Earned and Denied: A Framework for Statutory Reforms to the Illinois Parole System

by M. Small

Henry Dee was arrested for a double homicide in 1971. He maintained his innocence until his dying breath. He still spent nearly 50 years behind bars. Because he was unwilling to admit guilt nor express remorse, Dee was repeatedly denied parole. Finally, after over two dozen parole hearings and 48 years behind bars, Dee was released. After less than a year of freedom, however, Henry Dee died from complications of his diabetes.

Unfortunately, Henry Dee's story is not unique. Since he was sentenced before 1978, he received an indeterminate sentence of 100 to 200 years.[1] This class of inmates are known as "C-numbers" for the numbering scheme in place when most of them entered prison in the '70s.[2] The majority C-number inmates are now senior citizens - a class who pose very little risk of violent criminal behavior.[3] Even so, only about 6% of C-number inmates who came before the board were granted parole in the fifteen years preceding Henry Dee's hearing.[4]

I first learned about Henry Dee from an episode of NPR's show "This American Life." Before then, I was not knowledgeable about the Illinois parole system (or more fittingly, lack thereof). As I listened to reporter Ben Austen narrate the facts of the crime and the procedural history of Dee's incarceration, I became increasingly disturbed. How could a system that facially

[1] Ira Glass, *This is the Case of Henry Dee*, This American Life (Oct. 17, 2025), https://www.thisamericanlife.org/844/transcript.
[2] Emma Hoerner & Jeanne Kuang, *Aging Prisoners Left to Arbitrary Process to Win Release*, Injustice Watch (Oct. 2, 2017), https://www.injusticewatch.org/project/the-long-wait/2017/illinois-prisoner-review-board-aging-inmates-arbitrary/.
[3] *Id.*
[4] *Supra* note 1 ("the parole board only says yes to a tiny percentage-- in the 15 years before Dee's hearing, just 6% of them").

produces arbitrary and seemingly random outcomes persist for this long? And more than that, as someone so immersed in the legal field, how could I especially not have heard discussion about the shortcomings of our parole system. This frustration began my furious search for more information and remedies to the injustices perpetuated by the parole board.

I. Introduction

In 1978, the Illinois legislature established the Prisoner Review Board to replace the former Parole and Pardon board as the independent state body responsible for hearing arguments about clemency, parole, probation, and other categories of prisoner release. This paper will focus specifically on the Prisoner Review Board's powers and duties related to parole.[5]

Until 1978, all prisoners sentenced in Illinois received indeterminate sentences and were subject to a "discretionary parole system," with discretion in the hands of the Board.[6] Under this system, inmates were given sentences with ranges as extreme as 100 to 300 years and were left to sit in prison with no idea if or when they would be freed.[7] Because sentencing was so discretionary, concerns arose about the transparency and procedural fairness of the criminal justice system. These concerns led to sweeping criminal justice reforms, beginning with the establishment of the Illinois Department of Corrections (IDOC) in 1970 which separated the prison and parole systems from policing.[8]

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[5] Although Illinois has adopted a system of Mandatory Supervised Release (MSR), the term "parole" remains the colloquially used and commonly understood term for post-incarceration release. As such, I will use the term parole in this paper, but it is not intended to reflect a technical equivalence between the two terms.

[6] Ill. Prisoner Rev. Bd., *Indeterminate Parole Hearing Information* (last visited Mar. 14, 2026) https://prb.illinois.gov/op-and-hearing-info/interminate-hearing.html. *See also* Josh Tepfer, *The Story of Illinois C-Numbers*, The Exoneration Project, https://www.exonerationproject.org/stories/archives/the-story-of-illinois-c-numbers/.

[7] Josh Tepfer, *The Story of Illinois C-Numbers*, The Exoneration Project, https://www.exonerationproject.org/stories/archives/the-story-of-illinois-c-numbers/.

[8] Karl Gruschow, *Parole and Mandatory Supervised Release in Illinois: A Historical Review from 1895 to 2022*, Ill. Crim. Just. Info. And Auth., June 2, 2022, https://icjia.illinois.gov/researchhub/articles/parole-and-mandatory-supervised-release-in-illinois.

Next was the implementation of mandatory supervised release (MSR) in 1978 as a replacement for the parole system.[9] The critiques of MSR are numerous and legitimate, however, for the purposes here, I will focus on the ways it has impacted discretionary release. Specifically, I will focus on the effective removal of discretion from the parole process after the implementation of MSR. When MSR was implemented, the State legislature was most focused on remedying the uncertainties presented by indeterminate sentences. To address these concerns, the reforms made to parole were tailored to evening the playing field for inmates by removing discretionary power from the independent parole board. This power was transferred to judges and/or juries, who today hold almost all discretion in deciding the length of sentences as well as the amount of time spent on MSR.[10] Therefore, I propose abolishing Mandatory Supervised Release and re-introducing a universal parole system.

Historically, parole functioned as an opportunity for early release from prison. Now, inmates may only be released based on time earned for good behavior or in other limited circumstances, such as severe health needs. This entirely changed the system from being a "revocable reprieve from serving the full sentence," to one where inmates' sentences go unreviewed while they are locked up.[11] Scholars have found that the codification of sentencing minimums and maximums has led to the *de facto* end of risk assessment as a major consideration in parole decisions.[12] Prior to these reforms, risk assessment tools were key in considering whether

[9] *Id.*
[10] *Id.*
[11] *Id. See also* Emily Hays, *A Debate Class Could Change the Future of Parole in Illinois*, IPM News (Jan. 29, 2025), https://ipmnewsroom.org/a-debate-class-could-change-the-future-of-parole-in-illinois/.
[12] Karl Gruschow, *Parole and Mandatory Supervised Release in Illinois: A Historical Review from 1895 to 2022*, Ill. Crim. Just. Info. And Auth., June 2, 2022, https://icjia.illinois.gov/researchhub/articles/parole-and-mandatory-supervised-release-in-illinois.

an inmate was fit to be released on parole. Now, any potential for release is almost entirely prescribed by law, which has led to a sharp increase in prison populations.[13]

A. The Current Prisoner Review Board

The Prisoner Review Board is, according to statute, an independent body made up of fifteen members appointed by the Governor for 8-year terms.[14] All of the members are required to have at least five years of actual experience in a relevant field, such as penology, victim advocacy, sociology, law, medicine, or social work.[15] The board must also have at least 3 members with experience in "juvenile matters."[16] A total of 7 members must have experience in the criminal justice system as a law enforcement officer, parole officer, prosecutor, criminal defense attorney, or judge.[17] Lastly, no more than 8 of the members may be from the same political party.[18]

In reality, however, the composition of the Board is quite different. As of writing, there are only 9 members on the Board.[19] Three of the members have backgrounds in criminal defense and/or restorative justice work. The other six members' experience is in governmental work, prosecution, and law enforcement. The helm of the board is also vacant, as the previous chairman resigned after a high-profile murder committed by an inmate shortly after his release.[20] The makeup of the board has an immense impact on which factors the board emphasizes in their

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[13] *Id.* ("By 1987, the prison population had increased even further to reach its highest level relative to the population, at 19,928, or 174 persons per 100,000").
[14] 730 ILCS 5/3-3-1(c).
[15] 730 ILCS 5/3-3-1(b).
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] State of Ill. Prisoner Rev. Bd., *Board Members* (last visited Mar. 17, 2026), https://prb.illinois.gov/prbbdmem.html.
[20] Jerry Nowicki, Dilpreet Raju, *Pritzker Appoints Prisoner Review Board Director Following Controversy Over Release of Inmate Charged with Killing 11-Year-Old Boy*, WTTW (Apr. 16, 2024, 6:30 PM), https://news.wttw.com/2024/04/16/pritzker-appoints-prisoner-review-board-director-following-controversy-over-release ("The board currently has no chair, as the office's previous holder, Donald Shelton, resigned on March 25 [2024] along with board member LeAnn Miller").

evaluations. As will be discussed later, this effect is amplified by the courts' limited ability to meaningfully review the Board's decisions.

