

CHAPTER 21: PAROLE

A. INTRODUCTION

“Parole” is an administrative procedure that allows convicted offenders to reside and rehabilitate under the authority of the state but without physical restraint (like jail).¹ In Louisiana, there is an important difference between being *eligible* for parole and being *considered* for parole.² Also, the trial court that heard your case is not involved in the process. Instead, the Department of Corrections first decides if you are *eligible* for parole. It is important to understand the difference between being eligible for parole and actually receiving parole. If you are eligible, then the Parole Board (also called “Committee on Parole”) will probably consider whether or not you actually *receive* parole and what rules govern the parole.³ But, if the statute under which you were convicted addresses parole, then the Parole Board may not decide.

Therefore, before reviewing the general Louisiana parole procedures described in this Chapter, you should read the law under which you were convicted. Check to see if it describes any “built-in” rules for parole, such as conditions of parole (or total ineligibility for parole).⁴ If you find “built-in” rules, you should follow them. If the statute doesn’t say anything about parole, then the general parole rules of the Louisiana Code apply, both for first-time and multiple-felony offenders.⁵

Under the Louisiana Code, there are four types of parole for which you may be eligible for consideration. These types are: (1) “regular” parole, (2) IMPACT parole, (3) medical parole, and (4) “good-time” parole. This Chapter will review how the law works for all four. You should review all four to decide which ones apply to your specific situation.

Finally, the only ways to plead for your parole are in an open parole hearing or in a written letter addressed to the Board; except for those, no one may contact any member of the Parole Board about your case.⁶ Therefore, to avoid breaking the law, you should review and follow parole procedure before attempting to contact anyone on a Parole Board.

¹ LA. REV. STAT. ANN. § 15:574.11 (2017).

² *Damone v. Whitley*, 96-0635, p. 3 (La. App. 1 Cir. 5/9/97); 694 So. 2d 1205, 1207 (parole eligibility does not guarantee parole); *Bosworth v. Whitley*, 627 So. 2d 629, 634 (La. 1993) (“[P]arole eligibility and eligibility for parole consideration are distinct and different matters.”). For more information on parole, *see* Chapter 36 of the main *JLM*. Although parole rules vary significantly by state, and Chapter 36 discusses parole in New York, skimming that Chapter will give you some helpful general guidance on enhancing your possibility of parole and preparing for parole Board hearings.

³ *State v. Davis*, 97-0817, p. 4 (La. App. 4 Cir. 3/24/99); 735 So. 2d 708, 710 (finding that the Department of Public Safety and Corrections, not the trial court, determines eligibility for parole).

⁴ LA REV. STAT. § 14:64(B) (2017) (“Whoever commits the crime of armed robbery shall be imprisoned at hard labor for not less than ten years and for not more than ninety-nine years, without benefit of parole, probation, or suspension of sentence.”); LA. REV. STAT. ANN. § 15:301.1 (2017) (providing that sentences determined under criminal laws prohibiting parole will implicitly or explicitly prohibit the possibility of parole, even if the deciding Court does not specifically say so).

⁵ *State v. Wilson*, 508 So. 2d 960, 962 (La. Ct. App. 4 Cir. 1987) (if statute under which prisoner was convicted was silent as to parole, general parole eligibility statute [LA REV. STAT. § 15:574.4] applies). Note that from 2008 to 2010, the legislature broke up what had become a very long, confusing section 574.4 – there had been 19 subparagraphs, from A to S. Now 574.4 stops after (C). Some resources and cases will cite the former structure. Don’t worry if you can’t find 574.4(H), for example. For reference, former subparagraphs D to G are now found in 574.4.1; former subparagraphs H to N are now in 574.4.2; and former subparagraphs O to S are now in 574.4.3.

⁶ LA. REV. STAT. § 15:574.2.1 (2017) (“Prohibited contact with committee on parole; penalties; public record.”).

