

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

400H0256

## SENATE BILL NO. 49

Introduced by: The Committee on State Affairs at the request of the Department of  
Corrections

1 FOR AN ACT ENTITLED, An Act to authorize inmates to waive parole hearings.

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

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

4 24-15-8. When an inmate becomes eligible for consideration for parole, ~~he~~ the inmate shall  
5 be called before the Board of Pardons and Paroles to personally present ~~his~~ the inmate's  
6 application for parole. If the inmate is housed in an institution outside of this state, the board  
7 ~~shall~~ may request that the paroling authority in the receiving state hold a courtesy hearing  
8 pursuant to the rules and regulations of the receiving state and submit to the board their findings  
9 regarding the inmate. An inmate may decline parole consideration and waive the right to a  
10 hearing. The board may issue an order to the Department of Corrections ~~of the penitentiary~~ that  
11 the inmate shall be paroled if it is satisfied that:

12 (1) The inmate has been confined in the penitentiary for a sufficient length of time to  
13 accomplish ~~his~~ the inmate's rehabilitation;

14 (2) The inmate will be paroled under the supervision and restrictions provided by law for  
15 parolees, without danger to society; and



1 (3) The inmate has secured suitable employment or beneficial occupation of ~~his~~ the  
2 inmate's time likely to continue until the end of the period of ~~his~~ the inmate's parole  
3 in some suitable place within or without the state where ~~he~~ the inmate will be free  
4 from criminal influences.

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

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

8 24-15-23. Within ten working days of the arrest of the parolee, a preliminary hearing shall  
9 be held before an independent hearing officer to determine if there is probable cause to believe  
10 that the parolee has violated the terms and conditions of ~~his~~ the parolee's parole status. The  
11 parolee has the right to waive this preliminary hearing at any time after the order for arrest has  
12 been issued by the executive director of the Board of Pardons and Paroles. If probable cause is  
13 found to exist, the parolee is to be returned to the penitentiary, there to be held, for a hearing to  
14 be held before the Board of Pardons and Paroles to determine whether the parole should be  
15 revoked. If the parolee wishes to admit to an alleged violation of conditions of parole, the  
16 parolee may waive a personal appearance at the revocation hearing with the board.

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

18 24-15A-39. Any inmate whom the warden reports has not substantively complied with the  
19 individual program directive shall have a hearing with the board to determine the inmate's  
20 compliance with the individual program directive. However, if the inmate wishes to admit to  
21 noncompliance with the individual program directive ~~and, the inmate may waive a personal~~  
22 appearance at this hearing, the inmate shall appear before the board and state for the record the  
23 ~~admission of noncompliance and waiver of right to a hearing.~~

24 The board may determine the inmate has substantively complied with the individual program

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

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

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

10 24-15A-41. Any inmate not released at the time of the inmate's first parole date or any inmate  
11 whose parole has been revoked may be subsequently paroled, based on the discretion of the  
12 board after a hearing. An inmate may decline parole consideration and waive the right to a  
13 hearing.

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

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

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