

108TH CONGRESS  
2D SESSION

# H. R. 4036

To revive the system of parole for Federal prisoners.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2004

Mr. DAVIS of Illinois introduced the following bill; which was referred to the  
Committee on the Judiciary

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## A BILL

To revive the system of parole for Federal prisoners.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PAROLE.**

4 Part III of title 18, United States Code, is amended  
5 by inserting before chapter 313 the following:

6 **“CHAPTER 312—PAROLE**

“Sec.

“4201. Parole Commission created.

“4202. Powers and duties of the Commission.

“4203. Powers and duties of the Chairman.

“4204. Time of eligibility for release on parole.

“4205. Parole determination criteria.

“4206. Information considered.

“4207. Parole determination proceeding; time.

“4208. Conditions of parole.

“4209. Jurisdiction of Commission.

“4210. Early termination of parole.

“4211. Aliens.

“4212. Summons to appear or warrant for retaking of parolee.

“4213. Revocation of parole.

“4214. Appeal.

“4215. Applicability of Administrative Procedure Act.

“4216. Definitions.

1 **“§ 4201. Parole Commission created**

2       “(a) **GENERALLY.**—There is hereby established, as  
3 an independent agency in the Department of Justice, a  
4 United States Parole Commission which shall be com-  
5 prised of nine members appointed by the President, by and  
6 with the advice and consent of the Senate. The President  
7 shall designate from among the Commissioners one to  
8 serve as Chairman.

9       “(b) **TERM.**—The term of office of a Commissioner  
10 shall be six years, except that the term of a person ap-  
11 pointed as a Commissioner to fill a vacancy shall expire  
12 six years from the date upon which such person was ap-  
13 pointed and qualified. Upon the expiration of a term of  
14 office of a Commissioner, the Commissioner shall continue  
15 to act until a successor has been appointed and qualified,  
16 except that no Commissioner may serve in excess of twelve  
17 years.

18       “(c) **COMPENSATION.**—Commissioners shall be com-  
19 pensated at the highest rate now or hereafter prescribed  
20 for grade 18 of the General Schedule pay rates (5 U.S.C.  
21 5332).

1 **“§ 4202. Powers and duties of the Commission**

2 “(a) ADMINISTRATIVE POWERS.—The Commission  
3 shall meet at least quarterly, and by majority vote shall—

4 “(1) make rules establishing guidelines for the  
5 powers enumerated in subsection (b) of this section  
6 and such other rules and regulations as are nec-  
7 essary to carry out a national parole policy and the  
8 purposes of this chapter;

9 “(2) create such regions as are necessary to  
10 carry out this chapter; and

11 “(3) ratify, revise, or deny any request for reg-  
12 ular, supplemental, or deficiency appropriations,  
13 prior to the submission of the requests to the Office  
14 of Management and Budget by the Chairman, which  
15 requests shall be separate from those of any other  
16 agency of the Department of Justice.

17 “(b) SUBSTANTIVE POWERS.—The Commission, by  
18 majority vote, and pursuant to the procedures set out in  
19 this chapter, shall have the power to—

20 “(1) grant or deny an application or rec-  
21 ommendation to parole any eligible prisoner;

22 “(2) impose reasonable conditions on an order  
23 granting parole;

24 “(3) modify or revoke an order paroling any eli-  
25 gible prisoner; and

1           “(4) request probation officers and other indi-  
2           viduals, organizations, and public or private agencies  
3           to perform such duties with respect to any parolee  
4           as the Commission deems necessary for maintaining  
5           proper supervision of and assistance to such parol-  
6           ees; and so as to assure that no probation officers,  
7           individuals, organizations, or agencies shall bear ex-  
8           cessive caseloads.

9           “(c) DELEGATION.—The Commission, by majority  
10          vote, and pursuant to rules and regulations—

11           “(1) may delegate to any Commissioner or com-  
12           missioners powers enumerated in subsection (b) of  
13           this section;

14           “(2) may delegate to hearing examiners any  
15           powers necessary to conduct hearings and pro-  
16           ceedings, take sworn testimony, obtain and make a  
17           record of pertinent information, make findings of  
18           probable cause and issue subpoenas for witnesses or  
19           evidence in parole revocation proceedings, and rec-  
20           ommend disposition of any matters enumerated in  
21           subsection (b) of this section, except that any such  
22           findings or recommendations shall be based upon the  
23           concurrence of not less than two hearing examiners;

24           “(3) may delegate authority to conduct hear-  
25           ings held pursuant to section 4214 to any officer or

1 employee of the executive or judicial branch of Fed-  
2 eral or State government; and

3 “(4) may review, or may delegate to the Na-  
4 tional Appeals Board the power to review, any deci-  
5 sion made pursuant to subparagraph (1) of this sub-  
6 section except that any such decision so reviewed  
7 must be reaffirmed, modified or reversed within thir-  
8 ty days of the date the decision is rendered, and, in  
9 case of such review, the individual to whom the deci-  
10 sion applies shall be informed in writing of the Com-  
11 mission’s actions with respect thereto and the rea-  
12 sons for such actions.

13 “(d) QUORUM.—Except as otherwise provided by law,  
14 any action taken by the Commission pursuant to sub-  
15 section (a) of this section shall be taken by a majority  
16 vote of all individuals currently holding office as members  
17 of the Commission which shall maintain and make avail-  
18 able for public inspection a record of the final vote of each  
19 member on statements of policy and interpretations adopt-  
20 ed by it. In so acting, each Commissioner shall have equal  
21 responsibility and authority, shall have full access to all  
22 information relating to the performance of such duties and  
23 responsibilities, and shall have one vote.

