

107TH CONGRESS
2^D SESSION

H. R. 5296

To revive the system of parole for Federal prisoners.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2002

Mrs. MINK of Hawaii introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To revive the system of parole for Federal prisoners.

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. Parole Commission created.

“4202. Powers and duties of the Commission.

“4203. Powers and duties of the Chairman.

“4204. Time of eligibility for release on parole.

“4205. Parole determination criteria.

“4206. Information considered.

“4207. Parole determination proceeding; time.

“4208. Conditions of parole.

“4209. Jurisdiction of Commission.

“4210. Early termination of parole.

“4211. Aliens.

“4212. Summons to appear or warrant for retaking of parolee.

“4213. Revocation of parole.

“4214. Appeal.

“4215. Applicability of Administrative Procedure Act.

“4216. Definitions.

1 **“§ 4201. Parole Commission created**

2 “(a) **GENERALLY.**—There is hereby established, as
3 an independent agency in the Department of Justice, a
4 United States Parole Commission which shall be com-
5 prised of nine members appointed by the President, by and
6 with the advice and consent of the Senate. The President
7 shall designate from among the Commissioners one to
8 serve as Chairman.

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

18 “(c) **COMPENSATION.**—Commissioners shall be com-
19 pensated at the highest rate now or hereafter prescribed
20 for grade 18 of the General Schedule pay rates (5 U.S.C.
21 5332).

1 **“§ 4202. Powers and duties of the Commission**

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

4 “(1) make rules establishing guidelines for the
5 powers enumerated in subsection (b) of this section
6 and such other rules and regulations as are nec-
7 essary to carry out a national parole policy and the
8 purposes of this chapter;

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

11 “(3) ratify, revise, or deny any request for reg-
12 ular, supplemental, or deficiency appropriations,
13 prior to the submission of the requests to the Office
14 of Management and Budget by the Chairman, which
15 requests shall be separate from those of any other
16 agency of the Department of Justice.

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

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

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

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

1 “(4) request probation officers and other indi-
2 viduals, organizations, and public or private agencies
3 to perform such duties with respect to any parolee
4 as the Commission deems necessary for maintaining
5 proper supervision of and assistance to such parol-
6 ees; and so as to assure that no probation officers,
7 individuals, organizations, or agencies shall bear ex-
8 cessive caseloads.

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

11 “(1) may delegate to any Commissioner or com-
12 missioners powers enumerated in subsection (b) of
13 this section;

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

24 “(3) may delegate authority to conduct hear-
25 ings held pursuant to section 4214 to any officer or

1 employee of the executive or judicial branch of Fed-
2 eral or State government; and

3 “(4) may review, or may delegate to the Na-
4 tional Appeals Board the power to review, any deci-
5 sion made pursuant to subparagraph (1) of this sub-
6 section except that any such decision so reviewed
7 must be reaffirmed, modified or reversed within thir-
8 ty days of the date the decision is rendered, and, in
9 case of such review, the individual to whom the deci-
10 sion applies shall be informed in writing of the Com-
11 mission’s actions with respect thereto and the rea-
12 sons for such actions.

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

24 “(e) COOPERATION WITH STATES.—

1 “(1) GENERALLY.—The Commission shall,
2 upon the request of the head of any law enforcement
3 agency of a State or of a unit of local government
4 in a State, make available as expeditiously as possible to such agency, with respect to individuals who
5 are under the jurisdiction of the Commission, who
6 have been convicted of felony offenses against the
7 United States, and who reside, are employed, or are
8 supervised in the geographical area in which such
9 agency has jurisdiction, the following information
10 maintained by the Commission (to the extent that
11 the Commission maintains such information)—

12 “(A) the names of such individuals;

13 “(B) the addresses of such individuals;

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

15 “(D) the Federal Bureau of Investigation
16 numbers assigned to such individuals;

17 “(E) photographs and fingerprints of such
18 individuals; and

19 “(F) the nature of the offenses against the
20 United States of which each such individual has
21 been convicted and the factual circumstances
22 relating to such offense.

23 “(2) NONDISSEMINATION REQUIREMENT.—Any
24 law enforcement agency which receives information
25

1 under this subsection shall not disseminate such in-
2 formation outside of such agency.

