

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

LCB File No. R115-21

February 1, 2022

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

AUTHORITY: § 1, NRS 213.10885.

A REGULATION relating to parole; revising certain factors that the State Board of Parole Commissioners may consider when determining whether to grant parole to a prisoner; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Parole Commissioners to adopt regulations setting forth specific standards to assist the Board in determining whether to grant or revoke the parole of a convicted person. The standards are required to be based upon objective criteria for determining the convicted person’s probability of success on parole. (NRS 213.10885)

Existing regulations set forth certain aggravating and mitigating factors that the Board is authorized to consider when determining whether to grant parole to a prisoner. (NAC 213.518) This regulation revises such aggravating and mitigating factors and also provides that the Board will consider certain other factors set forth in existing law when determining whether to grant parole to a prisoner.

Section 1. NAC 213.518 is hereby amended to read as follows:

213.518 1. After establishing an initial assessment regarding whether to grant parole pursuant to NAC 213.516, the Board ~~may~~ :

(a) Will consider the initial assessment and the factors set forth in NRS 213.10885 and 213.1099; and

(b) May consider ~~additional~~ the relevant aggravating and mitigating factors *set forth in subsections 2 and 3, respectively,* to determine whether to grant parole to a prisoner.

2. The aggravating factors which the Board may consider in determining whether to grant parole to a prisoner include, without limitation:

(a) Whether ~~{the nature of the crime committed}~~ *a prior prison term served* by the prisoner ~~{was severe, extreme or abnormal;}~~ *did not deter subsequent criminal activity;*

(b) Whether the prisoner has previously been convicted of ~~{a crime;}~~ *or adjudicated delinquent for a sexual offense;*

(c) ~~{The number of occasions on which}~~ *Whether* the prisoner has ~~{been incarcerated;}~~ *previously been convicted of or adjudicated delinquent for a violent offense;*

(d) Whether the prisoner has ~~{failed to complete probation or parole on three or more occasions;}~~ *engaged in repetitive similar criminal conduct;*

(e) Whether the prisoner has ~~{committed a crime while incarcerated, during any period of release from confinement on bail, during any period of escape from an institution or facility or while on probation or parole;}~~ *a significant prior criminal history;*

(f) ~~{The extent to which}~~ *Whether* the prisoner ~~{attempted to elude capture during or following the commission of a crime;}~~ *has engaged in disruptive institutional behavior;*

(g) ~~{The extent of the injury or loss suffered by the victim of the crime for which parole is being considered;}~~ *Whether the results of any assessment of the prisoner conducted pursuant to NRS 213.1214 indicate a high risk that the prisoner will reoffend in a sexual manner;*

(h) Whether the prisoner has ~~{engaged in repetitive criminal conduct;}~~ *multiple prior probation or parole revocations;*

(i) Whether the *nature of the criminal record of the* prisoner ~~{has engaged in disruptive behavior while incarcerated;}~~ *is increasingly more serious;*

(j) Whether ~~{the Department of Corrections has ever ordered}~~, *in committing the crime for which parole is being considered*, the prisoner ~~{to be confined in disciplinary segregation;}~~ *targeted a child under the age of 18 years or a person who is vulnerable because of his or her age or disability;*

(k) ~~{Whether}~~ *The impact on the community and each victim of the crime for which parole is being considered if* the prisoner ~~{has committed increasingly serious crimes;}~~ *is released on parole;*

(l) ~~{Whether the prisoner has a history of failing to comply with the orders of a mental health professional for the treatment of a mental illness, including, without limitation, failing to comply with prescriptions for medication to treat a mental illness;}~~ *The extreme or abnormal aspects of the crime for which parole is being considered;*

(m) Whether the prisoner ~~{demonstrates that he or she does not understand the nature of any diagnosed mental illness and whether that lack of understanding may contribute to future criminal behavior;}~~ *refused to participate in or was terminated for cause from any treatment;*

(n) Whether ~~{, in committing the crime for which parole is being considered;}~~ the prisoner ~~{targeted a child under the age of 18 years or a person who is vulnerable because of his or her age or disability;}~~ *has been removed from a correctional program for reentry or a program of work release during the period of his or her current incarceration;*

(o) Whether the prisoner has ~~{a history of possessing or using a weapon during the commission of}~~ *committed* a crime ~~{, and}~~ *while incarcerated, during any period of release from confinement on bail, during any period of escape from an institution or facility, while eluding capture or while on probation or parole;*

(p) *Whether the prisoner has been confined in disciplinary segregation at any time during the 24 months immediately preceding the month in which the parole hearing takes place; and*

(q) Any other factor which indicates an increased risk that the release of the prisoner on parole would be dangerous to society or the prisoner.

