

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **Senate Bill 449**

BY SENATORS TRUMP AND WOELFEL

[Introduced January 20, 2022; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §62-12-13c of the Code of West Virginia, 1931, as amended,  
2 relating to clarifying that the Nonviolent Offense Parole Program is not available to  
3 offenders who are serving a sentence either consecutively or concurrently with an offense  
4 that is a crime of violence against a person or animal, as well as a felony controlled  
5 substance offense, a felony firearm offense, nor a felony where the victim was a minor  
6 child; and making the provisions of this section unavailable to those previously released  
7 under the terms of this section.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 12. PROBATION AND PAROLE.**

### **§62-12-13c. Authority of commissioner to establish a nonviolent offense parole program.**

1 (a) The commissioner is authorized to establish a nonviolent offense parole program for  
2 any inmate of a state correctional facility in which an inmate may be paroled without action of the  
3 Parole Board based upon objective standards as set forth in this section, to commence on July 1,  
4 2021.

5 (b) Notwithstanding any provision of this code to the contrary, any inmate of a state  
6 correctional facility is eligible for parole under the nonviolent offense parole program if:

7 (1) He or she has served at least the minimum term of his or her sentence and is eligible  
8 for parole as determined by the parole board; and

9 (2) He or she qualifies for the nonviolent offense parole program as authorized by this  
10 section.

11 (c) To qualify for the nonviolent offense parole program, the commissioner must determine  
12 that the inmate:

13 (1) Is not serving a sentence for a crime of violence against the person, crime of violence  
14 against an animal, or felony for a controlled substance offense which involves actual or threatened  
15 violence to a person, a felony offense involving the use of a firearm, or a felony offense where the  
16 victim was a minor child;

17           (2) Is not currently serving a sentence that was ran either consecutively or concurrently  
18 with a sentence for a crime of violence against a person, a crime of violence against an animal, a  
19 felony controlled substance offense which involves actual or threatened violence to a person, a  
20 felony offense involving the use of a firearm, or a felony offense where the victim was a minor  
21 child;

22           ~~(2)~~ (3) Has successfully completed an individualized rehabilitation treatment program as  
23 determined by the division; ~~and~~

24           (4) Has not previously been released on parole through the terms of this section; and

25           ~~(3)~~ (5) Has otherwise satisfied the requirements for parole eligibility set forth in §62-12-13  
26 of this code.

27           (d) Any person released under the nonviolent offense parole program shall be subject to  
28 all conditions of release and sanctions for violations applicable to persons released on parole by  
29 the Parole Board, and all parole revocations of persons granted parole pursuant to this section  
30 shall be heard in accordance with the provisions of §62-12-19 of this code.

31           (e) The nonviolent offense parole program authorized by subsection (a) of this section  
32 requires no action by the Parole Board as to the release decision if the inmate qualifies for the  
33 program and has successfully completed his or her rehabilitation treatment program as  
34 determined by the commissioner.

35           (f) The commissioner shall develop a policy directive setting forth the processes and  
36 procedures to determine successful completion of the rehabilitation treatment program and to  
37 provide notice to the inmate. If the inmate fails to successfully complete his or her rehabilitation  
38 treatment program, his or her parole shall be determined in accordance with the provisions of  
39 §62-12-13 of this code. An inmate who has been denied parole pursuant to the provisions of §62-  
40 12-13 of this code and who thereafter successfully completes his or her rehabilitation treatment  
41 program prior to his or her next parole review shall be eligible for release under the nonviolent  
42 offense parole program within a reasonable time after he or she may successfully complete such

- 43 program as determined by the commissioner, provided the inmate remains qualified for release
- 44 under the nonviolent offense parole program.

NOTE: The purpose of this bill is to clarify that the Nonviolent Offense Parole Program is not available to offenders who are serving a sentence that runs concurrently or consecutively with an excludable offense and to further clarify that the program is not available to an offender who has been released under the program on a previous occasion.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.