B. TYPES OF PAROLE

1. Regular Parole

a. When may you be *eligible* for “regular” (non-IMPACT) parole?

i. *First-time and Multiple-Offense Felony Sentences*

If any of your convictions occurred after July 1, 1982, then the rules in this paragraph apply. As of July 1, 1982, Louisiana changed its parole rules so that consideration by the Parole Board depends on whether you are a first-time offender or a repeat offender.⁷ For first-time felony offenders, the rule is the same: you must serve one-third of your sentence before you will be considered for parole. If it's your second felony offense, you must serve one-half of your sentence before you will be considered. If it's your third or higher felony offense, you may be ineligible for consideration.⁸ These rules apply if any of your felony offenses were committed after July 1, 1982.⁹

If all of your convictions occurred before July 1, 1982 and also allow for the possibility of parole, then the rules in this Paragraph may apply.¹⁰ If you are a first-time offender, you will be eligible for parole consideration after serving twenty-five percent of your sentence.¹¹ If you have two felony convictions, you will be eligible for parole consideration after serving one-third of your sentence.¹² It is possible that if all of your convictions occurred before July 1, 1982 and you have been serving time since then, you may be eligible for parole under the “Old Man’s Parole” rule, which is described in the next Section.

ii. *Exceptions to First-Time and Multiple-Offense Rule*

(a) “Old Man’s Parole” Rules

This is what some people call the rule in 574.4(A)(2). This rule says that a prisoner is eligible for parole after serving twenty years out of a sentence of thirty years or longer, with a few restrictions. First, the prisoner must be at least 45 years old. Second, this type of parole isn't available to prisoners that have been convicted of armed robbery.¹³ Third, the sentence has to have been for a fixed number of years—a prisoner serving a life sentence isn't eligible under this part of the law unless the sentence has been commuted to a sentence of a term of years.¹⁴ If you were convicted of a life sentence that hasn't been reduced to a fixed term of years, then after 2012 your eligibility for parole will depend on the rules governed by the section in this chapter called “Life Sentences.”

(b) Heroin Possession

Until 2001, some crimes involving production and distribution of heroin had a mandatory life sentence without parole. However, in 2001 the Louisiana legislature changed the law: instead of

⁷ 1981 La. Acts, no. 762; *State v. Westmoreland*, 559 So. 2d 479, 480 (La. 1990) (“Multiple convictions entered on the same day should constitute only one offense for purposes of determining a defendant’s multiple offender status, and eligibility for suspended sentence and parole.”)

⁸ LA. REV. STAT. § 15:574.4(A)(1) (2017).

⁹ In other words, if any or all of the multiple felony offenses took place before July 1, 1982, the one-third rule applies. But if even one of the multiple felonies took place before that date, the rule still applies; *Thomas v. Secretary, Dep’t. of Public Safety & Corrs.*, 577 So. 2d 144, 146 (La. App. 1 Cir. 1991) (finding that the legislature did not intend that felonies used in classifying a prisoner as a third felony offender occur after the effective date of LA. REV. STAT. § 574.4(A)(1)).

¹⁰ Exceptions to LA. REV. STAT. § 574(A)(1)(a) (2017) and LA. REV. STAT. § 574(A)(1)(b) (2017) are provided by LA. REV. STAT. § 574(A)(2) (2017), which provides the possibility for parole eligibility after serving 25 years and reaching the age of 45 under certain circumstances.

¹¹ LA. REV. STAT. § 574(A)(1)(b)(i) (2017).

¹² LA. REV. STAT. § 574(A)(1)(b)(ii) (2017).

¹³ LA. REV. STAT. § 14.64 (2017).

¹⁴ LA. REV. STAT. § 15:574.4(A)(2) (2017).

mandatory life imprisonment, it is now a range of five to fifty years.¹⁵ Parole is no longer prohibited under the statute as long as the prisoner has served at least five years.¹⁶ In addition, in 2009 the legislature decided that prisoners convicted under the old “life without parole” rule (before 2001) would be eligible for parole after fifteen years in prison.¹⁷

(c) Violent Crimes

If you were convicted for a violent crime after 1997, even if it was your first or second offense, you must serve at least 85 percent of your sentence.¹⁸ There are over forty crimes that the Code defines as a “crime of violence.”¹⁹

iii. *Exclusions*

The Code also sets out a list of prisoners who are not eligible for parole, even though they meet the eligibility requirements of the “Old Man’s Rule,” “Heroin Possession,” or “Violent Crimes” exceptions:

1. Prisoners ineligible under the armed robbery statute;
2. Prisoners serving life sentences not commuted to fixed term;
3. Prisoners sentenced as serial sexual offenders; and
4. Prisoners under indictment for suspected crimes in prison.²⁰

