

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 449**

BY SENATORS TRUMP AND WOELFEL

[Originating in the Committee on the Judiciary;

reported on January 25, 2022]



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 aggregated either consecutively or concurrently  
4 with an offense that is a crime of violence against a person or animal, as well as a felony  
5 controlled substance offense, a felony firearm offense, nor a felony where the victim was  
6 a minor child; and making the provisions of this section unavailable to those previously  
7 released under the terms of this section from the same sentence.

*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~~ may establish a nonviolent offense parole program  
2 for any inmate of a state correctional facility in which an inmate may be paroled without action of  
3 the Parole Board based upon objective standards as set forth in this section, to commence on  
4 July 1, 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; Provided, That an inmate is ineligible to participate in the nonviolent

17 offense parole program if the sentence from which parole is being considered is aggregated,  
18 concurrently or consecutively, with an offense determined disqualifying under this subdivision.

19 (2) Has successfully completed an individualized rehabilitation treatment program as  
20 determined by the division; and

21 (3) Has not previously been released on parole pursuant to this section from the same  
22 sentence; and

23 ~~(3)~~ (4) Has otherwise satisfied the requirements for parole eligibility set forth in §62-12-13  
24 of this code.

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

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

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