3 **“§ 4203. Powers and duties of the Chairman**

4 “(a) GENERALLY.—The Chairman shall—

5 “(1) convene and preside at meetings of the
6 Commission under section 4202 and such additional
7 meetings of the Commission as the Chairman may
8 call or as may be requested in writing by at least
9 three Commissioners;

10 “(2) appoint, fix the compensation of, assign,
11 and supervise all personnel employed by the Com-
12 mission except that—

13 “(A) the appointment of any administra-
14 tive law judge shall be subject to approval of
15 the Commission within the first year of judge’s
16 employment; and

17 “(B) regional Commissioners shall appoint
18 and supervise such personnel employed regu-
19 larly and full time in their respective regions as
20 are compensated at a rate up to and including
21 grade 9 of the General Schedule pay rates (5
22 U.S.C. 5332);

23 “(3) assign duties among officers and employ-
24 ees of the Commission, including Commissioners, so

1 as to balance the workload and provide for orderly
2 administration;

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

6 “(5) designate not fewer than three Commis-
7 sioners to serve on the National Appeals Board of
8 whom one shall be so designated to serve as vice
9 chairman of the Commission (who shall act as
10 Chairman of the Commission in the absence or dis-
11 ability of the Chairman or in the event of the va-
12 cancy of the Chairmanship), and designate, for each
13 such region established under section 4202, one
14 Commissioner to serve as regional Commissioner in
15 each such region, but in each such designation the
16 Chairman shall consider years of service, personal
17 preference and fitness, and no such designation shall
18 take effect unless concurred in by the President, or
19 his designee;

20 “(6) serve as spokesman for the Commission
21 and report annually to Congress on the activities of
22 the Commission; and

23 “(7) exercise such other powers and duties and
24 perform such other functions as may be necessary to

1 carry out the purposes of this chapter or as may be
2 otherwise provided by law.

3 “(b) ADMINISTRATIVE POWERS.—The Chairman
4 shall have the power to—

5 “(1) without regard to section 3324(a) and (b)
6 of title 31, enter into and perform such contracts,
7 leases, cooperative agreements, and other trans-
8 actions as may be necessary in the conduct of the
9 functions of the Commission, with any public agen-
10 cy, or with any person, firm, association, corpora-
11 tion, educational institution, or nonprofit organiza-
12 tion;

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

15 “(3) procure for the Commission temporary and
16 intermittent services under section 3109(b) of title
17 5, United States Code;

18 “(4) collect systematically the data obtained
19 from studies, research, and the empirical experience
20 of public and private agencies concerning the parole
21 process;

22 “(5) carry out programs of research concerning
23 the parole process to develop classification systems
24 which describe types of offenders, and to develop

1 theories and practices which can be applied to the
2 different types of offenders;

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

4 “(7) devise and conduct, in various geographical
5 locations, seminars, workshops and training pro-
6 grams providing continuing studies and instruction
7 for personnel of Federal, State and local agencies
8 and private and public organizations working with
9 parolees and connected with the parole process; and

10 “(8) use the services, equipment, personnel, in-
11 formation, facilities, and instrumentalities with or
12 without reimbursement therefor of other Federal,
13 State, local, and private agencies with their consent.

14 “(c) POLICIES TO BE FOLLOWED.—In carrying out
15 his functions under this section, the Chairman shall be
16 governed by the national parole policies promulgated by
17 the Commission.

18 **“§ 4204. Time of eligibility for release on parole**

19 “(a) GENERALLY.—Whenever confined and serving a
20 definite term or terms of more than one year, a prisoner
21 shall be eligible for release on parole after serving one-
22 third of such term or terms or after serving ten years of
23 a life sentence (other than a life sentence imposed by the
24 court without possibility of parole) or of a sentence of over

1 thirty years, except to the extent otherwise provided by
2 law.