(a) Life Sentences

If you don’t fall within the eligibility of the “Old Man’s Rule,” “Heroin Possession,” or “Violent Crimes” sections listed earlier, you may still be eligible for parole if you, (1) have a life sentence that has not been reduced to a term of years; and (2) meet other criteria. In 2012, Governor Bobby Jindal signed House Bill 543 into law. It provides new opportunities for parole for people who were convicted of crimes and sentenced to life at certain ages. There are four age-based categories: people who were sentenced and began life sentences when they were between 18 and 25 years old; between 25 and 35 years old; between 35 and 50 years old; and either above 50 or under 18 years old. However, if you were sentenced to life for a crime of violence or for certain sex offenses,²¹ then you are still not eligible for parole under this exception even with the new law.²²

¹⁵ LA. REV. STAT. § 40:966(B)(1) (2017).

¹⁶ 2001 La. Acts, No. 403.

¹⁷ 2009 La. Acts, No. 533.

¹⁸ *Holmes v. Louisiana Dep’t. of Public Safety & Corrs.*, 2011-2221, pp. 5–6 (La. App. 1 Cir. 6/8/12); 93 So. 3d 761, 763–764 (reaffirming that even if a crime of violence occurred before 1997, if the conviction occurred after 1997, the 85% rule applies).

¹⁹ LA. REV. STAT. § 14:2(B) (2017) (Crimes include: (1) Solicitation for murder (2) First degree murder (3) Second degree murder (4) Manslaughter (5) Aggravated battery (6) Second degree battery (7) Aggravated assault (8) Mingling harmful substances (9) Aggravated rape (10) Forcible rape (11) Simple rape (12) Sexual battery (13) Second degree sexual battery (14) Intentional exposure to AIDS virus (15) Aggravated kidnapping (16) Second degree kidnapping (17) Simple kidnapping (18) Aggravated arson (19) Aggravated criminal damage to property (20) Aggravated burglary (21) Armed robbery (22) First degree robbery (23) Simple robbery (24) Purse snatching (25) Extortion (26) Assault by drive-by shooting (27) Aggravated crime against nature (28) Carjacking (29) Illegal use of weapons or dangerous instrumentalities (30) Terrorism (31) Aggravated second degree battery (32) Aggravated assault upon a peace officer with a firearm (33) Aggravated assault with a firearm (34) Armed robbery; use of firearm; additional penalty (35) Second degree robbery (36) Disarming of a peace officer (37) Stalking (38) Second degree cruelty to juveniles (39) Aggravated flight from an officer (40) Aggravated incest (41) Battery of a police officer (42) Trafficking of children for sexual purposes (43) Human trafficking (44) Home invasion.)

²⁰ LA. REV. STAT. § 15:574.4(B) (2017).

²¹ LA. REV. STAT. § 15:541 (2017). These sex offenses include: trafficking of children for sexual purposes; incest; aggravated incest; crime against nature; crime against nature by solicitation; felony carnal knowledge of a juvenile; indecent behavior with juveniles; pornography involving juveniles; indecent behavior with juveniles; molestation of a juvenile or a person with a physical or mental disability; computer-aided solicitation of a minor; prohibited sexual conduct between an educator and a student; contributing to the delinquency of juveniles; sexual battery of the infirm; obscenity by solicitation of a person under the age of seventeen; video voyeurism; aggravated rape; forcible rape;

If you (1) did not commit a crime of violence, (2) did not commit a sex crime, (3) are not prevented from seeking parole for another reason, and (4) began your life sentence when you were between 18 and 25 years old, you may be eligible for parole if you meet all the following criteria:

- 1) You served at least twenty-five years of your sentence;
- 2) You have a low risk level designation (which is determined by a valid risk assessment authority authorized by the Department of Public Safety and Corrections);
- 3) You have not committed any disciplinary offenses in the year before your parole eligibility date;
- 4) You completed at least the required one hundred hours of pre-release programming, if the programming was available;
- 5) You completed substance abuse treatment, if required; and
- 6) You have a GED credential, a high school diploma or have completed one of the following (but only for those with a learning disability): a literacy program, an adult basic education program, or a job skills training program.²³

If you did not commit a crime of violence or a sex crime, are not prevented from seeking parole for another reason, and began your life sentence when you were between 25 and 35 years old, you may be eligible for parole if you meet all the following criteria:

- 1) You have served at least twenty years of your sentence;
- 2) You have a low risk level designation (which is determined by a valid risk assessment authority authorized by the Department of Public Safety and Corrections);
- 3) You did not commit any disciplinary offenses in the year before your parole eligibility date;
- 4) You completed at least the required one hundred hours of pre-release programming, if the programming was available;
- 5) You completed substance abuse treatment, if required; and
- 6) You have a GED credential, a high school diploma or have completed one of the following (but only for those with a learning disability): a literacy program, an adult basic education program, or a job skills training program.²⁴

If you did not commit a crime of violence or a sex crime, are not prevented from seeking parole for another reason, and you began your life sentence when you were over 50 years old, you may be eligible for parole if you meet all the following criteria:

- 1) You served at least ten years of your sentence;
- 2) You have a low risk level designation (which is determined by a valid risk assessment authority authorized by the Department of Public Safety and Corrections);
- 3) You did not commit any disciplinary offenses in the year before your parole eligibility date;
- 4) You completed at least the required one hundred hours of pre-release programming, if the programming was available;
- 5) You completed substance abuse treatment, if required; and
- 6) You have a GED credential, a high school diploma or have completed one of the following (but only for those with a learning disability): a literacy program, an adult basic education program, or a job skills training program.²⁵

If you did not commit a crime of first or second-degree murder, and you began your life sentence when you were under 18 years old, you may be eligible for parole if you meet all the following criteria:

- 1) You served twenty-five years of your sentence;
- 2) You did not commit any disciplinary offenses in the year before your parole eligibility date;

simple rape; sexual battery; second degree sexual battery; oral sexual battery; intentional exposure to AIDS virus; or a second conviction of voyeurism.

²² LA. REV. STAT. § 15:574.4(B)(2) (2017).

²³ LA. REV. STAT. § 15:574.4(B)(2)(a) (2017).

²⁴ LA. REV. STAT. § 15:574.4(B)(2)(b) (2017).

²⁵ LA. REV. STAT. ANN. § 15:574.4(B)(2)(d) (2017).

- 3) You completed at least 100 hours of programming (according to R.S. § 15:827.1);
- 4) You completed substance abuse treatment, if required;
- 5) You have a GED credential, a high school diploma or have completed one of the following (but only for those with a learning disability): a literacy program, an adult basic education program, or a job skills training program;
- 6) You have a low risk level designation (determined by a valid risk assessment authority authorized by the Department of Public Safety and Corrections);
- 7) You completed a reentry program as required by the Department of Public Safety and Corrections; and
- 8) If you were convicted of aggravated rape, you will be designated a sex offender and upon release must follow all sex offender registration and notification provisions required by law.²⁶

b. Procedures²⁷

The Parole Board has seven members. The Governor appoints all of the members.²⁸ If you are *eligible* for parole, the Board has much freedom regarding whether and when you actually receive a hearing.²⁹ In making its decision, the Board will review a range of factors, including the type of offense, the specifics of your offense, your prison records, the pre-sentence investigation report, recommendations of the chief probation and parole officers, and any information or data gathered by the Board's staff.³⁰ The Board will consider these and may determine that you are not *eligible* for parole. If the Board decides that you are eligible for parole, it will set a date for a hearing to *consider your parole outcome*. You will have the opportunity to meet with the Board shortly before your date of eligibility and the hearing.³¹ The victim of your crime can also appear before the Board if they choose.³²

You will receive a decision about your parole outcome within thirty days of your hearing.³³ If you are granted parole, you will receive a "certificate of parole" that lists all the conditions of your parole. These conditions must be explained to you, and you must agree to them in writing.³⁴ The Board will set the date of your release, but it cannot be later than six months after the hearing or the most recent reconsideration of your case.³⁵

c. Parole Rules for Sex Offenders³⁶

i. *Consideration of eligibility / Parole hearing*

When the Board decides whether or not to grant a parole hearing to someone convicted of a sexual offense, it considers other factors, too.³⁷ If no other provisions of the law or other rules disqualify the prisoner from parole, the Board has to consider any available clinical reports, disease testing results, and

²⁶ LA. REV. STAT. ANN. § 15:574.4(D)(1) (2017).

²⁷ For more information on parole procedures, see Part C(1) of this Chapter.

²⁸ LA. REV. STAT. ANN. § 15:574.2(A)(2) (2017).