24 “(e) COOPERATION WITH STATES.—

1           “(1) GENERALLY.—The Commission shall,  
2           upon the request of the head of any law enforcement  
3           agency of a State or of a unit of local government  
4           in a State, make available as expeditiously as possible to such agency, with respect to individuals who  
5           are under the jurisdiction of the Commission, who  
6           have been convicted of felony offenses against the  
7           United States, and who reside, are employed, or are  
8           supervised in the geographical area in which such  
9           agency has jurisdiction, the following information  
10          maintained by the Commission (to the extent that  
11          the Commission maintains such information)—

12                           “(A) the names of such individuals;

13                           “(B) the addresses of such individuals;

14                           “(C) the dates of birth of such individuals;

15                           “(D) the Federal Bureau of Investigation  
16                           numbers assigned to such individuals;

17                           “(E) photographs and fingerprints of such  
18                           individuals; and

19                           “(F) the nature of the offenses against the  
20                           United States of which each such individual has  
21                           been convicted and the factual circumstances  
22                           relating to such offense.

23                           “(2) NONDISSEMINATION REQUIREMENT.—Any  
24                           law enforcement agency which receives information  
25

1 under this subsection shall not disseminate such in-  
2 formation outside of such agency.

3 **“§ 4203. Powers and duties of the Chairman**

4 “(a) GENERALLY.—The Chairman shall—

5 “(1) convene and preside at meetings of the  
6 Commission under section 4202 and such additional  
7 meetings of the Commission as the Chairman may  
8 call or as may be requested in writing by at least  
9 three Commissioners;

10 “(2) appoint, fix the compensation of, assign,  
11 and supervise all personnel employed by the Com-  
12 mission except that—

13 “(A) the appointment of any administra-  
14 tive law judge shall be subject to approval of  
15 the Commission within the first year of judge’s  
16 employment; and

17 “(B) regional Commissioners shall appoint  
18 and supervise such personnel employed regu-  
19 larly and full time in their respective regions as  
20 are compensated at a rate up to and including  
21 grade 9 of the General Schedule pay rates (5  
22 U.S.C. 5332);

23 “(3) assign duties among officers and employ-  
24 ees of the Commission, including Commissioners, so

1 as to balance the workload and provide for orderly  
2 administration;

3 “(4) direct the preparation of requests for ap-  
4 propriations for the Commission, and the use of  
5 funds made available to the Commission;

6 “(5) designate not fewer than three Commis-  
7 sioners to serve on the National Appeals Board of  
8 whom one shall be so designated to serve as vice  
9 chairman of the Commission (who shall act as  
10 Chairman of the Commission in the absence or dis-  
11 ability of the Chairman or in the event of the va-  
12 cancy of the Chairmanship), and designate, for each  
13 such region established under section 4202, one  
14 Commissioner to serve as regional Commissioner in  
15 each such region, but in each such designation the  
16 Chairman shall consider years of service, personal  
17 preference and fitness, and no such designation shall  
18 take effect unless concurred in by the President, or  
19 his designee;

20 “(6) serve as spokesman for the Commission  
21 and report annually to Congress on the activities of  
22 the Commission; and

23 “(7) exercise such other powers and duties and  
24 perform such other functions as may be necessary to

1 carry out the purposes of this chapter or as may be  
2 otherwise provided by law.

3 “(b) ADMINISTRATIVE POWERS.—The Chairman  
4 shall have the power to—

5 “(1) without regard to section 3324(a) and (b)  
6 of title 31, enter into and perform such contracts,  
7 leases, cooperative agreements, and other trans-  
8 actions as may be necessary in the conduct of the  
9 functions of the Commission, with any public agen-  
10 cy, or with any person, firm, association, corpora-  
11 tion, educational institution, or nonprofit organiza-  
12 tion;

13 “(2) accept voluntary and uncompensated serv-  
14 ices, notwithstanding section 1342 of title 31;

15 “(3) procure for the Commission temporary and  
16 intermittent services under section 3109(b) of title  
17 5, United States Code;

18 “(4) collect systematically the data obtained  
19 from studies, research, and the empirical experience  
20 of public and private agencies concerning the parole  
21 process;

22 “(5) carry out programs of research concerning  
23 the parole process to develop classification systems  
24 which describe types of offenders, and to develop

1 theories and practices which can be applied to the  
2 different types of offenders;

3 “(6) publish data concerning the parole process;

4 “(7) devise and conduct, in various geographical  
5 locations, seminars, workshops and training pro-  
6 grams providing continuing studies and instruction  
7 for personnel of Federal, State and local agencies  
8 and private and public organizations working with  
9 parolees and connected with the parole process; and

10 “(8) use the services, equipment, personnel, in-  
11 formation, facilities, and instrumentalities with or  
12 without reimbursement therefor of other Federal,  
13 State, local, and private agencies with their consent.

14 “(c) POLICIES TO BE FOLLOWED.—In carrying out  
15 his functions under this section, the Chairman shall be  
16 governed by the national parole policies promulgated by  
17 the Commission.

18 **“§ 4204. Time of eligibility for release on parole**

19 “(a) GENERALLY.—Whenever confined and serving a  
20 definite term or terms of more than one year, a prisoner  
21 shall be eligible for release on parole after serving one-  
22 third of such term or terms or after serving ten years of  
23 a life sentence (other than a life sentence imposed by the  
24 court without possibility of parole) or of a sentence of over

1 thirty years, except to the extent otherwise provided by  
2 law.