3 “(b) COURTS’ POWER AT TIME OF SENTENCING.—

4 Upon entering a judgment of conviction, the court having
5 jurisdiction to impose sentence, when in its opinion the
6 ends of justice and best interest of the public require that
7 the defendant be sentenced to imprisonment for a term
8 exceeding one year (other than a life sentence imposed by
9 the court without possibility of parole), may—

10 “(1) designate in the sentence of imprisonment
11 imposed a minimum term at the expiration of which
12 the prisoner shall become eligible for parole, which
13 term may be less than but shall not be more than
14 one-third of the maximum sentence imposed by the
15 court; or

16 “(2) fix the maximum sentence of imprisonment
17 to be served in which event the court may specify
18 that the prisoner may be released on parole at such
19 time as the Commission may determine.

20 “(c) INFORMATION FOR COURT.—

21 “(1) COMMITMENT FOR STUDY.—If the court
22 desires more detailed information as a basis for de-
23 termining the sentence to be imposed, the court may
24 commit the defendant to the custody of the Attorney
25 General, which commitment shall be deemed to be

1 for the maximum sentence of imprisonment pre-
2 scribed by law, for a study as described in subsection
3 (d).

4 “(2) REPORT TO COURT.—The results of such
5 study, together with any recommendations which the
6 Director of the Bureau of Prisons believes would be
7 helpful in determining the disposition of the case,
8 shall be furnished to the court within three months
9 unless the court grants time, not to exceed an addi-
10 tional three months, for further study.

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

14 “(A) place the offender on probation as au-
15 thorized by section 3651; or

16 “(B) affirm the sentence of imprisonment
17 originally imposed, or reduce the sentence of
18 imprisonment, and commit the offender under
19 any applicable provision of law.

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

23 “(d) STUDY OF PRISONER SENTENCED TO IMPRIS-
24 ONMENT.—Upon commitment of a prisoner sentenced to
25 imprisonment under subsection (a) or (b), the Director,

1 under such regulations as the Attorney General may pre-
2 scribe, shall cause a complete study to be made of the pris-
3 oner and shall furnish to the Commission a summary re-
4 port together with any recommendations which in his opin-
5 ion would be helpful in determining the suitability of the
6 prisoner for parole. This report may include data regard-
7 ing the prisoner's previous delinquency or criminal experi-
8 ence, pertinent circumstances of the prisoner's social back-
9 ground and capabilities, the prisoner's mental and phys-
10 ical health, and such other factors the Director considers
11 pertinent. The Commission may make such other inves-
12 tigation as it may deem necessary.

13 “(e) DUTY OF PROBATION OFFICERS.—Upon request
14 of the Commission, it shall be the duty of the various pro-
15 bation officers and government bureaus and agencies to
16 furnish the Commission information available to such offi-
17 cer, bureau, or agency, concerning any eligible prisoner or
18 parolee and whenever not incompatible with the public in-
19 terest, their views and recommendation with respect to
20 any matter within the jurisdiction of the Commission.

21 “(f) SHORT PRISON TERMS.—Any prisoner sen-
22 tenced to imprisonment for a term or terms of not less
23 than six months but not more than one year shall be re-
24 leased at the expiration of such sentence less good time
25 deductions provided by law, unless the court which im-

1 posed sentence, shall, at the time of sentencing, provide
2 for the prisoner's release as if on parole after service of
3 one-third of such term or terms notwithstanding section
4 4164. This subsection does not prevent delivery of any
5 person released on parole to the authorities of any State
6 otherwise entitled to his custody.

7 “(g) REDUCTION IN SENTENCE.—At any time upon
8 motion of the Bureau of Prisons, the court may reduce
9 any minimum term to the time the defendant has served.
10 The court shall have jurisdiction to act upon the applica-
11 tion at any time and no hearing shall be required.

12 “(h) DISCLAIMER.—Nothing in this chapter shall be
13 construed to provide that any prisoner shall be eligible for
14 release on parole if such prisoner is ineligible for such re-
15 lease under any other provision of law.

