

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4509**

BY DELEGATES SHOTT, STEELE, N. BROWN AND MAYNARD

(BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS AND  
PUBLIC SAFETY)

[Originating in the Committee on Government

Organization; January 31, 2020.]



1 A BILL to amend and reenact §62-12-12 of the Code of West Virginia, 1931, as amended, relating  
2 to transferring the Parole Board to the Division of Corrections and Rehabilitation for  
3 purposes of administrative and other support; removing the residency requirements  
4 pertaining to counties; removing the work substitution or qualification to serve on the  
5 board; specifying the powers and duties of the chairperson; setting forth the process for  
6 selecting a vice chairperson; specifying the powers and duties of the vice chairperson;  
7 clarifying how a vacancy occurs on the board; creating a temporary or substitute board  
8 member list; and clarifying how moneys for the board should be appropriated.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 12. PROBATION AND PAROLE.**

**§62-12-12. Parole Board generally.**

1 (a) The West Virginia Parole Board is continued as part of the Division of Corrections and  
2 Rehabilitation. The board shall consist of nine members, each of whom shall have been a resident  
3 of this state for at least five consecutive years prior to his or her appointment. No more than five  
4 of the board members may at any one time belong to the same political party, except as provided  
5 in subsection (b) of this section. The board shall be appointed by the Governor, by and with the  
6 advice and consent of the Senate and shall serve at the will and pleasure of the Governor.

7 ~~(b)~~ Appointments shall be made in such a manner that each congressional district is  
8 represented and so that no more than four and no less than two members of the board reside in  
9 any one congressional district. ~~No more than two members of the board may reside in any one~~  
10 ~~county~~

11 (b) The Governor shall appoint one of the nine members to serve as chairperson at the  
12 Governor's will and pleasure. Notwithstanding the provisions of subsection (a) of this section, the  
13 chairperson appointed may be from any political party. In addition to all other powers, duties and  
14 responsibilities granted and assigned to the chairperson in this chapter and elsewhere by law or  
15 rule, the chairperson shall exercise the following powers, authorities and duties:

- 16           (1) To provide for the management of facilities and personnel of the board;  
17           (2) To supervise the administration and operation of the board;  
18           (3) To delegate the powers and duties of his or her office to the vice chairperson or other  
19 members of the board, who shall act under the direction of the chairperson and for whose acts he  
20 or she shall be responsible: *Provided*, That if the position of chairperson shall become vacant by  
21 death, resignation, or otherwise, the vice chairperson shall assume all the powers and duties of  
22 the chairperson until such time as a new chairperson is appointed pursuant to the provisions of  
23 §62-12-12 of this code; and  
24           (4) To exercise all other powers and perform all other duties necessary and proper in  
25 carrying out his or her responsibilities as chairperson.  
26           (5) The chair of the board may employ one full time administrative employee, who shall  
27 be a classified exempt employee.  
28           (c) The board, from its membership, shall elect a vice chairperson, at least once every  
29 year, to serve as chair in the absence of a chairperson. In the absence or at the direction of the  
30 chairperson, the vice chairperson shall exercise the powers and duties of the chairperson. The  
31 vice chairperson shall, while performing the duties and responsibilities of the chairperson, have  
32 all of the statutorily delegated power and duties of the chairperson, and may carry forth the  
33 statutory responsibilities as set forth in this article. A resignation of the chairperson or the vice  
34 chairperson shall constitute a vacancy of the respective position until such time as that position  
35 are filled by the appointment of a new chairperson pursuant to the provisions of subsection-b of  
36 this section or the election of a new vice chairperson pursuant to the provisions of this subsection.  
37           ~~(c)~~(d) Any person initially appointed to the board on or after July 1, 2012, shall have a  
38 degree from an accredited college or university or at least five years of actual experience in the  
39 fields of corrections, law enforcement, sociology, law, education, psychology, social work,  
40 medicine or a combination thereof and shall be otherwise competent to perform the duties of his  
41 or her office. All members currently serving on the board shall continue the term he or she is

42 currently serving, unless otherwise removed. The members shall be appointed for overlapping  
43 terms of six years. Members are eligible for reappointment. The members of the board shall  
44 devote their full time and attention to their board duties. ~~The Governor shall appoint one of the~~  
45 ~~nine appointed members to serve as chairperson at the Governor's will and pleasure~~

46 (e) A vacancy on the board shall occur by reason of death, resignation, change of residence  
47 from the state, a member not being confirmed by the Senate, removal, or any other cause, until  
48 such time as that position is filled by the appointment of a new member. The Governor may, if he  
49 is informed that a vacancy is imminent, appoint a member to fill the imminent vacancy prior to it  
50 becoming vacant: *Provided*, That the new member shall be appointed no more than 30 days prior  
51 to the vacancy occurring and only for purposes of training, shall not assume the powers and duties  
52 of the position until the vacancy has actually occurred, and shall not count for the purposes of  
53 establishment of a quorum.

54 (f) The Governor shall appoint no more than five persons to a list of temporary or acting  
55 board members, this list shall be used in a rotating fashion. In the case of a long-term illness or  
56 incapacity of a member, an appointment not being made to an existing vacancy, or other issue  
57 leading to a seat on the board being temporarily being empty, one of the members of this list shall  
58 fill the seat. These temporary board members shall have the same powers and duties of the  
59 regular board members while filling the empty seat. These members shall be reimbursed for  
60 expenses, and paid a per diem rate, set by the Secretary.

61 (g) The Division of Corrections and Rehabilitation shall provide administrative and other  
62 services to the board as the board requires. Expenses of the board shall be included within the  
63 annual budget of the Division of Corrections and Rehabilitation: *Provided*, That the salaries of  
64 the members appointed pursuant to subsection (b) of this section are to be included in a separate  
65 budget for the Parole Board.

NOTE: The purpose of this bill is to transfer the Parole Board to the Division of Corrections and Rehabilitation for purposes of administrative and other support; remove the residency requirements pertaining to counties; remove the work substitution or qualification to serve on the board; clarify the powers and duties of the chairperson; set forth the process for selecting a vice chairperson; specify the powers and duties of the vice chairperson; clarify how a vacancy occurs on the board; create a temporary or substitute board member list; clarify how moneys for the board should be appropriated.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.