3 “(b) COURTS’ POWER AT TIME OF SENTENCING.—

4 Upon entering a judgment of conviction, the court having  
5 jurisdiction to impose sentence, when in its opinion the  
6 ends of justice and best interest of the public require that  
7 the defendant be sentenced to imprisonment for a term  
8 exceeding one year (other than a life sentence imposed by  
9 the court without possibility of parole), may—

10 “(1) designate in the sentence of imprisonment  
11 imposed a minimum term at the expiration of which  
12 the prisoner shall become eligible for parole, which  
13 term may be less than but shall not be more than  
14 one-third of the maximum sentence imposed by the  
15 court; or

16 “(2) fix the maximum sentence of imprisonment  
17 to be served in which event the court may specify  
18 that the prisoner may be released on parole at such  
19 time as the Commission may determine.

20 “(c) INFORMATION FOR COURT.—

21 “(1) COMMITMENT FOR STUDY.—If the court  
22 desires more detailed information as a basis for de-  
23 termining the sentence to be imposed, the court may  
24 commit the defendant to the custody of the Attorney  
25 General, which commitment shall be deemed to be

1 for the maximum sentence of imprisonment pre-  
2 scribed by law, for a study as described in subsection  
3 (d).

4 “(2) REPORT TO COURT.—The results of such  
5 study, together with any recommendations which the  
6 Director of the Bureau of Prisons believes would be  
7 helpful in determining the disposition of the case,  
8 shall be furnished to the court within three months  
9 unless the court grants time, not to exceed an addi-  
10 tional three months, for further study.

11 “(3) COURT ORDER.—After receiving such re-  
12 ports and recommendations, the court may in its  
13 discretion—

14 “(A) place the offender on probation as au-  
15 thorized by section 3651; or

16 “(B) affirm the sentence of imprisonment  
17 originally imposed, or reduce the sentence of  
18 imprisonment, and commit the offender under  
19 any applicable provision of law.

20 “(4) COMMENCEMENT OF TERM OF SEN-  
21 TENCE.—The term of the sentence shall run from  
22 the date of original commitment under this section.

23 “(d) STUDY OF PRISONER SENTENCED TO IMPRIS-  
24 ONMENT.—Upon commitment of a prisoner sentenced to  
25 imprisonment under subsection (a) or (b), the Director,

1 under such regulations as the Attorney General may pre-  
2 scribe, shall cause a complete study to be made of the pris-  
3 oner and shall furnish to the Commission a summary re-  
4 port together with any recommendations which in his opin-  
5 ion would be helpful in determining the suitability of the  
6 prisoner for parole. This report may include data regard-  
7 ing the prisoner's previous delinquency or criminal experi-  
8 ence, pertinent circumstances of the prisoner's social back-  
9 ground and capabilities, the prisoner's mental and phys-  
10 ical health, and such other factors the Director considers  
11 pertinent. The Commission may make such other inves-  
12 tigation as it may deem necessary.

13       “(e) DUTY OF PROBATION OFFICERS.—Upon request  
14 of the Commission, it shall be the duty of the various pro-  
15 bation officers and government bureaus and agencies to  
16 furnish the Commission information available to such offi-  
17 cer, bureau, or agency, concerning any eligible prisoner or  
18 parolee and whenever not incompatible with the public in-  
19 terest, their views and recommendation with respect to  
20 any matter within the jurisdiction of the Commission.

21       “(f) SHORT PRISON TERMS.—Any prisoner sen-  
22 tenced to imprisonment for a term or terms of not less  
23 than six months but not more than one year shall be re-  
24 leased at the expiration of such sentence less good time  
25 deductions provided by law, unless the court which im-

1 posed sentence, shall, at the time of sentencing, provide  
2 for the prisoner's release as if on parole after service of  
3 one-third of such term or terms notwithstanding section  
4 4164. This subsection does not prevent delivery of any  
5 person released on parole to the authorities of any State  
6 otherwise entitled to his custody.

7       “(g) REDUCTION IN SENTENCE.—At any time upon  
8 motion of the Bureau of Prisons, the court may reduce  
9 any minimum term to the time the defendant has served.  
10 The court shall have jurisdiction to act upon the applica-  
11 tion at any time and no hearing shall be required.

12       “(h) DISCLAIMER.—Nothing in this chapter shall be  
13 construed to provide that any prisoner shall be eligible for  
14 release on parole if such prisoner is ineligible for such re-  
15 lease under any other provision of law.

16 **“§ 4205. Parole determination criteria**

17       “(a) GENERALLY.—If an eligible prisoner has sub-  
18 stantially observed the rules of the institution or institu-  
19 tions to which he has been confined, and if the Commis-  
20 sion, upon consideration of the nature and circumstances  
21 of the offense and the history and characteristics of the  
22 prisoner, determines that release would not—

23               “(1) depreciate the seriousness of his offense or  
24               promote disrespect for the law; or

25               “(2) jeopardize the public welfare;

1 such prisoner shall be released.

2       “(b) NOTICE TO PRISONER.—The Commission shall  
3 furnish the eligible prisoner with a written notice of its  
4 determination not later than twenty-one days, excluding  
5 holidays, after the date of the parole determination pro-  
6 ceeding. If parole is denied such notice shall state with  
7 particularity the reasons for such denial.

8       “(c) GOOD CAUSE EXCEPTION.—The Commission  
9 may grant or deny release on parole notwithstanding the  
10 guidelines referred to in subsection (a) of this section if  
11 it determines there is good cause for so doing, if the pris-  
12 oner is furnished written notice stating with particularity  
13 the reasons for its determination, including a summary of  
14 the information relied upon.

