-
6 tional disciplinary regulation involving violent ag-
7 gressive conduct.”.

8 **SEC. 7. RETROSPECTIVE AND PROSPECTIVE APPLICATION.**

9 This Act and the amendments made by this Act apply
10 to prisoners whose convictions occur before, on, or after
11 the date of the enactment of this Act.

○