

## Agenda

---

1. **Welcome and Member Introductions** – Rep. Pitts
  
2. **Policy Discussion** – Pew
  - Goal: *Develop policy recommendations that facilitate release practices, incentivizing compliant behavior and providing an opportunity for change*
  
  - Review:
    - Research: Incarceration and Recidivism
    - SC Data findings
  
  - Policy discussion
    - Parole policies and practices:
      - Streamlining parole
      - Parole for vulnerable populations: Geriatric and medical parole
  
    - Revocation caps
    - Earned credits
  
3. **Upcoming meetings**
  - *3<sup>rd</sup> subgroup meeting:* Oct. 31, 10-12pm
  - *4<sup>th</sup> subgroup meeting:* Nov. 8, working groups to meet
    - Full SROC (afternoon): SROC report-out meeting
  - *5<sup>th</sup> subgroup meeting:* Nov. 27, 10-12pm
  - Final SROC meeting: Dec. 13, time: 10am

## Research on Incarceration

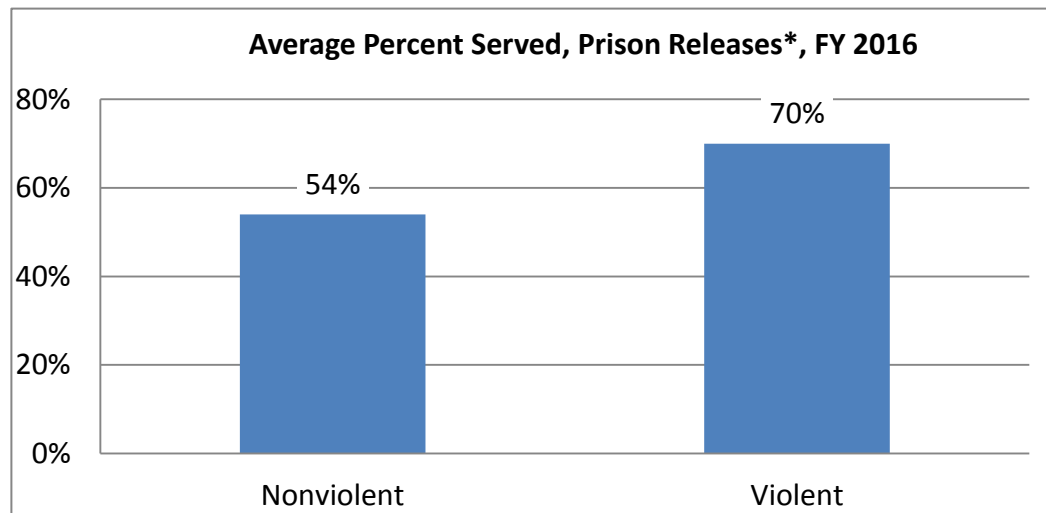
---

- Review: Impact of incarceration on crime:
  - (1) Researchers examined whether more incarceration resulted in less crime (focusing on the crime decline beginning in the 1990s)
    - Finding: Research has shown that incarceration has a minimal to modest effect on crime, and that the effect diminishes the larger the scale<sup>1</sup>
  - (2) Researchers examined whether incarceration reduces recidivism more than non-custodial sanctions
    - Finding:
      - In general, incarceration is not more effective than non-custodial sanctions at reducing recidivism
      - For many lower-level offenders, incarceration can actually increase recidivism<sup>2</sup>
  - (3) Researchers have examined whether longer periods of incarceration reduce recidivism more than shorter periods.
    - Finding: Several studies have found that there is no increased public safety benefit of longer periods of incarceration.<sup>3</sup>

## South Carolina Data Findings

---

- Time served:
  - Comparing the prison population at June 30, 2010 and at June 30, 2016, we see that the average time-served increased by 29% or 16 months.



---

<sup>1</sup> National Research Council (2014), *The Growth of Incarceration in the United States*

<sup>2</sup> Nieuwebeerta, Nagin, and Blokland (2009): Found first-time, imprisoned offenders who served less than 1 year were 1.9 times as likely to be reconvicted within 3 years, compared to offenders sentenced in the community; see Spohn and Holleran (2002): Found that drug offenders sentenced to prison were 5-6 times more likely than probationers to be rearrested and charged, controlling for offender characteristics; see also Drake and Aos (2012): Found that technical violators of probation serving a period of confinement (jail or prison) had significantly higher recidivism than offenders sanctioned in the community.

