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NEVADA BOARD OF PAROLE COMMISSIONERS

April 1, 2020

NOTICE OF INTENT TO ACT UPON A REGULATION

LCB File No. R-118-19

Notice of Hearing for the Adoption of a Regulation of the Board of Parole Commissioners.

The Board of Parole Commissioners (Board) will hold a public hearing at **10:30 AM on Thursday, May 28, 2020** at 1677 Old Hot Springs Road, Suite A, Carson City, NV 89706 that will be video conferenced to 4000 South Eastern Avenue, Suite 130, Las Vegas, NV 89119. The purpose of the hearing is to receive comments from all interested persons regarding the Amendment of regulations that pertain to chapter 213 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation or amendment.

This proposed regulation is necessary to carry out the provisions of a recent change to NRS Chapter 213 by the Nevada Legislature in Assembly Bill 236, Section 93.7 of the 2019 Legislative session, effective July 1, 2020. This proposed regulation relates to the early discharge of a person from parole if the Board receives a recommendation from the Division of Parole and Probation (Division) of the Department of Public Safety. If the Division verifies specific criteria have been met, the Board may award credits to reduce the sentence to time served, but not to exceed 12 calendar months.

2. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to [NRS 233B.063](#).

A copy of the proposed regulation is attached to this notice. The proposed regulation can also be obtained by visiting the Board's website at www.parole.nv.gov or by contacting the Board office at (775) 687-5049 and requesting a copy to be mailed.

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be state separately, and in each case must include:

a. Both adverse and beneficial effects; and

Adverse effects: There are no known adverse economic effects of the proposed regulation.

Beneficial effects: The beneficial economic effects of the proposed regulation are a possible decrease in costs by the Division for parole supervision.

b. Both Immediate and long-term effects.

Immediate economic effects: There are no known immediate economic effects.

Long-term economic effects: There are no known long-term economic effects.

4. A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of [NRS 233B.0608](#).

The Board used informed, reasonable judgement in determining that there will not be an impact on small businesses due to the nature of the proposed regulation.

5. The estimated cost to the agency for enforcement of the proposed regulation.

The Board estimates that there are no additional enforcement costs as a result of the proposed regulation.

6. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The Board is unaware of any other Federal, state or local governmental agency regulations that the proposed regulation may overlap or duplicate.

7. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required pursuant to Federal law.

8. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulation does not include provisions which are more stringent than a Federal regulation that regulates the same activity.

9. Whether the proposed regulation establishes a new fee or increases an existing fee.

The proposed regulation does not establish a new fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the Board of Parole Commissioners may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form to the Board of Parole Commissioners, attention Kathi Baker at 1677 Old Hot Spring Road, Carson City, Nevada, 89706 or by email to kjbaker@parole.nv.gov. Written submissions must be received by the Board of Parole Commissioners on or before May 21, 2020. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board of Parole Commissioners may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the Board of Parole Commissioners office located at 1677 Old Hot Springs Road, Suite A, Carson City, Nevada; the Board of Parole Commissioners office located at 4000 S. Eastern Avenue, Suite 130, Las Vegas, Nevada; and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations (R188-19), which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

NEVADA COUNTY PUBLIC LIBRARIES

Carson City Library
900 North Roop Street
Carson City, Nevada 89701-1301

Churchill County Library
553 South Main Street
Fallon, Nevada 89406-3306

Las Vegas-Clark County Library District
Headquarters
833 Las Vegas Boulevard North
Las Vegas Nevada 89101-2062

Douglas County Public Library
1625 Library Lane
Minden, Nevada 89423-0337

Elko County Library
720 Court Street
Elko, Nevada 89801-3397

Esmeralda County Library
PO Box 430
Goldfield, Nevada 89013-0430

Eureka County Library
10190 Monroe Street
Eureka, Nevada 89316

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445-3095

Battle Mountain Branch Library (Lander County)
625 South Broad Street
Battle Mountain, Nevada 89820

Lincoln County Library
63 Main Street
Pioche, Nevada 89043

Lyon County Library System
20 Nevin Way
Yerington, Nevada 89447

Mineral County Public Library
PO Box 1390
Hawthorne, Nevada 89415

Pershing County Library
1125 Central Avenue
Lovelock, Nevada 89419

Storey County Public Library (CLOSED,
Instead, send to the Storey County Clerk's
Office, see below)

Storey County Treasurer and Clerk's Office
Drawer D
Virginia City, Nevada 89049

Tonopah Public Library
PO Box 449
Tonopah, Nevada 89049

Washoe County Library System
301 South Center Street
Reno, Nevada 89501-2102

White Pine County Library
950 Campton Street
Ely, Nevada 89301

**PROPOSED REGULATION OF THE
STATE BOARD OF PAROLE COMMISSIONERS**

LCB File No. R118-19

January 21, 2020

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 213.1543.

A REGULATION relating to parole; establishing provisions relating to the early discharge of certain persons from parole; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Parole and Probation of the Department of Public Safety to recommend to the State Board of Parole Commissioners the early discharge of a person from parole, other than any person who is sentenced to lifetime supervision because he or she was convicted of a sexual offense, if the person meets certain qualifications. Existing law authorizes the Board to adopt any regulations necessary to carry out the provisions of law relating to the early discharge of such a person from parole. (NRS 213.1543)

This regulation: (1) requires the Division to determine whether a parolee qualifies for early discharge from parole and, if so, make a written recommendation to the Board for early discharge from parole and include certain information in such a written recommendation; (2) provides that the Board, in its discretion, will consider a parolee for early discharge from parole with or without a hearing, but requires a hearing to be held if a victim of the parolee has requested notification of a hearing; (3) establishes certain notice requirements regarding a hearing to be given to a parolee and certain victims of the parolee; (4) authorizes any victim who is provided notification of a hearing to submit documents to the Board and testify at the hearing; (5) authorizes the Board to deliberate in private to consider whether to approve the early discharge of a parolee from parole and to take into consideration certain factors; and (6) provides that any credits awarded by the Board to reduce the sentence of a parolee must not exceed 12 months.