16 **“§ 4205. Parole determination criteria**

17 “(a) GENERALLY.—An eligible prisoner shall, subject
18 to subsections (b) and (c), and pursuant to guidelines
19 issued by the Commission under If an eligible prisoner has
20 substantially observed the rules of the institution or insti-
21 tutions to which he has been confined, and if the Commis-
22 sion, upon consideration of the nature and circumstances
23 of the offense and the history and characteristics of the
24 prisoner, determines that release would not—

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

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

5 “(b) NOTICE TO PRISONER.—The Commission shall
6 furnish the eligible prisoner with a written notice of its
7 determination not later than twenty-one days, excluding
8 holidays, after the date of the parole determination pro-
9 ceeding. If parole is denied such notice shall state with
10 particularity the reasons for such denial.

11 “(c) GOOD CAUSE EXCEPTION.—The Commission
12 may grant or deny release on parole notwithstanding the
13 guidelines referred to in subsection (a) of this section if
14 it determines there is good cause for so doing, if the pris-
15 oner is furnished written notice stating with particularity
16 the reasons for its determination, including a summary of
17 the information relied upon.

18 “(d) RELEASE AFTER $\frac{2}{3}$ OF SENTENCE.—Any pris-
19 oner, serving a sentence of five years or longer, who is
20 not earlier released under this section or any other appli-
21 cable provision of law, shall be released on parole after
22 having served two-thirds of each consecutive term or
23 terms, or after serving 30 years of each consecutive term
24 or terms of more than 45 years including any life term
25 (other than a life term imposed by the court without possi-

1 bility of parole), whichever is earlier, but the Commission
2 shall not release such prisoner if it determines that the
3 prisoner has seriously or frequently violated institution
4 rules and regulations or that there is a reasonable prob-
5 ability that he will commit any Federal, State, or local
6 crime.

7 **“§ 4206. Information considered**

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

11 “(1) reports and recommendations which the
12 staff of the facility in which such prisoner is con-
13 fined may make;

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

17 “(3) presentence investigation reports;

18 “(4) recommendations regarding the prisoner’s
19 parole made at the time of sentencing by the sen-
20 tencing judge;

21 “(5) a statement, which may be presented oral-
22 ly or otherwise, by any victim of the offense for
23 which the prisoner is imprisoned about the financial,
24 social, psychological, and emotional harm done to, or
25 loss suffered by such victim;

1 “(6) reports of physical, mental, or psychiatric
2 examination of the offender; and

3 “(7) such additional relevant information con-
4 cerning the prisoner (including information sub-
5 mitted by the prisoner) as may be reasonably avail-
6 able.

7 **“§ 4207. Parole determination proceeding; time**

8 “(a) GENERAL RULE.—In making a determination
9 under this chapter (relating to parole) the Commission
10 shall conduct a parole determination proceeding unless it
11 determines on the basis of the prisoner’s record that the
12 prisoner will be released on parole. Whenever feasible, the
13 initial parole determination proceeding for a prisoner eligi-
14 ble for parole under subsections (a) and (b)(1) of section
15 4204 shall be held not later than 30 days before the date
16 of such eligibility for parole. Whenever feasible, the initial
17 parole determination proceeding for a prisoner eligible for
18 parole pursuant to subsection (b)(2) of section 4204 or
19 released on parole and whose parole has been revoked shall
20 be held not later than 120 days following such prisoner’s
21 imprisonment or reimprisonment in a Federal institution,
22 as the case may be. An eligible prisoner may knowingly
23 and intelligently waive any proceeding.

1 “(b) PREPARATION.—(1) At least 30 days before any
2 parole determination proceeding, the prisoner shall be pro-
3 vided with—

4 “(A) written notice of the time and place of the
5 proceeding; and

6 “(B) reasonable access to a report or other doc-
7 ument to be used by the Commission in making its
8 determination.

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

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

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

18 “(B) any document which reveals sources of in-
19 formation obtained upon a promise of confiden-
20 tiality; or

21 “(C) any other information which, if disclosed,
22 might result in harm, physical or otherwise, to any
23 person.

24 “(2) If any document is deemed by either the Com-
25 mission, the Bureau of Prisons, or any other agency to

1 fall within the exclusionary provisions of paragraph (1),
2 then it shall become the duty of the Commission, the Bu-
3 reau, or such other agency, as the case may be, to summa-
4 rize the basic contents of the material withheld, bearing
5 in mind the need for confidentiality or the impact on the
6 inmate, or both, and furnish such summary to the inmate.