II. Issues

A. Pleading the Case Alone from Lockup

The right to counsel is one of the most foundational guarantees in the American legal system. This right is rooted in the recognition of the complex nature of legal proceedings and the power imbalance between the state and an individual defendant, especially considering the severe consequences the defendant faces. These concerns do not disappear at the prison gates – if anything, they intensify. Yet, in Illinois, inmates are not afforded the right to counsel, leaving them to navigate the quasi-judicial system alone from behind bars.

The burden of this deficiency falls especially heavily on inmates who have spent decades incarcerated. Such individuals have been, in every practical sense, severed from the financial and social resources that would aid in retaining an attorney. Long-term incarceration also exhausts whatever personal savings an individual once possessed; changes or destroys family and community relationships; and produces a degree of isolation that makes identifying qualified counsel an overwhelming task. This injustice is exacerbated by the Board's release criteria. As a part of the hearing, the Board evaluates the quality and concreteness of an inmate's reentry plan, which includes considering housing arrangements, employment prospects, and their support system. This triggers an impossible choice for inmates - divert their own already-scarce resources toward retaining counsel; burden their family or community who are expected to anchor their reentry with the fees; or represent themselves. Inmates are therefore forced to cannibalize the foundation of their reentry plan they are required to demonstrate as a precondition to effective advocacy.

1. One-Sided Right to Counsel

Pursuant to statute, a State's Attorney from the county where an eligible inmate was convicted is entitled to appear and argue against release.[21] The inmate, however, is not provided representation and must provide their own attorney if they want legal counsel for their hearing. The statute justifies this by asserting parole hearings are not an "adversarial proceeding," however the nature of all criminal proceedings is inherently adversarial between the state and an individual.[22] By only granting one side of the dispute a right to counsel, the State creates an additional hurdle to release for inmates. An Assistant State's Attorney appears before the Prisoner Review Board at every hearing armed with prosecutorial experience, familiarity with the Board's procedures, and the implicit credibility that comes with representing the State. An unrepresented inmate, no matter how articulate or genuinely rehabilitated, is an inherently weaker advocate for themselves. It would be naïve to suggest that Board members, no matter how much they may try, are immune from attaching different weights to the words of a trained legal professional on one side and those of *pro se* incarcerated person on the other. The legitimacy conferred by the presence of an attorney in an adversarial setting cannot reasonably be denied. Beyond mere preparation, a skilled attorney brings with them the ability to anticipate and rebut the State's objections, present the inmate's history in the most persuasive light, and ensure any procedural irregularities or errors are challenged. The absence of counsel cannot be chalked up to a formal inequality – it directly contradicts the Board's own stated mission of making individualized and accurate assessments of an inmate's readiness for release.

[21] 20 Ill. Adm. Code 1610.40(c)(1).
[22] 20 Ill. Adm. Code 1610.40(a) ("The [adult parole] hearing is not an adversarial proceeding").

B. Factors the Board May Consider

When the Prisoner Review Board was established, the legislature included a list of the factors the Board may consider when deciding whether to grant or deny parole.[23] The statute explicitly instructs that no one factor shall be dispositive.[24] While many of these factors are not problematic, such as permitting consideration of character references and involvement in rehabilitation programs, this is not the case for all factors. I will specifically focus on the two factors which have laid the foundation for many denials. First, I will discuss the implications of the Board's consideration of the "circumstances of the offense," and the inmate's degree of involvement in the commission of the crime.[25] This factor essentially enables the Board to effectively relitigate the case, absent the rules and procedures a judge and the court must follow. Next, I will analyze the denials based on the Board's consideration of "the presence or expression by the petitioner of remorse, compassion, or insight of harm and collateral effects experienced by the victims."[26] On paper, this appears to be a logical aspect of an inmate's case to consider. In practice, consideration of this factor directly causes inmates who assert innocence to be denied parole for their lack of remorse.

1. Severity of the Original Offense

Members of the Prisoner Review Board routinely cite the most heinous facts underlying an inmate's conviction as a primary reason for voting to deny parole. Many Board members have spoken freely about their opinions on the importance of considering these facts when making parole decisions. Experts, on the other hand, have raised concerns about parole boards being permitted to consider the underlying crime. These scholars argue that the very purpose of parole

[23] 730 ILCS 5/3-3-5(c-1).
[24] *Id.*
[25] 730 ILCS 5/3-3-5(c-1)(6).
[26] 730 ILCS 5/3-3-5(c-1)(10).

is to encourage growth, change, and rehabilitation in inmates. Experts argue that consideration of the underlying facts, especially decades after the crime, diminishes inmates' motivation to make necessary changes.[27]

Contrary to these criticisms, many Board members maintain that the underlying facts of the case are an important, if not the most important, factor in deciding whether release is proper. One such former Board member, Pete Fisher, told NPR that the severity of the underlying crime is always what is most important to him, "no matter how much time has passed or how much someone has accomplished in prison."[28] Fisher's penal mindset is undoubtedly a result, at least in part, of his experience as a police chief in central Illinois.[29] Of the 191 cases presented to the Board during his tenure, Fisher only voted in favor of parole once.[30] Fisher was not alone in this habit – between 2013 and 2019, eight of the board members voted "no" on release in 80% of the cases presented to them.[31] Even former Board member, Edith Crigler, a social worker known during her tenure as the member most likely to vote in favor of release, only supported parole in 32.5% of cases.[32]

By considering the severity of the initial crime, the Board also undermines the finality of judicial sentencing and converts the parole hearing into a redundant, re-litigation of the facts, as opposed to an evaluation of an individual's rehabilitation and risks. When the Illinois Prisoner Review Board was created, the legislature intentionally diverted sentencing power from the

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[27] Jorge Renaud, *Grading the Parole Release Systems of All 50 States*, Prison Pol'y Initiative (Feb. 26, 2019), https://www.prisonpolicy.org/reports/grading_parole.html.
[28] Ira Glass, *This is the Case of Henry Dee*, This American Life (Oct. 17, 2025), https://www.thisamericanlife.org/844/transcript.
[29] *Id.*
[30] Emily Huerner & Jeanna Kuang, *Prisoner Review Board Routinely Rejects Parole, 1 Member Nearly Always Saying No*, Chi. Sun Times (Jul. 27, 2018), https://chicago.suntimes.com/2018/7/27/18338799/prisoner-review-board-routinely-rejects-parole-1-member-nearly-always-saying-no.
[31] *Id.*
[32] *Id.*

paroling entity. In so doing, the legislature consciously "allowed almost no discretion by anyone besides the trial judge and the jury."[33] Unlike at parole hearings, judges and juries are limited to considering proper and admissible evidence. Only after such evaluation can the court impose a sentence they deem fit. By revisiting the same facts, the Board effectively transforms parole into a second sentencing proceeding. This is especially concerning since the Board is not bound by the same strict evidentiary rules imposed in Court.[34] Rather, the Board will consider all evidence presented to them at a hearing, unless it is "cumulative, repetitive or inherently unreliable."[35] Therefore, not only can individuals seeking parole be forced to re-litigate their case, but they can legally be faced with facts or testimony that never arose in their underlying trial. This directly contradicts the purpose of parole: to assess rehabilitation and *current* risk, not to repeatedly punish the same alleged, years-past conduct.