<sup>3</sup> The United States Sentencing Commission (2014): No difference in recidivism for drug offenders before and after sentence reduction due to the Fair Sentencing Act; see Meade, et al. (2012): Prison terms of 5 years or less have no effect on recidivism; prison terms of 10 years or more have some reduction in re-arrest due to aging out; see Nagin, Cullen & Jonson (2009) (systematic review): Found no relationship between time served and recidivism.

- On average, nonviolent inmates serve 54% of their sentence; violent inmates serve 70% of their total sentence.<sup>4</sup>

Percent of Sentence Served at Prison Release vs. Statutory Parole Eligibility Based on Most Serious Offense, Example Common Offenses, FY 2016, Percent-Served Analysis Group*		
Offense	Percent of Sentence Served at Release	Statutory Parole Eligibility
Burglary (2 <sup>nd</sup> degree nonviolent and 3 <sup>rd</sup> degree)	48%	<b>25%</b>
Shoplifting	53%	
Possession drug offense	53%	
Forgery/fraud	51%	
Assault and battery – nonviolent	53%	
Common law robbery	54%	
Burglary (2 <sup>nd</sup> degree violent)	53%	<b>33%</b>
Manufacture methamphetamine	48%	

- Based on the “Percent of Sentence Served at Release” (above), the following is an average of months served past parole eligibility:

Offenses	Time Served Past Parole Eligibility
Burglary (2 <sup>nd</sup> degree nonviolent and 3 <sup>rd</sup> degree)	14 months
Shoplifting	8 months
Possession drug offense	6 months
Forgery/fraud	8 months
Assault and battery – nonviolent	18 months
Common law robbery	25 months
Burglary (2 <sup>nd</sup> degree violent)	20 months
Manufacture methamphetamine	10 months

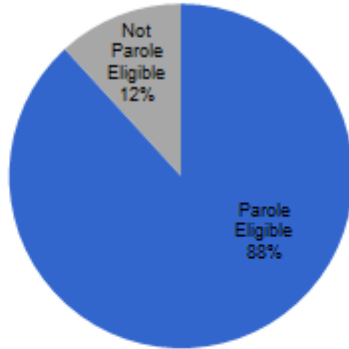
- The marginal cost of an inmate in South Carolina was almost \$4,000 per year in 2016. With over 9,000 releases each year, an additional month served in prison for each inmate would have cost the state almost \$3 million.<sup>5</sup>
- For example, on average, an inmate convicted of shoplifting who was released at their statutory parole eligibility date, could have averted costs to the state of just over \$2,500.

<sup>4</sup> Includes prison releases without a suspended sentence and with complete time served information in the data.

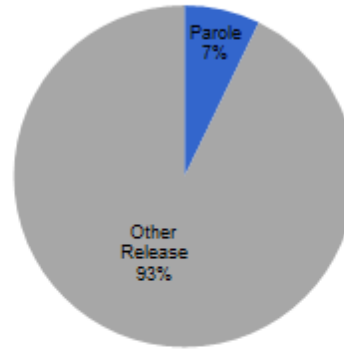
<sup>5</sup>South Carolina marginal cost per inmate in 2016 was \$10.78 per day, according to the South Carolina Department of Probation, Parole and Pardon Services "Report to the Sentencing Reform Oversight Committee", Nov. 2016

## Only 7% of Inmates Released Through Parole; Though Most Eligible

Prison Releases by Parole Eligibility Based on Most Serious Offense, FY 2016



Prison Releases by Release Type, FY 2016



Source: South Carolina Department of Corrections

40

### Policy Discussion: Streamlining Parole

#### South Carolina Overview:

➤ Parole Eligibility:

Under South Carolina law, state prisoners are eligible for parole according to when the crime they are convicted was committed<sup>6</sup>:

Crimes committed on and after June 3, 1986

- Nonviolent offenders are eligible for parole after serving **one-fourth** of their sentence;

- Violent offenders are eligible after serving **one-third** of their sentence.

\**Exception:* for crimes with specific parole eligibility requirements and rules<sup>7</sup>

\*Truth-in-Sentencing / 85% offenders must serve a minimum of 85% and are not eligible for parole

<sup>6</sup> See South Carolina Board of Pardons and Paroles, Policy and Procedure Manual, pp. 23-26, available at: <https://www.dppps.sc.gov/content/download/68278/1576111/file/Parole+Board+Manual+April+2015.pdf>

- Crimes committed prior to June 15, 1981: the inmate has to serve one-third of the sentence.