²⁹ *Merit v. Lynn*, 848 F. Supp. 1266, 1269 (W.D. La. 1994) (discretionary parole eligibility does not automatically give rise to "legitimate expectation" of release); *Sinclair v. Kennedy*, 96-1510, p. (La. App. 1 Cir. 9/19/97); 701 So. 2d 457, 462 (The Parole Board has full discretion when passing on applications for early release.).

³⁰ LA. REV. STAT. ANN. § 15:574.4(C)(1) (2017).

³¹ LA. REV. STAT. ANN. § 15:574.4.1(A)(1) (2017).

³² LA. REV. STAT. ANN. § 15:574.4.1(A)(2) (2017).

³³ LA. REV. STAT. ANN. § 15:574.4.1(B) (2017).

³⁴ LA. REV. STAT. ANN. § 15:574.4.1(C) (2017). The Board *must* require that you refrain from criminal conduct. It *may* require a broad range of other conditions, including (just for example) appearances at the parole office at specified times; limitations on travel; written reports by the parolee; avoidance of certain habits, places, or types of people; work at a lawful occupation and/or community service; submission to certain examinations or treatments; waiver of warrant requirements for searches of the parolee's person or property, and more. See LA. REV. STAT. ANN. § 15:574.4.2(A) (2017).

³⁵ LA. REV. STAT. ANN. § 15:574.4.1(D)(1) (2017).

³⁶ For more information on special considerations for sex offenders, see Chapter 17 of this *Louisiana State Supplement*.

³⁷ "Sex offense" is defined in LA. REV. STAT. ANN. § 15:541(24)(a) (2017).

recommendations by mental health professionals.³⁸ The Board will consider these reports and other information to determine whether the prisoner has successfully completed the sex offender program. The Board must also consider whether there is a chance that the prisoner will be a danger to society.³⁹ The Board must send written notice of the date and time of the hearing to the victim (or the victim's parent or guardian) unless they have notified the Board in advance that they do not want to receive this notice. The victim (or parent/guardian) must have a reasonable opportunity to attend and speak at the hearing.⁴⁰ The parole rules for sex offenders apply instead of any otherwise applicable parole rules for "intensive parole supervision"⁴¹ or any "good time" sentence reductions.⁴²

ii. *Post-parole*

The Board can set a broad range of conditions for parole, but specific conditions apply to certain sexual offenders. If you meet the criteria relating to sexual offenses in the statute, the Board will order you to register as a sex offender.⁴³ You will have to pay certain annual fees (currently \$60/year) to cover the costs of registration, unless you qualify as "indigent."⁴⁴ The registration requirements are mandatory. The requirements can only be waived by the court if the district attorney agrees and if you satisfy certain other criteria (including maximum age differences between the victim and the offender).⁴⁵

You also will have to notify various personnel in your areas of residence, work, and/or education. You will have to give extensive documentation and other information to these authorities, all of which are explained in detail in the Code.⁴⁶ For example, you will have to:

- 1) Give notice of your crime, your name, your home address, a description of your physical appearance, and a photograph or copy to all the following:
 - a) At least one person in every home or business within a one-mile radius in a rural area and a three-tenths of a mile radius in an urban or suburban area of the address where you will live;⁴⁷
 - b) The superintendent of the school district where you will live. Notice must include two recent photographs of you;⁴⁸
 - c) The lessor, landlord, or owner of the place where you will live;⁴⁹ and
 - d) The superintendent of any park, playground, or recreation districts near the area where you will live. Notice must include two recent photographs of you.⁵⁰
- 2) Give any other notice required by the court that makes you register as an offender. Notice can include marking signs, handbills, bumper stickers, or clothing.⁵¹
- 3) Post the number of your physical address in an obvious place on the outside of your home. The number must be shown clearly and must be visible and readable by an ordinary person approaching your home during the day.⁵²

³⁸ LA. REV. STAT. ANN. § 15:574.4(C)(2)(a) (2017).

³⁹ LA. REV. STAT. ANN. § 15:574.4(C)(2)(a) (2017).

⁴⁰ LA. REV. STAT. ANN. § 15:574.4.3(A) (2017).

⁴¹ LA. REV. STAT. ANN. § 15:574.4.3(B) (2017).

⁴² LA. REV. STAT. ANN. § 15:574.4.3(C) (2017). For more information on "good time" reductions, see Part B(4) of this Chapter.

