

<p style="text-align: center;"><b>STATE OF VERMONT</b> <b>AGENCY OF HUMAN SERVICES</b> <b>DEPARTMENT OF CORRECTIONS</b></p>	<p style="text-align: center;"><b>Parole Board Reviews and Recommendations</b></p>		<p style="text-align: center;"><b>Page 1 of 9</b></p>						
<p style="text-align: center;"><b>CHAPTER: PROGRAMS – CLASSIFICATION AND CASE PLANNING</b></p>	<p style="text-align: center;"><b>#371.25</b></p>	<p><b>Supersedes: #371.25, dated 01/01/2023</b></p>							
<p><b>Local Procedure(s) Required: No</b> <b>Applicability: All staff (including contractors and volunteers)</b> <b>Security Level: “B” – Anyone may have access to this document.</b></p>									
<p><b>Approved:</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; border: none;"><u>SIGNED</u></td> <td style="width: 33%; border: none;"><u>10/05/2023</u></td> <td style="width: 33%; border: none;"><u>10/23/2023</u></td> </tr> <tr> <td style="border: none;">Nicholas J. Deml, Commissioner</td> <td style="border: none;">Date Signed</td> <td style="border: none;">Date Effective</td> </tr> </table>				<u>SIGNED</u>	<u>10/05/2023</u>	<u>10/23/2023</u>	Nicholas J. Deml, Commissioner	Date Signed	Date Effective
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**PURPOSE**

This policy establishes the process to review and refer individuals under the custody or supervision of the Department of Corrections (DOC) to the Parole Board.

**AUTHORITY**

28 V.S.A §§ 204b, 353, 362, 402, 403, 501, 501a, 502, and 725.

**DEFINITIONS**

Parole: The release of a sentenced individual to the community by the Parole Board before the end of the individual’s sentence, subject to conditions imposed by the Board and subject to the supervision and control of the Commissioner.

## **POLICY**

The DOC's policy is to supervise individuals in the least restrictive setting consistent with public safety. It is also DOC policy to recommend appropriate and eligible individuals for parole at their minimum release date. Parole is a legal status that enables DOC to provide services and supervision commensurate with the individual's risk and severity of offense.

There are two pathways to parole: the presumptive parole process and the standard parole process. The presumptive parole process is a mechanism by which an individual under the custody or supervision of DOC is granted parole at their minimum sentence if they meet statutorily defined criteria. The standard parole process is a mechanism by which an individual under the custody or supervision of DOC is granted parole at the discretion of the Parole Board.

Individuals are eligible for consideration by the Parole Board when they meet certain statutory criteria. DOC prepares and submits a parole summary, which includes a recommendation, to the Parole Board for all individuals meeting the review criteria. DOC may provide the following recommendations: (1) a positive recommendation for parole; (2) a negative recommendation for parole; or (3) a recommendation for discharge for individuals sentenced to Supervised Community Sentence (SCS).

## **GENERAL PROCEDURES**

### **A. Initiation of Parole Process**

1. Incarcerated individuals are eligible for parole consideration once they have reached their minimum release date.
2. Ninety days prior to the minimum release date of an individual under the custody or supervision of the DOC, the responsible Corrections Services Specialist (CSS) or Probation and Parole Officer (PPO) shall determine eligibility for a parole hearing.
  - a. If the individual meets the criteria for the presumptive parole process, staff shall then begin the process outlined in [Section E., Presumptive Parole Process Hearing at Minimum Release Date and DOC Recommendations.](#)

- b. If the individual meets the criteria for the standard parole process, staff shall then begin the process outlined below in [Section D., Standard Parole Process Hearings at Minimum Release Date and DOC Recommendations](#).
3. If an individual's minimum sentence is shorter than 90 days, DOC staff shall concurrently prepare for release on furlough while pursuing parole eligibility.

**B. Eligibility for the Standard Parole Process**

1. The assigned CSS, or designee, shall use the following criteria to determine if an incarcerated individual is eligible for the standard parole process:
  - a. Individuals are eligible for parole consideration at or after their minimum release date.
  - b. Incarcerated individuals with a zero minimum sentence are eligible for parole consideration anytime within 12 months after commitment to the Commissioner of Corrections.
  - c. The assigned CSS, or designee, shall submit the parole summary within 30 days of sentencing for incarcerated individuals who are newly sentenced and past their minimum sentence after credit is applied.
  - d. Individuals serving a sentence for a sexual offense who are designated high-risk pursuant to 28 V.S.A. § 204b are not eligible for a parole hearing until the expiration of 70 percent of their maximum sentence for the qualifying offense.
  - e. Any individual serving a sentence for a sex offense who is otherwise eligible for a parole hearing shall not be recommended for parole without approval through a case staffing determination.
2. The assigned PPO, or designee, shall use the following criteria to determine if a supervised individual is eligible for the standard parole process:
  - a. Supervised individuals are eligible for parole consideration once they have reached their minimum release date.
  - b. Supervised individuals with a zero minimum sentence are eligible for parole consideration anytime within 12 months after commitment to the Commissioner of Corrections.