Even if the statute is amended to instruct Board members not to consider the offense severity, current procedures make that instruction unrealistic. Rather than having the inmate present their own case to the Board, one member conducts an interview with the inmate and presents their findings and recommendation to their fellow board members at the hearing.[36] This presentation typically involves a discussion of the facts of the original crime as told by both the police and the inmate. This presentation occurs at the beginning of the hearing, so the details of the crime are the first facts heard by the Board members. After this presentation, an Assistant State's Attorney will argue against release and will likely also include facts from the case to bolster their argument. This process serves to refresh the Board's memories and center the facts of the crime shortly before the time of decision-making. Even if members are formally discouraged from

[33] *Supra* note 8.
[34] 20 Ill. Adm. Code 1610.40(b)(2).
[35] *Id.*
[36] 20 Ill. Adm. Code 1610.40(a).

considering these facts in their decision, the procedure creates a strong cognitive bias toward weighing those facts. To truly reform the parole system, both procedural and doctrinal amendments are necessary.

2. Expressions of Remorse

Even more concerning is the Board's reliance on subjective emotional judgments, such as expressions of remorse. Statute instructs Board members to consider expressions of "remorse, compassion, or insight of harm and collateral effects experienced by the victims."[37] This instruction is taken seriously by Board members, some of whom have expressed the unique importance of this factor. Ben Austen reported for This American Life that when he attended the parole hearing for Henry Dee, the Board openly wrestled with the inmate's refusal to accept fault and express remorse for the crime he was accused of.[38] Henry Dee never wavered from his assertion of his innocence. Aviva Futorian offered additional insight to Dee's innocence.[39] Futorian recalls learning from a prison guard at Stateville, where Dee was held, that Dee was committed to his actual innocence claim.[40] The guard expressed his concern to Futorian that Dee would never be released if he continued asserting his innocence.[41] The guard expressed his hope that she could convince Dee to change his tune. Futorian tried to do just that – she made a legal call to Henry Dee to caution him that, in her experience, "there was a good chance he would not get out if he didn't acknowledge his guilt."[42] Dee did not waiver. He told Futorian that he understood the

[37] 730 ILCS 5/3-3-5(c-1)(10).
[38] Ira Glass, *This is the Case of Henry Dee*, This American Life (Oct. 17, 2025), https://www.thisamericanlife.org/844/transcript.
[39] *Id.*
[40] *Id.*
[41] *Id.*
[42] *Id.*

consequences of maintaining his innocence, but that he could not admit to a crime he did not commit.[43]

The story of Henry Dee's co-defendant, James Sayles, demonstrates the cruel paradox at the heart of the remorse standard with devastating clarity. Like Dee, Sayles initially proclaimed his innocence and received the same unforgiving response from the Board. But while Dee held firm, Sayles eventually relented and admitted guilt. Shortly after expressing the remorse the Board demanded, Sayles was released on parole.[44] Through these two men, the system sent a clear message - confession is the price of freedom.

By allowing the Board to consider expressions of remorse, or lack thereof, the parole system effectively penalizes inmates maintaining actual innocence. Injustice Watch, an Illinois-based nonprofit investigating the State's judicial system, found that no matter how rehabilitated an inmate may be, "prisoners who fail to show remorse and regret are unlikely to be granted parole, even if they have maintained for decades that they did not commit the crime."[45] Within this system, an inmate who cannot demonstrate remorse without first abandoning their claim of innocence is effectively forced to choose between their liberty and telling the truth. When parole becomes a mechanism which encourages or, more accurately, coerces, innocent people to plead guilty, it calls into serious question the integrity of every conviction that results from that pressure.

C. Parole Denied – Now What?

Yet another concerning aspect of the Prisoner Review Board is the insulation of their decisions from judicial review. Although the Board performs adjudicatory functions, its decisions

[43] *Id.*
[44] *Id.*
[45] Emily Hoerner & Jeanne Kuang, *Aging Prisoners Left to Arbitrary Process to Win Release*, Injustice Watch (Oct. 2, 2017), https://www.injusticewatch.org/project/the-long-wait/2017/illinois-prisoner-review-board-aging-inmates-arbitrary/.

are largely exempt from substantive review by Courts. This allows the Board to rely on misinformed or improper reasoning to deny parole, while also denying any avenue to challenge those decisions. The lack of judicial oversight is no accident; rather, it is a structural feature that concentrates discretion in the Prisoner Review Board without the scrupulous review ordinarily associated with deprivations of liberty. Furthermore, this insulation contradicts the legislative intent to reallocate discretion to judges and juries. As it stands, the system poses significant threats to inmates' rights to fair decisions which align with the rule of law.

1. No Right to Release…

The Supreme Court has held that individuals do not have an inherently protected liberty interest in parole, unless such an interest is created by the State.[46] The state has no duty to establish a parole system, nor any duty to release any inmate before the end of their legally-imposed sentence.[47] Without an established liberty interest, the US Supreme Court has explained that a prisoner's asserted interest in release as "no more substantial that the inmate's hope that he will not be transferred to another prison, a hope which is not protected by due process."[48]

In *Greenholtz*, an inmate argued that the Nebraska statutory language controlling parole was sufficient to establish a protected liberty interest in release. The relevant statute provided that whenever the Board considered release on parole, "it *shall* order his release unless it is of the opinion that his release should be deferred because" of the listed criteria.[49] The prisoner asserted that the use of the word "shall" bound the Board to release the inmate unless any of the four

[46] *See Greenholtz v. Inmates of Neb. Penal & Correctional Complex*, 442 U.S. 1, 7 (1979) ("There is no constitutional or inherent right of a convicted person to be conditionally released before the expiration of a valid sentence"). *See also Board of Pardons v. Allen*, 482 U.S. 369, 371 (1987) ("…despite the necessarily subjective and predictive nature of the parole-release decision, state statutes may create liberty interests in parole release that are entitled to protection under the Due Process Clause") (internal citation omitted).
[47] *Greenholtz*, 442 U.S. at 11.
[48] *Id.* (citing *Meachum v. Fano*, 427 U.S. 215, 225 (1976), *Montanye v. Haymes*, 427 U.S. 236 (1976)).
[49] *Greenholtz*, 442 U.S. at 11 (emphasis added).

specifically listed reasons were in existence.[50] The Court "[accepted] respondents' view that the expectancy of release provided in this statute is entitled to some measure of constitutional protection," but emphasized that each state's statute(s) must be reviewed on a case-by-case basis.[51] Moreover, the Court distinguished between two types of discretion a parole board may have. First, a Board may be granted discretion to parole whomever they want without being bound by any set standards or authority. The Court held that a statute which provides for this type of discretion does not create a liberty interest. Alternatively, a Board may be granted discretion to use their judgment in applying the standards set forth by the statute. Where this type of discretion is "not incompatible with the existence of a liberty interest in parole release when release is *required* after the Board determines (in its broad discretion) that the necessary prerequisites exist."[52]

The Supreme Court returned to this issue roughly a decade later in its consideration of the Montana parole statute. In *Allen*, the inmate argued the statutory language providing a prisoner "*shall* be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen," created a liberty interest protected under the Due Process Clause of the Fourteenth Amendment.[53] The Court primarily focused on the mandatory language ("shall") in reaching their decision. The Court held that the use of such language "creates a presumption that parole release will be granted," as was held in *Greenholtz*.[54]

Unlike in *Greenholtz* and *Allen*, inmates in Illinois seeking parole do not have a protected liberty interest. Rather, the Prisoner Review Board is granted discretion akin to the first definition offered in *Greenholtz*. The First District Court of Appeals addressed this issue in 1989 when an

[50] *Id.*
[51] *Id.* at 12.
[52] *Board of Pardons v. Allen*, 482 U.S. 369, 376 (1987).
[53] *Board of Pardons v. Allen*, 482 U.S. 369 (1987) (emphasis added).
[54] *Allen*, 482 U.S. at 379 (citing *Greenholtz*, 442 U.S. at 12).

