

STATE BOARD OF PARDONS AND PAROLES



NOTICE OF INTENT TO CONSIDER AMENDING AN AGENCY RULE

Synopsis

The Board finds that its Rule 475-3-.05 regarding Parole Consideration, specifically paragraphs five, and eight through 19, is in need of revision to provide a new Guidelines System, make grammatical changes, and renumber paragraphs. The Guidelines system will be changed to contain a separate risk assessment tool for males and females; the factors used by the Board to determine an offender's risk to re-offend will also change and include whether the current primary conviction is for a property offense, whether the current prison admission type is for a parole or probation revocation, the number of felony and misdemeanor arrests prior to the current prison episode, age of offender at current prison admission, and whether the offender has ever received a disciplinary report for a violent act during any incarceration period with the Georgia Department of Corrections. The risk assessment tool for males will include an additional factor of whether the offender has been validated by the Georgia Department of Corrections to be a gang member. Each factor has an assigned weight that will be used to calculate the risk to re-offend score. The risk to re-offend score will range from zero to one.

The months-to-serve recommendations will change for Crime Severity Levels ("CSL") five, six, and seven. The following offenses will be downgraded in CSL: burglary of an unoccupied or vacant dwelling, probation revocation for a level eight offense, and identity fraud. The following offenses will be upgraded in CSL: homicide by vehicle (not DUI or habitual violator) and possession of illegal weapon or explosives. The following crimes will be assigned the following respective CSL: trafficking in sexual/labor servitude where the victim is under the age of 18 and there is coercion or deception (CSL eight); trafficking in sexual/labor servitude where victim is developmentally disabled (any age) (CSL eight); trafficking in sexual/labor servitude with no coercion or deception (any age) (CSL seven); pimping or pandering a child under the age of 16 (CSL seven); pimping or pandering a child age 16 or 17 (CSL six); criminal street gang activity (CSL five); possession of a firearm by a convicted felon under active supervision (CSL four); possession of a firearm by a convicted felon (CSL three); and possession of a firearm during the commission of a crime (CSL two).

Therefore, in accordance with the Board's grant of authority pursuant to the Georgia Constitution, and in accordance with O.C.G.A. § 42-9-45 and O.C.G.A. § 50-13-4, notice is hereby given to the public of the Board's intent to amend paragraphs five, and eight through 19 of Rule 475-3-.05 pertaining to Parole Consideration.

Proposal

Note: Lined through text is proposed to be deleted and underlined text is proposed to be added.

Pursuant to the provision(s) of the Administrative Procedures Act, notice is hereby given to all interested persons that the State Board of Pardons and Paroles proposes to amend paragraphs five, and eight through 19 of Rule 475-3-.05 pertaining to Parole Consideration as follows:

475-3-.05 Parole Consideration

(5) In considering parole for persons who will become statutorily eligible for parole consideration and who are serving less than a life sentence, the Board shall review a recommendation as to months to serve. This recommendation will be obtained from the Parole Decision Guidelines system which accounts for the severity of the crime and the inmate's risk to re-offend. The inmate's risk to re-offend is measured by weighted factors concerning the inmate's criminal and social history which the Board has found to have value in predicting the probability of further criminal behavior. The Parole Decision Guidelines System is an aid to the Board in making more consistent, soundly based and explainable parole decisions and does not create a liberty interest. The Board specifically reserves the right to exercise its discretion under Georgia Law to disagree with the recommendation resulting from application of the Parole Decision Guidelines and may make an independent decision to deny parole or establish a Tentative Parole Month at any time prior to sentence expiration. After the Board notifies the inmate of their decision, the inmate may contest either the Crime Severity Level or Risk to Re-Offend scores by writing within 30 days the Parole Guidelines Subject Matter Expert in the Board's Central Office. Prior to an inmate being paroled, the inmate's institutional conduct will be reviewed and institutional misconduct may result in a delay in parole release or a decision to deny parole. Any decision rendered under the Parole Decision Guidelines may be changed at the discretion of the Board at any time. The Board may modify any part of the Parole Decision Guidelines system at any time.

(8)(a) The Parole Board will use the following factors to compute a Risk to Re-Offend Score for each male inmate it considers for parole using its Parole Guidelines System.