7 “(d) CONSULTATION.—(1) During the period before
8 the parole determination proceeding as provided in sub-
9 section (b), a prisoner may consult, as provided by the
10 director, with a representative as referred to in subpara-
11 graph (2) of this subsection, and by mail or otherwise with
12 any person concerning such proceeding.

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

18 “(e) PERSONAL APPEARANCE OF PRISONER.—The
19 prisoner shall be allowed to appear and testify on his own
20 behalf at the parole determination proceeding.

21 “(f) RECORD.—A full and complete record of every
22 proceeding shall be retained by the Commission. Upon re-
23 quest, the Commission shall make available to any eligible
24 prisoner such record as the Commission may retain of the
25 proceeding.

1 “(g) PERSONAL CONFERENCE.—If parole is denied,
2 a personal conference to explain the reasons for such de-
3 nial shall be held, if feasible, between the prisoner and
4 a representative of the Commission at the conclusion of
5 the proceeding. When feasible, the conference shall include
6 advice to the prisoner as to what steps may be taken to
7 enhance his chance of being released at a subsequent pro-
8 ceeding.

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

13 “(1) 18 months in the case of a prisoner with
14 a term or terms of more than one year but less than
15 seven years; and

16 “(2) 24 months in the case of a prisoner with
17 a term or terms of seven years or longer.

18 **“§ 4208. Conditions of parole**

19 “(a) MANDATORY CONDITIONS.—In every case, the
20 Commission shall impose as conditions of parole that the
21 parolee not commit another Federal, State, or local crime,
22 that the parolee not possess illegal controlled substances,
23 and, if a fine was imposed, that the parolee make a dili-
24 gent effort to pay the fine in accordance with the judg-
25 ment. In every case, the Commission shall impose as a

1 condition of parole for a person described in section
2 4042(c)(4), that the parolee report the address where the
3 parolee will reside and any subsequent change of residence
4 to the probation officer responsible for supervision, and
5 that the parolee register in any State where the parolee
6 resides, is employed, carries on a vocation, or is a student
7 (as such terms are defined under section 170101(a)(3) of
8 the Violent Crime Control and Law Enforcement Act of
9 1994). In every case, the Commission shall impose as a
10 condition of parole that the parolee cooperate in the collec-
11 tion of a DNA sample from the parolee, if the collection
12 of such a sample is authorized pursuant to section 3 or
13 section 4 of the DNA Analysis Backlog Elimination Act
14 of 2000 or section 1565 of title 10. In every case, the
15 Commission shall also impose as a condition of parole that
16 the parolee pass a drug test prior to release and refrain
17 from any unlawful use of a controlled substance and sub-
18 mit to at least 2 periodic drug tests (as determined by
19 the Commission) for use of a controlled substance. The
20 condition stated in the preceding sentence may be amelio-
21 rated or suspended by the Commission for any individual
22 parolee if it determines that there is good cause for doing
23 so. The results of a drug test administered in accordance
24 with the provisions of the preceding sentence shall be sub-
25 ject to confirmation only if the results are positive, the

1 defendant is subject to possible imprisonment for such
2 failure, and either the defendant denies the accuracy of
3 such test or there is some other reason to question the
4 results of the test. A drug test confirmation shall be a
5 urine drug test confirmed using gas chromatography/mass
6 spectrometry techniques or such test as the Director of
7 the Administrative Office of the United States Courts
8 after consultation with the Secretary of Health and
9 Human Services may determine to be of equivalent accu-
10 racy. The Commission shall consider whether the avail-
11 ability of appropriate substance abuse treatment pro-
12 grams, or an individual's current or past participation in
13 such programs, warrants an exception in accordance with
14 United States Sentencing Commission guidelines from the
15 rule of section 4214(f) when considering any action
16 against a defendant who fails a drug test.

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

20 “(1) the nature and circumstances of the of-
21 fense; and

22 “(2) the history and characteristics of the pa-
23 rolee;

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

1 “(c) SPECIFICITY OF CONDITIONS.—The conditions
2 of parole should be sufficiently specific to serve as a guide
3 to supervision and conduct, and upon release on parole
4 the parolee shall be given a certificate setting forth the
5 conditions of his parole. An effort shall be made to make
6 certain that the parolee understands the conditions of his
7 parole.

