

AN ACT

ENTITLED, An Act to authorize inmates to waive parole hearings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 24-15-8 be amended to read as follows:

24-15-8. When an inmate becomes eligible for consideration for parole, the inmate shall be called before the Board of Pardons and Paroles to personally present the inmate's application for parole. If the inmate is housed in an institution outside of this state, the board may request that the paroling authority in the receiving state hold a courtesy hearing pursuant to the rules and regulations of the receiving state and submit to the board their findings regarding the inmate. An inmate may decline parole consideration and waive the right to a hearing. The board may issue an order to the Department of Corrections that the inmate shall be paroled if it is satisfied that:

- (1) The inmate has been confined in the penitentiary for a sufficient length of time to accomplish the inmate's rehabilitation;
- (2) The inmate will be paroled under the supervision and restrictions provided by law for parolees, without danger to society; and
- (3) The inmate has secured suitable employment or beneficial occupation of the inmate's time likely to continue until the end of the period of the inmate's parole in some suitable place within or without the state where the inmate will be free from criminal influences.

Neither this section nor its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest in any prisoner.

Section 2. That § 24-15-23 be amended to read as follows:

24-15-23. Within ten working days of the arrest of the parolee, a preliminary hearing shall be held before an independent hearing officer to determine if there is probable cause to believe that the parolee has violated the terms and conditions of the parolee's parole status. The parolee has the right

to waive this preliminary hearing at any time after the order for arrest has been issued by the executive director of the Board of Pardons and Paroles. If probable cause is found to exist, the parolee is to be returned to the penitentiary, there to be held, for a hearing to be held before the Board of Pardons and Paroles to determine whether the parole should be revoked. If the parolee wishes to admit to an alleged violation of conditions of parole, the parolee may waive a personal appearance at the revocation hearing with the board.

Section 3. That § 24-15A-39 be amended to read as follows:

24-15A-39. Any inmate whom the warden reports has not substantively complied with the individual program directive shall have a hearing with the board to determine the inmate's compliance with the individual program directive. However, if the inmate wishes to admit to noncompliance with the individual program directive, the inmate may waive a personal appearance at this hearing.

The board may determine the inmate has substantively complied with the individual program directive and release the inmate at the inmate's initial parole date or as soon as reasonably possible following the initial parole date and hearing. The board may also determine the inmate has not substantively met the requirements of the individual program directive, deny release at the initial parole date and set the time for a subsequent discretionary parole hearing. Any inmate appeal of a finding of noncompliance by the board shall be filed pursuant to chapter 1-26 in the county in which the inmate is confined.

Any inmate not released at the time of the inmate's initial parole date shall have a discretionary parole hearing at least every two years.

Section 4. That § 24-15A-41 be amended to read as follows:

24-15A-41. Any inmate not released at the time of the inmate's first parole date or any inmate whose parole has been revoked may be subsequently paroled, based on the discretion of the board after a hearing. An inmate may decline parole consideration and waive the right to a hearing.

Neither this section or its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest in any prisoner.

Section 5. That chapter 24-15 be amended by adding thereto a NEW SECTION to read as follows:

A request for waiver of a right to a parole hearing or of a personal appearance at a parole hearing pursuant to § 24-15-8, 25-15-23, 24-15A-39, or 24-15A-41 shall be submitted in writing to the Board of Pardons and Paroles by the inmate or parolee.

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I certify that the attached Act
originated in the

SENATE as Bill No. 49

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 49

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
SS.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State