Illinois prisoner argued that his constitutional rights had been violated by the PRB's refusal to release him.[55] The Board argued that such a constitutional violation was impossible since Illinois prisoners have no protected interest in parole.[56] The Court agreed with the Board on this issue and held that, pursuant to the Uniform Code of Corrections, the Board has "complete discretion to determine whether a prisoner is eligible for parole."[57] The Illinois Supreme Court re-affirmed this holding in 2019 when presented with a similar issue. There, the Court explained that by centering the language of a particular regulation in an inquiry about liberty interests, prisoners are encouraged to seek out "mandatory language on which to base entitlements to various state-conferred privileges."[58] The key phrase here is "state-conferred privileges," since this underscores the concept that, absent specific language, inmates have no constitutionally protected interest in release on parole.

2. … Nor Right to Review

As discussed, the procedures of the Illinois Prisoner Review Board are quasi-judicial in nature. The decisions reached by the Board, however, are treated as discretionary, non-reviewable administrative determinations. This disconnect leaves inmates who are denied parole few options aside from repeatedly filing petitions for release as often as the statute allows.

The issue of judicial review of parole decisions was first considered by the Illinois Supreme Court in 1996 when an inmate sought a civil writ of *certiorari* to review the Board's denial of parole.[59] Homer Hanrahan had served roughly 20 years of his sentence when he petitioned the Board for his parole in June 1993.[60] His petition was ultimately denied by the Board.[61] Hanrahan

[55] *Crump v. Illinois Prisoner Review Bd.*, 181 Ill. App. 3d 58, 61 (1st Dist. 1989).
[56] *Id.*
[57] *Crump*, 181 Ill. App. 3d at 62 (citing Ill. Rev. Stat. 1987, ch 38, par. 1003 – 3 – 4).
[58] *Fillmore v. Taylor*, 2019 IL 122626, ¶42 (quoting in part *Sandin v. Conner*, 515 U.S. 472, 481 (1995).
[59] *Hanrahan v. Williams*, 174 Ill. 2d 268, 270 (1996).
[60] *Id.*
[61] *Id.*

filed an amended complaint thereafter which included a request to the Circuit Court for a writ of *certiorari* to review the Board's denial.[62] While the Court acknowledged that a writ of *certiorari* is generally a proper method for obtaining review by the Court of administrative actions, whether and to what extent an administrative decision is reviewable is a question of statutory interpretation.[63] The Court explained that judicial review is precluded if "the statute is drawn so that a court would have no meaningful standard against which to judge the agency's exercise of discretion."[64] To support its determination that the Board's decisions are not reviewable, the Court pointed to a few key pieces of the legislation. First, the Court cited the fact that the Board is authorized by law to promulgate its own rules regarding their conduct and exercise of discretion.[65] Second, the rules provide a list of factors the Board may consider, however the rules specifically provide that the Board is not limited to the consideration of only the listed factors.[66] Lastly, the Court highlighted the extremely limited list of scenarios in which the statute *requires* that parole be denied.[67] The Court held that, taken together, the Board's rules failed to provide "sufficiently objective" standards by which a Court could properly evaluate a Board decision.[68] Rather, the Court concluded the legislature intended for the Board to have "complete discretion" in making determinations as to parole.[69]

In *Hanrahan*, the Supreme Court addressed the Seventh Circuit Court of Appeals' inconsistent interpretation of the same laws. While noting that Illinois Courts are not bound by the Seventh Circuit's holdings, the Court nonetheless presented the Seventh Circuit's holding that the

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[62] *Id.*
[63] *Id.* at 272-73.
[64] *Hanrahan*, 174 Ill. 2d at 273-74 (quoting *Heckley v. Chaney*, 470 U.S. 821, 830 (1985)).
[65] *Hanrahan*, 174 Ill. 2d at 274.
[66] *Id.* at 275 (citing 20 Ill. Adm. Code § 1610.50(b) (1992-93)).
[67] *Hanrahan*, 174 Ill. 2d at 275 (citing 730 ILCS 5/3-3-5(c) (West 1992)).
[68] *Hanrahan*, 174 Ill. 2d at 276.
[69] *Id.*

Board is required to release an inmate who is eligible for parole unless one of the included reasons for required denial is present.[70] In *Scott*, the referenced Seventh Circuit case, the Court determined the statutory language could be interpreted in two ways: either *requiring* the Board to grant parole absent the presence of a condition which mandates denial, or as *providing discretion* to the Board absent such a condition.[71] The Seventh Circuit ultimately rejected the conclusion that the legislature intended to give the board freedom to exercise their discretion in making parole determinations so long as none of the conditions requiring denial were present.[72]

As support for its interpretation of the statutory language, the Illinois Supreme Court analogized the Board's decisions to the type of administrative decisions which are commonly deemed unreviewable in federal courts.[73] The unreviewable decisions cited by the Court only serve to highlight the injustices that result from withholding review. The Court first cited the Indian Health Service's decision to discontinue clinical programs for Indian children, which the Court found to be within the agency's discretion and not subject to review.[74] Next is a citation to the denial of review of the CIA director's discretionary decision to discharge an employee based on a determination that the employee's homosexuality posed a risk to national security.[75] Third, the Court cited the Court's denial of a death-row inmate's request for review of the Food and Drug Administration's decision not to take enforcement action against the use of untested chemicals in lethal injection executions.[76] Lastly, the Court offered the denial of review by the United States Information Agency's recommended denial of a waiver to the two-year foreign residency

[70] *Hanrahan*, 174 Ill. 2d at 277 (citing *United States ex rel. Scott v. Illinois Parole & Pardon Board*, 669 F.2d 1185, 1189 (7th Circ. 1982)).
[71] *Id.*
[72] *Id.*
[73] *Hanrahan*, 174 Ill. 2d at 279 (citing 5 U.S.C. § 701(a)(2) (1994)).
[74] *Hanrahan*, 174 Ill. 2d at 279 (citing *Lincoln v. Vigil*, 508 U.S. 182 (1993)).
[75] *Hanrahan*, 174 Ill. 2d at 279 (citing *Webster v. Doe*, 486 U.S. 592 (1988)).
[76] *Hanrahan*, 174 Ill. 2d at 279 (citing *Heckler v. Chaney*, 470 U.S. 821 (1985)).

requirement for a visa despite the immigrant's assertion of a fear of persecution if forced to return home.[77] Each of these cases illustrate of the dire consequences of insulating administrative decisions from external review. In the case of the Prisoner Review Board, denying judicial review largely forecloses inmates from lodging substantive challenges to their decisions.

The consequences of insulating the Prisoner Review Board are not merely hypothetical. First, denying judicial review leads to arbitrary and inconsistent decisions. Since the Board is not limited in what they may consider in each case, they may consider certain factors for a given petition which they ignore for another similar case. In some instances, the Board has expressed concern about the public's reaction to a certain inmate being released on parole.[78] The Board is also permitted to consider different factors each time an inmate reappears, even if the facts presented remain unchanged. The result of these varying considerations is a lack of predictability for inmates.