Section 1. Chapter 213 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The Division shall determine whether a parolee meets the qualifications for early discharge from parole pursuant to NRS 213.1543 and, if the parolee meets such qualifications, make a written recommendation to the Board for the early discharge of the parolee from parole.

2. A written recommendation for early discharge from parole made by the Division pursuant to subsection 1 must include, without limitation:

(a) Verification that the parolee has served at least 12 calendar months on parole supervision in the community and is projected to have not more than 12 calendar months of community supervision remaining to serve on any sentence;

(b) Verification that the Board has not found the parolee in violation of any condition of parole during the immediately preceding 12 months;

(c) Verification that the parolee is current with any fee to defray the costs of his or her supervision charged by the Division pursuant to NRS 213.1076;

(d) Verification that the parolee has paid restitution in full or, because of economic hardship that is verified by the Division, the parolee has been unable to make restitution as ordered by the court;

(e) If applicable, verification that the parolee has completed any program of substance use treatment or mental health treatment or a specialty court program as mandated by the Board;
and

(f) The risk assessment level of the parolee according to the Nevada Risk Assessment System or its successor risk assessment tool.

3. Upon receipt of a written recommendation for early discharge from parole made by the Division pursuant to subsection 1, the Board will consider the parolee for early discharge from parole with or without a hearing, in the discretion of the Board. The Board will not consider the parolee for early discharge from parole without a hearing if a victim of the parolee has requested notification of a hearing.

4. If the Board determines that a hearing will be held to consider a parolee for early discharge from parole:

(a) The Division shall, not later than 5 working days before the hearing, deliver a written hearing notification to the parolee.

(b) The Board will, not later than 5 calendar days after the hearing date is scheduled, notify any victim of the parolee who has requested notification of a hearing in writing and who has provided his or her current address to or whose current address is otherwise known by the Board.

(c) Any victim who is provided notification of a hearing pursuant to paragraph (b) may submit documents to the Board and may testify at the hearing. A parolee must not be considered for early discharge from parole pursuant to this section until the Board has notified any victim of his or her rights pursuant to this paragraph and the victim is given the opportunity to exercise those rights. If a current address of the victim is not provided to or otherwise known by the Board, the Board must not be held responsible if such notification is not received by the victim.

5. If a hearing is held to consider a parolee for early discharge from parole, the Board may, after the hearing, deliberate in private to consider whether to approve the early discharge

from parole. Before determining whether to approve a parolee for early discharge from parole, the Board may consider, without limitation:

- (a) Any further potential risk posed to the community or the victims of the parolee; and*
- (b) Whether further supervision is necessary.*

6. If a victim is notified of a hearing to consider a parolee for early discharge from parole pursuant to subsection 4, the Board will, upon making a final decision concerning the early discharge of the parolee from parole, notify the victim of its final decision.

7. Any credits awarded by the Board to reduce a sentence pursuant to subsection 2 of NRS 213.1543 must not exceed 12 months.

8. As used in this section:

(a) "Board" means the State Board of Parole Commissioners.

(b) "Division" means the Division of Parole and Probation of the Department of Public Safety.

(c) "Victim" has the meaning ascribed to it in NRS 213.005.

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NEVADA BOARD OF PAROLE COMMISSIONERS

Assembly Bill 236, Section 93.7 Small Business Impact Statement pursuant to NRS 233B.0608

September 30, 2019

The following statement is made pursuant to the regulatory process outlined in NRS 233B.

Before conducting a workshop on the proposed regulation, the agency must make a concerted effort to determine whether the regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. If the agency concludes that the proposed regulation is likely to have such an impact, it must; (1) consult with owners and officers of small businesses that are likely to be affected by the proposed regulation; (2) conduct or cause to be conducted an analysis of the likely impact of the proposed regulation on small businesses; (3) consider methods to reduce the impact of the proposed regulation on small businesses; and (4) prepare a small business impact statement and make copies of the statement available to the public not less than 15 days before the workshop conducted and the public hearing held pursuant to NRS 233B.061.

Prior to scheduling the public workshop, the Board of Parole Commissioners' (Board) staff made a concerted effort to determine whether the proposed regulation was likely to impose a direct and significant economic burden upon a small business and/or directly restrict the formation, operation or expansion of a small business.

The proposed regulations codify administrative functions related to (1) the early release from parole and the execution of the documents thereto; and (2) the administrative functions pertaining to petitions for the early release from parole. Early discharge of a person from parole does not apply to any person who is sentenced to lifetime supervision pursuant to NRS 176.0931.

Board staff considered whether any part of the proposed regulations would impact a small business, and also considered whether the regulations imposed a fee on a small business; whether a small business would be required in any way to participate in the early discharge process; or whether a small business would be impacted in any way by the early discharge from parole procedures.

The Board staff has determined that the proposed regulations would not impact small businesses as small businesses do not currently perform a function within the parole process, and therefore would not directly or indirectly experience a negative outcome if the regulations are adopted.

Assembly Bill 236, Section 93.7
Small Business Impact Statement pursuant to NRS 233B.0608
September 30, 2019
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I hereby certify that to the best of my knowledge or belief that a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in the statement is prepared properly and accurate.

A handwritten signature in blue ink, appearing to read "C. P. DeRicco". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Christopher P. DeRicco, Chairman
Board of Parole Commissioners
775-687-5049