- c. The assigned PPO, or designee, shall submit the parole summary within 30 days of sentencing for supervised individuals who are newly sentenced and past their minimum sentence after credit is applied.
- d. Any individual supervised for a sex offense who is otherwise eligible for a parole hearing shall not be paroled without approval through a case staffing determination.

**C. Eligibility for the Presumptive Parole Process**

1. An incarcerated individual is eligible for the presumptive parole process review if they meet the criteria for the standard parole process and:
  - a. Are at their initial minimum release date of their current sentence (Incarcerated individuals are not eligible for the presumptive parole process after their minimum release date has passed if they were not eligible for a parole hearing at the time.);
  - b. Have not acquired a new criminal conviction while incarcerated or on supervision for the current sentence;
  - c. Have no outstanding warrants, detainers, commitments, or pending charges;
  - d. Have been compliant with required programming:
    - i. For the past 90 days; or
    - ii. Throughout their incarceration, if they have been incarcerated for less than 90 days;
  - e. Have no major disciplinary rule violations, pending or adjudicated:
    - i. For the past 12 months; or
    - ii. Throughout their incarceration, if incarcerated for less than 12 months;
  - f. Have not had parole revoked on their current sentence; and
  - g. Are not serving a sentence for committing a crime specified in 33 V.S.A. § 5204(a) (i.e., The Big 12).
2. A supervised individual on Pre-Approved Furlough (PAF) is eligible for the presumptive parole process if they meet the criteria for the standard parole process and:
  - a. Have not acquired a new criminal conviction while incarcerated or on supervision for the current sentence;
  - b. Have no outstanding warrants, detainers, commitments, or pending charges;

- c. Have been compliant with their conditions of supervision:
  - i. For the past 90 days; or
  - ii. Throughout their supervision, if they have been supervised for less than 90 days;
- d. Have not had parole revoked on their current sentence; and
- e. Are not serving a sentence for committing a crime specified in 33 V.S.A. § 5204(a) (i.e., The Big 12).

**D. Standard Parole Process Hearings at Minimum Release Date and DOC Recommendations**

1. The appropriate CSS or PPO shall submit the parole summary (including recommended special conditions requested by the DOC) to the Parole Board:
  - a. 60 days prior to the individual's minimum release date; or
  - b. For individuals who have met their minimum sentence when credit is applied are eligible for parole consideration, within 30 days of sentencing.
2. Staff shall provide a positive recommendation for parole in the following situations:
  - a. If DOC would otherwise release the incarcerated individual on Community Supervision Furlough (CSF), in accordance with the policy on community supervision. This includes:
    - i. Following an interrupt or reincarceration; and
    - ii. If the individual did not meet the presumptive parole process eligibility criteria;
  - b. For individuals on PAF who have reached their minimum release date but do not meet the presumptive parole process eligibility criteria for parole;
  - c. For individuals seeking supervision in another state, in the following circumstances:
    - i. The individual is accepted by a receiving state for an out of state placement through the Interstate Compact for Adult Offender Supervision (ICAOS); or
    - ii. The individual can be paroled to another state or Federal authority, if:
      - a) They meet parole requirements in Vermont;
      - b) The other authority has filed a detainer with DOC; and

- c) If sentenced in the other state or Federal authority, the sentence is concurrent to the Vermont sentence;
    - d. For individuals with Release Sensitive Notification (RSN) cases or individuals supervised for a sex offense (including previous convictions) if they:
      - i. Are eligible for parole (as defined in the sections above);
      - ii. Meet the requirements for their current status; and
      - iii. Are approved for parole by the Central Case Staffing Committee.
  - 3. If the individual meets the criteria above, but there is an identifiable public safety concern, staff shall submit a central case staffing requesting approval to submit a negative recommendation.
  - 4. For individuals sentenced to SCS who have reached their minimum, staff shall provide the following recommendations:
    - a. A recommendation for discharge, if they have successfully completed all conditions imposed by the court and are compliant with community supervision on their SCS sentence. This recommendation shall include a request to the Parole Board that if the individual is not discharged, they be placed on parole; or
    - b. A positive recommendation for parole, if they have not successfully completed all conditions.

