

CHAPTER 98
[Engrossed Senate Bill No. 346]
PRISON TERMS AND PAROLES

AN ACT Relating to prison terms and paroles; providing procedures for the arrest, detention and fair hearings on the revocation of parole of alleged parole violators; adding two new members to the board of prison terms and paroles; amending section 13, chapter 133, Laws of 1955, as amended by section 2, chapter 106, Laws of 1961 and RCW 9.95.120; amending section 11, chapter 134, Laws of 1967 and RCW 72.04A.090; amending section 9, chapter 340, Laws of 1955, as amended by section 1, chapter 32, Laws of 1959 and RCW 9.95.003; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 11, chapter 134, Laws of 1967 and RCW 72-.04A.090 are each amended to read as follows:

Whenever a parolee breaches a condition or conditions under which he was granted parole or violates any law of the state or rules and regulations of the board of prison terms and paroles, any probation and parole officer may arrest, or cause the arrest and suspension of parole of, such parolee without a warrant, pending a determination by the board. The facts and circumstances of such conduct of the parolee shall be reported by the probation and parole officer, with recommendations, to the board of prison terms and paroles, who may order the revocation or suspension of parole, revise or modify the conditions of parole or take such other action as may be deemed appropriate in accordance with RCW 9.95.120. The board of prison terms and paroles, after consultation with the director of the department of institutions, shall make all rules and regulations concerning procedural matters, which shall include the time when state probation and parole officers shall file with the board reports required by this section, procedures pertaining thereto and the filing of such information as may be necessary to enable the board of prison terms and paroles to perform its functions under this section.

The probation and parole officers shall have like authority

and power regarding the arrest and detention of a probationer who has breached a condition or conditions under which he was granted probation by the superior court, or violates any law of the state, pending a determination by the superior court.

In the event a probation and parole officer shall arrest or cause the arrest and suspension of parole of a parolee or probationer in accordance with the provisions of this section, such parolee or probationer shall be confined and detained in the county jail of the county in which the parolee or probationer was taken into custody, and the sheriff of such county shall receive and keep in the county jail, where room is available, all prisoners delivered thereto by the probation and parole officer, ~~((until-discharged-according-to-law))~~ and such parolees shall not be released from custody on bail or personal recognizance, except upon approval of the board of prison terms and paroles and the issuance by the board of an order of reinstatement on parole on the same or modified conditions of parole.

Sec. 2. Section 13, chapter 133, Laws of 1955 as amended by section 2, chapter 106, Laws of 1961 and RCW 9.95.120 are each amended to read as follows:

Whenever the board of prison terms and paroles or a probation and parole officer of this state has reason to believe a convicted person has breached a condition of his parole or violated the law of any state where he may then be or the rules and regulations of the board of prison terms and paroles, any probation and parole officer of this state may arrest or cause the arrest and detention and suspension of parole of such convicted person pending a determination by the board whether the parole of such convicted person shall be revoked. All facts and circumstances surrounding the violation by such convicted person shall be reported to the board of prison terms and paroles by the probation and parole officer, with recommendations. The board of prison terms and paroles, after consultation with the director of the department of institutions, shall make all rules and regulations concerning procedural matters, which shall include the

time when state probation and parole officers shall file with the board reports required by this section, procedures pertaining thereto and the filing of such information as may be necessary to enable the board to perform its functions under this section. On the basis of the report by the probation and parole officer, or at any time upon its own discretion, the board may revise or modify the conditions of parole or order the suspension of parole by the issuance of a written order bearing its seal which order shall be sufficient warrant for all peace officers to take into custody any convicted person who may be on parole and retain such person in their custody until arrangements can be made by the board of prison terms and paroles for his return to ~~((the institution from which he was paroled))~~ a state correctional institution for convicted felons. Any such revision or modification of the conditions of parole or the order suspending parole shall be personally served upon the parolee.

Any parolee arrested and detained in physical custody by the authority of a state probation and parole officer, or upon the written order of the board of prison terms and paroles, shall not be released from custody on bail or personal recognizance, except upon approval of the board of prison terms and paroles and the issuance by the board of an order of reinstatement on parole on the same or modified conditions of parole.

All chiefs of police, marshals of cities and towns, sheriffs of counties, and all police, prison, and peace officers and constables shall execute any such order in the same manner as any ordinary criminal process.