In response to such criticisms, Board members argue that parole decisions are inherently "dynamic" and fact-specific, and therefore variations in parole determinations will naturally occur.[79] The Board also tries to discourage comparison of outcomes for inmates whose cases appear factually similar, citing the fact that the public is not aware of all details in the "master file."[80] This argument falls flat, however, because state law prohibits the release of some key information in the file, such as the inmate's disciplinary history, from being released to the public,

[77] *Hanrahan*, 174 Ill. 2d at 280 (citing *Singh v. Moyer*, 867 F.2d 1035 (7th Circ. 1989)).
[78] Emily Hoerner & Jeanne Kuang, *Aging Prisoners Left to Arbitrary Process to Win Release*, Injustice Watch (Oct. 2, 2017), https://www.injusticewatch.org/project/the-long-wait/2017/illinois-prisoner-review-board-aging-inmates-arbitrary/.
[79] *Id.* (quoting former IPRB Chairman Craig Findley: "I don't see any inconsistency in what we do…everything is dynamic in the parole process").
[80] Emily Hoerner & Jeanne Kuang, *Aging Prisoners Left to Arbitrary Process to Win Release*, Injustice Watch (Oct. 2, 2017), https://www.injusticewatch.org/project/the-long-wait/2017/illinois-prisoner-review-board-aging-inmates-arbitrary/.

the inmate, their attorneys, or prosecutors.[81] Instead, the Board only releases the meeting minutes to the public. These minutes are often sparse and offer few details about the factors the Board evaluated. By withholding details about their decision-making process, the Board leaves inmates to fly blindly as they prepare for their parole hearings. The lack of predictability is further exacerbated by the Board's broad discretion to consider factors they have never considered before. Without a reasonably discernable path to such parole, inmates' incentive to rehabilitate is severely diminished. This results in a cycle of disciplinary issues in prisons, leading to prolonged sentences, which in turn create additional barriers to being granted parole by the Prisoner Review Board.

III. Recommendations

Parole exists to provide a mechanism for earned release, as an incentive for rehabilitation, and to facilitate reintegration of incarcerated people into society in a manner that serves both the individual and the public. The Illinois system, as currently constructed, undermines each of these objectives. The amendments I propose are focused on rebuilding the system around these abandoned principles. Taken together, these reforms do not abandon the Parole Board's gatekeeping function, but instead ask them to perform that function with the procedural rigor and transparency that such consequential decisions demand.

The five amendments proposed in this section are grounded in the reform frameworks developed by the Prison Policy Initiative[82] and the MacArthur Justice Center,[83] two of the foremost organizations in the area of criminal justice reform. Both organizations studied parole systems across the country and identified the structural features which most consistently lead to arbitrary

[81] *Id.*
[82] Emmett Sanders, *Prison Policy Initiative and MacArthur Justice Center's National Parole Transformation Project Release New Guiding Principles for Parole Reform*, Prison Pol'y Initiative (July 10, 2025), https://www.prisonpolicy.org/blog/2025/07/10/parole-principles/.
[83] MacArthur Just. Ctr., *Principles for Parole Reform*, https://www.macarthurjustice.org/principles-for-parole-reform/.

and inequitable outcomes. They then produced principles for reform to address each of these outcomes while still protecting the interests of individual justice and public safety. This paper adopts these principles in constructing a framework for reforming the Illinois parole system. The problems identified by the Prison Policy Initiative and MacArthur Justice Center are not national problems in the abstract – they are Illinois problems which occur in Illinois hearings, burden Illinois families and Illinois inmates, and require Illinois solutions.

A. Every Incarcerated Person Should have Access to Parole.

The first, and most foundational, proposed amendment is extending parole eligibility to every person incarcerated in Illinois. This change should be applied retroactively to include those sentenced under regimes which denied them parole eligibility. The shift away from indeterminate sentencing stripped parole eligibility from an entire generation of incarcerated individuals and replaced it with rigid mandatory minimums and fixed release dates. Mandatory Supervised Release (MSR) has proven to be an additional burden for inmates, rather than a true substitute for parole. It has drawn repeated criticism for its numerous restrictive conditions which are so difficult to comply with that violations are essentially inevitable. This cycles individuals back into incarceration for non-violent, technical infractions. Under this system, MSR functions as a precarious status where formerly incarcerated people remain vulnerable to reincarceration for conduct that carries no consequence for an ordinary citizen.

Restoring parole eligibility in Illinois would replace the failed framework of MSR with a process that actually evaluates inmates individually to determine their readiness to re-enter society based on a determination of rehabilitation and preparedness. This amendment must be retroactively applied to those who have already served decades under a system which has denied them release.

To leave those individuals without access simply because of the legislative moment under which they were sentenced would only compound the original injustice.

Opponents of universal parole eligibility will predictably argue that such an amendment will trigger the release of an array of dangerous criminals back into communities. This argument effectively equates removing procedural bars around parole with opening the prison gates, and therefore fundamentally misrepresents what parole eligibility means (and what it does not mean). Eligibility is not release. Under the proposed amendments, the Board retains full authority to deny parole to individuals who pose a genuine and articulable threat to public safety. This change does not remove the Board's discretion, rather universal eligibility eliminates the indiscriminate and categorical exclusion of certain inmates from their discretion. Opponents' arguments also assume that the current system keeps inmates in prison based on a careful, individualized assessment. In actuality, inmates remain incarcerated because of a sentencing scheme drafted decades ago by legislators who decided such assessments were not necessary. This is not a public safety policy. In fact, conducting well-documented, rigorous hearings based on individualized assessments provides a stronger safeguard against premature release than our system which locks the door and throws away the key.

B. Right to Counsel and Expert Support

The second amendment which provides a right to counsel ensures all of the other amendments spark meaningful change. A statutory presumption of release has little force when an inmate cannot articulate the necessary facts to support the presumption. Mandatory factors for evaluation cannot be fully evaluated if the petitioner does not know what records to gather or how to present their decades-long incarceration and rehabilitation history to the Board. A Remediation Recommendation (discussed in greater detail below) is less advantageous to a petitioner who lacks

guidance on its requirements. Without counsel, the proposed amendments do little to help the people they were designed to protect.

The argument in favor of providing counsel to indigent petitioners at parole hearings closely mirrors the logic of the right to counsel provided by the Sixth Amendment. Like a trial, parole hearings are a complex proceeding with severe consequences, including the loss of liberty, with a distinct power imbalance between the individual and the government. Within this system, self-representation all but guarantees a denial. If anything, the need for counsel at a parole hearing is even more dire than at trial. By the time an inmate appears before the Board they have spent decades in prison and have likely exhausted their financial and social resources as a result. On the opposing side is an Assistant State's Attorney who has spent their years honing their skills for the exact type of adversarial advocacy the hearing demands. The notion that this is a fair pairing is untenable.

The proposed amendment also critically recognizes effective representation extends beyond legal expertise. The mandatory factors in the amended statutes require the Board to consider psychological evaluations, community support, and rehabilitation. These factors cannot be adequately addressed by a lawyer alone. Therefore, this amendment supplements the right to legal counsel with the right to assistance from a team of experts across an array of disciplines. Introducing a team of community-based practitioners will enable petitioners to present a complete picture of their readiness for release by providing the holistic representation this evaluation necessitates.

This amendment also requires that counsel and the multi-disciplinary team shall be appointed at least six months before the hearing date. To be adequately prepared for the hearing, a petitioner and their counsel need to gather institutional records, conduct medical and psychological

evaluations, create a robust reentry plan, and prepare for the argument itself, among others. This process cannot be compressed into a matter of weeks without compromising the quality of the preparation, which also compromises the fairness of the hearing. Therefore, the six month minimum period reflects the expansive nature of parole evaluations.