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

12 “(A) a parolee to reside in or participate in the
13 program of a residential community treatment cen-
14 ter, or both, for all or part of the period of such pa-
15 role; or

16 “(B) a parolee to remain at his place of resi-
17 dence during nonworking hours and, if the Commis-
18 sion so directs, to have compliance with this condi-
19 tion monitored by telephone or electronic signaling
20 devices, except that a condition under this para-
21 graph may be imposed only as an alternative to in-
22 carceration.

23 “(2) A parolee residing in a residential community
24 treatment center pursuant to paragraph (1)(A) may be re-

1 quired to pay such costs incident to such residence as the
2 Commission deems appropriate.

3 “(e) MODIFICATION.—(1) The Commission may mod-
4 ify conditions of parole pursuant to this section on its own
5 motion, or on the motion of a United States probation offi-
6 cer supervising a parolee, if the parolee receives notice of
7 such action and has ten days after receipt of such notice
8 to express views on the proposed modification. Following
9 such ten-day period, the Commission shall have 21 days,
10 exclusive of holidays, to act upon such motion or applica-
11 tion. Notwithstanding any other provision of this para-
12 graph, the Commission may modify conditions of parole,
13 without regard to such ten-day period, on any such motion
14 if the Commission determines that the immediate modi-
15 fication of conditions of parole is required to prevent harm
16 to the parolee or to the public.

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

20 “(3) The provisions of this subsection shall not apply
21 to modifications of parole conditions pursuant to a revoca-
22 tion proceeding under section 4213.

23 **“§ 4209. Jurisdiction of Commission**

24 “(a) CUSTODY.—A parolee shall remain in the legal
25 custody and under the control of the Attorney General,

1 until the expiration of the maximum term of terms for
2 which such parolee was sentenced.

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

8 “(1) such jurisdiction shall terminate at an ear-
9 lier date to the extent provided under section 4164
10 (relating to mandatory release) or section 4211 (re-
11 lating to early termination of parole supervision),
12 and

13 “(2) in the case of a parolee who has been con-
14 victed of any criminal offense committed subsequent
15 to his release on parole, and such offense is punish-
16 able by a term of imprisonment, detention or incar-
17 ceration in any penal facility, the Commission shall
18 determine, in accordance with the provisions of sec-
19 tion 4214(b) or (c), whether all or any part of the
20 unexpired term being served at the time of parole
21 shall run concurrently or consecutively with the sen-
22 tence imposed for the new offense, but in no case
23 shall such service together with such time as the pa-
24 rolee has previously served in connection with the of-
25 fense for which he was paroled, be longer than the

1 maximum term for which he was sentenced in con-
2 nection with such offense.

3 “(c) EXTENSION.—In the case of any parolee found
4 to have intentionally refused or failed to respond to any
5 reasonable request, order, summons, or warrant of the
6 Commission or any member or agent thereof, the jurisdic-
7 tion of the Commission may be extended for the period
8 during which the parolee so refused or failed to respond.

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

13 “(e) CERTIFICATE OF DISCHARGE.—Upon the termi-
14 nation of the jurisdiction of the Commission over any pa-
15 rolee, the Commission shall issue a certificate of discharge
16 to such parolee and to such other agencies as it may deter-
17 mine.

18 **“§ 4210. Early termination of parole**

19 “(a) IN GENERAL.—Upon its own motion or upon re-
20 quest of the parolee, the Commission may terminate su-
21 pervision over a parolee prior to the termination of juris-
22 diction under section 4209.

23 “(b) REVIEW.—Two years after each parolee’s re-
24 lease on parole, and at least annually thereafter, the Com-
25 mission shall review the status of the parolee to determine

1 the need for continued supervision. In calculating such
2 two-year period there shall not be included any period of
3 release on parole prior to the most recent such release,
4 nor any period served in confinement on any other sen-
5 tence.