Whenever a paroled prisoner is accused of a violation of his parole, other than the commission of, and conviction for, a felony or misdemeanor under the laws of this state or the laws of any state where he may then be, he shall be entitled to a fair and impartial hearing of such charges within thirty days from the time that he ~~((was returned to the institution from which he was paroled))~~ is served with charges of the violation of conditions of his parole after his arrest

and detention. The hearing shall be held before ((at-least-two)) one or more members of the parole board at a place or places, within this state, reasonably near the site of the alleged violation or violations of parole. ((Upon-such-hearing-such-paroled-prisoner-shall-be-allowed to-be-heard-and-may-defend-himself,-and-may-be-represented-by-an-attorney-and-he-shall-have-the-right-to-present-evidence-and-witnesses in-his-behalf,-After-such-hearing-the-board-of-prison-terms-and-paroles-shall-make-an-order-either-(1)-revoking-the-parole-of-such-convicted-person,-or-(2)-reinstating-the-parole-previously-granted,-In-the-event-the-parole-is-revoked,-the-board-of-prison-terms-and-paroles shall-make-an-order-determining-a-new-minimum-sentence,-not-exceeding the-maximum-penalty-provided-by-law-for-the-crime-for-which-he-was originally-convicted,-or-the-maximum-fixed-by-the-court.))

In the event that the board of prison terms and paroles suspends a parole by reason of an alleged parole violation or in the event that a parole is suspended pending the disposition of a new criminal charge, the board of prison terms and paroles shall have the power to nullify the order of suspension and reinstate the individual to parole under previous conditions or any new conditions that the board of prison terms and paroles may determine advisable. Before the board of prison terms and paroles shall nullify an order of suspension and reinstate a parole they shall have determined that the best interests of society and the individual shall best be served by such reinstatement rather than a return to a penal institution.

NEW SECTION. Sec. 3. Within fifteen days from the date of notice to the division of probation and parole of the department of institutions of the arrest and detention of the alleged parole violator, he shall be personally served by a state probation and parole officer with a copy of the factual allegations of the violation of the conditions of parole, and, at the same time shall be advised of his right to an on-site parole revocation hearing and of his rights and privileges as provided in this 1969 amendatory act. The alleged parole violator, after service of the allegations of violations of the

conditions of parole and the advice of rights may waive the on-site parole revocation hearing as provided in RCW 9.95.120, and admit one or more of the alleged violations of the conditions of parole. If the board accepts the waiver it shall either, (1) reinstate the parolee on parole under the same or modified conditions, or (2) revoke the parole of the parolee and enter an order of parole revocation and return to state custody. A determination of a new minimum sentence shall be made within thirty days of return to state custody which shall not exceed the maximum sentence as provided by law for the crime of which the parolee was originally convicted or the maximum fixed by the court.

If the waiver made by the parolee is rejected by the board it shall hold an on-site parole revocation hearing under the provisions of this 1969 amendatory act.

NEW SECTION. Sec. 4. At any on-site parole revocation hearing the alleged parole violator shall be entitled to be represented by an attorney of his own choosing and at his own expense, except, upon the presentation of satisfactory evidence of indigency and the request for the appointment of an attorney by the alleged parole violator, the board may cause the appointment of an attorney to represent the alleged parole violator to be paid for at state expense, and, in addition, the board may assume all or such other expenses in the presentation of evidence on behalf of the alleged parole violator as it may have authorized; PROVIDED, That funds are available for the payment of attorneys' fees and expenses. Attorneys for the representation of alleged parole violators in on-site hearings shall be appointed by the superior courts for the counties wherein the on-site parole revocation hearing is to be held and such attorneys shall be compensated in such manner and in such amount as shall be fixed in a schedule of fees adopted by rule of the board of prison terms and paroles.

NEW SECTION. Sec. 5. In conducting on-site parole revocation hearings, the board of prison terms and paroles shall have the authority to administer oaths and affirmations, examine witnesses, re-

ceive evidence and issue subpoenas for the compulsory attendance of witnesses and the production of evidence for presentation at such hearings. Subpoenas issued by the board shall be effective throughout the state. Witnesses in attendance at any on-site parole revocation hearing shall be paid the same fees and allowances, in the same manner and under the same conditions as provided for witnesses in the courts of the state in accordance with chapter 2.40 RCW as now or hereafter amended. If any person fails or refuses to obey a subpoena issued by the board, or obeys the subpoena but refuses to testify concerning any matter under examination at the hearing, the board of prison terms and paroles may petition the superior court of the county where the hearing is being conducted for enforcement of the subpoena: PROVIDED, That an offer to pay statutory fees and mileage has been made to the witness at the time of the service of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the board. The court, upon such petition, shall enter an order directing the witness to appear before the court at a time and place to be fixed in such order and then and there to show cause why he has not responded to the subpoena or has refused to testify. A copy of the order shall be served upon the witness. If it appears to the court that the subpoena was properly issued and that the particular questions which the witness refuses to answer are reasonable and relevant, the court shall enter an order that the witness appear at the time and place fixed in the order and testify or produce the required papers, and on failing to obey said order, the witness shall be dealt with as for contempt of court.