C. Clear and Consistent Guidelines for Decision-Making

The third amendment I propose addresses perhaps the most corrosive feature of the current system: the absence of clear, uniform, and binding criteria governing the Board's evaluations for release. As currently written, Illinois law gives the Board a degree of discretion so broad as to be functionally standardless. An inmate appearing before the Board today has no reliable basis for knowing what factors the Board will consider, how those factors will be comparatively weighed, or what combination of facts and circumstances is likely to produce a granted petition for release. This opacity undermines the Board's gatekeeping function by replacing principled review with a system closer to intuition. Moreover, such broad discretion opens the process to the influence of implicit bias or comparison between cases. Such factors have no place in a decision of this magnitude and should be excluded from the Board's evaluation.

The proposed amendment would cure this issue by enacting a list of mandatory factors the Board *shall* consider at each parole hearing, without exception. By removing the discretionary language of the current statute (i.e. "the Board *may* consider…"), the amended Act ensures the Board exercises consistent and transparent discretion in accordance with the rehabilitative goals of parole. These factors *must* be evaluated in every case and the Board *shall* release written determinations which reflect an assessment of each factor individually. It is critical that no single factor be given more weight than any other, nor should any one factor act as a bar to release. For example, the original offense of conviction must be considered by the Board, but it should not

outweigh compelling evidence of rehabilitation. The same can be said for a lack of explicit remorse by the inmate – the absence of expressions of regret should not be treated as a bar from release.

The Board has long asserted that parole evaluations are individualized and implementing a rigid checklist of factors applied universally would disrupt their discretion. This argument falls flat. Every adjudicative body making decisions with such severe consequences operates within a framework of mandatory rules. Courts, for example, are bound by sentencing guidelines which they cannot abandon no matter how unique the facts of a given case. The system the Board advances does not defend individual assessments, but instead defends their freedom to reach any conclusion for any reason, or for no articulable reason at all. Introducing mandatory factors will require the Board to demonstrate, in writing and produced to the public, they have done the assessment they purport to care about.

This amendment also must be coupled with the establishment of periodic review of the guidelines. A body must be established (herein referred to as the "Guidelines Review Committee") to conduct routine comprehensive evaluations of the parole guidelines to examine whether they are being applied uniformly. Most importantly, this committee should evaluate whether the guidelines are producing racially, ethnically, socioeconomically, or sex- and/or gender-based disparate outcomes. The committee should also consider research and recidivism data alongside rehabilitative best practices to evaluate the guidelines' need for periodic amendments. Lastly, this committee should review the written determinations issued by the Board to evaluate their application of the factors to inmates' facts. The Guidelines Review Committee should publish their reviews publicly and a report of their findings should be submitted to the General Assembly, the Governor, and the Illinois Supreme Court. This routine review is designed to ensure that the

proposed changes to the parole system do not functionally perpetuate the same arbitrary outcomes they were enacted to prevent.

D. Presumption Favoring Release

The fourth amendment aims to address the procedural inequities faced by a parole petitioner who, under the current law, must prove to the Board they have earned release under a standard that's not clearly defined. Instead, I propose amending the law to establish a statutory presumption in favor of releasing the petitioner. This shifts the burden to the Board to justify continuing incarceration, rather than burdening the petitioner to justify their freedom. Under this proposed amendment, the Board may only deny parole based on a determination by clear and convincing evidence that the petitioner's release would present a genuine risk to public safety. Their determination must be grounded in at least one of the mandatory factors, and the determination must be released to the public. Where the Board expresses only generalized concerns or grounds their evaluation in the nature of the underlying offense, they will not be permitted to withhold parole. This will require the Board to identify specific facts about the petitioner at the time of trial which make them unfit for release.

If a petitioner is denied parole based on a determination of future risk, the Board must prove that the determination complies with objective criteria in the statute that bear a proven connection to the risk of future violence. These criteria must be based on peer-reviewed studies on recidivism, rehabilitation, penology, and criminology. When the Board is allowed to deny parole based on a determination of future risk which bears no proven predictive relationship to future risk, they are effectively permitted to conduct a second trial of the case without any of the safeguards of trial. Introducing a required consideration of empirical data and research prevents this. It does not, as the Board will likely argue, minimize the harm done by inmates nor require the

Board to release people who genuinely pose a risk. Instead, this change forces the Board to demonstrate their denial is grounded in a validated connection between the facts and the risks they assert, rather than relying on social or moral judgment.

This amendment will also require the Board to provide concrete and actionable recommended changes to a petitioner that will bolster their chances of having their petition granted at a later hearing. For example, if the Board raises concerns about the petitioner's reentry plan, they must identify the holes in the current plan and steps to remedy them. If their denial is based on fears of recidivism risk, they must provide behavioral milestones or other changes that would strengthen their case. Once a petitioner makes the prescribed changes and returns to the Board for a new hearing, they should be entitled to a presumption in favor of release that can only be overcome if the Board identifies a new ground for denial which is new or changed since the previous hearing. This amendment is tailored to address the revolving-door phenomenon of our current system under which petitioners repeatedly appear before the Board and are faced with an ever-changing array of issues with their petition and little or no guidance on what they can do the change it.

E. Opportunity to Challenge the Basis of Denial

The final amendment introduces a meaningful external check on the Board's largely unreviewable discretion by empowering courts to review the basis of parole denial. As the law is currently written, the Prisoner Review Board is a body composed of unelected members whose decisions are insulated from judicial scrutiny. While the law does include some options for challenging denial, the practicalities of being incarcerated make meaningful challenges nearly impossible. The proposed right to judicial review gives power to the mandatory factors, presumption of release, and required written determinations.

Under the proposed amendment, Illinois Courts are given the power to review parole denials and to reverse such denials based on a finding that the Board failed to comply with the requirements of the amended statute. Contrary to arguments the Board will likely present, the courts will not be conducting *de novo* review and thereby substituting their judgment for that of the Board. Instead, the Court will ensure compliance with the procedures and evidentiary standards required for a denial. Therefore, discretion is retained by the Board, but new guardrails are installed.

This amendment also extends beyond practical changes to protect out democratic system. Currently, the Board is largely invisible to the public and their evaluations are not clearly shared with the public. Judicial review opens the doors to increase the transparency and accountability democratic governance demands, especially given the consequences of the Board's decisions. When a court reviews a parole determination it is introduced into the public record. Over time, this will create a judicially refined standard for denial that petitioners can rely on when preparing for their hearings. This tailored standard also provides a means for measuring and reforming the Board.

IV. Conclusions

Henry Dee enjoyed less than a year of freedom after spending nearly 50 years behind bars. He did not spend half a century in prison because the State proved he posed a continuing threat to society, or because he failed to rehabilitate himself, or because an individualized, evidence-based assessment proved his circumstances warranted imprisonment. Instead, he was held at the hands of a system that was never designed to give petitioners a fair chance at release. As the law is today, the parole system is not required to be consistent nor does it provide any meaningful path to

challenge its decisions. Dee's story is not an anomaly – it is the logical outcome of a parole system which has relied on internal discretion and opaque evaluations to withhold freedom.

The reforms proposed here would massively overhaul the parole system, but they are not radical. They maintain the Prisoner Review Board's core functions, but require them to perform their duties with the consistency and procedural integrity demanded by the situation. Extending parole eligibility universally ensures that every incarcerated person can earn release regardless of any prior legislative categorization. Requiring the Board to consider the same guidelines at each hearing ensures each petitioner who comes before it receives the same rigorous individualized review regardless of the panel. Introducing a presumption favoring release also ensures just outcomes by shifting the burden of justifying continued incarceration to the State, requiring any denial be clearly articulated and based in data. Judicial review makes sure that this framework is implemented as the statute envisions by making the Board answer to the rule of law. Lastly, the right to counsel and additional multidisciplinary support ensures that the reforms are actually accessible and impactful on the fair and transparent delivery of justice.

