

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 124

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO THE STATE BOARD OF CORRECTION; AMENDING SECTION 20-223, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RETURN OF A CERTAIN BOND AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 20-223, Idaho Code, be, and the same is hereby amended to read as follows:

20-223. PAROLE AND RULES GOVERNING -- RESTRICTIONS -- PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION. (a) Subject to section 19-2513, Idaho Code, the commission shall have the power to establish rules, policies or procedures in compliance with chapter 52, title 67, Idaho Code, under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of the board and subject to be taken back into confinement at the direction of the commission. Any prisoner who is granted parole under the interstate compact may be required to post a bond prior to release or prior to such acceptance under the interstate compact; such bond may be posted by the prisoner, the prisoner's family, or other interested party. Failure to successfully complete parole may be grounds for forfeiture of the bond. Upon successful completion of parole, the amount of the bond ~~will~~ may be returned, less an amount for administrative costs as determined by commission rule, in compliance with chapter 52, title 67, Idaho Code. A request must be made for return of the bond within one (1) year of discharge of the offense for which the particular offender was serving parole. Funds collected through the bonding process will be placed in a separate commission receipts fund which is hereby created in the state treasury, and utilized for the extradition of ~~said~~ parole violators.

(b) No person serving a sentence for rape, incest, committing a lewd act upon a child, crime against nature, or with an intent or an assault with intent to commit any ~~of the said~~ such crimes, or whose history and conduct indicate to the commission that he is a sexually dangerous person, shall be released on parole except upon the examination and evaluation of one (1) or more psychiatrists or psychologists or mental health professionals designated for this purpose by the department of correction to be selected by the commission and such evaluation shall be duly considered by the commission in making its parole determination. The commission may, in its discretion, likewise require a similar examination and evaluation for persons serving sentences for crimes other than those above enumerated. No person making such evaluation shall be held financially responsible to any person for denial of parole by the commission or for the results of the future acts of such person if he be granted parole.

1 (c) Before considering the parole of any prisoner, the commission shall
2 afford the prisoner the opportunity to be interviewed by the commission, a
3 commissioner or other designated commission staff. A designated report pre-
4 pared by commission staff or a designated department of correction employee
5 which is specifically to be used by the commission in making a parole deter-
6 mination shall be exempt from public disclosure; such reports contain infor-
7 mation from the presentence investigation report, medical or psychological
8 information, victim information, designated confidential witness informa-
9 tion and criminal history information. A parole shall be ordered when, in
10 the discretion of the commission, it is in the best interests of society, and
11 the commission believes the prisoner is able and willing to fulfill the obli-
12 gations of a law-abiding citizen. Such determination shall not be a reward
13 of clemency and it shall not be considered to be a reduction of sentence or a
14 pardon. The commission may also by its rules, policies or procedures fix the
15 times and conditions under which any application denied may be reconsidered.
16 No action may be maintained against the commission and/or any of its members
17 in any court in connection with any decision taken by the commission to pa-
18 role a prisoner and neither the commission nor its members shall be liable in
19 any way for its action with respect thereto.

20 (d) In making any parole or commutation decision with respect to a
21 prisoner, the commission shall consider the compliance of the prisoner with
22 any order of restitution which may have been entered according to section
23 19-5304, Idaho Code. The commission may make compliance with such an order
24 of restitution a condition of parole.

25 (e) Except as provided in subsection (a) of this section, no provision
26 of chapter 52, title 67, Idaho Code, shall apply to the commission.

27 (f) Subject to the limitations of this subsection and notwithstanding
28 any fixed term of confinement or minimum period of confinement as provided
29 in section 19-2513, Idaho Code, the commission may parole an inmate for med-
30 ical reasons. A prisoner may be considered for medical parole only when the
31 prisoner is permanently incapacitated or terminally ill and when the commis-
32 sion reasonably believes the prisoner no longer poses a threat to the safety
33 of society. For the purposes of this section "permanently incapacitated"
34 shall mean a person who, by reason of an existing physical condition which
35 is not terminal, is permanently and irreversibly physically incapacitated.
36 For the purposes of this section "terminally ill" shall mean a person who has
37 an incurable condition caused by illness or disease and who is irreversibly
38 terminally ill.

39 (g) The commission shall prepare and send to the house and senate judi-
40 ciary committees annually a report containing the names, medical condition
41 and current status of all persons granted parole pursuant to subsection (f)
42 of this section.