- Crimes committed between June 15, 1981 – June 3, 1986: the inmate has to serve one-fourth of the sentence (exceptions relate to burglary 1<sup>st</sup> and 2<sup>nd</sup>, between 1/15/81-6/20/85: serve one-fourth; and, between 6/20/85-1/3/86: serve one-third)

<sup>7</sup> S.C. Code Ann. § 24-21-610. Eligibility for parole.

**State Examples: On-time Parole / Administrative Release**

A process that allows eligible inmates to be released at their parole eligibility date, without a hearing, if they are compliant with established criteria during their incarceration.

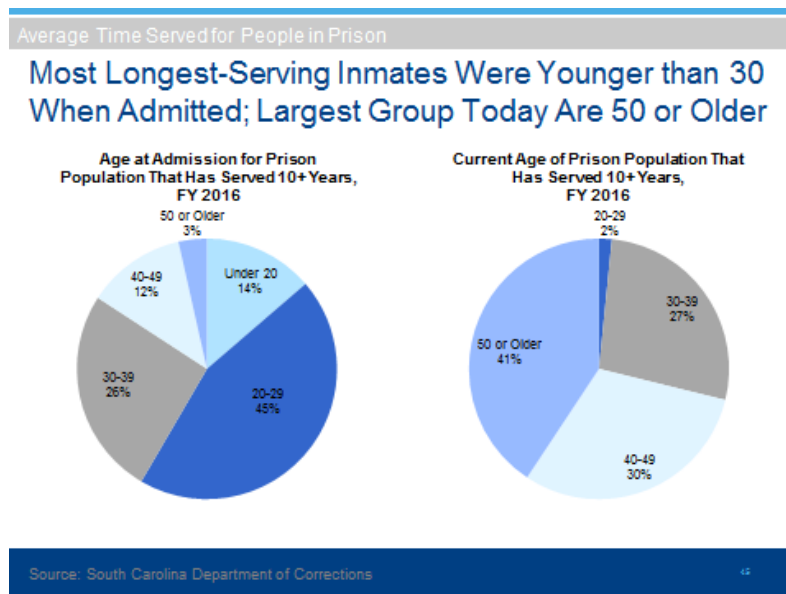
State	Violent inmate	Nonviolent inmate	Compliant with intake plan	No serious infractions (disciplinary)	Victim does not request a hearing
Louisiana <sup>8</sup>		✓	✓	✓	✓
Mississippi <sup>9</sup>		✓	✓	✓	✓
South Dakota <sup>10</sup>	✓	✓	✓	✓	✓
Alaska <sup>11</sup>		✓	✓	✓	✓

**Parole determination:**

- When assessing whether to grant parole, the Board considers the prior record of the inmate, the current offense, and conduct while in prison. In South Carolina, when someone is sentenced with a split sentence, parole eligibility is determined by a percentage (25, 33, or 85 percent) of the incarcerated sentence and the time sentenced to supervision post incarceration. An inmate with the same incarcerated term will be eligible for parole at different times depending on whether the judge’s disposition included a split sentence or if it was only incarcerated time.
- Should this calculation be equalized considering the Parole Board’s decision is focused on the offense record and conduct while in prison?