6 “(c) PRESUMPTIVE TERMINATION.—(1) Five years
7 after each parolee’s release on parole, the Commission
8 shall terminate supervision over such parolee unless it is
9 determined, after a hearing conducted in accordance with
10 the procedures prescribed in section 4213(a)(2), that such
11 supervision should not be terminated because there is a
12 likelihood that the parolee will engaged in conduct vio-
13 lating any criminal law.

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

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

1 **“§ 4211. Aliens**

2 “When an alien prisoner subject to deportation be-
3 comes eligible for parole, the Commission may authorize
4 the release of such prisoner on condition that such person
5 be deported and remain outside the United States. Such
6 prisoner when his parole becomes effective, shall be deliv-
7 ered to the duly authorized immigration official for depor-
8 tation.

9 **“§ 4212. Summons to appear or warrant for retaking**
10 **of parolee**

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

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

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

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

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

4 “(1) the conditions of parole he is alleged to
5 have violated as provided under section 4208;

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

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

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

18 **“§ 4213. Revocation of parole**

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

23 “(A) a preliminary hearing at or reasonably
24 near the place of the alleged parole violation or ar-
25 rest, without unnecessary delay, to determine if

1 there is probable cause to believe that he has vio-
2 lated a condition of his parole; and upon a finding
3 of probable cause a digest shall be prepared by the
4 Commission setting forth in writing the factors con-
5 sidered and the reasons for the decision, a copy of
6 which shall be given to the parolee within a reason-
7 able period of time; except that after a finding of
8 probable cause the Commission may restore any pa-
9 rolee to parole supervision if—

10 “(i) continuation of revocation proceedings

11 is not warranted; or

12 “(ii) incarceration of the parolee pending

13 further revocation proceedings is not warranted

14 by the alleged frequency or seriousness of such

15 violation or violations;

16 “(iii) the parolee is not likely to fail to ap-

17 pear for further proceedings; and

18 “(iv) the parolee does not constitute a dan-

19 ger to himself or others; and

20 “(B) upon a finding of probable cause under

21 subparagraph (1)(A), a revocation hearing at or rea-

22 sonably near the place of the alleged parole violation

23 or arrest within 60 days of such determination of

24 probable cause, except that a revocation hearing may

1 be held at the same time and place set for the pre-
2 liminary hearing.

3 “(2) Hearings held pursuant to subparagraph (1)
4 shall be conducted by the Commission in accordance with
5 the following procedures:

6 “(A) Notice to the parolee of the conditions of
7 parole alleged to have been violated, and the time,
8 place, and purposes of the scheduled hearing.

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

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

18 “(D) Opportunity for the parolee to be apprised
19 of the evidence against the parolee and, if the pa-
20 rolee so requests, to confront and cross-examine ad-
21 verse witnesses, unless the Commission specifically
22 finds substantial reason for not so allowing.

23 “(3) For the purposes of subparagraph (1) of this
24 subsection, the Commission may subpoena witnesses and
25 evidence, and pay witness fees as established for the courts

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

16 “(b) EFFECT OF CONVICTION.—(1) Conviction for
17 any criminal offense committed subsequent to release on
18 parole shall constitute probable cause for purposes of sub-
19 section (a) of this section. In cases in which a parolee has
20 been convicted of such an offense and is serving a new
21 sentence in an institution, a parole revocation warrant or
22 summons issued pursuant to section 4213 may be placed
23 against the parolee as a detainer. Such detainer shall be
24 reviewed by the Commission within one hundred and
25 eighty days of notification to the Commission of place-

1 ment. The parolee shall receive notice of the pending re-
2 view, have an opportunity to submit a written application
3 containing information relative to the disposition of the
4 detainer, and, unless waived, shall have counsel as pro-
5 vided in subsection (a)(2)(B) of this section to assist him
6 in the preparation of such application.

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

14 “(3) Following the disposition review, the Commis-
15 sion may:

16 “(A) let the detainer stand; or

17 “(B) withdraw the detainer.