As a complete legislative scheme, these proposed reforms provide a coherent framework for reform to a system that has failed the state of Illinois for far too long. These reforms are grounded in extensive research by organizations which have reviewed the myriad of parole systems nationwide and carefully studied the outcomes of each. These amendments are also informed by the lived experiences of people like Henry Dee whose decades of incarceration bear witness to the consequences of a system allowed to operate in the shadows. To truly make amends, this system must be brought into the light and held accountable for its wrongs. Finally, each of these amendments were drafted with the goal to create a system capable recognizing its wrongs; acknowledging them on the record; reflecting on what caused them; and making the necessary

changes to prevent continued abuses. Our current system in incapable of such actions. The amendments proposed here are the first steps toward achieving these goals.

730 ILCS §§ 5/3-3-3 – 5/3-3-5 (REVISED)

730 ILCS 5/3-3-3 – Eligibility for Parole or Release (REVISED)

(a) Every person serving a term of imprisonment under the laws of this State shall be eligible for parole consideration by the Prisoner Review Board. No Person shall be categorically excluded from parole eligibility on the basis of the offense of conviction, the length of the sentence imposed, or the date of sentencing.

(b) A person serving a determinate sentence shall be eligible for parole consideration upon serving no less than one third (1/3) of the imposed sentence, less time credited for good behavior.

(c) A person serving a sentence of natural life imprisonment shall be eligible for parole consideration upon serving 20 years of such sentence, less time credited for good behavior.

(d) This section applies retroactively to all persons currently committed to the Illinois Department of Corrections, regardless of the date of sentencing or the sentencing scheme under which the person was sentenced. All persons currently serving determinate sentences who have previously been foreclosed from parole eligibility shall be entitled to a parole hearing within 18 months of the effective date of this amendment.

** *730 ILCS 5/3-3-4 – Preparation for Parole Hearing – REPEALED* **

730 ILCS 5/3-3-5 – Hearing and Determination (REVISED)

(a) The Prisoner Review Board shall evaluate every application for parole release according to a uniform set of mandatory factors as enumerated in this Section. The Board **must** consider each factor listed in subsection (b) at every parole hearing, without exception. The Board's written determination shall reflect its individual assessment of each factor. No hearing shall be deemed procedurally sufficient unless the written determination demonstrates meaningful and independent consideration of each factor.

(b) In deciding whether to grant or deny parole, the Board shall consider and must address each of the following factors:

(1) The nature and circumstances of the offense of conviction, including the degree of harm caused and the individual's role in the offense;
(2) The person's conduct record during incarceration, including disciplinary history and any documented positive institutional behavior;

(3) The person's participation in rehabilitative programming including, but not limited to, educational courses, vocational course, life skills courses, individual or group counseling sessions, civics education courses, peer education courses, independent studies course, substance abuse counseling courses, and behavior modification courses;
(4) Current psychological and mental health evaluations, conducted within the 12 months preceding the hearing by a licensed mental health professional tailored to evaluating the person's present condition and risk of future violence;
(5) An evidence-based risks and needs assessment, conducted within the 12 months preceding the hearing, tailored to evaluating the risk of recidivism;
(6) The individual's re-entry plan, including, but not limited to, housing, employment or vocational prospects, and family and/or community support systems;
(7) The nature and strength of the individual's familial, social, and community support systems;
(8) The petitioner's physical health status and any related special considerations for re-entry;
(9) Any statements submitted by the petitioner regarding their own mental state, growth, rehabilitation, and readiness for release; and,
(10) Any statements submitted by a victim or any representative of any victim(s) pursuant to the Rights of Crime Victims and Witnesses Act, which the Board shall consider, but which shall not serve as the sole or dispositive basis for denying parole.

(c) No single factor enumerated in Section (b) shall be assigned dispositive weight in the Board's evaluation. The nature, facts, nor severity of the underlying offense of conviction shall not alone constitute sufficient grounds for denying parole. An absence of explicit or formal statements of remorse also shall not be treated as conclusive evidence of future risk nor the sole dispositive basis of denial. The Board must weight **all** factors collectively and shall articulate in writing how each factor was considered.

(d) Following each parole hearing, the Board shall issue a written determination which:

(1) Identifies each mandatory factor considered pursuant to Section (b);
(2) States the Board's analysis with respect to each individual factor;
(3) Explains with specificity how the totality of the factors supports the Board's decision to either grant or deny parole; and,
(4) If the Board denies parole, identifies and explains with specificity the concerns of deficiencies identified that, if remedied, would support a favorable outcome at a later hearing.

This written determination shall be provided to the petitioner, their counsel of record (if any), and shall be retained in the official record of the proceedings. Boilerplate determinations will not be considered sufficient individualized analysis with the factors, and the use of such forms shall be found legally insufficient and not in compliance with the foregoing Act.

730 ILCS 5/3-3-5.1 – Establishing the Guidelines Review Committee (NEW)

(a) The Board shall establish a permanent Guidelines Review Committee composed of no fewer than seven members. At a minimum, the Committee shall have: two members of the Prisoner Review Board; one mental health professional licensed in the State of Illinois with expertise in rehabilitation and recidivism; one representative of a prisoners' rights program or other similar re-entry advocacy organization; and two members of the public appointed by the Governor of the State of Illinois with the advice and consent of the Illinois Senate.

(b) The Guidelines Committee shall conduct a comprehensive review of the mandatory factors enumerated in 730 ILCS 5/3-3-5(b) and the application of those factors. This review shall be completed no less than once every three years.

(c) Each review by the Guidelines Review Committee must evaluate:

(1) Whether the mandator factors are being applied uniformly across all hearing locations and panels of Board Members;
(2) Whether the Board's written determinations reflect genuine, individualized assessments of each mandatory factor, or whether such determinations are formulaic or generalized in nature;
(3) Whether the application of the guidelines is producing racially, ethnically, socioeconomically, or sex- or gender-based disparate outcomes and, if so, what remedial measures the Committee recommends;
(4) Any developments in penological research, rehabilitation practices, or recidivism data which warrant revision to the factors and/or their application; and,
(5) Whether the written determinations produced by the Board pursuant to in 730 ILCS 5/3-3-5(d) sufficiently comply with the Act.

(d) The Guidelines Review Committee shall publish the findings of each review in a comprehensive report. This report must be submitted to the Illinois General Assembly, the Governor, and the Chief Justice of the Illinois Supreme Court no later than 60 days after the review. All reports shall also be published on the Board's public website no later than 90 days after the review.

730 ILCS 5/3-3-5.2 – Presumption Favoring Release (NEW)

(a) All petitioners appearing before the Prisoner Review Board for parole proceedings who have satisfied the eligibility requirements herein shall be entitled to a statutory presumption in favor or release. The Board shall grant parole unless it makes a specific finding pursuant to 730 ILCS 5/3-3-3(b) that demonstrates by clear and convincing evidence that the petitioner's release would present a genuine and imminent threat to public safety. The burden of this presumption lies on the Board and shall not be placed, shifted, or otherwise assigned to the petitioner.

(b) The Board shall not deny parole without making specific, written findings which:

(1) Identify with specificity which factor(s) enumerated in 730 ILCS 5/3-3-3(b) support the denial;
(2) Explain in individualized terms how the identified factor(s) apply to the specific petitioner at the time of the hearing;
(3) Demonstrate the connection between the grounds for denial and a direct and data-supported relationship to a risk of future violence or serious criminal conduct; and,
(4) Establish that no conditions of supervision on parole could adequately mitigate the risk.