**Policy Discussion: Parole for vulnerable populations**

**South Carolina Overview: Additional types of parole in SC**

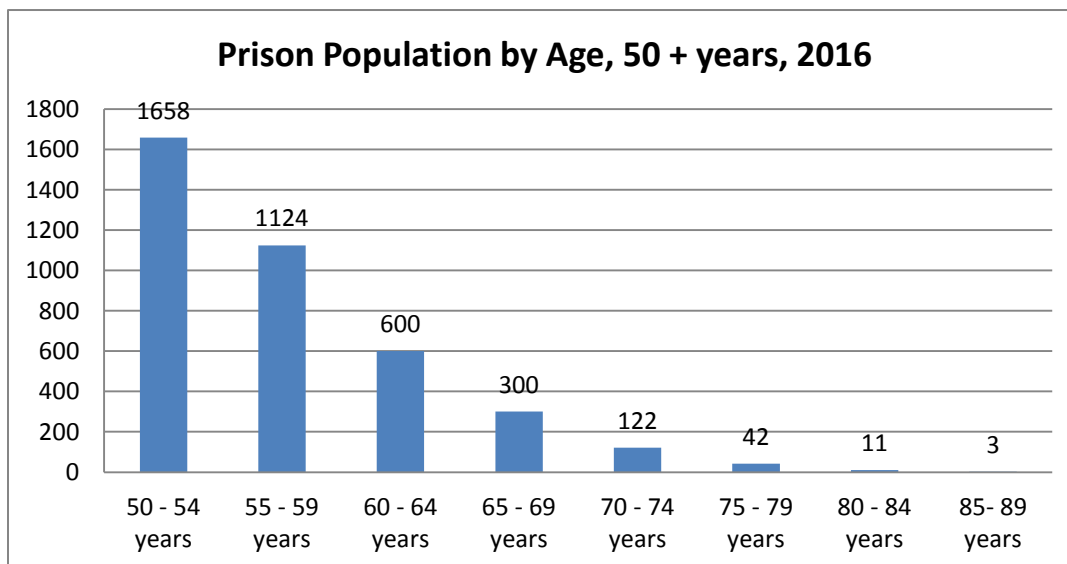
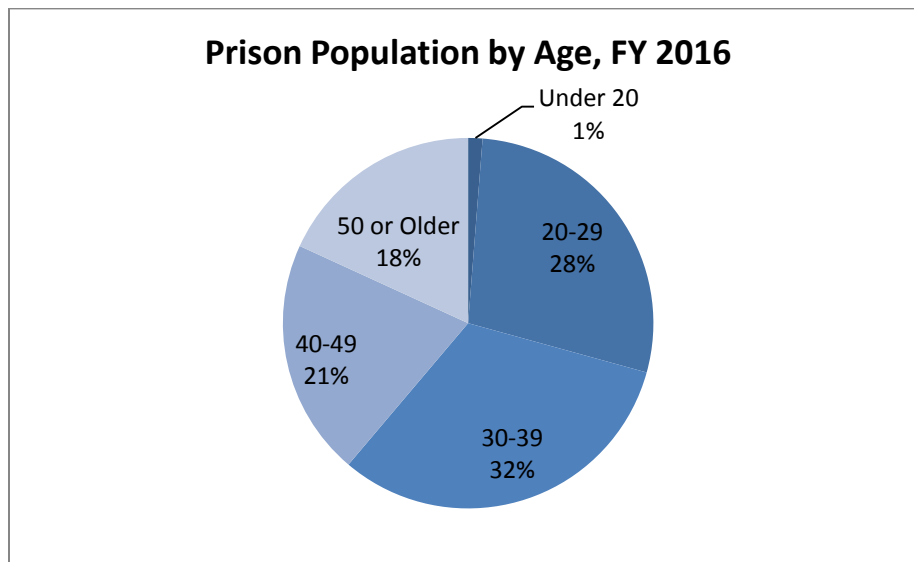


<sup>8</sup> La. R.S. § 15:574.2. Parole board receives notification of case plan completion, compliance, and infraction record 3 months before scheduled parole date.

<sup>9</sup> Miss. Code Ann. § 47-7-18

<sup>10</sup> S.D. Codified Laws §§ 24-15A-34 –15A- 38. Adopted a grid that sets “presumptive parole” dates at 25-75% of the offender’s sentence, based on their offense and criminal history.

<sup>11</sup> Alaska Stat. § 33.16.089



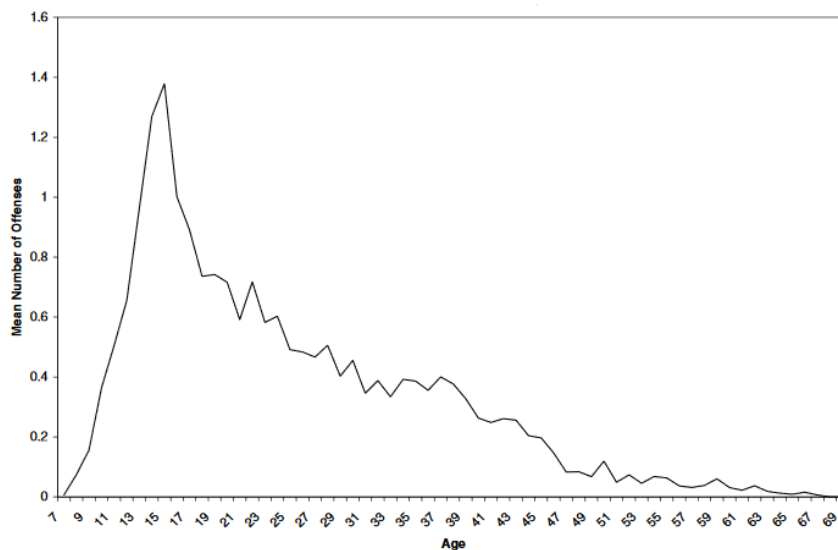
**Relevant research on geriatric populations:**