NEW SECTION. Sec. 6. At all on-site parole revocation hearings the probation and parole officers of the department of institutions, having made the allegations of the violations of the conditions of parole, may be represented by the attorney general. Only such

persons as are reasonably necessary to the conducting of such hearings shall be permitted to be present: PROVIDED, That other persons may be admitted to such hearings at the discretion of the board and with the consent of the alleged parole violator. The hearings shall be recorded either manually or by a mechanical recording device. An alleged parole violator may be requested to testify and any such testimony shall not be used against him in any criminal prosecution. The board of prison terms and paroles shall adopt rules governing the formal and informal procedures authorized by this chapter and make rules of practice before the board in on-site parole revocation hearings, together with forms and instructions.

NEW SECTION. Sec. 7. After the on-site parole revocation hearing has been concluded, the members of the board having heard the matter shall enter their decision of record within ten days, and make findings and conclusions upon the allegations of the violations of the conditions of parole. If the member, or members having heard the matter, should conclude that the allegations of violation of the conditions of parole have not been proven by a preponderance of the evidence, or, those which have been proven by a preponderance of the evidence are not sufficient cause for the revocation of parole, then the parolee shall be reinstated on parole on the same or modified conditions of parole. If the member or members having heard the matter should conclude that the allegations of violation of the conditions of parole have been proven by a preponderance of the evidence and constitute sufficient cause for the revocation of parole, then such member or members shall enter an order of parole revocation and return the parole violator to state custody. Within thirty days of the return of such parole violator to a state correctional institution for convicted felons the board of prison terms and paroles shall enter an order determining a new minimum sentence, not exceeding the maximum penalty provided by law for the crime for which the parole violator was originally convicted or the maximum fixed by the court.

NEW SECTION. Sec. 8. All officers and employees of the state ,

counties, cities and political subdivisions of this state shall cooperate with the board of prison terms and paroles in making available suitable facilities for conducting parole revocation hearings.

Sec. 9. Section 9, chapter 340, Laws of 1955 as amended by section 1, chapter 32, Laws of 1959 and RCW 9.95.003 are each amended to read as follows:

The board of prison terms and paroles shall consist of a chairman and ~~((four))~~ six other members, each of whom shall be appointed by the governor with the consent of the senate. Each member shall hold office for a term of five years, and until his successor is appointed and qualified: PROVIDED, That the two additional members to be appointed to the board shall serve initial terms ending April 15, 1972 and 1974 respectively. The terms shall ~~((be staggered so that the term of one member will))~~ expire on April 15th of ~~((each year + PROVIDED, That the terms of board members serving on the day next preceding the effective date of this amendatory act (1959 e-32) shall expire on April 15th six years following their commencement and the first terms of the two positions added by this amendatory act (1959 e-32) shall expire one on April 15, 1960 and the other on April 15, 1962))~~ the expiration year. Vacancies in the membership of the board shall be filled in the same manner in which the original appointments are made. In the event of the inability of any member to act, the governor shall appoint some competent person to act in his stead during the continuance of such inability. The members shall not be removable during their respective terms except for cause determined by the superior court of Thurston county. The governor in appointing the members shall designate one of them to serve as chairman ~~((during his term of office))~~ at the governor's pleasure.

The members of the board of prison terms and paroles and its officers and employees shall not engage in any other business or profession or hold any other public office; nor shall they, at the time of appointment or employment or during their incumbency, serve as the representative of any political party on an executive committee or

other governing body thereof, or as an executive officer or employee of any political committee or association. The members of the board of prison terms and paroles shall each severally receive salaries, payable in monthly installments, as may be fixed by the governor in accordance with the provisions of RCW 43.03.040, and in addition thereto, their necessary expenses actually incurred in the discharge of their official duties.

The board may employ, and fix, with the approval of the governor, the compensation of and prescribe the duties of a secretary and such officers, employees, and assistants as may be necessary, and provide necessary quarters, supplies, and equipment.

NEW SECTION. Sec. 10. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 11. This act shall take effect on July 1, 1969.

Passed the Senate March 3, 1969
Passed the House March 10, 1969
Approved by the Governor March 24, 1969
Filed in office of Secretary of State March 24, 1969

CHAPTER 99
[Senate Bill No. 287]
MOTOR VEHICLES--FEES--FUNDS

AN ACT Relating to an increase of motor vehicle driver's license fees; disposition of motor vehicle driver's license fees, fines and forfeitures, and state park fees and moneys; increasing vehicle license fees; disposition of the vehicle license fees; use of funds from the highway safety fund; abolishing the parks and parkways account and providing for disposition of funds therein and moneys payable thereto; amending section 43.51.060, chapter 8, Laws of 1965 and RCW 43.51.060; amending section 43.51.090, chapter 8, Laws of 1965 and RCW 43.51.090; amending section 43.51.210, chapter 8, Laws of 1965 and RCW 43.51.210; amending section 46.16.060, chapter 12, Laws of 1961 as last amended by