

**ALABAMA BOARD OF PARDONS AND PAROLES
ADMINISTRATIVE CODE**

**CHAPTER 640-X-3
SCHEDULING PAROLE CONSIDERATION**

640-X-3-.04

**Deviation from Initial Parole Consideration
Hearing Dates.**

(1) The Bureau may deviate from Code of Ala. 1975, Section 15-22-28(e) initial parole consideration hearing dates only in the following circumstances:

(a) If an inmate qualifies for the agency's Code of Ala. 1975, Section 15-22-24(e) Select Review Program ("SRP"), a screening process using established criteria by which inmates who are deemed to be those parole candidates whose release would most protect public safety are scheduled on the next available parole consideration docket. Established criteria for which inmates may be deemed by the Bureau to qualify for SRP include all of the following requirements as applicable:

1. Inmate must not be serving a split sentence and must otherwise be parole eligible on all cases for which he/she is serving.
2. Inmate must not have received any violent disciplinaries within six (6) months prior to being reviewed for SRP.
3. Inmate must not be a violent offender as defined by Code of Ala. 1975, Section 12-25-32(14).
4. Inmate must not be serving on a violent offense as defined by Code of Ala. 1975, Section 12-25-32(15).
5. Inmate must be assessed as low or medium risk of potential violence using an actuarial risk assessment tool validated for purposes of measuring risk of re-offense for incarcerated individuals.
6. Inmate must have served the required amount of mandatory time on a drug trafficking case.
7. Inmate must not have any current or previous sex offense conviction as defined by the Alabama Sex Offender Registration and Community Notification Act, specifically Code of Ala. 1975, Section 15-20A-5, as amended.
8. Inmate must not have any current or previous child abuse conviction.

9. Inmate must have served at least one (1) year on sentences of up to fifteen (15) years.
10. Inmate must have served at least two (2) years on sentences over fifteen (15) years and up to twenty (20) years.
11. Inmate must have served at least five (5) years on sentences over twenty (20) years.
12. Inmate must not have any known pending felony case (with the exception of a pending felony case with no disposition for three (3) or more years from the date of arrest on the pending case).
13. For inmates subject to mandatory release under Code of Ala. 1975, Section 15-22-26.2 and within one year or less of the inmate's mandatory release, the inmate must also meet all other applicable SRP criteria listed above.

(b) If an inmate shows, by clear and convincing evidence, that he or she is more likely than not to be granted parole and that he or she would have been considered for parole on an earlier date under generally applicable rules or policies in effect on or before January 1, 2019. To show that he or she is more likely than not to be granted parole, an inmate must meet the following requirements and submit an application (Form ABPP-1) to the Bureau demonstrating his or her eligibility with all required supporting documentation:

1. Inmate must have served a minimum of five (5) years of his or her sentence.
2. Inmate must have completed any available evidence-based risk reducing programming offered by the Department of Corrections following the Department's administration of an actuarial risk assessment tool validated for purposes of measuring risk and identifying programming and other needs for incarcerated individuals.
3. Inmate must provide an official positive report from the Department of Corrections.
4. Inmate must provide letters of support from at least one of the following:
 - (i) the office that prosecuted the inmate's case;
 - (ii) victim or victim's representative;
 - (iii) the Alabama Attorney General's Office;
 - (iv) the sentencing judge or successor; or

(v) a law enforcement official from the county of conviction, excluding Bureau probation and parole officers, correctional officers of the Department of Corrections, and retired law enforcement officers.

5. Inmate must have no violent disciplinaries during his or her present incarceration.

6. Inmate must have no disciplinaries of any kind for a minimum of three (3) years preceding his or her application for an earlier parole consideration date.

7. Inmate must be assessed as low or medium risk of potential re-offense using an actuarial risk assessment tool validated for purposes of measuring risk of re-offense for incarcerated individuals in the parole context.

(c) If an inmate qualifies for an earlier parole consideration date under subsection (b), the inmate shall be referred to the agency's Review Committee. The Review Committee shall consist of no fewer than three (3) members of Bureau Executive Staff as designated by the Director. At least one of the committee members must have five (5) years' experience in the administration of parole within Alabama's criminal justice system. By unanimous decision, the Review Committee may recommend an earlier parole consideration date, not to exceed three (3) years from the current consideration date for an inmate who sufficiently demonstrates eligibility. The Review Committee shall enter its written recommendation into the inmate's file, which entry shall indicate the agreed upon earlier parole consideration date, if any, and the names of the Review Committee members favoring or declining to favor the earlier parole consideration date.

(d) Unless an inmate has previously been denied parole or has been revoked from parole, the inmate or his or her representative may request Review Committee consideration in writing once per calendar year by submitting an application (Form ABPP-1) and all required supporting documentation demonstrating the inmate's eligibility as required by Rule 640-X-3-.04(1)(b). If an inmate has previously been denied parole or has been revoked from parole, Review Committee consideration may only be requested eighteen (18) months after the denial or revocation. Denied/revoked inmates shall be subject to the same requirements provided in Rule 640-X-3-.04(1)(b).

(2) Any recommendation to provide an inmate with an earlier parole consideration date shall be subject to legal compliance review by a Deputy Attorney General or Assistant Attorney General assigned to the Bureau in advance of the Bureau's scheduling the earlier parole consideration date and notifying the inmate. Any earlier

parole consideration date found to be recommended without compliance with these rules shall be cancelled.

(3) Written notice of any proposed earlier parole consideration date scheduled pursuant to Rules 640-X-3-.04(1)(a) or (1)(b) by the Bureau shall be provided to the Governor and the Attorney General at least thirty (30) days in advance. The Governor and the Attorney General shall have fourteen (14) days from the receipt of notice to object. Any parole granted by the Board pursuant to Rules 640-X-3-.04(1)(a) or (1)(b) despite a timely objection filed by the Governor or the Attorney General shall be reversed as provided by law.

(4) Nothing in these rules shall provide any inmate with a right to an earlier date for parole consideration than the framework established by Alabama Code Section 15-22-28(e).

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Statutory Authority: Code of Ala. 1975, §§15-22-21, 15-22-24, 15-22-28, 15-22-37.

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