

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 172

By Senators Trump and Hamilton

[Originating in the Committee on The Judiciary;

reported on January 18, 2023]

1 A BILL to amend and reenact §62-12-12 of the Code of West Virginia, 1931, as amended, relating
2 generally to the board of parole; increasing the number of members on the board from nine
3 to 13; establishing qualifications for members appointed after July 1, 2023; removing the
4 party affiliation limitation; and requesting the governor to affirmatively recruit candidates
5 with mental health and social work experience.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. PROBATION AND PAROLE.

§62-12-12. Parole Board generally.

1 (a) The West Virginia Parole Board is continued as part of the Division of Corrections and
2 Rehabilitation. The board shall consist of ~~nine~~ 13 members, each of whom shall have been a
3 resident of this state for at least five consecutive years prior to his or her appointment. No more
4 than ~~five~~ six of the board members may at any one time belong to the same political party. ~~except~~
5 ~~as provided in subsection (b) of this section~~ The board shall be appointed by the Governor, by and
6 with the advice and consent of the Senate, and shall serve at the will and pleasure of the Governor.

7 (b) The Governor shall appoint one ~~of the nine members~~ member to serve as chairperson
8 at the Governor's will and pleasure. In addition to all other powers, duties, and responsibilities
9 granted and assigned to the chairperson by law and rule, the chairperson has the following powers
10 and duties:

11 (1) To provide for the management of facilities and personnel of the board;

12 (2) To supervise the administration and operation of the board;

13 (3) To delegate the powers and duties of his or her office to the vice chairperson or other
14 members of the board, who shall act under the direction of the chairperson and for whose acts he
15 or she is responsible: *Provided*, That if the position of chairperson becomes vacant by death,
16 resignation, or otherwise, the vice chairperson shall assume all the powers and duties of the
17 chairperson until such time as a new chairperson is appointed pursuant to the provisions of this
18 subsection;

19 (4) To employ one full-time administrative employee, who shall be a classified exempt
20 employee; and

21 (5) To exercise all other powers and perform all other duties necessary and proper in
22 carrying out his or her responsibilities as chairperson.

23 (c) The board, from its membership, shall elect a vice chairperson, at least once every
24 year, to serve as ~~chair~~ chairperson in the absence of a chairperson. In the absence of, or at the
25 direction of, the chairperson, the vice chairperson may exercise the powers and duties of the
26 chairperson. The vice chairperson shall, while performing the duties and responsibilities of the
27 chairperson, have all of the statutorily authorized power and duties of the chairperson.

28 (d) Members of the board shall have at least an undergraduate degree from an accredited
29 college or university or at least five years of actual experience in the fields of corrections, law
30 enforcement, sociology, law, education, psychology, social work, or medicine, or a combination
31 thereof, and shall be otherwise competent to perform the duties of his or her office: *Provided*, That
32 at least three members initially appointed after July 1, 2021, shall have five or more years
33 experience in the fields of mental health, social work, or inmate reentry services: *Provided*,
34 however, That members appointed to the board pursuant to the amendments to this section
35 enacted during the regular session of the Legislature, 2023, shall have at least an undergraduate
36 degree or five or more years of experience in the fields of medicine, psychiatry, psychology,
37 education, the practice of law, social work, mental health, or corrections. : *Provided*, further, that
38 the Governor is requested to affirmatively attempt to recruit persons with the required
39 experience in the areas of mental health and social work in the filling of the positions
40 created by the amendments to this section enacted during the 2023 Regular Session of
41 the Legislature. All members currently serving on the board shall continue the terms they are
42 currently serving, unless otherwise removed. The members shall be appointed for overlapping
43 terms of six years. Members are eligible for reappointment. The members of the board shall

44 devote their full time and attention to their board duties.

45 (e) The Governor may, if he or she is informed that a vacancy is imminent, appoint a
46 member to fill the imminent vacancy prior to it becoming vacant: *Provided*, That the new member
47 may be appointed no more than 30 days prior to the vacancy occurring and only for purposes of
48 training. He or she may not assume the powers and duties of the position until the vacancy has
49 actually occurred.

50 (f) The Governor may appoint no more than five persons to a list of substitute board
51 members. Substitute board members shall meet the qualifications set forth in subsection (d) of this
52 section. The persons on the list shall be used in a rotating fashion. If a full-time board member is
53 unable to serve, a substitute board member may serve in his or her place. These substitute board
54 members shall have the same powers and duties of the full-time board members while acting as a
55 substitute and shall serve at the will and pleasure of the Governor. These members shall be
56 reimbursed for expenses and paid a per diem rate set by the secretary.

57 (g) The Division of Corrections and Rehabilitation shall provide administrative and other
58 services to required by the board. ~~as the board requires.~~ Expenses of the board shall be included
59 within the annual budget of the Division of Corrections and Rehabilitation: *Provided*, That the
60 salaries of the members appointed pursuant to subsection (b) of this section are to be included in a
61 separate budget for the Parole Board.

62 (h) Notwithstanding any provision of this code to the contrary, meetings of the Parole Board
63 are not subject to the provisions of §6-9A-1 *et seq.* of this code: *Provided*, That hearings before
64 the Parole Board shall be open to the public.