

Senator Michael K. McKell proposes the following substitute bill:

PAROLE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill provides that an offender convicted of a homicide may not be released on parole if the offender has not cooperated in the recovery of the victim's remains.

Highlighted Provisions:

This bill:

- prevents an offender convicted of a homicide where the victim's remains have not been recovered from being paroled unless the offender has cooperated with efforts to locate the remains.

Money Appropriated in this Bill:

None

Other Special Clauses:

↗ ~~None~~ **This bill has an immediate effective date.** ↖

Utah Code Sections Affected:

AMENDS:

77-27-9, as last amended by Laws of Utah 2019, Chapter 72

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-27-9** is amended to read:



26 **77-27-9. Parole proceedings.**

27 (1) (a) The Board of Pardons and Parole may parole any offender or terminate the
28 sentence of any offender committed to a penal or correctional facility under the jurisdiction of
29 the Department of Corrections except as provided in Subsection (2).

30 (b) The board may not release any offender before the minimum term has been served
31 unless the board finds mitigating circumstances which justify the release and unless the board
32 has granted a full hearing, in open session, after previous notice of the time and location of the
33 hearing, and recorded the proceedings and decisions of the board.

34 (c) The board may not parole any offender or terminate the sentence of any offender
35 unless the board has granted a full hearing, in open session, after previous notice of the time
36 and location of the hearing, and recorded the proceedings and decisions of the board.

37 (d) The release of an offender shall be at the initiative of the board, which shall
38 consider each case as the offender becomes eligible. However, a prisoner may submit the
39 prisoner's own application, subject to the rules of the board promulgated in accordance with
40 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

41 (2) (a) An individual sentenced to prison prior to April 29, 1996, for a first degree
42 felony involving child kidnapping, a violation of Section 76-5-301.1; aggravated kidnapping, a
43 violation of Section 76-5-302; rape of a child, a violation of Section 76-5-402.1; object rape of
44 a child, a violation of Section 76-5-402.3; sodomy upon a child, a violation of Section
45 76-5-403.1; aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4);
46 aggravated sexual assault, a violation of Section 76-5-405; or a prior offense as described in
47 Section 76-3-407, may not be eligible for release on parole by the Board of Pardons and Parole
48 until the offender has fully completed serving the minimum mandatory sentence imposed by
49 the court. This Subsection (2)(a) supersedes any other provision of law.

50 (b) The board may not parole any offender or commute or terminate the sentence of
51 any offender before the offender has served the minimum term for the offense, if the offender
52 was sentenced prior to April 29, 1996, and if:

53 (i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape,
54 aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual assault as defined
55 in Title 76, Chapter 5, Offenses Against the Person; and

56 (ii) the victim of the offense was under 18 years ~~[of age]~~ old at the time the offense was

57 committed.

58 (c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the
59 board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole as
60 provided in this section.

61 (d) The board may not pardon or parole any offender or commute or terminate the
62 sentence of any offender who is sentenced to life in prison without parole except as provided in
63 Subsection (7).

64 (e) On or after April 27, 1992, the board may commute a sentence of death only to a
65 sentence of life in prison without parole.

66 (f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come
67 before the Board of Pardons and Parole on or after April 27, 1992.

68 (g) The board may not parole any offender convicted of a homicide unless:

69 (i) the remains of the victim have been recovered; or

70 (ii) the offender can demonstrate by a preponderance of the evidence that the offender
71 has cooperated in good faith in efforts to locate the remains.

72 (3) The board may rescind:

73 (a) an inmate's prison release date prior to the inmate being released from custody; or

74 (b) an offender's termination date from parole prior to the offender being terminated
75 from parole.

76 (4) (a) The board may issue subpoenas to compel the attendance of witnesses and the
77 production of evidence, to administer oaths, and to take testimony for the purpose of any
78 investigation by the board or any of [~~its~~] the board's members or by a designated hearing
79 examiner in the performance of its duties.

80 (b) A person who willfully disobeys a properly served subpoena issued by the board is
81 guilty of a class B misdemeanor.

82 (5) (a) The board may adopt rules consistent with law for [~~its~~] the board's government,
83 meetings and hearings, the conduct of proceedings before [~~it~~] the board, the parole and pardon
84 of offenders, the commutation and termination of sentences, and the general conditions under
85 which parole may be granted and revoked.

86 (b) The rules shall ensure an adequate opportunity for victims to participate at hearings
87 held under this chapter, as provided in Section [77-27-9.5](#).

88 (c) The rules may allow the board to establish reasonable and equitable time limits on
89 the presentations by all participants in hearings held under this chapter.

90 (6) The board does not provide counseling or therapy for victims as a part of their
91 participation in any hearing under this chapter.

92 (7) The board may parole a person sentenced to life in prison without parole if the
93 board finds by clear and convincing evidence that the person is permanently incapable of being
94 a threat to the safety of society.

94a **Ŝ→ Section 2. Effective Date.**

94b **If approved by two-thirds of all the members elected to each house, this bill takes effect**
94c **upon approval by the governor, or the day following the constitutional time limit of Utah**
94d **Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,**
94e **the date of veto override.** ←Ŝ