

UNIVERSITY OF MINNESOTA

PROFILES IN PAROLE RELEASE AND REVOCATION:

Examining the Legal Framework in the United States

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PROFILES IN PAROLE RELEASE AND REVOCATION:

Examining the Legal Framework in the United States

Tennessee

By

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The authors would like to thank the Hon. Mark Fishburn of the Tennessee Courts for comments on an earlier draft of some sections of this report. However, in contrast to many of the parole profiles already posted, in-state experts did not review the entirety of this document. We encourage readers to use this profile as an informative guide, but to exercise caution in relying solely on the description of the parole process in Tennessee without checking additional sources. We also welcome corrections to the profile.

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1. Background; Sentencing System

a. Sentencing Framework

Tennessee has had an indeterminate sentencing system since 1929 and a paroling authority since 1931. The Board has operated with the same number of members and same general statutory mandate since 1989; however, Tennessee's sentencing and parole laws have frequently undergone changes since that time.¹ In addition, Tennessee has had sentencing guidelines since 1989 that have been advisory since 2005.² The guidelines were written by a sentencing commission that was abolished in 1995.³

It is important to note that the Tennessee sentencing system is indeterminate in that inmates are eligible for discretionary parole. However, Tennessee law refers to both "determinate" and "indeterminate" sentences. In Tennessee, a "determinate" sentence is simply a sentence that is expressed as a term of years (e.g., "5 years") rather than a range (e.g., "3 to 8 years").⁴ This type of sentence still includes eligibility for discretionary parole release, and is thus indeterminate relative to the imposition of such terms.

b. Does the State Have a Parole Board or Other Agency with Discretionary Prison Release Authority?

Yes, the Tennessee Board of Parole.⁵

<https://www.tn.gov/bop>

c. Which Agencies Are Responsible for the Supervision of Released Prisoners?

Until July 1, 2012, what was then called the Board of Probation and Parole was responsible for the supervision of offenders. That year the Board was renamed the Tennessee Board of Parole, and offender supervision of released prisoners was transferred to the Department of Correction where it remains today.⁶

<https://www.tn.gov/correction/>

d. Which Agency Has Authority Over Parole Revocation?

The Tennessee Board of Parole.⁷

2. Parole Release and Other Prison-Release Mechanisms

a. Parole Release Eligibility Formulas; Degree of Indeterminacy in System

General rules of release eligibility. Crimes in Tennessee have both a class (that determines the broad continuum of punishment) that ranges from A through E and a guidelines-based classification (which is a slightly narrower range within each class). The standard classifications are Range I (Standard), Range II (Multiple), and Range III (Persistent); however, there is also the possibility of an “especially mitigated” sentence or a “career offender” sentence. Statutory law determines the class of an offense, but judges determine the classification of the offense at sentencing, using the sentencing guidelines.⁸ The classification determines both the length of the total sentence and the percentage of the sentence that must be served before eligibility for parole.

For example, if a defendant is convicted of a Class B felony (where the sentence is between 8 and 30 years), the judge must then use the guidelines to decide the person’s sentencing range. Assuming the defendant has one prior conviction and that therefore the judge does not wish to sentence them in the “especially mitigated range,” they will receive a Range 1 sentence of between 8 and 12 years, and will become parole eligible after 30% of the sentence is complete. If the judge sentences the defendant to 10 years in prison, they will be eligible for parole consideration after serving 3 years.

Except for inmates who receive sentences of imprisonment for life without possibility of parole, only inmates with felony sentences of more than two years or consecutive felony sentences equaling a term greater than two years are eligible for parole consideration.¹¹ Individuals serving 1 to 2 year sentences receive “determinate release” at their earliest possible release eligibility date.¹²

	Esp. Mitigated	Range I	Range II	Range III	Career⁹
Class A	Especially mitigated sentences are Range I sentences lowered by 10%, or parole eligibility lowered to 20% of sentence, or both. ¹⁰	15–25 years	25–40 years	40–60 years	60 years
Class B		8–12 years	12–20 years	20–30 years	30 years
Class C		3–6 years	6–10 years	10–15 years	15 years
Class D		2–4 years	4–8 years	8–12 years	12 years
Class E		1–2 years	2–4 years	4–6 years	6 years
Parole		After 30%	After 35%	After 45%	After 60%

If the Board has never granted parole of any type on a particular sentence, it must grant mandatory parole prior to the expiration of the sentence (so that there is some supervision in the community after release):¹³

- Prisoners serving an indeterminate or determinate sentence with a maximum term of two years up to ten years inclusive, as fixed by the court, must be paroled ninety days prior to the completion of the maximum term of sentence, less credit for good and honor time and incentive time;
- Prisoners serving a determinate or indeterminate sentence with a maximum term of more than ten years as fixed by the court, must be paroled six months prior to the completion of the maximum term of sentence, less credit for good and honor time and incentive time;
- All prisoners mandatorily paroled must be paroled under the provisions and conditions imposed by the Board. After a parole violation that results in revocation, the prisoner may not receive another mandatory parole, but may be paroled at the Board’s discretion;
- Mandatory parole cannot be construed to grant parole earlier than set forth in other parole eligibility statutes.¹⁴

Individuals accorded a bona fide offer of employment. If a prisoner has been accorded a bona fide offer of employment, the board may release them on probationary parole provided that:

- At any time not more than six months before the prisoner’s date of eligibility if, after all credit for good conduct, that eligibility shall occur more than eighteen months and less than five years from the date of sentence; or
- At any time not more than one year before the prisoner’s date of eligibility for parole if, after all credit for good conduct, that eligibility shall occur more than five years from the date of sentence.¹⁵

Notwithstanding any other provision relating to parole eligibility, the Board is authorized to release a prisoner on parole on the date specified in a non-binding sentencing agreement entered into by the prisoner, the Board, and the Department. The Board and commissioner must set the eligibility requirements for the program.¹⁶ Prisoners must meet certain goals, and refrain from committing disciplinary infractions that would void the agreement.¹⁷ No agreement may reduce the parole sentence by more than 35%.¹⁸

Violent and sex offenders. There is a statutory list of convictions for which no parole release is available, but may allow for good time that reduces up to 15% of the sentence. These are generally serious sexual or violent offenses.¹⁹ Child sexual predators, aggravated rapists, child rapists, and multiple rapists are entirely ineligible for parole under a separate statute.²⁰ In addition, there is no parole eligibility for any “armed dangerous felony,” recidivist aggravated robbery, or continuous sexual abuse of a child. There are many other crimes listed for which parole eligibility only occurs after 70 to 85% of a sentence has been served less credits earned and retained.²¹

Life sentences. For inmates convicted of first-degree murder and sentenced to life in prison, the term is considered to be 60 years, less up to 15% of the sentence due to credits earned and retained. Thus, the earliest release from prison is at 51 years.²² Some individuals convicted of first-degree murder or as violent recidivists may face life without parole.²³

Recurring eligibility after denial of release. The legislature recently passed a new law that raised the maximum period that a parole-eligible inmate could serve without review of parole release from six to ten years. If the Board declines parole, they may now delay further review for up to a decade.²⁴ During the time between parole hearings, the Board may ask an offender to complete programs that could contribute to success upon return to the community. Under the new statute, the Board may also deny parole for the balance of any sentence of ten years or less.²⁵

It should also be noted that the Department of Corrections will not certify an inmate for a parole grant hearing, other than an initial grant hearing, if, at the time the Department would otherwise have certified the inmate as eligible:

- (1) The inmate is classified as close custody. This decertification will continue for the duration of the classification, and for a period of one year thereafter.
- (2) The inmate is classified as maximum custody. This decertification will continue for the duration of the classification, and for a period of two years thereafter.²⁶

b. Good Time, Earned Time, and Other Discounts

Each inmate who exhibits good institutional behavior or who exhibits satisfactory performance within a program may be awarded time credits toward the sentence imposed, varying between one day and sixteen days for each month served, with not more than eight days for

each month served for good institutional behavior and not more than eight days for each month served for satisfactory program performance. These credits may not be awarded in any month in which an inmate commits a disciplinary offense of which they are later found guilty. In addition, an inmate may be deprived of credits previously awarded if they commit a Class A disciplinary offense or refuse to participate in an assignment.²⁷

Prisoners may also receive an educational good time credit of sixty days if they successfully receive a GED, a high school diploma, a two-year or four-year college degree, or a two-year or four-year certification in applied sciences, or who receives a vocational education diploma as provided and defined by the department. A qualifying prisoner may receive no more than one credit of sixty days, regardless of the number of programs completed.²⁸

c. Principles and Criteria for Parole Release Decisions

General statutory standard for release decisions. The Board must deny parole release if it determines that:

- There is a substantial risk that the inmate will not conform to the conditions of his or her parole;
- Release would depreciate the seriousness of the crime for which the person stands convicted or would promote disrespect for the law;
- Release would have a substantially adverse effect on institutional discipline; or
- The inmate’s continued correctional treatment, medical care, or vocational/other training in the institution will substantially enhance the person’s capacity to lead a law-abiding life when given release at a later time.²⁹

In addition, the Board cannot grant parole until an individual has successfully completed a test requiring that individual to master certain basic and other skills. The test must include, as a minimum requirement, scoring at an eighth-grade reading level. This requirement does not apply to the following:

- (a) Persons who are certified by the commissioner of correction or the commissioner’s designee as being so intellectually disabled or mentally ill as to be incapable of learning at the required levels;
- (b) Persons who are incarcerated in county jails or workhouses;
- (c) Persons who are in the custody of the Department for less than one year; or
- (d) Persons who have high school diplomas or the equivalent.³⁰

Statutory factors the board must consider. By regulation, the Board may apply a long list of factors to the parole release decision, including:

- The nature of the crime and its severity;
- The inmate's previous criminal record, if any;
- The inmate's institutional record;
- The views of the appropriate trial Judge and the District Attorney General, who prosecuted the case;
- The inmate's circumstances if returned to the community;
- Any mitigating or aggravating circumstances surrounding the offense;
- The views of the community, victims of the crime or their family, institutional staff, probation and parole officers, or other interested parties;
- The inmate's training, including vocational and educational achievements;
- The inmate's employment history, his or her occupational skills, including any military experience, and the stability of his or her past employment;
- The inmate's past use of narcotics, or past habitual and excessive use of alcohol;
- The inmate's behavior and attitude during any previous experience on probation or parole and the recentness of such experience;
- An objective advisory parole predication guideline system to adequately assess the risk an inmate poses to society and his or her potential for parole success; and
- Any other factors required by law to be considered or the Board determines to be relevant.³¹

Special standard for sex offenders. No person convicted of a sex crime may be released on parole, unless a qualified psychiatrist or licensed psychologist has evaluated the inmate. Prior to release, that mental health professional must determine to a reasonable medical or psychological certainty that the inmate does not pose the likelihood of committing sexual assaults upon release from confinement.³²

d. Parole Release Guidelines

The Board has statutory authority to develop and implement guidelines for granting or denying parole release.³³ By regulation, the Board may consider an "objective advisory parole predication guideline system to adequately assess the risk an inmate poses to society and his or her potential for parole success."³⁴ Though there is a reference to "guidelines" and an instrument in the Board's Annual Report,³⁵ it is unclear whether the state employs a parole release guidelines system.

e. Risk and Needs Assessment Tools

Statutory Mandate. Apart from the regulation quoted above that mentions risk assessment, there does not appear to be a statutory mandate concerning use of a risk and needs assessment tool.³⁶

Risk instruments utilized. The Board uses several different risk assessments in determining parole release. These include the Risk Needs and Guidelines Assessment instrument and the LS/CMI (Level of Service/Case Management Inventory).³⁷ The LS/CMI generally consists of an Offender History Form, a scored risk/need assessment, plus 10 sections that enable the assessor to develop a case/treatment plan.³⁸

Transparency. There is little information or transparency about how risk assessments are utilized, their results, or how recently they have been validated in the state.

Sex offenders. As mentioned in §2(c) of this report, all sex offenders must undergo a full psychological evaluation before release. Tennessee employs the Sex Offender Risk Appraisal Guide (SORAG) as one risk assessment tool. It classifies offenders into low, low-moderate, moderate, and high risk.³⁹

f. Medical or Compassionate Release

Inmates may be eligible for medical furlough if they are in imminent peril of death due to a medical condition or who have had severe physical or psychological deterioration and are no longer able to care for themselves in the prison environment. Inmates sentenced to death are not eligible for this type of furlough. Medical furlough is granted by the Commissioner of Correction rather than the Board. However, those approved for medical furlough are supervised by parole officers.⁴⁰

Some inmates may also be granted an emergency furlough of up to two days for the death or illness of an immediate family member.⁴¹

g. Executive Clemency Power

The Governor has the power to grant reprieves and pardons after conviction, except in the case of treason.⁴² The Board advises the Governor on pardons, commutations, or exonerations. As part of this advisory role, the Board may hold a clemency hearing at which it considers:

- the nature of the crime and its severity;
- the applicant's institutional record;
- the applicant's previous criminal record, if any;
- the views of the appropriate trial Judge and the District Attorney General
- the sentences, ages, and comparative degree of guilt of co-defendants or others involved in the applicant's offense;
- the applicant's circumstances if returned to the community;
- any mitigating circumstances surrounding the offense;
- the views of the community, victims of the crime or their families,
- institutional staff, Probation/Parole Officers, or other interested parties; and
- medical and psychiatric evaluations when applicable.⁴³

h. Emergency Release for Prison Crowding

"[A]s long as an overcrowding emergency exists, the governor may alter the restrictions on eligibility for early release as long as the changes do not impede the department's and the board's ability to reduce the prison population to ninety percent or less of the system's designated capacity."⁴⁴

Upon receipt of the written directive transmitted by the governor⁴⁵ and any restrictions that may be imposed by the governor, the Board must select inmates and reduce their release eligibility dates. They must then parole a sufficient number of inmates to comply with the directive. The Board may establish criteria by which inmates may be selected for release, and may conduct hearings before granting release.⁴⁶ Neither the governor nor the Board have the authority to make inmates who have been convicted of a second or subsequent violation of rape or aggravated rape eligible for emergency release.⁴⁷

Upon the Board's release of the inmates and the attainment of ninety percent of the relevant designated capacity, the release eligibility dates of the inmates remaining within the Department revert automatically to the dates in existence prior to their reductions. It is the responsibility of the commissioner to announce the attainment of ninety percent of the relevant designated capacity to the Board and the governor as soon as it occurs.⁴⁸

3. Parole Release Hearing Process

a. Format of Release Hearings

"Parole decisions on granting...paroles are made by conducting hearings. During the proceeding, the hearing official asks questions of the offender, witnesses, interested parties (including offender support and victims of crime) and officials."⁴⁹ The Board may employ hearing officers to review inmates for parole release though these officers' recommendations are advisory only.⁵⁰ "However, Board Members make all final parole decisions."⁵¹ The Board Members may vote after a hearing to establish a release date conditioned on the continued good conduct of an inmate and the approval of a satisfactory release plan.⁵² Parole release requires three Board votes for most crimes; but four votes are necessary for certain types of more serious offenses.⁵³

b. Information Before the Board; Factors the Board May Consider

The Board may review several key sources of information in making a parole determination, including:

- Reports prepared by institutional staff relative to the inmate's social history and institutional record, including any recommendations the institutional staff may wish to make;
- All relevant Department of Correction or other prison, jail, or workhouse reports;
- Observations concerning the suitability of releasing the inmate on parole from court officials, law enforcement officials, and other interested community members;
- Reports or recommendations resulting from physical, psychological, or psychiatric examination or evaluation of the inmate;
- Any relevant information submitted by the inmate, his or her attorney, representatives on his or her behalf, or other interested parties;
- The parole plan, which the inmate has submitted; and
- Any other relevant information concerning the inmate.⁵⁴

The Board must also consider written impact statements or other information submitted by the victims or their families.⁵⁵

If the Board determines that it does not have enough information upon which to base an objective decision in a particular case it may continue the hearing on that case at a later date.⁵⁶

c. Prisoners' Procedural Rights

The parole hearing may or may not be in person, depending on the classification of the offense for which the inmate stands convicted.⁵⁷ The inmate, his or her attorney, and representatives on his or her behalf may submit information for the Board's consideration.⁵⁸ While the Board has discretion to release some documents to offenders,⁵⁹ it does not appear that they are required to release the records used to make a parole decision.

d. Victims and Other Participants

At least thirty days prior to a scheduled parole hearing, the Board must send a notice of the date and place of the hearing to the victim or the victim's representative who has requested notification of the date and place of the scheduled hearing or notice of the board's final decision.⁶⁰ Victims and their families have a right to voice opposition to an offender's release and to participate in a parole hearing.⁶¹ The Board must consider written victim impact statements or other information submitted by the victim or the victim's family in making a parole determination.⁶²

At least thirty days prior to a scheduled parole hearing, the Board must send notice of the date and place of the hearing to the trial Judge for the Court in which the conviction occurred (or their successor), the District Attorney in the county where the crime was prosecuted, and the Sheriff of the county where the crime was committed. The Board will also notify other interested parties who have requested to be notified.⁶³ The views of the trial judge and the District Attorney General who prosecuted the case will be taken into account. Finally, observations concerning the suitability of releasing the inmate on parole will be considered from court officials, law enforcement officials, and other interested community members.⁶⁴

Parole hearings and parole revocation hearings are open to the public and to the media unless otherwise provided.⁶⁵ Information pertaining to the date, time, and location of hearings are available for media release.⁶⁶ The schedule of parole hearings is updated on the Board's website each Monday, unless that day is a holiday.⁶⁷

e. Burden of Proof or Standard of Persuasion for Release

There is no specific burden of proof or standard of persuasion that applies to parole release.

f. Possible Outcomes at Parole Release Hearings; Form of Decisions

Three concurring votes by Board Members constitute a final parole decision for some conviction offenses, while four concurring votes are required for most violent conviction offenses.⁶⁸

The Board must notify the inmate, in written form, of its final decision and reasons for the decision. Upon receipt of the decision, the inmate must sign and date a copy of the notification.⁶⁹

g. Administrative or Judicial Review of Parole Denial

Parole hearing appellate reviews may be granted for any of the following reasons:⁷⁰

- (1) Significant new information that was not available at the time of the hearing;
- (2) Misconduct by the hearings official; or
- (3) Significant procedural error(s) by the hearing official.

Responsibility for managing the parole hearing appellate review process is assigned to the Parole Hearing Officers Division. Appeals that meet the above criteria are forwarded to Board Members for review and final instructions specific to the appeal. Appeal requests must be submitted no later than 45 days after the offender receives notification of the Board's final parole decision.⁷¹ The decision after an appellate review will require the concurrence of three board members. The decision rendered after an appellate review will be final.⁷²

By statute, the action of the Board in releasing prisoners is deemed a judicial function and is not reviewable if done according to law.⁷³ Under a common law writ of certiorari, the decisions of the Board are reviewable to determine whether the Board exceeded its jurisdiction, or acted illegally, fraudulently, or arbitrarily.⁷⁴

h. Rescission of Parole Release Dates

The Board may rescind parole either before or after release from an institution. Rescission before parole release may occur due to conduct, institutional rules violations, or omissions committed by an inmate while still incarcerated. Rescission after release may be triggered by conduct that occurred while the inmate was still incarcerated (but was unknown at the time of the hearing), significant information fraudulently given or withheld during the hearing process, or other information of which the Board was unaware.⁷⁵

Pre-release rescission requires a hearing at which the inmate may present evidence or witnesses. However, the inmate need not be present if the rescission is based on proven institutional misconduct or a conviction in a court of law.⁷⁶ A post-release rescission hearing is conducted in a similar fashion to a revocation hearing (discussed below).⁷⁷ Parole rescission requires the concurrence of two Board members.⁷⁸

4. Supervision Practices

Parole supervision rate.

As of December 31, 2016, there were 234 parolees per 100,000 adult residents in Tennessee. This is lower than the national average of 303 parolees per 100,000 adult residents.⁷⁹

a. Purposes of Supervision

The Tennessee Department of Correction has stated that the goal of the Community Corrections (supervision) program is “to reduce the probability of continued criminal behavior while maintaining the safety of the community.”⁸⁰

b. Are All or Only Some Releasees Placed on Supervision?

Parolees released to the Department of Correction must be supervised and report to a parole officer for at least one year.⁸¹ Thereafter, supervision may be limited or suspended (but the individual remains on parole).⁸²

c. Length of Supervision Term

Maximum supervision terms. If a parolee has kept the conditions of parole in a satisfactory manner, final discharge from parole will be granted after a parolee has completed the maximum sentence imposed less good time or sentence credits.⁸³ Parolees who have pending violations may be discharged after they serve “delinquent” time that has been added back to their sentence pending resolution of the violation.⁸⁴ However, this rule does not apply to those who are subject to lifetime supervision.⁸⁵

Early termination. While it appears that early termination of supervision is available to parolees as discussed below, there is no provision for early termination of the parole period.⁸⁶

Extension of supervision term. There does not appear to be any extension of the supervision term in general (or as a consequence of a parole violation).

Incentives; “goal parole.” There do not appear to be incentives that result in early termination of parole.

d. Conditions of Supervision

Tennessee employs a standard list of conditions that apply to all parolees. Parolees must:

- Proceed directly to their destination and upon arrival report immediately to a parole officer, or in any event no later than 72 hours after release.
- Obey all laws.
- Report all arrests, including traffic violations, regardless of outcome, immediately to a parole officer. Carry a parole identification card when away from residence.
- Not own, possess, or carry any type of deadly weapon or any illegal weapons.
- Work steadily at a lawful occupation. Immediately report unemployment to Probation/Parole Officer and then begin to look for another job.
- Get the permission of my Probation/Parole Officer before changing residence or employment, or before leaving the county of residence or the state.
- Allow a Parole Officer to conduct home, employment site, or other visits, and carry out all lawful instructions the officer gives and report to the officer as instructed, and carry out all lawful instructions of the Administrative Case Review Committee, and comply with a referral to Resource Center programs, if available, by attending, and submit to electronic monitoring or community service if required.
- Agree to a search, without a warrant, of person, vehicle, property, or place of residence by any Probation/Parole officer or law enforcement officer, at any time.
- Not use intoxicants (e.g., beer, whiskey, wine) of any kind to excess. Not use or possess marijuana or other illegal drugs. Submit to drug screens or drug tests as directed by Parole Officer.
- Waive all extradition rights and processes and agree to return to Tennessee if at any time prior to release from parole the Board of Probation and Parole directs.
- Agree to pay all required fees to the Supervision and Criminal Injuries Fund.
- Not engage in any assaultive, abusive, threatening or intimidating behavior. Nor will I participate in any criminal street gang related activities. Not behave in a manner that poses a threat to others or self.
- If paroled to a detainer, report to the office designated if released from that detainer before my Tennessee parole expiration date.⁸⁷