- *Low risk to recidivate:* Researchers have consistently found that age is one of the most significant predictors of criminality, with criminal or delinquent activity peaking in late adolescence and decreasing as a person ages.<sup>12</sup> Studies on parolee recidivism find the probability of parole violations decrease with age, with older parolees the least likely group to be re-incarcerated.<sup>13</sup>
- *Costly population to incarcerate:* Compared with their younger peers, older inmates have higher rates of both mild and serious health conditions, leading to much greater medical needs. Because of these increased needs, prisons nationwide spend about two to three times more to incarcerate geriatric individuals than younger inmates.<sup>14</sup>

<sup>12</sup> Devers, Lindsey. *Desistance and Developmental Life Course Theories: Research Summary*. Rep. N.p.: Bureau of Justice Assistance, 2011. <https://www.bja.gov/Publications/DesistanceResearchSummary.pdf>

<sup>13</sup> Vera Institute for Justice. "It's About Time: Aging Prisons, Increasing Costs, and Geriatric Release" April 2010. <http://www.vera.org/download?file=2973/its-about-time-aging-prisoners-increasing-costs-and-geriatric-release.pdf>

<sup>14</sup> B Jay Annot et al., *Correctional Health Care: Addressing the Needs of Elderly, Chronically Ill, and Terminally Ill Inmates*, U.S. Department of Justice, National Institute of Corrections, 2004.



### Actual Mean Number of Offenses for Total Crime

Sampson and Laub Study<sup>15</sup>: Criminal behavior declines precipitously with age, even among individuals with early criminal involvement

- According to the National Commission on Correctional Health Care, the age of 55 is considered the threshold for “elderly” inmates<sup>16</sup>. This is compared to the U.S. Census Bureau which considers 65 “elderly”.<sup>17</sup>
  - As of 2009, fifteen states and the District of Columbia had specific geriatric parole provisions and the eligible age for geriatric parole ranged from 45-70, often with either health considerations or a minimum number of years that must be served.
  - Now, most states have some form of geriatric or compassionate release.<sup>18</sup>

### South Carolina Overview:

- Geriatric<sup>19</sup>:
  - an inmate who is at least seventy and incapacitated as determined by a licensed physician to the extent that the inmate does not pose a public safety risk

<sup>15</sup> Sampson, Robert J., and John Laub H. "Life-Course Desisters? Trajectories Of Crime Among Delinquent Boys Followed To Age 70\*." *Criminology* 41.3 (2003): 555-92. Web.

<sup>16</sup> B. Jaye Anno et al., *Correctional Health Care: Addressing the Needs of Elderly, Chronically Ill, and Terminally Ill Inmates* (Washington, DC: U.S. Department of Justice, National Institute of Corrections, 2004).

<sup>17</sup> Anthony A. Sterns et al., "The Growing Wave of Older Prisoners: A National Survey of Older Prisoner Health, Mental Health and Programming," *Corrections Today* (August 2008). 41 states responded to the survey.

<sup>18</sup> Vera, "It's About Time: Aging Prisons, Increasing Costs, and Geriatric Release", *supra* note 13.

<sup>19</sup> S.C. Code Ann. § 24-21-715. Parole for terminally ill, geriatric, or permanently disabled inmates. The Director of the Department of Corrections can also petition parole for inmates that are "permanently incapacitated" (an inmate who no longer poses a public safety risk because of a medical condition and requires residential care) or is "terminally ill" (an inmate having an incurable condition that will likely cause death within two years and so debilitating that the inmate does not pose a public safety risk). Further, parole is possible on a life sentence for a "serious" or "most serious" crime if SCDC requests the Board to consider the case and the inmate: is sixty-five (65) years of age and has served thirty (30) years; or, is seventy (70) years of age and has served at least twenty (20) years; or, has an illness where life expectancy is one year or less.