(b) Number of Felony Convictions: (none = 0 pts.), (1-2 = 1 pt.), (3 = 2 pts.), (4-5 = 3 pts.), (6-7 = 4 pts.), (8 = 5 pts.), (9 or more = 6 pts.). Current Prison Conviction Primary Offense: Property (weight: 0.334): (no = 0), (yes = 1)

(c) Number of Prior Prison Incarcerations: (none = 0 pts.), (1 = 1 pt.), (2 = 3 pts.), (3 = 4 pts.), (4 or more = 6 pts.). Current Prison Admission Type: Parole/Probation Revocation (weight: 0.284): (no = 0), (yes = 1)

(d) Current Prison Sentenced Offenses (score is cumulative) includes: (offense(s) not listed = 0 pts.), (burglary = 1 pt.), (drug possession = 1 pt.), (forgery = 2 pts.), (felony obstruction of an officer = 3 pts.), (theft = 5 pts.). Number Felony Arrest Events before Current Prison Episode (weight: 0.105): (# of prior arrests times weight = score)

(e) Age at Current Prison Admission: (20 or less = 0 pts.), (more than 20 to 40 = minus 1 pt.), (more than 40 = minus 2 pts.). Number Misdemeanor Arrest Events before Current Prison Episode (weight: 0.062): (# of prior arrests times weight = score)

(f) History of drug or alcohol abuse: (no = 0 pts.), (yes = 2 pts.). GDC Validated Gang Member (weight: 0.308): (no = 0), (yes = 1)

(g) Employed at time of current arrest: (no = 0 pts.), (yes = minus 3 pts.). Age at Current Prison Admission (weight: -0.060): (age in years times weight = score)

(h) GDC Violent DR Charge During any Incarceration Period (weight: 0.369): (no = 0), (yes = 1)

(9)(a) The Parole Board will use the following factors to compute a Risk to Re-Offend Score for each female inmate it considers for parole using its Parole Guidelines System.

(b) Current Prison Conviction Primary Offense: Property (weight: 0.443): (no = 0), (yes = 1)

(c) Current Prison Admission Type: Parole/Probation Revocation (weight: 0.535): (no = 0), (yes = 1)

(d) Number Felony Arrest Events before Current Prison Episode (weight: 0.067): (# of prior arrests times weight = score)

(e) Number Misdemeanor Arrest Events before Current Prison Episode (weight: 0.085): (# of prior arrests times weight = score)

(f) Age at Current Prison Admission (weight: -0.042): (age in years times weight = score)

(g) GDC Violent DR Charge During any Incarceration Period (weight: 0.471): (no = 0), (yes = 1)

(9)10(a) Offenders considered for parole using the Parole Decision Guidelines System who have been convicted of the following crimes shall be assigned a Crime Severity Level of VIII: voluntary manslaughter, statutory rape, homicide by vehicle while under the influence of alcohol/drugs or as a habitual traffic violator, aggravated battery on a police officer, aggravated assault on a police officer, attempted rape, involuntary manslaughter, hijacking a motor vehicle, criminal attempt to murder, aggravated assault (with injury or weapon), enticing a child for an indecent purpose, cruelty to children, child molestation, feticide by vehicle, incest, bus hijacking, robbery, aggravated stalking, aggravated battery, burglary of an occupied, ~~unoccupied, or vacant~~ dwelling, trafficking in sexual/labor servitude victim under age 18 (coerced or deceived), trafficking in sexual/labor servitude victim developmentally disabled (any age), VGCSA – Cocaine or Methamphetamine –400 or more grams, VGCSA – Marijuana – 10,000 or more pounds, or VGCSA – Opiates– 28 or more grams.

(b) Crime Severity Level VIII offenders with a Risk to Re-Offend Score of ~~seven or more~~ 0.659934 to 1.00 for men, 0.559960 to 1.00 for women, shall receive a Parole Guidelines recommendation of 90% of the prison sentence.

(c) Crime Severity Level VIII offenders with a Risk to Re-Offend Score of ~~three to six~~ 0.478295 to 0.659933 for men, 0.391979 to 0.559959 for women, shall receive a Parole Guidelines recommendation of 75% of the prison sentence.

(d) Crime Severity Level VIII offenders with a Risk to Re-Offend Score of ~~two or less~~ 0.00 to 0.478294 for men, 0.00 to 0.391978 for women, shall receive a Parole Guidelines recommendation of 65% of the prison sentence.

(10)11(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of VII: attempted aggravated child molestation, attempted armed robbery, attempted kidnapping, attempted aggravated sexual battery, attempted aggravated sodomy, pimping or pandering a child under the age of ~~18~~16, RICO, ~~probation revocation based on a Level VIII offense, or~~ probation revocation based on a Serious Violent Felony, or trafficking in sexual/labor servitude (any age and no coercion/deception).

(b) Crime Severity Level VII offenders with a Risk to Re-Offend Score of ~~seven or more~~ 0.659934 to 1.00 for men, 0.559960 to 1.00 for women, shall receive a Parole Guidelines recommendation of ~~60~~ 52 to ~~402~~ 96 months.

(c) Crime Severity Level VII offenders with a Risk to Re-Offend Score of ~~three to six~~ 0.478295 to 0.659933 for men, 0.391979 to 0.559959 for women, shall receive a Parole Guidelines recommendation of ~~48~~ 40 to 78 months.