⁴³ The notification requirement is set out in LA. REV. STAT. ANN. § 15:574.4.3(D)(1) (2017). The range of parolees that have to provide notification goes beyond "sex offenders" to include "sexually violent predators" and "child predators." See LA. REV. STAT. ANN. § 15:542 (2017).

⁴⁴ LA. REV. STAT. ANN. § 15:542(D) (2017).

⁴⁵ LA. REV. STAT. ANN. § 15:542(F)(2) (2017).

⁴⁶ LA. REV. STAT. ANN. § 15:542(A) (2017).

⁴⁷ LA. REV. STAT. ANN. § 15:542.1(A)(1)(a) (2017).

⁴⁸ LA. REV. STAT. ANN. § 15:542.1(A)(1)(b)(i) (2017).

⁴⁹ LA. REV. STAT. ANN. § 15:542.1(A)(1)(c) (2017).

⁵⁰ LA. REV. STAT. ANN. § 15:542.1(A)(1)(d) (2017).

⁵¹ LA. REV. STAT. ANN. § 15:542.1(A)(3) (2017).

⁵² LA. REV. STAT. ANN. § 15:542.1(A)(5) (2017).

- 4) If you wish to use the internet to connect with other people through networking (for example, on a website like Facebook), you will have to announce on your profile that you are a registered sex offender.⁵³

The above list is not a full list of requirements. You should consult the Code and read Chapter 17 of the *Louisiana State Supplement* to understand all the requirements that you will have to complete if you are granted parole after a conviction for a sex offense.

2. Medical Parole

a. Eligibility

You may be considered for medical parole if the Department of Public Safety and Corrections refers you.⁵⁴ To be eligible for consideration you must be “permanently incapacitated” or “terminally ill”⁵⁵ because of a current medical or physical condition.⁵⁶ “Permanently incapacitated” means that your medical or physical condition is so severe and permanent that you couldn’t be a danger to yourself or society. “Terminally ill” means that you are irreversibly ill, and also so sick that you couldn’t be a danger to yourself or others.⁵⁷

Even if you meet those criteria, though, you won’t be eligible for medical parole if you’re serving time for first or second-degree murder.⁵⁸

b. Procedure

The Department of Safety and Public Corrections recommends eligible prisoners to the Board of Parole for consideration. The Board then makes the final decision.⁵⁹ The Board might need more medical evidence or examinations.⁶⁰ Just like regular parole hearings, these hearings are public and are scheduled with both the prisoner’s and the Board’s convenience in mind.⁶¹

c. Benefit

If the Board grants parole, the term of release is for the rest of your sentence. Your parole might be revoked though in two cases: (1) if you recover to a point where you wouldn’t meet the criteria for eligibility, or (2) if you violate any added conditions of parole set by the Board.⁶²

i. Recovery

At the time of your release, the Board will set up a schedule of periodic medical evaluations.⁶³ If these evaluations show that you’re not “permanently incapacitated” or “terminally ill” under the definitions described above, then the Board *may* order that you be returned to the custody of the Department of Public Safety and Corrections. You would then wait for a hearing by the Board to make a final decision about whether your medical parole will be reversed. If it is reversed, then you continue the remaining time of your sentence. You will get credit though for the time you were on medical parole.⁶⁴ So

⁵³ LA. REV. STAT. ANN. § 15:542.1(D)(1) (2017).

⁵⁴ LA. REV. STAT. ANN. § 15:574.20(A) (2017).

⁵⁵ LA. REV. STAT. ANN. § 15:574.20(B)(1)(a), (b) (2017).

⁵⁶ LA. REV. STAT. ANN. § 15:574.20(B)(1) (2017).

⁵⁷ LA. REV. STAT. ANN. § 15:574.20 B(1)(a), (b) (2017).

⁵⁸ LA. REV. STAT. ANN. § 14:30(C), 14:30.1(B) (2017).

⁵⁹ LA. REV. STAT. ANN. § 15:574.20(A)(1), (C) (2017). For specific details on Medical Release / Parole laid out by the Department of Public Safety and Corrections, see Department Regulation No. B-06-001 and Department Regulation No. C-03-004.

⁶⁰ LA. REV. STAT. ANN. § 15:574.20 (C) (2014); see also LA. ADMIN. CODE tit. 22 § 307(D) (2017).