15       “(d) RELEASE AFTER  $\frac{2}{3}$  OF SENTENCE.—Any pris-  
16 oner, serving a sentence of five years or longer, who is  
17 not earlier released under this section or any other appli-  
18 cable provision of law, shall be released on parole after  
19 having served two-thirds of each consecutive term or  
20 terms, or after serving 30 years of each consecutive term  
21 or terms of more than 45 years including any life term  
22 (other than a life term imposed by the court without possi-  
23 bility of parole), whichever is earlier, but the Commission  
24 shall not release such prisoner if it determines that the  
25 prisoner has seriously or frequently violated institution

1 rules and regulations or that there is a reasonable prob-  
2 ability that he will commit any Federal, State, or local  
3 crime.

4 **“§ 4206. Information considered**

5 “In making a determination under this chapter (re-  
6 lating to release on parole) the Commission shall consider,  
7 if available and relevant—

8 “(1) reports and recommendations which the  
9 staff of the facility in which such prisoner is con-  
10 fined may make;

11 “(2) official reports of the prisoner’s prior  
12 criminal record, including a report or record of ear-  
13 lier probation and parole experiences;

14 “(3) presentence investigation reports;

15 “(4) recommendations regarding the prisoner’s  
16 parole made at the time of sentencing by the sen-  
17 tencing judge;

18 “(5) a statement, which may be presented oral-  
19 ly or otherwise, by any victim of the offense for  
20 which the prisoner is imprisoned about the financial,  
21 social, psychological, and emotional harm done to, or  
22 loss suffered by such victim;

23 “(6) reports of physical, mental, or psychiatric  
24 examination of the offender; and

1           “(7) such additional relevant information con-  
2           cerning the prisoner (including information sub-  
3           mitted by the prisoner) as may be reasonably avail-  
4           able.

5   **“§ 4207. Parole determination proceeding; time**

6           “(a) GENERAL RULE.—In making a determination  
7           under this chapter (relating to parole) the Commission  
8           shall conduct a parole determination proceeding unless it  
9           determines on the basis of the prisoner’s record that the  
10          prisoner will be released on parole. Whenever feasible, the  
11          initial parole determination proceeding for a prisoner eligi-  
12          ble for parole under subsections (a) and (b)(1) of section  
13          4204 shall be held not later than 30 days before the date  
14          of such eligibility for parole. Whenever feasible, the initial  
15          parole determination proceeding for a prisoner eligible for  
16          parole pursuant to subsection (b)(2) of section 4204 or  
17          released on parole and whose parole has been revoked shall  
18          be held not later than 120 days following such prisoner’s  
19          imprisonment or reimprisonment in a Federal institution,  
20          as the case may be. An eligible prisoner may knowingly  
21          and intelligently waive any proceeding.

22          “(b) PREPARATION.—(1) At least 30 days before any  
23          parole determination proceeding, the prisoner shall be pro-  
24          vided with—

1           “(A) written notice of the time and place of the  
2 proceeding; and

3           “(B) reasonable access to a report or other doc-  
4 ument to be used by the Commission in making its  
5 determination.

6           “(2) A prisoner may waive such notice, but if notice  
7 is not waived the proceeding shall be held during the next  
8 regularly scheduled proceedings by the Commission at the  
9 institution in which the prisoner is confined.

10          “(c) EXCEPTIONS TO DISCLOSURE.—(1) Subsection  
11 (b)(1)(B) does not apply to—

12           “(A) diagnostic opinions which, if made known  
13 to the eligible prisoner, could lead to a serious dis-  
14 ruption of his institutional program;

15           “(B) any document which reveals sources of in-  
16 formation obtained upon a promise of confiden-  
17 tiality; or

18           “(C) any other information which, if disclosed,  
19 might result in harm, physical or otherwise, to any  
20 person.

21          “(2) If any document is deemed by either the Com-  
22 mission, the Bureau of Prisons, or any other agency to  
23 fall within the exclusionary provisions of paragraph (1),  
24 then it shall become the duty of the Commission, the Bu-  
25 reau, or such other agency, as the case may be, to summa-

1 rize the basic contents of the material withheld, bearing  
2 in mind the need for confidentiality or the impact on the  
3 inmate, or both, and furnish such summary to the inmate.

4 “(d) CONSULTATION.—(1) During the period before  
5 the parole determination proceeding as provided in sub-  
6 section (b), a prisoner may consult, as provided by the  
7 director, with a representative as referred to in subpara-  
8 graph (2) of this subsection, and by mail or otherwise with  
9 any person concerning such proceeding.

10 “(2) The prisoner shall, if he chooses, be represented  
11 at the parole determination proceeding by a representative  
12 who qualifies under rules and regulations promulgated by  
13 the Commission. Such rules shall not exclude attorneys as  
14 a class.

15 “(e) PERSONAL APPEARANCE OF PRISONER.—The  
16 prisoner shall be allowed to appear and testify on his own  
17 behalf at the parole determination proceeding.

18 “(f) RECORD.—A full and complete record of every  
19 proceeding shall be retained by the Commission. Upon re-  
20 quest, the Commission shall make available to any eligible  
21 prisoner such record as the Commission may retain of the  
22 proceeding.

23 “(g) PERSONAL CONFERENCE.—If parole is denied,  
24 a personal conference to explain the reasons for such de-  
25 nial shall be held, if feasible, between the prisoner and

1 a representative of the Commission at the conclusion of  
2 the proceeding. When feasible, the conference shall include  
3 advice to the prisoner as to what steps may be taken to  
4 enhance his chance of being released at a subsequent pro-  
5 ceeding.