**E. Presumptive Parole Process Hearing at Minimum Release Date and DOC Recommendations**

- 1. The presumptive parole process is the same as the standard parole process, with the following exceptions:
  - a. The appropriate CSS or PPO shall submit the parole summary to the Parole Board for each individual who meets the presumptive parole process eligibility criteria, including eligible individuals for whom the DOC is not recommending parole.
  - b. If an individual referred for parole through the presumptive parole process becomes ineligible based on the criteria outlined above after the referral is made, the DOC will notify the Parole Board by updating the hearing type in the parole summary and communicating with Parole Board staff.
- 2. When providing recommendations for individuals using the presumptive parole process, staff shall provide a positive recommendation for parole for:

- a. Incarcerated individuals eligible for release on CSF, in accordance with the policy on community supervision; or
  - b. Supervised individuals on PAF.
3. When providing recommendations for individuals using the presumptive parole process, staff shall not recommend parole for incarcerated individuals who are centrally case staffed to remain incarcerated past their minimum release date.
4. The Central Case Staffing Determination Committee shall review all cases:
  - a. Of individuals serving a sentence or supervised for a sex offense who meet the presumptive parole process eligibility; or
  - b. In which there may be reason to not recommend parole for an individual who meets the presumptive parole process eligibility if, based on clear and convincing evidence, there is a reasonable probability there is an identifiable public safety concern.

**F. Subsequent Consideration for Parole**

1. For individuals under the custody or supervision of the DOC who have been denied parole at their minimum release date, the Parole Board will:
  - a. Interview the individual at anytime, at the request of the DOC;
  - b. Review the individual's record annually; and
  - c. Interview the individual annually, upon the individual's written request.
2. PPOs shall submit a parole summary for supervised individuals on PAF, or CSF at their annual review, and provide a positive parole recommendation if the individual has not been determined to have committed a significant violation since their last review.
3. When eligible for subsequent or annual review, the appropriate CSS or PPO shall submit the parole summary (including recommended special conditions requested by the PPO) to the Parole Board 30 days in advance of the review date.
4. Staff shall submit a positive parole recommendation for the following:
  - a. Eligible individuals, excluding individuals serving a sentence or supervised for a sex offense, in the following circumstances:
    - i. The individual is accepted by a receiving state for an out of state placement through the Interstate Compact for Adult Offender Supervision (ICAOS); or

- ii. The individual can be paroled to another state or Federal authority, if:
    - a) They meet parole requirements in Vermont;
    - b) The other authority has filed a detainer with DOC; and
    - c) If sentenced in the other state or Federal authority, the sentence is concurrent to the Vermont sentence;
5. Staff shall submit a positive parole recommendation for individuals with Release Sensitive Notification (RSN) cases, or cases that require the individual to register as a sex offender (including previous convictions), if they:
  - a. Are eligible for parole (as defined in the sections above);
  - b. Meet the requirements for their current status; and
  - c. Are approved for parole by the Central Case Staffing Determination Committee.
6. For individuals sentenced to SCS who were continued on that status past their minimum release date, staff shall submit a recommendation for discharge when they have successfully completed all conditions imposed by the court and are compliant with community supervision on their SCS sentence. This recommendation shall include a request that the Parole Board place the individual on parole if they are not discharged from SCS.

**G. Victim Notification**

1. Staff shall follow the victim notification procedures outlined in the DOC policy on victim/survivor services and support.
2. The Parole Board may decide to have a hearing in cases referred for an administrative review based on the presumptive parole process if it determines that there is a victim(s)/survivor(s) who should have the opportunity to participate in a parole hearing. In such circumstances:
  - a. The Board notifies the DOC that a hearing will be held; and
  - b. DOC staff shall notify the victim(s)/survivor(s) and, if they wish to participate in the parole hearing, make arrangements with the Parole Board, in accordance with the policy on victim/survivor services and support.



## **H. Waivers**

Individuals under the custody or supervision of DOC shall complete the appropriate waiver of parole consideration hearing/review form if they do not wish to attend the Parole Board hearing at their minimum release date.

1. The individual should provide a reason on the form explaining why they are waiving their hearing.
2. Waivers may be issued only when the individual indicates an unwillingness to accept parole or declines to be interviewed by the Parole Board.
3. Staff shall encourage all eligible individuals under the custody or supervision of the DOC to meet with the Parole Board.