**State examples:**

State	Age of Eligible Applicants
Virginia <sup>20</sup>	- 60 who have served 10 years or - 65 who have served 5 years
Wisconsin <sup>21</sup>	- 60 who have served 10 years or - 65 who have served 5 years
Louisiana <sup>22</sup>	- 60 who have served 10 years - 45 and have served 20 years of at least a 30-year sentence
North Carolina <sup>23</sup>	- 65 and have a chronic infirmity, illness, or disease related to aging; and be incapacitated to the extent that they do not pose a public safety risk
Wyoming <sup>24</sup>	- incapacitated by age to the extent that deteriorating physical or mental health substantially diminishes their ability to provide self-care within a correctional facility

South Carolina Prison Population, 2016			
	Violent or Unclassified Offenders		All Offenders
	10+ years served	15+ years served	10+ years served
Age 50 and Up	1,674	1,231	1,745
Age 55 and Up	1,112	858	1,160
Age 60 and Up	614	488	639
Age 65 and Up	275	224	289

<sup>20</sup> Va. Code Ann. §53.1 – 40.01. (Disqualifying offenses: Class 1 Felonies - Offenses punishable up to life imprisonment and the death penalty; includes rape, murder, and sexual assault)

<sup>21</sup> Wis. Stat. §302.1135. (Disqualifying offenses: Class B felonies –Offenses punishable up to 60 years in prison; includes manslaughter, sexual assault, and kidnapping)

<sup>22</sup> La. R.S. § 15:574.4. (Disqualifying offenses: Crimes of violence or sex offenses)

<sup>23</sup> N.C. Gen. Stat. §§ 15A-1369, 1369.5

<sup>24</sup> Wyo. Stat. § 7-13-424



- South Carolina's Medical parole<sup>25</sup>:
  - No less than one year prior to the parole eligibility date
  - Board determines that the physical condition of the prisoner is so serious that he would not be reasonably expected to live for more than one year
  
  - The Board requires the medical opinion of two licensed physicians that determine that the inmate is terminally ill and cannot be expected to live for more than one year.
  - Only the full Board may order the release for an inmate that is geriatric, terminally ill, or permanently incapacitated.<sup>26</sup>

**State examples:**

State	Medical Parole
<b>Alabama</b> <sup>27</sup>	<ul style="list-style-type: none"> <li>- Established a medical parole docket to be considered for parole by the board.</li> <li>- The Department of Corrections provides a list of all geriatric, permanently incapacitated, and terminally ill inmates as well as all inmates who have spent more than 30 or more days in an infirmary in the prior calendar year or received costly and frequent medical treatment outside a Department of Corrections facility in the previous 12 months</li> </ul>
<b>North Carolina</b> <sup>28</sup>	<ul style="list-style-type: none"> <li>- Petition for release can be filed by the inmate, inmate's attorney, or the inmate's next of kin</li> <li>- The Corrections medical department reviews the conditions of the inmate, physical incapacities, and likelihood of recovery; it also assess the risk for violence and recidivism given the inmate's medical condition, record, severity of the offense and release plan.</li> <li>- Corrections forwards its referral to the parole commission</li> </ul>
<b>Texas</b> <sup>29</sup>	<ul style="list-style-type: none"> <li>- Texas' Correctional Medical Office identifies inmates that are elderly or terminally ill, a person with mental illness, an intellectual disability, or a physical disability, or a person who has a condition requiring long-term care</li> <li>- the parole panel determines that the inmate does not pose a public safety risk based on the inmate's condition and approves a supervision plan</li> </ul>

<sup>25</sup> S.C. Code Ann. § 24-21-610. Eligibility for parole; *compared to* S.C. Code Ann. § 24-3-210, Furloughs for qualified inmates of State prison system: The director can grant a furlough for an indefinite length of time due to certain conditions including obtaining medical services.

<sup>26</sup> South Carolina Board of Pardons and Paroles, Policy and Procedure Manual, p. 30, *available at* <https://www.dppps.sc.gov/content/download/68278/1576111/file/Parole+Board+Manual-+April+2015.pdf>

<sup>27</sup> Code of Ala. § 15-22-43

<sup>28</sup> N.C. Gen. Stat. § 15A-1369.3

<sup>29</sup> Tex. Gov't Code § 508.146.