6 “(h) FREQUENCY OF PAROLE DETERMINATION PRO-  
7 CEEDINGS.—In any case in which release on parole is not  
8 granted, subsequent parole determination proceedings  
9 shall be held not less frequently than:

10 “(1) 18 months in the case of a prisoner with  
11 a term or terms of more than one year but less than  
12 seven years; and

13 “(2) 24 months in the case of a prisoner with  
14 a term or terms of seven years or longer.

15 **“§ 4208. Conditions of parole**

16 “(a) MANDATORY CONDITIONS.—In every case, the  
17 Commission shall impose as conditions of parole that the  
18 parolee not commit another Federal, State, or local crime,  
19 that the parolee not possess illegal controlled substances,  
20 and, if a fine was imposed, that the parolee make a dili-  
21 gent effort to pay the fine in accordance with the judg-  
22 ment. In every case, the Commission shall impose as a  
23 condition of parole for a person described in section  
24 4042(c)(4), that the parolee report the address where the  
25 parolee will reside and any subsequent change of residence

1 to the probation officer responsible for supervision, and  
2 that the parolee register in any State where the parolee  
3 resides, is employed, carries on a vocation, or is a student  
4 (as such terms are defined under section 170101(a)(3) of  
5 the Violent Crime Control and Law Enforcement Act of  
6 1994). In every case, the Commission shall impose as a  
7 condition of parole that the parolee cooperate in the collec-  
8 tion of a DNA sample from the parolee, if the collection  
9 of such a sample is authorized pursuant to section 3 or  
10 section 4 of the DNA Analysis Backlog Elimination Act  
11 of 2000 or section 1565 of title 10. In every case, the  
12 Commission shall also impose as a condition of parole that  
13 the parolee pass a drug test prior to release and refrain  
14 from any unlawful use of a controlled substance and sub-  
15 mit to at least 2 periodic drug tests (as determined by  
16 the Commission) for use of a controlled substance. The  
17 condition stated in the preceding sentence may be amelio-  
18 rated or suspended by the Commission for any individual  
19 parolee if it determines that there is good cause for doing  
20 so. The results of a drug test administered in accordance  
21 with the provisions of the preceding sentence shall be sub-  
22 ject to confirmation only if the results are positive, the  
23 defendant is subject to possible imprisonment for such  
24 failure, and either the defendant denies the accuracy of  
25 such test or there is some other reason to question the

1 results of the test. A drug test confirmation shall be a  
2 urine drug test confirmed using gas chromatography/mass  
3 spectrometry techniques or such test as the Director of  
4 the Administrative Office of the United States Courts  
5 after consultation with the Secretary of Health and  
6 Human Services may determine to be of equivalent accu-  
7 racy. The Commission shall consider whether the avail-  
8 ability of appropriate substance abuse treatment pro-  
9 grams, or an individual's current or past participation in  
10 such programs, warrants an exception in accordance with  
11 United States Sentencing Commission guidelines from the  
12 rule of section 4214(f) when considering any action  
13 against a defendant who fails a drug test.

14       “(b) OTHER CONDITIONS.—The Commission may  
15 impose or modify other conditions of parole to the extent  
16 that such conditions are reasonably related to—

17               “(1) the nature and circumstances of the of-  
18 fense; and

19               “(2) the history and characteristics of the pa-  
20 rolee;

21 and may provide for such supervision and other limitations  
22 as are reasonable to protect the public welfare.

23       “(c) SPECIFICITY OF CONDITIONS.—The conditions  
24 of parole should be sufficiently specific to serve as a guide  
25 to supervision and conduct, and upon release on parole

1 the parolee shall be given a certificate setting forth the  
2 conditions of his parole. An effort shall be made to make  
3 certain that the parolee understands the conditions of his  
4 parole.

5 “(d) ADDITIONAL CONDITIONS.—(1) Release on pa-  
6 role or release as if on parole (or probation, or supervised  
7 release where applicable) may as a condition of such re-  
8 lease require—

9 “(A) a parolee to reside in or participate in the  
10 program of a residential community treatment cen-  
11 ter, or both, for all or part of the period of such pa-  
12 role; or

13 “(B) a parolee to remain at his place of resi-  
14 dence during nonworking hours and, if the Commis-  
15 sion so directs, to have compliance with this condi-  
16 tion monitored by telephone or electronic signaling  
17 devices, except that a condition under this para-  
18 graph may be imposed only as an alternative to in-  
19 carceration.

20 “(2) A parolee residing in a residential community  
21 treatment center pursuant to paragraph (1)(A) may be re-  
22 quired to pay such costs incident to such residence as the  
23 Commission deems appropriate.

24 “(e) MODIFICATION.—(1) The Commission may mod-  
25 ify conditions of parole pursuant to this section on its own

1 motion, or on the motion of a United States probation offi-  
2 cer supervising a parolee, if the parolee receives notice of  
3 such action and has ten days after receipt of such notice  
4 to express views on the proposed modification. Following  
5 such ten-day period, the Commission shall have 21 days,  
6 exclusive of holidays, to act upon such motion or applica-  
7 tion. Notwithstanding any other provision of this para-  
8 graph, the Commission may modify conditions of parole,  
9 without regard to such ten-day period, on any such motion  
10 if the Commission determines that the immediate modi-  
11 fication of conditions of parole is required to prevent harm  
12 to the parolee or to the public.

13 “(2) A parolee may petition the Commission on his  
14 own behalf for a modification of conditions pursuant to  
15 this section.

16 “(3) The provisions of this subsection shall not apply  
17 to modifications of parole conditions pursuant to a revoca-  
18 tion proceeding under section 4213.

19 **“§ 4209. Jurisdiction of Commission**

20 “(a) CUSTODY.—A parolee shall remain in the legal  
21 custody and under the control of the Attorney General,  
22 until the expiration of the maximum term or terms for  
23 which such parolee was sentenced.