In granting parole, the Board may impose any other conditions and limitations that it deems necessary.⁸⁸ It appears from case law that restrictions on parolees must be reasonable, but do not need to bear a rational relationship to the offense of conviction itself (rather, the facts of the specific case may lead to imposition of parole conditions).⁸⁹

Sex offenders. All sex offenders placed on parole are required to undergo treatment “to the extent appropriate to the offender” based upon expert evaluation.⁹⁰ There is also a separate list of specialized release conditions for sex offenders.⁹¹ Some sexual and violent offenders may be supervised by a special monitoring program, which requires frequent contact with offenders and other stakeholders as well as in some cases GPS monitoring.⁹²

Modification of conditions. It is unclear how parole conditions are modified in this state.

Incentives; lighter conditions. A parole officer may, with the consent of the director, suspend direct supervision of a parolee after a successful two-year period of supervision. The parolee must continue on parole and be subject to all rules and conditions of parole. A parolee who violates the rules and conditions may be subject to reinstatement of direct supervision or revocation of parole.⁹³

A separate rule states that a parole officer may relieve a parolee of making further reports if they, with the consent of the director of probation and parole, determine that:

- (1) The defendant has abided by the terms of parole in a satisfactory manner;
- (2) There is a reasonable likelihood that the defendant will remain at liberty without violating the law; and
- (3) Relief from further periodic reporting is not incompatible with the welfare of society.⁹⁴

e. Fees and Other Financial Sanctions

Parole supervision fees. Supervision and rehabilitation fees of \$15 per month are assessed based on a parolee’s ability to pay.⁹⁵ Parolees who would face financial hardship (e.g., those receive only social security or welfare benefits or are physically incapable of working) may receive a waiver of all or part of this fee.⁹⁶ Electronic monitoring incurs a separate fee to cover the cost of that program.⁹⁷

Payments for drug and alcohol testing and treatment. Parolees may be required to reimburse the Department of Corrections for drug testing.⁹⁸

Restitution. Parolees may be required to pay restitution or compensation to victims of crimes as a condition of parole.⁹⁹ Parole may not be revoked based on failure to pay restitution, unless a parolee has willfully refused to make restitution or has failed to make sufficient bona fide efforts to acquire resources to pay.¹⁰⁰

Child support. Payment of child support is not a mandatory condition of parole, but there is no indication that it could not be imposed as a condition by the Board.

Other financial obligations. Parolees who are able to pay must also pay a \$30 per month fee to the Criminal Injuries Compensation Fund. However, this amount should not exceed 10% of the offender’s net income and may be partially or fully waived based on hardship.¹⁰¹

Incentives; reduction of economic sanctions. There do not appear to be incentives related to the reduction of economic sanctions. However, the parole supervision and rehabilitation fees only apply to individuals who are being supervised; therefore, parolees who are allowed suspended supervision status (described above) may benefit from a reduction in fees.¹⁰²

5. Parole Revocation

Parole revocation proceedings. In 2016, 704 parolees returned to prison through revocation, and 887 returned to prison due to a new criminal conviction.¹⁰³

Absconders. There is no data available on how many individuals have absconded from supervision in recent years.

a. Principles and Criteria of “When to Revoke”

Policy considerations. The Tennessee General Assembly passed legislation in 2006 to create a diversion program for technical parole violators “based on a therapeutic community model.” This program allows parolees to have their parole revoked and then immediately reinstated with the condition that they participate in a six-month work, educational, and treatment program.¹⁰⁴ Thus, not all technical violations result in recommitment to prison. In addition, the Board has some discretion to decide that a parole violation does not warrant revocation; thus, not all proven violations trigger revocation.

Legal predicates. Parole revocation proceedings may be initiated if there is reasonable cause to believe that a parolee has violated the conditions of parole in an important respect.¹⁰⁵ However, if a parolee is convicted of a new felony during the parole term, parole must be revoked and the parolee must serve all or part of their former sentence before commencing service on the new felony sentence.¹⁰⁶

Statutorily enumerated factors. Per Board regulations, in all cases, including those situations in which the offender has been convicted of a new offense, the Board must consider any mitigating factors advanced by the offender, which suggest that the violation of parole does not warrant revocation.¹⁰⁷

b. Revocation Guidelines

Revocation guidelines are used as an advisory instrument in the hearing process, but the content of the guidelines is not provided by the Board.¹⁰⁸

c. Risk and Needs Assessment Tools

It is unclear whether risk and needs assessment tools are used to make parole revocation decisions.

d. Preliminary and Final Revocation Procedures

Arrest or summons. If the parole officer has reasonable cause to believe that the prisoner has violated the conditions of parole in an important respect, the officer must report the facts to the director of parole. The director or the director's designee must review the reports and may issue a warrant to take the parolee into custody if he/she agrees that parole may have been violated in an important respect. The governor has the power to issue a requisition (presumably through the interstate compact) for the person if the person has departed from the state.

Whenever there is reasonable cause to believe that a parolee has violated parole and a parole violation warrant has been issued, the director of probation and parole may declare the parolee to be delinquent and the parolee will stop earning credit for service of the parolee's sentence from the date the warrant was issued until the removal of delinquency by the Board.¹⁰⁹

There does not appear to be a provision in the law for issuing a summons on a parole violation instead of arresting the parolee.

Preliminary hearing. A preliminary hearing must be conducted to determine whether probable cause exists to believe that the parolee has violated the conditions of parole in an important respect. A preliminary hearing is not necessary if:

- The parolee has been indicted by a grand jury;
- There is a finding of probable cause, waiver of a probable cause hearing, or new conviction on a felony or misdemeanor in any federal or state court;
- The final parole revocation hearing is held within 14 days of service of the warrant;¹¹⁰ or
- The parolee voluntarily waives the right to a preliminary hearing.¹¹¹

A parolee must receive notice of the violations alleged, the time, place, and purpose of the hearing, and the hearing rights within a reasonable time before the hearing.¹¹² The preliminary hearing is to be conducted by a Hearings Officer, appointed by the chair of the Board.¹¹³ The Hearings Officer must conduct the hearing informally, including the presentation of the documents or evidence in support of parole violation and the offender's responses to such evidence. Based on the information presented at the hearing, the hearing officer must determine whether probable cause exists to believe that the offender violated the conditions of his or her parole in an important respect.¹¹⁴

Final hearing. As above, a parolee must receive notice prior to the final revocation hearing. The Board presides over the final hearing. The Board will initially determine whether the alleged violation of parole is supported by evidence proffered by the State. If the Board determines that a parole violation occurred, or if the offender admits to a violation, the Board must then consider whether parole should be revoked based on the violation. When making this decision, the Board must consider mitigating factors advanced by the defendant.¹¹⁵