(d) Crime Severity Level VII offenders with a Risk to Re-Offend Score of ~~two or less~~ 0.00 to 0.478294 for men, 0.00 to 0.391978 for women, shall receive a Parole Guidelines recommendation of ~~40~~ 38 to ~~60~~ 54 months.

(11)12(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of VI: VGCSA – Cocaine or Methamphetamine –200 to 399 grams, VGCSA – Marijuana – 2,000 to 9,999 pounds, or VGCSA – Opiates –0 to 27 grams, probation revocation based on a Level VIII offense, burglary of an unoccupied or vacant dwelling, pimping or pandering a child age 16 or 17, or homicide by vehicle (not DUI/habitual violator).

(b) Crime Severity Level VI offenders with a Risk to Re-Offend Score of ~~seven or more~~ 0.659934 to 1.00 for men, 0.559960 to 1.00 for women, shall receive a Parole Guidelines recommendation of ~~52~~ 48 to 78 months.

(c) Crime Severity Level VI offenders with a Risk to Re-Offend Score of ~~three to six~~ 0.478295 to 0.659933 for men, 0.391979 to 0.559959 for women, shall receive a Parole Guidelines recommendation of ~~40~~ 36 to 60 months.

(d) Crime Severity Level VI offenders with a Risk to Re-Offend Score of ~~two or less~~ 0.00 to 0.478294 for men, 0.00 to 0.391978 for women, shall receive a Parole Guidelines recommendation of ~~36~~ 34 to ~~52~~ 48 months.

~~(1213)~~(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of V: aggravated assault (no injury or weapon), arson I, possession of illegal weapon or explosives, criminal street gang activity, VGCSA - Cocaine or Methamphetamine - 28 to 199 grams, identity fraud, VGCSA – Marijuana – 10 to 1,999 pounds, manufacturing Methamphetamine – 2nd offense or child injured, VGCSA – Opiates – four grams or less, or VGCSA – Methamphetamine Trafficking – less than 200 grams.

(b) Crime Severity Level V offenders with a Risk to Re-Offend Score of ~~seven or more~~ 0.659934 to 1.00 for men, 0.559960 to 1.00 for women, shall receive a Parole Guidelines recommendation of ~~40~~ 36 to 60 months.

(c) Crime Severity Level V offenders with a Risk to Re-Offend Score of ~~three to six~~ 0.478295 to 0.659933 for men, 0.391979 to 0.559959 for women, shall receive a Parole Guidelines recommendation of 34 to ~~52~~ 48 months.

(d) Crime Severity Level V offenders with a Risk to Re-Offend Score of ~~two or less~~ 0.00 to 0.478294 for men, 0.00 to 0.391978 for women, shall receive a Parole Guidelines recommendation of ~~30~~ 32 to 40 months.

~~(1314)~~(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of IV: arson II – \$2,000, burglary – non-dwelling, over \$5,000 or six or more counts, ~~homicide by vehicle – not DUI/habitual violator~~, possession of a firearm by a convicted felon (under active supervision), identity fraud, manufacturing Methamphetamine – near a child, serious injury by vehicle, theft of vehicle – four or more counts or 4th or more offense, or VGCSA – sale/distribution/intent to sell Schedule I or II drugs – 3rd offense or greater.

(b) Crime Severity Level IV offenders with a Risk to Re-Offend Score of ~~seven or more~~ 0.659934 to 1.00 for men, 0.559960 to 1.00 for women, shall receive a Parole Guidelines recommendation of 28 to 38 months.

(c) Crime Severity Level IV offenders with a Risk to Re-Offend Score of ~~three to six~~ 0.478295 to 0.659933 for men, 0.391979 to 0.559959 for women, shall receive a Parole Guidelines recommendation of 24 to 34 months.

(d) Crime Severity Level IV offenders with a Risk to Re-Offend Score of ~~two or less~~ 0.00 to 0.478294 for men, 0.00 to 0.391978 for women, shall receive a Parole Guidelines recommendation of 22 to 26 months.

~~(1415)~~(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of III: burglary – non-dwelling – two to five counts - \$2,001 to \$5,000, credit card fraud– more than 10 counts or \$1,000, criminal damage – life in danger or over \$2,000, destroying or injuring police dog or horse, forgery I – over 10 counts or \$1,000, possession of a firearm by a convicted felon, manufacturing Methamphetamine – 1st offense, obstruction of officer, possession/theft of material to manufacture illegal drugs – 2nd offense, terroristic threat, theft – \$25,000 or more, theft of vehicle – for profit or 2nd and 3rd counts not for profit or 3rd offense, or VGCSA – 2nd sale

or 3rd or greater possession.