24 “(b) TERMINATION.—Except as otherwise provided  
25 in this section, the jurisdiction of the Commission over the

1 parolee shall terminate no later than the date of the expi-  
2 ration of the maximum term or terms for which he was  
3 sentenced, except that—

4           “(1) such jurisdiction shall terminate at an ear-  
5 lier date to the extent provided under section 4164  
6 (relating to mandatory release) or section 4211 (re-  
7 lating to early termination of parole supervision),  
8 and

9           “(2) in the case of a parolee who has been con-  
10 victed of any criminal offense committed subsequent  
11 to his release on parole, and such offense is punish-  
12 able by a term of imprisonment, detention or incar-  
13 ceration in any penal facility, the Commission shall  
14 determine, in accordance with the provisions of sec-  
15 tion 4214(b) or (c), whether all or any part of the  
16 unexpired term being served at the time of parole  
17 shall run concurrently or consecutively with the sen-  
18 tence imposed for the new offense, but in no case  
19 shall such service together with such time as the pa-  
20 rolee has previously served in connection with the of-  
21 fense for which he was paroled, be longer than the  
22 maximum term for which he was sentenced in con-  
23 nection with such offense.

24           “(c) EXTENSION.—In the case of any parolee found  
25 to have intentionally refused or failed to respond to any

1 reasonable request, order, summons, or warrant of the  
2 Commission or any member or agent thereof, the jurisdic-  
3 tion of the Commission may be extended for the period  
4 during which the parolee so refused or failed to respond.

5 “(d) CONCURRENCE OF RUNNING OF TERM.—The  
6 parole of any parolee shall run concurrently with the pe-  
7 riod of parole or probation under any other Federal, State,  
8 or local sentence.

9 “(e) CERTIFICATE OF DISCHARGE.—Upon the termi-  
10 nation of the jurisdiction of the Commission over any pa-  
11 rolee, the Commission shall issue a certificate of discharge  
12 to such parolee and to such other agencies as it may deter-  
13 mine.

14 **“§ 4210. Early termination of parole**

15 “(a) IN GENERAL.—Upon its own motion or upon re-  
16 quest of the parolee, the Commission may terminate su-  
17 pervision over a parolee prior to the termination of juris-  
18 diction under section 4209.

19 “(b) REVIEW.—Two years after each parolee’s re-  
20 lease on parole, and at least annually thereafter, the Com-  
21 mission shall review the status of the parolee to determine  
22 the need for continued supervision. In calculating such  
23 two-year period there shall not be included any period of  
24 release on parole prior to the most recent such release,

1 nor any period served in confinement on any other sen-  
2 tence.

3 “(c) PRESUMPTIVE TERMINATION.—(1) Five years  
4 after each parolee’s release on parole, the Commission  
5 shall terminate supervision over such parolee unless it is  
6 determined, after a hearing conducted in accordance with  
7 the procedures prescribed in section 4213(a)(2), that such  
8 supervision should not be terminated because there is a  
9 likelihood that the parolee will engage in conduct violating  
10 any criminal law.

11 “(2) If supervision is not terminated under subpara-  
12 graph (1) of this subsection the parolee may request a  
13 hearing annually thereafter, and a hearing, with proce-  
14 dures as provided in subparagraph (1) of this subsection,  
15 shall be conducted with respect to such termination of su-  
16 pervision not less frequently than biennially.

17 “(3) In calculating the five-year period referred to in  
18 subparagraph (1), there shall not be included any period  
19 of release on parole prior to the most recent such release,  
20 nor any period served in confinement on any other sen-  
21 tence.

22 **“§ 4211. Aliens**

23 “When an alien prisoner subject to deportation be-  
24 comes eligible for parole, the Commission may authorize  
25 the release of such prisoner on condition that such person

1 be deported and remain outside the United States. Such  
2 prisoner when his parole becomes effective, shall be deliv-  
3 ered to the duly authorized immigration official for depor-  
4 tation.

5 **“§ 4212. Summons to appear or warrant for retaking**  
6 **of parolee**

7 “(a) IN GENERAL.—If any parolee is alleged to have  
8 violated his parole, the Commission may—

9 “(1) summon such parolee to appear at a hear-  
10 ing conducted pursuant to section 4213; or

11 “(2) issue a warrant and retake the parolee as  
12 provided in this section.

13 “(b) ISSUANCE.—Any summons or warrant issued  
14 under this section shall be issued by the Commission as  
15 soon as practicable after discovery of the alleged violation,  
16 except when delay is deemed necessary. Imprisonment in  
17 an institution shall not be deemed grounds for delay of  
18 such issuance, except that, in the case of any parolee  
19 charged with a criminal offense, issuance of a summons  
20 or warrant may be suspended pending disposition of the  
21 charge.

22 “(c) CONTENTS.—Any summons or warrant issued  
23 pursuant to this section shall provide the parolee with  
24 written notice of—

1           “(1) the conditions of parole he is alleged to  
2           have violated as provided under section 4208;

3           “(2) the parolee’s rights under this chapter;  
4           and

5           “(3) the possible action which may be taken by  
6           the Commission.

7           “(d) EXECUTION OF WARRANT.—Any officer of any  
8           Federal penal or correctional institution, or any Federal  
9           officer authorized to serve criminal process within the  
10          United States, to whom a warrant issued under this sec-  
11          tion is delivered, shall execute such warrant by taking such  
12          parolee and returning the parolee to the custody of the  
13          regional commissioner, or to the custody of the Attorney  
14          General, if the Commission shall so direct.