3. The mitigating factors which the Board may consider to determine whether to grant parole to a prisoner include, without limitation:

(a) ~~Whether the prisoner has participated in programs which address the behaviors of the prisoner that led to the commission of the crime for which parole is being considered;~~

~~(b)~~ Whether the prisoner has no prior history, or a minimal history, of criminal convictions ~~or delinquency adjudications;~~

~~(c)~~ (b) Whether the prisoner has not had any infractions of the rules of the institution or facility in which he or she has been incarcerated ~~during the most recent 2 years if the lack of infractions is not a result of the confinement of the prisoner~~ and has not been confined in disciplinary segregation ~~at any time during the 24 months immediately preceding the month in which the parole hearing takes place;~~

(c) *Whether the prisoner has participated in programs specific to addressing the behaviors of the prisoner that led to his or her incarceration;*

(d) Whether the prisoner has adjusted positively to a *correctional* program for reentry ~~of offenders and parolees into the community established by the Director of the Department of Corrections pursuant to NRS 209.4887~~ or a program of work release ~~established by the Department of Corrections pursuant to NRS 213.300;~~ *during the period of his or her current incarceration;*

- (e) ~~Whether the prisoner had less involvement in the commission of the crime for which parole is being considered than other persons who participated in the commission of the crime;~~
- ~~(f)~~ Whether the prisoner previously completed probation or parole *supervision* successfully, other than ~~probation imposed and supervised by a court;~~ *summary or court-based supervision;*
- (f) Whether a stable release plan exists for the prisoner;*
- (g) Whether ~~the prisoner has support available to him or her in the community or from his or her family;~~
- ~~(h) Whether a stable release plan exists for the prisoner;~~
- ~~(i) Whether the release of the prisoner is not a significant risk to society because the prisoner will be paroled to~~ another jurisdiction ~~for prosecution or deportation;~~
- ~~(j)~~ *has lodged a detainer against the prisoner;*
- (h) Whether a consecutive sentence is pending against the prisoner;*
- (i) Whether the prisoner has support available to him or her in the community or from his or her family;*
- (j) Whether the prisoner had less involvement in the commission of the crime for which parole is being considered than other persons who participated in the commission of the crime;*
- (k) Whether the results of any assessment of the prisoner conducted pursuant to NRS 213.1214 indicate a low risk that the prisoner will reoffend in a sexual manner;*
- (l) If the prisoner has a mental illness that may be a contributing factor to criminal behavior, whether the prisoner has consistently managed the mental illness in the manner recommended by mental health professionals;*
- (m) Whether the case history of the prisoner demonstrates remorse by the prisoner;*

(n) Whether the presentence investigation *report* indicates that the crime for which parole is being considered was situational and *there is no evidence* that the prisoner ~~{did not intend}~~ *intended* to cause harm; †

~~—(k) Whether the presentence investigation indicates that, prior to his or her arrest for the crime for which parole is being considered, the prisoner demonstrated immediate remorse for committing the crime by immediately and voluntarily turning himself or herself in to the proper authority, immediately and voluntarily seeking treatment to address the criminal behavior, immediately and voluntarily making restitution to the victims of the crime or taking any other voluntary action which demonstrates remorse;~~

~~—(l) Whether the prisoner has consistently managed a mental illness which may contribute to criminal behavior in the manner recommended by mental health professionals;†~~ and

~~{(m)}~~ (o) Any other factor which indicates that the release of the prisoner on parole would benefit, or would not be dangerous to, society or the prisoner.

4. *As used in this section, “sexual offense” has the meaning ascribed to it in NRS 213.1214.*