(b) Crime Severity Level III offenders with a Risk to Re-Offend Score of ~~seven or more~~ 0.659934 to 1.00 for men, 0.559960 to 1.00 for women, shall receive a Parole Guidelines recommendation of 26 to 32 months.

(c) Crime Severity Level III offenders with a Risk to Re-Offend Score of ~~three to six~~ 0.478295 to 0.659933 for men, 0.391979 to 0.559959 for women, shall receive a Parole Guidelines recommendation of 22 to 28 months.

(d) Crime Severity Level III offenders with a risk to Re-Offend Score of ~~two or less~~ 0.00 to 0.478294 for men, 0.00 to 0.391978 for women, shall receive a Parole Guidelines recommendation of 20 to 24 months.

~~(4516)~~(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of II: bad checks – \$2,000 or more, burglary – non-dwelling – \$300 to \$2,000 – one count, credit card fraud – 10 or ~~less~~ fewer counts or less than \$1,000, criminal damage II – \$300 to \$2,000, forgery I – 10 or ~~less~~ fewer counts or less than \$1,000, ~~possession of illegal firearm or explosives,~~ possession of a firearm during the commission of a crime, possession/theft of materials to manufacture illegal drugs – 1st offense, reckless conduct by HIV-infected person, theft – \$5,000 to \$24,999, theft of vehicle – not for profit – 2nd offense, VGCSA – possession – 2nd offense, or VGCSA – sale/intent to sell/distribution – 1st offense.

(b) Crime Severity Level II offenders with a Risk to Re-Offend Score of ~~seven or more~~ 0.659934 to 1.00 for men, 0.559960 to 1.00 for women, shall receive a Parole Guidelines recommendation of 24 to 28 months.

(c) Crime Severity Level II offenders with a Risk to Re-Offend Score of ~~three to six~~ 0.478295 to 0.659933 for men, 0.391979 to 0.559959 for women, shall receive a Parole Guidelines recommendation of 20 to 24 months.

(d) Crime Severity Level II offenders with a Risk to Re-Offend Score of ~~two or less~~ 0.00 to 0.478294 for men, 0.00 to 0.391978 for women, shall receive a Parole Guidelines recommendation of 18 to 22 months.

~~(4617)~~(a) Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for the following offenses shall be assigned a Crime Severity Level of I: bad checks – under \$2,000, burglary – non-dwelling, less than \$300 – one count, credit card theft, criminal interference with government property, escape – no weapon, aiding escape – no weapon, forgery II – 10 or ~~less~~ fewer counts or less than \$1,000, habitual violator, possession/passing forged prescriptions – 1st offense, possession of tools to commit a crime, theft – \$4,999 or less, theft of vehicle – not for profit – one count – 1st offense, or VGCSA – possession – 1st offense.

(b) Crime Severity Level I offenders with a Risk to Re-Offend Score of ~~seven or more~~ 0.659934 to 1.00 for men, 0.559960 to 1.00 for women, shall receive a Parole Guidelines recommendation of 20 to 26 months.

(c) Crime Severity Level I offenders with a Risk to Re-Offend Score of ~~three to six~~ 0.478295 to 0.659933 for men, 0.391979 to 0.559959 for women, shall receive a Parole Guidelines recommendation of 17 to 22 months.

(d) Crime Severity Level I offenders with a Risk to Re-Offend Score of ~~two or less~~ 0.00 to 0.478294 for men, 0.00 to 0.391978 for women, shall receive a Parole Guidelines recommendation of 15 to 19 months.

~~(4718)~~ Offenders considered for parole using the Parole Decision Guidelines System who are incarcerated for an offense or offenses not otherwise specified in this rule will be assigned the Crime Severity Level of the specified offense most similar to their most serious offense.

~~(4819)~~ Inmates serving prison sentences for sex crimes and crimes against minors will receive a

risk assessment evaluation prior to a final decision to grant parole to determine the likelihood that he or she will engage in another sex crime or a crime against a minor.

The State Board of Pardons and Paroles will receive views presented by interested parties and otherwise consider this amendment of its Agency Rules at its open meeting scheduled for 10:00 a.m. on Tuesday, April 11, 2017, in the Board's Hearing Room, 5th floor, 2 Martin Luther King, Jr. Dr., Atlanta, Georgia. Written comments regarding this matter should be forwarded to the Board's Legal Office at 2 M.L.K. Jr. Dr., Atlanta, Georgia 30334. If you have any questions, you should call the Board's Legal Office at 404.651.6671.

Citation of Applicable Authority: Ga.Const.1983 Art. 4, § 2, ¶ 2; O.C.G.A. § 42-9-1; and O.C.G.A. § 42-9-45.

This 8th day of March, 2017.

La'Quandra L. Smith, Esq.
Executive Secretary to the Board
Director of Legal Services