15          **“§ 4213. Revocation of parole**

16          “(a) RIGHTS OF PAROLEE.—(1) Except as provided  
17          in subsections (b) and (c), any alleged parole violator sum-  
18          moned or retaken under section 4213 shall be accorded  
19          the opportunity to have—

20                 “(A) a preliminary hearing at or reasonably  
21                 near the place of the alleged parole violation or ar-  
22                 rest, without unnecessary delay, to determine if  
23                 there is probable cause to believe that he has vio-  
24                 lated a condition of his parole; and upon a finding  
25                 of probable cause a digest shall be prepared by the

1 Commission setting forth in writing the factors con-  
2 sidered and the reasons for the decision, a copy of  
3 which shall be given to the parolee within a reason-  
4 able period of time; except that after a finding of  
5 probable cause the Commission may restore any pa-  
6 rolee to parole supervision if—

7 “(i) continuation of revocation proceedings  
8 is not warranted; or

9 “(ii) incarceration of the parolee pending  
10 further revocation proceedings is not warranted  
11 by the alleged frequency or seriousness of such  
12 violation or violations;

13 “(iii) the parolee is not likely to fail to ap-  
14 pear for further proceedings; and

15 “(iv) the parolee does not constitute a dan-  
16 ger to himself or others; and

17 “(B) upon a finding of probable cause under  
18 subparagraph (1)(A), a revocation hearing at or rea-  
19 sonably near the place of the alleged parole violation  
20 or arrest within 60 days of such determination of  
21 probable cause, except that a revocation hearing may  
22 be held at the same time and place set for the pre-  
23 liminary hearing.

1       “(2) Hearings held pursuant to subparagraph (1)  
2 shall be conducted by the Commission in accordance with  
3 the following procedures:

4           “(A) Notice to the parolee of the conditions of  
5 parole alleged to have been violated, and the time,  
6 place, and purposes of the scheduled hearing.

7           “(B) Opportunity for the parolee to be rep-  
8 resented by an attorney (retained by the parolee, or  
9 if he is financially unable to retain counsel, counsel  
10 shall be provided pursuant to section 3006A) or, if  
11 he so chooses, a representative as provided by rules  
12 and regulations, unless the parolee knowingly and  
13 intelligently waives such representation.

14           “(C) Opportunity for the parolee to appear and  
15 testify, and present witnesses and relevant evidence.

16           “(D) Opportunity for the parolee to be apprised  
17 of the evidence against the parolee and, if the pa-  
18 rolee so requests, to confront and cross-examine ad-  
19 verse witnesses, unless the Commission specifically  
20 finds substantial reason for not so allowing.

21       “(3) For the purposes of subparagraph (1) of this  
22 subsection, the Commission may subpoena witnesses and  
23 evidence, and pay witness fees as established for the courts  
24 of the United States. If a person refuses to obey such a  
25 subpoena, the Commission may petition a court of the

1 United States for the judicial district in which such parole  
2 proceeding is being conducted, or in which such person  
3 may be found, to request such person to attend, testify,  
4 and produce evidence. The court may issue an order re-  
5 quiring such person to appear before the Commission,  
6 when the court finds such information, thing, or testimony  
7 directly related to a matter with respect to which the Com-  
8 mission is empowered to make a determination under this  
9 section. Failure to obey such an order is punishable by  
10 such court as a contempt. All process in such a case may  
11 be served in the judicial district in which such a parole  
12 proceeding is being conducted, or in which such person  
13 may be found.

14       “(b) EFFECT OF CONVICTION.—(1) Conviction for  
15 any criminal offense committed subsequent to release on  
16 parole shall constitute probable cause for purposes of sub-  
17 section (a) of this section. In cases in which a parolee has  
18 been convicted of such an offense and is serving a new  
19 sentence in an institution, a parole revocation warrant or  
20 summons issued pursuant to section 4213 may be placed  
21 against the parolee as a detainer. Such detainer shall be  
22 reviewed by the Commission within one hundred and  
23 eighty days of notification to the Commission of place-  
24 ment. The parolee shall receive notice of the pending re-  
25 view, have an opportunity to submit a written application

1 containing information relative to the disposition of the  
2 detainer, and, unless waived, shall have counsel as pro-  
3 vided in subsection (a)(2)(B) of this section to assist him  
4 in the preparation of such application.

5 “(2) If the Commission determines that additional in-  
6 formation is needed to review a detainer, a dispositional  
7 hearing may be held at the institution where the parolee  
8 is confined. The parolee shall have notice of such hearing,  
9 be allowed to appear and testify on his own behalf, and,  
10 unless waived, shall have counsel as provided in subsection  
11 (a)(2)(B) of this section.

12 “(3) Following the disposition review, the Commis-  
13 sion may:

14 “(A) let the detainer stand; or

15 “(B) withdraw the detainer.

16 “(c) HEARING.—Any alleged parole violator who is  
17 summoned or retaken by warrant under section 4213 who  
18 knowingly and intelligently waives the right to a hearing  
19 under subsection (a) of this section, or who knowingly and  
20 intelligently admits violation at a preliminary hearing held  
21 pursuant to subsection (a)(1)(A) of this section, or who  
22 is retaken pursuant to subsection (b) of this section, shall  
23 receive a revocation hearing within 90 days of the date  
24 of retaking. The Commission may conduct such hearing  
25 at the institution to which he has been returned, and the

1 alleged parole violator shall have notice of such hearing,  
2 be allowed to appear and testify on his own behalf, and,  
3 unless waived, shall have counsel or another representative  
4 as provided in subsection (a)(2)(B) of this section.