18 “(c) HEARING.—Any alleged parole violator who is
19 summoned or retaken by warrant under section 4213 who
20 knowingly and intelligently waives the right to a hearing
21 under subsection (a) of this section, or who knowingly and
22 intelligently admits violation at a preliminary hearing held
23 pursuant to subsection (a)(1)(A) of this section, or who
24 is retaken pursuant to subsection (b) of this section, shall
25 receive a revocation hearing within 90 days of the date

1 of retaking. The Commission may conduct such hearing
2 at the institution to which he has been returned, and the
3 alleged parole violator shall have notice of such hearing,
4 be allowed to appear and testify on his own behalf, and,
5 unless waived, shall have counsel or another representative
6 as provided in subsection (a)(2)(B) of this section.

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

13 “(1) Restore the parolee to supervision.

14 “(2) Reprimand the parolee.

15 “(3) Modify the parolee’s conditions of the pa-
16 role.

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

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

22 The Commission may take any such action provided it has
23 taken into consideration whether or not the parolee has
24 been convicted of any Federal, State, or local crime subse-
25 quent to his release on parole, and the seriousness thereof,

1 or whether such action is warranted by the frequency or
2 seriousness of the parolee's violation of any other condi-
3 tion or conditions of his parole.

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

11 “(f) CONTROLLED SUBSTANCE POSSESSION.—Not-
12 withstanding any other provision of this section, the Com-
13 mission shall revoke the parole of a parolee who is found
14 by the Commission to be in possession of a controlled sub-
15 stance.

16 **“§ 4214. Appeal**

17 “(a) APPLICATION.—Whenever parole release is de-
18 nied under section 4205, parole conditions are imposed or
19 modified under section 4208, parole discharge is denied
20 under section 4210(c), or parole is modified or revoked
21 under section 4213, the individual to whom any such deci-
22 sion applies may appeal such decision by submitting a
23 written application to the National Appeal (Appeals)
24 Board not later than 30 days following the date on which
25 the decision is rendered.

1 “(b) REQUIREMENT TO ACT.—The National Appeals
2 Board, upon receipt of the appellant’s papers, must act
3 pursuant to rules and regulations within 60 days to reaf-
4 firm, modify, or reverse the decision and shall inform the
5 appellant in writing of the decision and the reasons there-
6 for.

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

16 **“§4215. Applicability of Administrative Procedure**
17 **Act**

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

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

1 “(c) JUDICIAL REVIEW.—To the extent that actions
2 of the Commission pursuant to section 4202(a)(1) are not
3 in accord with section 553 of title 5, United States Code,
4 they shall be reviewable in accordance with the provisions
5 of sections 701 through 706 of title 5, United States Code.

6 “(d) NONREVIEWABLE ACTIONS.—Actions of the
7 Commission pursuant to paragraphs (1), (2), and (3) of
8 section 4202(b) shall be considered actions committed to
9 agency discretion for purposes of section 701(a)(2) of title
10 5, United States Code.

11 **“§ 4216. Definitions**

12 “As used in this chapter—

13 “(1) the term ‘Commission’ means the United
14 States Parole Commission;

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

17 “(3) the term ‘Director’ means the Director of
18 the Bureau of Prisons;

19 “(4) the term ‘eligible prisoner’ means any Fed-
20 eral prisoner who is eligible for parole pursuant to
21 this title or any other law, including any Federal
22 prisoner whose parole has been revoked and who is
23 not otherwise ineligible for parole;

24 “(5) the term ‘parolee’ means any eligible pris-
25 oner who has been released on parole or deemed as

1 if released on parole under section 4164 or section
2 4205(f); and

3 “(6) the term ‘rules’ means rules made by the
4 Commission under section 4203.”.

5 **SEC. 2. CLERICAL AMENDMENT.**

6 The table of chapters at the beginning of part III
7 of title 18, United States Code, is amended by inserting
8 before the item relating to chapter 313 the following new
9 item:

“**312. Parole** **4201**”.

10 **SEC. 3. PAROLE AUTHORITY FOR CERTAIN PERSONS.**

11 The United States Parole Commission created by the
12 amendments made by this Act shall also have jurisdiction
13 over the parole of persons whose parole was governed by
14 the Parole Commission Phase-Out Act of 1996 or section
15 11231 of Public Law 105–33, and shall exercise parole
16 authority with respect to those persons under the amend-
17 ments made by this Act.

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