The Board must conduct all revocation hearings in a manner as informal as is consistent with due process. The technical rules of evidence do not apply to such hearings.¹¹⁶

e. Offenders' Procedural Rights

At both the preliminary and final revocation hearings, the offender has the right to appear at the hearing and to be heard in person, the right to present documentary evidence and witnesses, and the right to confront and cross-examine adverse witnesses, unless the Hearing Officer or Board finds good cause to disallow that confrontation.¹¹⁷

All evidence that the Board will use to make a parole decision must be disclosed to the offender at the revocation hearing unless it has been declared confidential by the Board.¹¹⁸

In any revocation hearing or preliminary hearing, the Board is authorized to appoint legal counsel for an indigent individual where necessary in compliance with the requirements of the United States Supreme Court. For this purpose, the Tennessee Supreme Court is charged with prescribing by rule the nature of costs for which reimbursement may be allowed, and the limitations on and conditions for the reimbursement of costs as it deems appropriate in the public interest.¹¹⁹

The offender may request that he or she be appointed counsel to represent him or her. If the offender has made such a request, the Board, in its discretion, may provide counsel based on the following considerations:¹²⁰

- (1) The offender has made a timely and colorable claim that he or she has not committed the alleged violation of the conditions upon which he or she is at liberty;
- (2) Even if the violation is a matter of public record or is uncontested, there are substantial reasons which justified or mitigated the violation making revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present; or
- (3) In doubtful cases, the Board will consider whether the offender appears to be capable of speaking effectively for himself or herself.

If a request for counsel is not made, the Board must have the offender sign a statement that he or she has been informed of the ability to request counsel, and has chosen not to seek representation.¹²¹

f. Victims and Other Participants

At least three days prior to a parole revocation hearing, the Board shall send notice of the date and place of the hearing to the original victim or the victim's representative, who has requested notification of the date and place of the scheduled hearing and/or notice of the Board's final decision. At any time, the victim or victim's representative may withdraw the request for notice by sending the Board a written statement that the request for notice is withdrawn.¹²² The board must receive and consider victim impact statements.¹²³

"The times, locations, and dockets of parole violation hearings will be announced to the appropriate institutional and parole staff, the inmates or offenders, Judges, Sheriffs, and District Attorney Generals of the county in which the person was convicted, and any other interested parties who have requested to be notified."¹²⁴

g. Burden of Proof or Standard of Persuasion for Revocation

Parole violations must be proved by the state by a preponderance of the evidence.¹²⁵

h. Revocation and Other Sanctions

The Board can choose to revoke parole, to continue the offender on parole, or to refer the offender to a parole violation diversion program (in which case parole is revoked and then immediately reinstated on different terms). The Board must revoke parole if the offender commits and is convicted of a new felony while on parole release.¹²⁶

If the Board sustains the violation and decides to revoke parole, the time an inmate spent on parole after the violation is not considered as service of the sentence, unless the Board determines to grant all or part of such "street time" to the inmate. When a parole violation is issued, the Department of Corrections also issues a declaration of delinquency that suspends credit towards service of the sentence. The Board then makes a determination to "take" or "grant" the delinquent time if a violation has been found. Taking all or some of the delinquent time means that the parolee will lose credit toward service of sentence. Granting the delinquent time restores all of the offender's credit toward service of the sentence as though the act of delinquency had never been declared.¹²⁷

i. Issuing Parole Revocation Decisions

Two concurring votes are required to revoke parole.¹²⁸ The Board must notify the inmate, in written form, of its final decision and reasons for the decision. The inmate must sign and date a copy of the decision notification.¹²⁹

j. Administrative or Judicial Review of Parole Revocation Decisions

Parolees may submit an administrative appeal of their parole revocation case. As with parole release decisions, parole revocation appellate reviews may be granted for any of the following reasons:

1. Significant new information that was not available at the time of the hearing;
2. Misconduct by the hearings official; or
4. Significant procedural error(s) by the hearings official.¹³⁰

If a parolee exhausts their appellate remedies at the Board level, they may seek court review by filing a petition for a common-law writ of certiorari.¹³¹ As with parole release, conduct of the Board may be scrutinized under certiorari to determine if the Board has exceeded its jurisdiction, or has acted illegally, fraudulently, or arbitrarily in discharging its functions.¹³²

k. Re-Release Following Revocation

If parole is revoked, the offender is returned to confinement to either serve the remaining portion of a sentence or part of that sentence, as directed by the Board. The Board will set a parole review date and record it on a Board Action Sheet.¹³³

6. Parole Board; Institutional Attributes

a. Source of Authority and Jurisdiction

The Board was created by statute, and has jurisdiction over parole release and revocation.¹³⁴

b. Location in Government

The Board is functionally and administratively separate from any other agency.¹³⁵ However, it has the duty to cooperate with other state agencies in developing and promoting effective parole programs.¹³⁶

c. Purpose (Vision/Principles/Rationale)

According to the introduction to the state's parole statute "[t]he purpose of this chapter is to provide a system of probation and paroles to be liberally construed to the end that the treatment of persons convicted of crime shall take into consideration their individual characteristics,

circumstances, needs and potentialities as revealed by a case study and that such persons shall be dealt with in the community by a uniformly organized system of constructive rehabilitation under probation supervision instead of in correctional institutions or under parole supervision when a period of institutional treatment has been deemed essential whenever it appears desirable in the light of the needs of public safety and their own welfare."¹³⁷

The Board's stated motto is: "Safe communities, fewer victims, successful re-entry." Its mission is to "minimize public risk and maximize lawful behavior by the prudent, orderly release of adult offenders."¹³⁸

d. Appointment and Qualifications of Board Members

The Board is composed of seven members appointed by the governor. The governor must appoint one member of the Board to serve as its chair for a term of two years.¹³⁹

Qualifications. Preference is given to candidate nominees with training, education or experience in the criminal justice system, law, corrections, medicine, education, social work or the behavioral sciences. No member of the Board may hold any other salaried public office, whether elective or appointive, nor may any member engage for pay in any other business or profession.¹⁴⁰

e. Tenure of Board Members, Ease of Removal

All members serve six-year terms and are eligible for re-appointment. Members serve staggered terms due to the dates of initial appointments.¹⁴¹ The governor or attorney general and reporter may seek the removal of a member of the Board for "knowing and willful misconduct in office or for knowing or willful neglect or failure to perform any duty enjoined upon a member of the board under any of the laws of this state or for the conviction of any crime which constitutes a felony under the laws of the state." There is an official procedure for removal of government officers that must be followed.¹⁴²

f. Training and Continuing Education

The Board has a training division, but it is dedicated to providing additional training to staff members.

g. Workload

In fiscal year 2016-2017, the Board and/or hearing officers heard 7,530 initial parole cases, 6,042 parole reviews, 1,713 parole revocations, and 486 parole rescissions. It also heard 26 appeals (out of 957 applications for appeal). Counting these and various other types of hearings (e.g., clemency, probable cause) hearings officers heard 15,369 matters in total, and Board members 890 such matters.¹⁴³ Board members, however, review and vote on each file to get to a final decision in every case.

h. Reporting and Accountability of Parole Board

The Board writes an annual report that is available on its website.¹⁴⁴ It is also required to adopt written long-range goals and objectives, previous versions of which are available online.¹⁴⁵

The Board keeps certain records confidentially, including psychological evaluations, offense reports, medical records, parole staff records and contact notes, parole officer statements accompanying violation reports, statements in opposition of offender release by victims and others who request confidentiality, and victim impact statements. These records may be made available to officials such as law enforcement officers or representatives of other governmental entities as necessary to assist in their official duties. Other information, such as hearing and decision-making policies and procedures and statements in support of parole may be released.¹⁴⁶