5 “(d) ACTIONS OF THE COMMISSION.—Whenever a  
6 parolee is summoned or retaken pursuant to section 4213,  
7 and the Commission finds pursuant to the procedures of  
8 this section and by a preponderance of the evidence that  
9 the parolee has violated a condition of his parole the Com-  
10 mission may take any of the following actions:

11 “(1) Restore the parolee to supervision.

12 “(2) Reprimand the parolee.

13 “(3) Modify the parolee’s conditions of the pa-  
14 role.

15 “(4) Refer the parolee to a residential commu-  
16 nity treatment center for all or part of the remain-  
17 der of his original sentence.

18 “(5) Formally revoke parole or release as if on  
19 parole pursuant to this title.

20 The Commission may take any such action provided it has  
21 taken into consideration whether or not the parolee has  
22 been convicted of any Federal, State, or local crime subse-  
23 quent to his release on parole, and the seriousness thereof,  
24 or whether such action is warranted by the frequency or

1 seriousness of the parolee’s violation of any other condi-  
2 tion or conditions of his parole.

3 “(e) WRITTEN NOTICE.—The Commission shall fur-  
4 nish the parolee with a written notice of its determination  
5 not later than 21 days, excluding holidays, after the date  
6 of the revocation hearing. If parole is revoked, a digest  
7 shall be prepared by the Commission setting forth in writ-  
8 ing the factors considered and reasons for such action, a  
9 copy of which shall be given to the parolee.

10 “(f) CONTROLLED SUBSTANCE POSSESSION.—Not-  
11 withstanding any other provision of this section, the Com-  
12 mission shall revoke the parole of a parolee who is found  
13 by the Commission to be in possession of a controlled sub-  
14 stance.

15 **“§ 4214. Appeal**

16 “(a) APPLICATION.—Whenever parole release is de-  
17 nied under section 4205, parole conditions are imposed or  
18 modified under section 4208, parole discharge is denied  
19 under section 4210(c), or parole is modified or revoked  
20 under section 4213, the individual to whom any such deci-  
21 sion applies may appeal such decision by submitting a  
22 written application to the National Appeal (Appeals)  
23 Board not later than 30 days following the date on which  
24 the decision is rendered.

1           “(b) REQUIREMENT TO ACT.—The National Appeals  
2 Board, upon receipt of the appellant’s papers, must act  
3 pursuant to rules and regulations within 60 days to reaffirm,  
4 modify, or reverse the decision and shall inform the  
5 appellant in writing of the decision and the reasons there-  
6 for.

7           “(c) ATTORNEY GENERAL’S REQUEST.—The Na-  
8 tional Appeals Board may review any decision of a re-  
9 gional commissioner upon the written request of the Attor-  
10 ney General filed not later than 30 days following the deci-  
11 sion and, by majority vote, shall reaffirm, modify, or re-  
12 verse the decision within 60 days of the receipt of the At-  
13 torney General’s request. The Board shall inform the At-  
14 torney General and the individual to whom the decision  
15 applies in writing of its decision and the reasons therefor.

16 **“§ 4215. Applicability of administrative procedure Act**

17           “(a) GENERALLY.—For purposes of the provisions of  
18 chapter 5 of title 5, United States Code, other than sec-  
19 tions 554, 555, 556, and 557, the Commission is an ‘agen-  
20 cy’ as defined in such chapter.

21           “(b) SPECIAL RULE.—For purposes of subsection (a)  
22 of this section, section 553(b)(3)(A) of title 5, United  
23 States Code, relating to rulemaking, shall be deemed not  
24 to include the phrase ‘general statements of policy’.

1       “(c) JUDICIAL REVIEW.—To the extent that actions  
2 of the Commission pursuant to section 4202(a)(1) are not  
3 in accord with section 553 of title 5, United States Code,  
4 they shall be reviewable in accordance with the provisions  
5 of sections 701 through 706 of title 5, United States Code.

6       “(d) NONREVIEWABLE ACTIONS.—Actions of the  
7 Commission pursuant to paragraphs (1), (2), and (3) of  
8 section 4202(b) shall be considered actions committed to  
9 agency discretion for purposes of section 701(a)(2) of title  
10 5, United States Code.

11 **“§ 4216. Definitions**

12       “As used in this chapter—

13               “(1) the term ‘Commission’ means the United  
14 States Parole Commission;

15               “(2) the term ‘Commissioner’ means any mem-  
16 ber of the United States Parole Commission;

17               “(3) the term ‘Director’ means the Director of  
18 the Bureau of Prisons;

19               “(4) the term ‘eligible prisoner’ means any Fed-  
20 eral prisoner who is eligible for parole pursuant to  
21 this title or any other law, including any Federal  
22 prisoner whose parole has been revoked and who is  
23 not otherwise ineligible for parole;

24               “(5) the term ‘parolee’ means any eligible pris-  
25 oner who has been released on parole or deemed as

1 if released on parole under section 4164 or section  
2 4205(f); and

3 “(6) the term ‘rules’ means rules made by the  
4 Commission under section 4203.”.

5 **SEC. 2. CLERICAL AMENDMENT.**

6 The table of chapters at the beginning of part III  
7 of title 18, United States Code, is amended by inserting  
8 before the item relating to chapter 313 the following new  
9 item:

“312. Parole ..... 4201”.

10 **SEC. 3. PAROLE AUTHORITY FOR CERTAIN PERSONS.**

11 The United States Parole Commission created by the  
12 amendments made by this Act shall also have jurisdiction  
13 over the parole of persons whose parole was governed by  
14 the Parole Commission Phase-Out Act of 1996 or section  
15 11231 of Public Law 105–33, and shall exercise parole  
16 authority with respect to those persons under the amend-  
17 ments made by this Act.

○