

**HOUSE JUDICIARY COMMITTEE
REPRESENTATIVE LAWRENCE R. KLEMIN, CHAIRMAN
JANUARY 6, 2021**

**STEVEN D. HALL, DIRECTOR TRANSITIONAL PLANNING SERVICES
NORTH DAKOTA DEPARTMENT OF CORRECTIONS & REHABILITATION
PRESENTING TESTIMONY HOUSE BILL 1070**

For the record, my name is Steven Hall, and I am the Director for Transitional Planning Services within the North Dakota Department of Corrections and Rehabilitation (DOCR). I am here to testify on behalf of the department in support of House Bill 1070, which amends Section 12-59-12 of the North Dakota Century Code.

Section 12-59-12 of North Dakota Century Code was enacted in 1963. It is one of only two sections in the original parole chapter that has never been amended or repealed. House Bill 1070 changes Section 12-59-12 in two material ways. First, it expands the Parole Board's authority to rescind parole. Second, it provides authority for the Parole Board to add, remove, or modify parole conditions during parole.

Expand Parole Board's Authority to Rescind Parole

Currently, the Parole Board has the authority to reconsider its action in granting parole prior to the release and final discharge from the penitentiary, which includes DOCR facilities, but does not include in-state or out-of-state correctional facilities outside the DOCR system, at which individuals may be incarcerated. House Bill 1070 modifies the language in Section 12-59-12 of the North Dakota Century Code to authorize the North Dakota Parole Board to rescind its action to grant parole at any time before an individual who has been granted parole has been released from a local correctional facility, a federal correctional facility, or a correctional facility of another state.

In one example, the Parole Board paroled an individual to his federal sentence. At the time of the parole review of his parole, the victim was not able to be located and, therefore, did provide information for the Parole Board to consider. After the individual was granted parole to his federal sentence, the victim contacted the Parole Board voicing opposition to placement on parole. Because the individual had been released and discharged from the North Dakota State Penitentiary, the Parole Board did not have the legal authority to reconsider the decision based on the new information, even though the individual was still incarcerated at a federal facility.

Allow the Parole Board to Add, Remove, and Modify Conditions of Parole

House Bill 1070 also authorizes the Parole Board to add, remove, or change conditions of parole at any time before the expiration or termination of parole. Unlike the State Court, which can add, remove, and modify conditions of probation, the Parole Board currently does not have a legal process to change conditions of supervision once the parolee has been released from a facility to start parole. When an individual has been released or discharged to parole supervision, the conditions of parole are set as ordered. At times, there are circumstances that warrant the review and modification of conditions previously ordered. Most often this is related to new information submitted by victims or families of parolees.

In one example, an individual was granted parole, and at the time of his review, the Parole Board did not include any restrictions on his contact with the victim in the case. After his parole release, however, the victim contacted the Parole Board requesting contact be prohibited due to his behavior while on parole. At the time, there is no legal process for the board to revise the conditions of parole once the individual has been released from the penitentiary.

To resolve this limitation, House Bill 1070 modifies the language of N.D.C.C. Section 12-59-12 to allow the Parole Board latitude to reconsider and modify parole conditions which will allow for a more individualized and victim sensitive approach in the parole review process. The parole board will develop policy and procedures to provide notification of rights to parolees, an opportunity to provide testimony to the board, and the ability to waive the review and agree to the modification of parole conditions.

Conclusion

In closing, House Bill 1070 will provide the North Dakota Parole Board authority to reconsider parole actions on individuals located in correctional facilities, not limited to just facilities within the North Dakota Department of Corrections and Rehabilitation. In addition, it will allow for modification of parole conditions after release with due process similar to that used by the State Courts for the modification of probation conditions. Although the DOCR does not anticipate the amendments in HB 1070 will be used frequently, they are important when needed and provide the Parole Board with some authority to remedy matters such as the examples provided.