END NOTES

- ¹ Tenn. Bd. of Parole, *Historical Timeline*, <https://www.tn.gov/bop/about-us/information/abtus-info-historical-timeline.html> (last visited Jul. 25, 2018).
- ² 1989 Tenn. Pub. Acts ch. 591, §6 “Tennessee Criminal Sentencing Reform Act of 1989.”; 2005 Tenn. Pub. Acts ch. 353, § 6; see also David L. Raybin, *The Blakely Fix: New Tennessee Law Restores Judicial Discretion in Criminal Sentencing* 41 Jul. Tenn. B.J. 14 (2005).
- ³ Tenn. Code Ann. § 4-29-215 (2018) (terminated the Tennessee Sentencing Commission); However, in 2014, Tennessee formed a Task Force on Sentencing and Recidivism that submitted a final report in September 2015. See *Final Report of the Governor’s Task Force on Sentencing and Recidivism: Recommendations for Criminal Justice Reform in Tennessee* (2015), available at <https://www.vera.org/publications/final-report-to-the-tennessee-governors-task-force-on-sentencing-and-recidivism>.
- ⁴ See Tenn. Code Ann. § 40-35-211 (2018).
- ⁵ Tenn. Code Ann. §§ 40-28-104, 40-28-116 (2018).
- ⁶ Tenn. Code Ann. § 40-28-601 (2018); 2012 Tenn. Pub. Acts, c. 727, § 43.
- ⁷ See Tenn. Code Ann. § 40-35-504 (2018).
- ⁸ See Tenn. Code Ann. §§ 40-35-101, 40-35-110 (2018); see also Tenn. Code Ann. §§ 40-35-105 through 40-35-109 (2018).
- ⁹ Tenn. Code Ann. § 40-35-101 (2018). See also Tenn. Code Ann. § 40-35-108(c) (2018) (“A defendant who is found by the court beyond a reasonable doubt to be a career offender shall receive the maximum sentence within the applicable Range III.”).
- ¹⁰ Tenn. Code Ann. § 40-35-109(b) (2018) (“If the court employs both reductions, the calculation for release eligibility shall be made by first reducing the sentence and then reducing the release eligibility to twenty percent (20%).”).
- ¹¹ Tenn. Code Ann. § 40-35-501(a)(2) (2018).
- ¹² See *id.* at (a)(3); Tenn. Bd. of Parole, *Frequently Asked Questions*, <https://www.tn.gov/bop/about-us/information/abtus-info-frequently-asked-questions.html> (“What is Determinate Release?”).
- ¹³ Tenn. Code Ann. § 40-28-117(b) (2018).
- ¹⁴ These are limits on eligibility dates otherwise provided by the statute.
- ¹⁵ Tenn. Code Ann. § 40-28-115(d) (2018).
- ¹⁶ See Tenn. Code Ann. § 40-34-101 through § 40-34-108 (2018) (“Tennessee Contract Sentencing Act of 1979”).
- ¹⁷ Tenn. Code Ann. § 40-34-105 (2018).
- ¹⁸ Tenn. Code Ann. § 40-34-108 (2018).
- ¹⁹ The list includes: first and second-degree murder, especially aggravated and aggravated kidnapping, especially aggravated robbery, aggravated rape and rape, aggravated sexual battery, rape of a child, aggravated arson, aggravated child abuse, aggravated rape of a child, sexual exploitation of a minor involving more than 100 images, aggravated sexual exploitation of a minor involving more than 25 images, or especially aggravated sexual exploitation of a minor. Tenn. Stat. Ann. § 40-35-501(i) (2018).
- ²⁰ Tenn. Code Ann. § 39-13-523 (2018).
- ²¹ Parole eligibility is limited in this fashion for attempted first degree murder with serious bodily injury, aggravated child neglect or endangerment, aggravated robbery, aggravated assault, aggravated vehicular homicide, or carjacking. Tenn. Stat. Ann. § 40-35-501(j)–(l) (2018); 2016 Tenn. Pub. Acts 876 (adding carjacking to the list of limited eligibility crimes).
- ²² Tenn. Code Ann. § 40-35-501(i)(1), (2) (2018).
- ²³ Tenn. Code Ann. § 40-35-501(g), (h)(2) (2018).
- ²⁴ 2016 Pub. Acts 870, § 1.
- ²⁵ *Id.*; Tenn. Bd. of Parole, *Annual Report* FY 2016-2017 at 3 (2017) https://www.tn.gov/content/dam/tn/boardofparole/documents/2016-17_Annual_Report.pdf [hereinafter *Annual Report*].
- ²⁶ Tenn. Code Ann. § 40-35-501(o) (2018).
- ²⁷ Tenn. Code Ann. § 41-21-236(a)(2)(A), (4), (5) (2018).
- ²⁸ Tenn. Code Ann. § 41-21-236(a)(2)(B) (2018) (Educational credit does not apply to any offense that requires service of at least 85% of the sentence under Tenn. Code Ann. § 40-35-501(i) (see note 19 *supra*) or 100% of the sentence under Tenn. Code Ann. § 39-13-523 (see note 20 *supra*)).
- ²⁹ Tenn. Code Ann. § 40-35-503(b) (2018).
- ³⁰ Tenn. Code Ann. § 40-28-115(g)(3) (2018) (“This subsection (g) shall be inapplicable to any inmate or group of inmates if the commissioner determines that its effectuation will increase the system’s inmate population and if the commissioner so certifies the determination to the governor.”).
- ³¹ Tenn. Comp. R. & Regs. 1100-01-01-07(4) (2018).
- ³² Tenn. Code Ann. § 40-35-503(c) (2018).
- ³³ Tenn. Code Ann. § 40-28-104(a)(3) (2018).
- ³⁴ Tenn. Comp. R. & Regs. 1100-01-01-07(1)(l) (2018).
- ³⁵ *Annual Report*, *supra* note 25 at 6.
- ³⁶ Tenn. Comp. R. & Regs. 1100-01-01-07(1)(l) (2018).
- ³⁷ *Annual Report*, *supra* note 25 at 6.
- ³⁸ See Multi-Health Systems, Inc., *Level of Service/Case Management Inventory*, <http://www.mhs.com/product.aspx?gr=saf&id=overview&prod=ls-cmi>.
- ³⁹ Tenn. Dep’t of Mental Health and Substance Abuse Servs., *Sex Offender Risk Appraisal Guide* (SORAG) (2014), https://www.tn.gov/content/dam/tn/mentalhealth/documents/VRAG_SORAG.pdf.
- ⁴⁰ Tenn. Code Ann. § 41-21-227(i)(1), (2) (2018). Furloughs for inmates who can no longer take care of themselves are generally considered for inmates requiring skilled nursing care, hospitalization, or acute psychiatric care for an extended period of time without expectation of improvement in their medical condition.
- ⁴¹ Tenn. Dep’t of Corr., Admin. Policy 511.01 (2015), <https://www.tn.gov/content/dam/tn/correction/documents/511-01.pdf>. This rule only applies to inmates who hold a minimum security status and are within one year of release eligibility.
- ⁴² Tenn. Const. Art. III, § 6.
- ⁴³ Tenn. Comp. R. & Regs. 1100-01-01-16 (2018).
- ⁴⁴ *Kaylor v. Bradley*, 912 S.W.2d 728, 735 (Tenn. Ct. App. 1995).
- ⁴⁵ Tenn. Code Ann. § 41-1-504(a)(1) (2018).
- ⁴⁶ Tenn. Code Ann. § 41-1-505 (2018).
- ⁴⁷ Tenn. Code Ann. § 41-1-504(c) (2018).
- ⁴⁸ Tenn. Code Ann. § 41-1-505(a) (2018).
- ⁴⁹ Tenn. Bd. of Parole, *Frequently Asked Questions: How are Parole Decisions Made?*, <https://www.tn.gov/bop/about-us/information/abtus-info-frequently-asked-questions.html> (last visited Jul. 26, 2018).
- ⁵⁰ Tenn. Comp. R. & Regs. 1100-01-01-08(2)(a) (2018).
- ⁵¹ Tenn. Bd. of Parole, *Frequently Asked Questions: How are Parole Board Decisions Made?*, <https://www.tn.gov/bop/about-us/information/abtus-info-frequently-asked-questions.html> (last visited Jul. 26, 2018).
- ⁵² Tenn. Comp. R. & Regs. 1100-01-01-09(1)(b) (2018); see also *id.* at (1)(a) (stating that a grant of parole is not effective until a certificate of parole has been delivered to the inmate, and the inmate has voluntarily signed the certificate).
- ⁵³ Tenn. Code Ann. § 40-28-105(d)(3) (2018); see *id.* at (d)(4) (listing offenses that require a four-member vote which are very similar to the offenses that do not have a normal parole eligibility date (e.g. first-degree murder, aggravated rape, especially aggravated kidnapping)).
- ⁵⁴ Tenn. Comp. R. & Regs. 1100-01-01-07(2) (2018).
- ⁵⁵ *Id.* at (3).
- ⁵⁶ Tenn. Comp. R. & Regs. 1100-01-01-08(2)(b) (2018) (“The Board may also continue a hearing to await the disposition of untried indictments, disciplinary proceedings, or to investigate the status of an outstanding detainee.”).
- ⁵⁷ Tenn. Comp. R. & Regs. 1100-01-01-03(15) (2018); see also Tenn. Op. Atty. Gen. No. 05-175, Dec. 13, 2005, 2005 WL 3648754 (“Parole grant hearings may be conducted by the use of a two way video conferencing with Board members, hearing officers and victims participating from remote locations provided no more than one Board member participates. Electronic participation at hearings attended by two or more Board members is governed by Tenn. Code Ann. § 8-44-108.”) (2018).
- ⁵⁸ See Tenn. Comp. R. & Regs. 1100-01-01-07(2)(e) (2018).
- ⁵⁹ Tenn. Comp. R. & Regs. 1100-01-01-15(2) (2018). Note that this does not include results of a risk assessment, which are considered confidential information under Board regulations. *Id.* at (1), (3).
- ⁶⁰ Tenn. Code Ann. § 40-28-505(b)(4) (2018); but see *id.* at (f) (applying the section only to an inmate who has received a sentence of two or more years).
- ⁶¹ Victims may participate in the parole hearing by attending in person (or video-conferencing), or by submitting a victim impact statement, letter of opposition, confidential testimony or video-taped testimony. Tenn. Comp. R. & Regs. 1100-01-01-07(3) (2018); *Annual Board Report*, *supra* note 25 at 10.