(c) For each denial, the Board shall issue alongside the written determination a Remediation Recommendation which:

(1) Identifies each specific concern or unmet condition which was the basis for denial;
(2) Describes with specificity the steps, programs, evaluations, treatment, behavioral milestones, or other concrete actions that would satisfy the Board's concerns;
(3) Establishes a reasonable timeline for completion of the Remediation Recommendations before a subsequent hearing must be scheduled; and,
(4) Instructs the petitioner that their completion of the Remediation Recommendations shall be entitled to a renewed presumption in favor or release which may only be overcome if the Board identifies a new or changed ground for denial which was not present at the previous hearing. The Board shall not issue a denial based on grounds that were known or reasonably could or should have been known at the time of the previous hearing.

(d) The Board shall not deny parole on the basis of:

(1) Generalized moral or social disapproval of the underlying offense, if unaccompanied by indicators of present risk;

(2) The petitioner's race, ethnicity, socioeconomic background, sex, gender, religion, sexual orientation, or other protected characteristic;
(3) An absence of remorse or regret, absent other bases;
(4) Community, social, or political opposition to release that is not supported by an individualized, empirical assessment of risk; nor
(5) Any factor not enumerated in 730 ILCS 5/3-3-3(b) and/or validated by the Guidelines Review Committee pursuant to 730 ILCS 5/3-3-5.1.

(e) The Guidelines Review Committee shall maintain and publish a regularly-updated compilation of empirically validated criteria based in peer-reviewed studies/research for denial. The Board must consult these criteria in making its findings. The compiled criteria shall be reviewed and amended for accuracy and evolved best-practices no less than once every three years.

(f) Any denial based on criteria not validated by the Guidelines Review Committee, or applied in a manner inconsistent with research behind the criteria, shall be deemed legally insufficient and shall be grounds for a new hearing.

730 ILCS 5/3-3-5.3 – Judicial Review of Parole Denial (NEW)

(a) Any person denied parole following a hearing conducted under Section 3-3-5 shall have the right to seek judicial review of that denial in the Circuit Court of the counter where the person is incarcerated. A petition for judicial review must be filed within 60 days of the issuance of the Board's written determination.

(b) Judicial review under this section shall be conducted based on the administrative record of the Board's hearing, supplemented by any additional materials the Court deems necessary and proper to assess the insufficiency of the Board's procedural compliance and/or determination.

(c) The court shall review the Board's compliance with the mandatory requirements of Section 3-3-5 and 3-3-5.2, including, but not limited to:

(1) Whether the Board considered each factor enumerated in Section 3-3-5(b);
(2) Whether the written determination reflects genuine, individualized analysis of each factor, or is formulaic or generalized, or otherwise legally insufficient;
(3) Whether the denial is rooted it objective criteria approved by the Guidelines Review Committee which bear an empirical connection to a risk of future violence, as required by section 3-3-5.1;

(4) Whether any one factor was given dispositive weight in violation of Section 3-3-5.2; and,
(5) Whether the Board issued a Remediation Recommendation as required by Section 3-3-5.2(c).

(d) In any proceedings conducted pursuant to this section, the petitioner shall have the right to counsel. If the petitioner is indigent and unable to retain private counsel, the court must appoint counsel. The Board shall bear the cost of appointed counsel in all proceedings conducted pursuant to this section.

730 ILCS 5/3-3-5.4– Right to Counsel and Multidisciplinary Representation (NEW)

(a) Every person entitled to a parole hearing pursuant to Section 3-3-3 shall have the right to be represented by counsel at all stages of the process, including pre-hearing preparation, the hearing, and any subsequent post-hearing proceedings before the Board. If a petitioner is indigent or otherwise financially unable to retain private counsel, the Board shall appoint qualified counsel. The right to counsel established herein shall attach no later than six months before the scheduled hearing. Any hearing conducted without counsel having been appointed within this time shall be deemed improper and must be reschedule to a date which allows the full six-month preparation period as provided in this Section.

(b) The six-month preparation period shall be utilized by counsel and the multidisciplinary support team to:

(1) Review the petitioner's complete record including disciplinary history, program participation, and any prior written determinations issued by the Board and the accompanying Remediation Recommendations;
(2) Conduct or obtain updated evaluations of the petitioner's physical and mental health;
(3) Obtain and review the results of validated risk and needs assessments;
(4) Develop a comprehensive reentry plan that addresses housing, employment and/or vocational training, community support, and other factors pursuant to Section 3-3-5(b);
(5) Coordinate letters of support from family members, community members, community organizations, employers, and other relevant individuals; and,
(6) Prepare the petitioner to present themselves effectively and accurately at the hearing.

(c) In addition to legal counsel, every person entitled to a parole hearing under this Act shall have the right to a multidisciplinary support team appointed from a roster of community-

based practitioners. This support team shall work in coordination with the appointed counsel and must be assembled no less than six months before the scheduled hearing. The multidisciplinary team shall include, at a minimum, the following practitioners:

(1) A licensed clinical psychologist and/or licensed clinical social worker with demonstrated experience in correctional psychology, recidivism assessment, and/or rehabilitation programming.
(2) A trauma specialist with demonstrated expertise in the psychological impacts of long-term incarceration, adverse childhood experiences and childhood trauma, and/or trauma-informed assessment, as applicable to the individual circumstances of the petitioner;
(3) A reentry specialist or licensed social worker with demonstrated experience in housing, employment, and community resource navigation for formerly incarcerated people; and,
(4) At least one community-based advocate with direct experience working with incarcerated or formerly incarcerated people in the community from with the petitioner originated or to which they will be moving upon release.

(d) The multidisciplinary team shall prepare a Comprehensive Reentry and Rehabilitation Plan, submitted to the Board at least 30 days before the hearing. This Plan must address each of the mandatory factors enumerated in Section 3-3-5(b) and analyzing their application to the individual.

<u>730 ILCS 5/3-3-5.5 – Establishing the Office of Parole Representation (NEW)</u>

(a) This Act hereby establishes the Office of Parole Representation within the Illinois state government, which shall be responsible for recruiting, training, certifying, and administering the roster of attorneys eligible for appointment under this Section.

(b) To be eligible for inclusion on this roster, an attorney must:

(1) Be licensed and in good standing with the Illinois Attorney Registration and Disciplinary Committee;
(2) Have completed a training program in parole law, the mandatory guidelines of Section 3-3-5, and the rights of incarcerated people, as developed and administered by the Office of Parole Representation; and,
(3) Demonstrate familiarity with the psychological and rehabilitative aspects of parole determinations, including demonstrated competency reading and contextualizing psychological evaluations and risk assessment schemes.

(c) The Office of Parole Representation, in cooperation with the Illinois Department of Human Services, shall also establish and maintain a roster of community-based practitioners who are eligible for appointment to multidisciplinary teams under this Section.

(d) The community-based practitioner roster shall reflect the demographic, cultural, and geographic diversity of the incarcerated population of Illinois. The Office must actively recruit practitioners with lived experiences in incarceration and/or reentry, and shall prioritize practitioners from communities disproportionately represented in the incarcerated population.

(e) All practitioners on the community-based practitioner roster must complete the required training course developed by the Office of Parole Representation in collaboration with the Guidelines Review Committee. This training must address the mandatory factors provided in Section 3-3-5(b), the presumption in favor of release, and the applicable evidentiary standards.

(f) The Office of Parole Representation shall review and update the both the attorney roster and the community-based practitioner roster at least annually.