

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO CRIMINALS -- CORRECTIONAL INSTITUTIONS -- PAROLE

Introduced By: Senators McCaffrey, Coyne, Archambault, and Kallman

Date Introduced: March 04, 2021

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 13-8-18.1 of the General Laws in Chapter 13-8 entitled "Parole" is
2 hereby amended to read as follows:

3 **13-8-18.1. Preliminary parole violation hearing.**

4 (a) As soon as is practicable after a detention for an alleged violation of parole, the parole
5 board shall afford the alleged parole violator a preliminary parole revocation hearing before a
6 hearing officer designated by the board. Such hearing officer shall not have had any prior
7 supervisory involvement over the alleged violator.

8 (b) The alleged violator shall, within five (5) days of the detention, in Rhode Island be
9 given written notice of the time, place and purpose of the preliminary hearing. The notice shall state
10 the specific conditions of parole that are alleged to have been violated and in what manner. The
11 notice shall also inform the alleged violator of the following rights in connection with the
12 preliminary hearing:

13 (1) The right to appear and speak in his/her own behalf;

14 (2) The right to call witnesses and present evidence;

15 (3) The right to confront and cross-examine the witnesses against him/her, unless the
16 hearing officer finds on the record that a witness may be subjected to risk of harm if his or her
17 identity is revealed; and

18 (4) The right to retain counsel and, if unable to afford counsel, the right under certain
19 circumstances to the appointment of counsel for the preliminary hearing.

1 The determination of whether or not the alleged violator is entitled to appointed counsel, if
2 such a request is made, shall be made on the record and in accordance with all relevant statutory
3 and constitutional provisions.

4 (c) The notice form must explain in clear and unambiguous language the procedures
5 established by the parole board concerning an alleged violator's exercise of the rights denominated
6 in subsection (b), including the mechanism for compelling the attendance of witnesses, the
7 mechanism for obtaining documentary evidence, and the mechanism for requesting the
8 appointment of counsel.

9 (d) The preliminary hearing shall take place no later than ten (10) days after service of
10 notice set forth in subsection (b). A preliminary hearing may be postponed beyond the ten (10) day
11 time limit for good cause at the request of either party, but may not be postponed at the request of
12 the state for more than five (5) additional days. The parole revocation charges shall be dismissed
13 with prejudice if a preliminary hearing is not conducted within the time period established by this
14 paragraph, not including any delay directly attributed to a postponement requested by the alleged
15 violator.

16 (e) If the alleged violator has requested the appointment of counsel at least five (5) days
17 prior to the preliminary hearing, the preliminary hearing may not proceed without counsel present
18 unless the hearing officer finds on the record, in accordance with all relevant statutory and
19 constitutional provisions, that the alleged violator is not entitled to appointed counsel. If the alleged
20 violator is found to have been entitled to counsel and no such counsel has been appointed, the parole
21 violation charges must be dismissed with prejudice. If the request for counsel was made four (4) or
22 fewer days in advance of the preliminary hearing, the time limit within which the preliminary
23 hearing must be held may be extended up to five (5) additional days.

24 (f) The standard of proof at the preliminary hearing shall be probable cause to believe that
25 the alleged violator has violated one or more conditions of his or her parole and that the violation
26 or violations were not de minimus in nature. Proof of conviction of a crime committed subsequent
27 to release on parole shall constitute probable cause for the purposes of the preliminary hearing.

28 (g) At the preliminary hearing, the hearing officer shall review the violation charges with
29 the alleged violator, direct the presentation of the evidence concerning the alleged violation, receive
30 the statements of the witnesses and documentary evidence, and allow cross-examination of those
31 witnesses in attendance. All proceedings shall be recorded and preserved.

32 (h) At the conclusion of the preliminary hearing, the hearing officer shall inform the alleged
33 violator of his or her decision as to whether there is probable cause to believe that the alleged
34 violator has violated one or more conditions of his or her parole and, if so, whether the violation or

1 violations were de minimus in nature. Those determinations shall be based solely on the evidence
2 adduced at the preliminary hearing. The hearing officer shall state in writing the reasons for his or
3 her determinations and the evidence relied upon for those determinations. A copy of the written
4 findings shall be sent to the alleged violator, and his or her counsel if applicable, within fourteen
5 (14) days of the preliminary hearing.

6 (i) If the hearing officer finds that there is no probable cause to believe that the alleged
7 violator has violated one or more conditions of his or her parole or that the violation or violations,
8 if any, were de minimus in nature, the parole chairperson shall rescind the detention warrant and
9 direct that the alleged violator, unless in custody for other reasons, be released and restored to
10 parole supervision.

11 (j) If the hearing officer finds that there is probable cause to believe that the alleged violator
12 has violated one or more conditions of his or her parole and that the violation or violations were
13 not de minimus in nature, the alleged violator shall be held for a final parole revocation hearing. A
14 final parole revocation hearing must be held as soon as is practicable, but in no event more than
15 ninety (90) days after the conclusion of the preliminary hearing.

16 (k) An alleged violator may waive his or her right to a preliminary hearing. Such a waiver
17 must be in written form. In the event of such a written waiver, a final parole revocation hearing
18 must be held as soon as is practicable, but in no event more than ninety (90) days after the right to
19 a preliminary hearing is waived. Notwithstanding the above, a final parole revocation hearing may
20 be continued by the alleged violator beyond the ninety (90) day time period. For parole violations
21 not involving a new criminal offense, an alleged violator may waive his or her right to a final parole
22 revocation hearing not involving new criminal offenses, where there is no dispute as to the alleged
23 violation and the parolee charged with such violation freely admits to the violation and accepts the
24 appropriate sanction imposed by the parole board.

25 SECTION 2. This act shall take effect upon passage.

=====
LC002303
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINALS -- CORRECTIONAL INSTITUTIONS -- PAROLE

1 This act would provide that for parole violations that don't involve a new criminal offense,
2 the right to a final parole revocation hearing not involving new criminal offenses may be waived if
3 the violator admits to the violation and accepts the sanctions imposed.

4 This act would take effect upon passage.

=====
LC002303
=====