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- ⁶² Tenn. Comp. R. & Regs. 1100-01-01-07(3) (2018).
- ⁶³ Tenn. Comp. R. & Regs. 1100-01-01-06(1), (2)(a)–(c) (2018).
- ⁶⁴ Tenn. Comp. R. & Regs. 1100-01-01-07(1)(d), (2)(a)–(c) (2018).
- ⁶⁵ Tenn. Code Ann. § 40-28-502(a)(1) (2018); *but see id.* at (b) (providing that the Board may restrict the number of individuals allowed to attend parole or parole revocation hearings because of physical limitations or security requirements of the facility or deny admission to individuals who threaten or present a danger to the security of the institution in which the hearing is being held, to other attendees or participants, or to those who threaten to disrupt the hearing).
- ⁶⁶ Tenn. Comp. R. & Regs. 1100-01-01-15(2)(a) (2018).
- ⁶⁷ Tenn. Bd. of Parole, *Parole Hearings Schedules*, <https://www.tn.gov/bop/hearings-and-meetings/04-parole-hearing-schedules.html> (last visited Jul. 27, 2018); Tenn. Bd. of Parole, *Parole Hearings Schedule - Prisons*, http://share.tn.gov/bop/Docs/Schedule/Schedule_Prisons.html (last visited Jul. 27, 2018); Tenn. Bd. of Parole, *Parole Hearings Schedule - County Jails*, http://share.tn.gov/bop/Docs/Schedule/Schedule_Jails.html (last visited Jul. 27, 2018).
- ⁶⁸ Tenn. Code Ann. § 40-28-105(d)(3) (2018); *see id.* at (d)(4) (listing offenses that require a four-member vote which are very similar to the offenses that do not have a normal parole eligibility date (e.g. first-degree murder, aggravated rape, especially aggravated kidnapping)).
- ⁶⁹ Tenn. Comp. R. & Regs. 1100-01-01-08(3)(a) (2018).
- ⁷⁰ Tenn. Comp. R. & Regs. 1100-01-01-08(4)(d) (2018); Tenn. Bd. of Parole, *Parole Hearings: Types of Parole Hearings*, <https://www.tn.gov/bop/about-us/divisions/abtus-div-parole-hearings.html> (last visited Jul. 27, 2018).
- ⁷¹ Tenn. Comp. R. & Regs. 1100-01-01-08(4)(a) (2018); Tenn. Bd. of Parole, *Parole Hearings: Structure & Responsibility*, <https://www.tn.gov/bop/about-us/divisions/abtus-div-parole-hearings.html> (last visited Jul. 27, 2018).
- ⁷² Tenn. Code Ann. § 40-28-105(d)(11) (2018).
- ⁷³ Tenn. Code Ann. § 40-28-115(c) (2018).
- ⁷⁴ *Arnold v. Tenn. Bd. of Paroles*, 956 S.W. 2d 478, 480 (Tenn. 1997) (citing *Powell v. Parole Eligibility Review Bd.*, 879 S.W.2d 871, 873 (Tenn. Ct. App. 1994)).
- ⁷⁵ Tenn. Comp. R. & Regs. 1100-01-01-12(1), (3) (2018).
- ⁷⁶ *Id.* at (2).
- ⁷⁷ *Compare* Tenn. Comp. R. & Regs. 1100-01-01-12(3) (2018), with Tenn. Comp. R. & Regs. 1100-01-01-14 (2018).
- ⁷⁸ Tenn. Code Ann. § 40-28-105(d)(7) (2018).
- ⁷⁹ Danielle Kaebler, Bureau of Justice Statistics, Probation and Parole in the United States, 2016 at 18–19 (Appendix Table 5) (Apr. 2018), <https://www.bjs.gov/content/pub/pdf/ppus16.pdf>.
- ⁸⁰ Tenn. Dep't of Corr., *Types of Release*, <https://www.tn.gov/correction/cs/types-of-release.html> (last visited Jul. 27, 2018).
- ⁸¹ Tenn. Code Ann. § 40-35-504(b) (2018).
- ⁸² *Id.*; *see also* Tenn. Code Ann. § 40-28-601(b) (2018).
- ⁸³ Tenn. Code Ann. § 40-28-609(a) (2018).
- ⁸⁴ *Id.*; *see also* *Long v. Tenn. Bd. of Prob. & Parole*, 143 S.W. 3d 787, 793 (Tenn. Crim. App. 2004) (discussing the function of delinquent time).
- ⁸⁵ Tenn. Code Ann. § 40-28-609(b) (2018).
- ⁸⁶ Tenn. Code Ann. § 40-35-504 (2018).
- ⁸⁷ *See* Tenn. Bd. of Prob. and Parole, *Sample Parole Certificate* (2007), on file with authors.
- ⁸⁸ Tenn. Code Ann. § 40-28-115(f) (2018).
- ⁸⁹ *See, e.g., Young v. State*, 539 S.W.2d 850 (Tenn. Crim. App. 1976) (holding that a parole condition to abstain from drinking alcohol was reasonable where offense occurred as a result of drinking but the conviction was for assault with intent to commit murder).
- ⁹⁰ Tenn. Code Ann. § 39-13-706 (2018) (describing electronic monitoring program for certain serious or sexually violent offenders); Tenn. Dep't of Corr., *Resources and Information*, <https://www.tn.gov/correction/cs/resources-and-information.html> (last visited Jul. 27, 2018).
- ⁹¹ Tenn. Bd. of Probation & Parole, *Specialized Parole Conditions for Sex Offenders* (2006) http://www.interstatecompact.org/sites/interstatecompact.org/files/pdfs/states/TN/TN_Specialized_Parole_Conditions_SO.pdf.
- ⁹² Tenn. Code Ann. § 40-39-302 (2018).
- ⁹³ Tenn. Code Ann. § 40-28-601(b) (2018).
- ⁹⁴ Tenn. Code Ann. § 40-35-504(b) (2018).
- ⁹⁵ Tenn. Code Ann. § 40-28-201(a)(1) (2018).
- ⁹⁶ *Id.*; Tenn. Code Ann. § 40-28-202 (2018).
- ⁹⁷ Tenn. Code Ann. § 40-28-201(a)(2) (2018).
- ⁹⁸ Tenn. Dep't of Corr., *Resources and Information*, <https://www.tn.gov/correction/cs/resources-and-information.html> (last visited Jul. 27, 2018).
- ⁹⁹ Tenn. Code Ann. § 40-28-117(a)(1) (2018).
- ¹⁰⁰ *State v. Dye*, 715 S.W.2d 36 (Tenn. 1986).
- ¹⁰¹ Tenn. Code Ann. § 40-28-201(3)(B) (2018).
- ¹⁰² Tenn. Code Ann. § 40-28-201(a)(1) (2018); *see also* Tenn. Code Ann. § 40-35-504(b) (2018).
- ¹⁰³ Kaebler, *supra* note 79 at 22 (Appendix Table 7).
- ¹⁰⁴ Tenn. Code Ann. § 41-1-123(a) (2018); Tenn. Dep't of Corr., *Parole Technical Violators Diversion Program*, <https://www.tn.gov/correction/cs/resources-and-information/parole-technical-violators-diversion-program.html> (last visited Jul. 27, 2018).
- ¹⁰⁵ Tenn. Code Ann. § 40-28-607(a), (b) (2018).
- ¹⁰⁶ Tenn. Code Ann. § 40-28-123(a) (2018).
- ¹⁰⁷ Tenn. Comp. R. & Regs. 1100-01-01-14(6)(h) (2018).
- ¹⁰⁸ Annual Board Report, *supra* note 25 at 6.
- ¹⁰⁹ Tenn. Code Ann. § 40-28-607(a), (b) (2018).
- ¹¹⁰ Tenn. Code Ann. § 40-28-121(c) (2018).
- ¹¹¹ *Id.*; *see also* Tenn. Comp. R. & Regs. 1100-01-01-14(2)(d), (e) (2018) (A waiver must contain a clear statement that the offender is entitled to a preliminary revocation hearing and that at the hearing, the offender has the right to present evidence and testimony, and a limited right to legal counsel).
- ¹¹² Tenn. Code Ann. § 40-28-121(d) (2018); *see also* Tenn. Comp. R. & Regs. 1100-01-01-14(2)(b) (2018).
- ¹¹³ Tenn. Code Ann. § 40-28-121(d) (2018).
- ¹¹⁴ Tenn. Comp. R. & Regs. 1100-01-01-14(2)(l) (2018).
- ¹¹⁵ Tenn. Comp. R. & Regs. 1100-01-01-14(4), (6)(f)–(h) (2018).
- ¹¹⁶ *Id.* at (6)(i).
- ¹¹⁷ *Id.* at (2)(b), (6)(a).
- ¹¹⁸ *Id.* at (6)(j).
- ¹¹⁹ Tenn. Code Ann. § 40-28-106(b)(1) (2018).
- ¹²⁰ Tenn. Comp. R. & Regs. 1100-01-01-14(6)(c) (2018).
- ¹²¹ *Id.* at 6(e).
- ¹²² Tenn. Comp. R. & Regs. 1100-01-01-06(2)(d) (2018).
- ¹²³ Tenn. Code Ann. § 40-28-504(a) (2018).
- ¹²⁴ Tenn. Comp. R. & Regs. 1100-01-01-06(1) (2018).
- ¹²⁵ Tenn. Comp. R. & Regs. 1100-01-01-14(6)(f) (2018).
- ¹²⁶ Tenn. Comp. R. & Regs. 1100-01-01-14(7) (2018); *see* Tenn. Code Ann. §§ 41-1-122, 41-1-123 (2018).
- ¹²⁷ Tenn. Comp. R. & Regs. 1100-01-01-14(3), (6)(l) (2018).
- ¹²⁸ Tenn. Code Ann. § 40-28-105(d)(8) (2018).
- ¹²⁹ Tenn. Comp. R. & Regs. 1100-01-01-08(3)(a) (2018).
- ¹³⁰ Tenn. Code Ann. § 40-28-105(d)(11) (2018); Tenn. Comp. R. & Regs. 1100-01-01-08(4)(d) (2018).
- ¹³¹ *See, e.g., Hopkins v. Tenn. Bd. of Paroles and Prob.*, 60 S.W. 3d 79 (Tenn. Ct. App. 2001); *South v. Tenn. Bd. of Paroles*, 946 S.W.2d 310 (Tenn. Ct. App. 1996).
- ¹³² *South*, 946 S.W.2d at 311.
- ¹³³ Tenn. Comp. R. & Regs. 1100-01-01-14(6)(l), (m) (2018).
- ¹³⁴ *See* Tenn. Code Ann. §§ 40-28-101 through 40-28-123 (2018).
- ¹³⁵ Tenn. Code Ann. § 40-28-103(a) (2018).
- ¹³⁶ Tenn. Code Ann. § 40-28-104(a)(8) (2018).
- ¹³⁷ Tenn. Code Ann. § 40-28-101(a) (2018).
- ¹³⁸ Annual Board Report, *supra* note 25 at 1.
- ¹³⁹ Tenn. Code Ann. §§ 40-28-103(a), (e) (2018).
- ¹⁴⁰ *Id.* at (c).
- ¹⁴¹ *Id.* at (b).
- ¹⁴² Tenn. Code Ann. § 40-28-105(f) (2018); *see* Tenn. Code Ann. § 8-47-101 through 127 (2018).
- ¹⁴³ Annual Report, *supra* note 25 at 6–7.
- ¹⁴⁴ Tenn. Bd. of Parole, *Reports and Statistics*, <https://www.tn.gov/bop/agency-services/reports-statistics.html> (last visited Jul. 27, 2018).
- ¹⁴⁵ *Id.*, Tenn. Code Ann. § 40-28-104(a)(11) (2018).
- ¹⁴⁶ Tenn. Comp. R. & Regs. 1100-01-01-15(1)(a)(1)–(8), (2)(a)(1)–(5), (3) (2018).