⁶¹ LA. ADMIN. CODE tit. 22 § 307(D) (2017).

⁶² LA. REV. STAT. ANN. § 15:574.20 (E) (2017).

⁶³ LA. ADMIN. CODE tit. 22 § 307(E) (2017).

⁶⁴ LA. REV. STAT. ANN. § 15:574.20 (F) (2017).

if, for example, you have five years left on your sentence when you receive medical parole, you are out for one year and get better, and the Board reverses your parole, you will have four years left in your sentence, not five.

Also, if your parole is reversed because your illness or condition has gotten better, and you meet the other criteria, you can still be considered for parole under the “time-served” provisions of R.S. 15:574.4.⁶⁵

ii. *Violation of Conditions of Medical Parole*

The Board can set any other conditions of your parole on the time of your medical release. If you violate any of these conditions, your medical parole can be reversed by the Board.⁶⁶

d. Temporary Release by the Secretary of Corrections for Limited Purposes⁶⁷

In addition to the formal medical parole procedures described above, in 2008 the Legislature gave the Secretary of Corrections direct, “fast-track” authority to give temporary release of certain very ill or disabled prisoners for hospice-type or other medical care.⁶⁸ This sort of release applies to *terminally* ill prisoners who either (1) aren’t expected to live for more than sixty days, or (2) cannot leave a hospital or nursing home because of a condition that prevents any mobility (like a coma or use of a respirator). However, prisoners awaiting execution aren’t eligible for this type of release.⁶⁹

With more exceptions for certain offenders,⁷⁰ the Secretary can also approve the temporary release of a *non-terminally ill* prisoner if the prisoner needs to stay in a health facility because of condition that prevents any mobility.⁷¹

4. **Diminution of Sentence**

a. What is Diminution of Sentence?

Diminution of sentence is also known as “good time.” “Good time” refers to the credit that you can earn through good behavior—credit that is then used to reduce the length of your sentence.

b. Who is Eligible for Diminution of Sentence?

Good time is available to most prisoners. However, you are not eligible if you have been convicted of a violent offense⁷² for the second time. You are also not eligible if your sentencing court specifically barred you from qualifying for “good time” release.⁷³ On the other hand, even if you are sentenced to life imprisonment, you may still earn good time. In that case, good time can be used to shorten your sentence if your life sentence is ever commuted to a specific number of years.⁷⁴ At that point, good time would

⁶⁵ See Part B(1)(a)(i) of this Chapter.

⁶⁶ LA. REV. STAT. ANN. § 15:574.20 (F) (2017).

⁶⁷ For more information on temporary release, see Chapter 19 of this *Louisiana State Supplement*.

⁶⁸ LA. REV. STAT. ANN. § 15:833.2 (2017).

⁶⁹ LA. REV. STAT. ANN. § 15:833.2(A) (2017).

⁷⁰ Categories of offenders barred from temporary release under this rule include those convicted of: first-degree murder; second-degree murder; attempted murder; aggravated rape; attempted aggravated rape; forcible rape; aggravated kidnapping; aggravated arson; armed robbery; attempted armed robbery; producing, manufacturing, distributing, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled Schedule I or II dangerous substance; or any inmate sentenced as a habitual offender. LA. REV. STAT. § 15:833.2(B) (2017).

⁷¹ LA. REV. STAT. ANN. § 15:833.2(B) (2017).

⁷² Crimes of violence are defined at LA. REV. STAT. § 14:2 (2017). They are also listed in footnote 19 of this Chapter.

⁷³ LA. REV. STAT. ANN. § 15: 571.3(A)(1) (2017).

⁷⁴ LA. REV. STAT. ANN. § 15: 571.3(B)(1)(a) (2017).

shorten your sentence of a fixed term of years. However, if you are serving a life sentence related to a sexual offense or to a crime of violence, then you will not be eligible to earn good time.⁷⁵

c. How is Good Time Earned?

You may earn a reduction of sentence through good behavior, dedicated performance of work, and participating in self-improvement activities.⁷⁶

d. At What Rate Will Good Time Diminish My Sentence?

For most prisoners, the sentence is shortened by thirty days for every thirty days served in actual custody. This includes time spent in custody with good behavior before sentencing.⁷⁷

However, prisoners who are first-time offenders convicted of a crime of violence earn good time at a slower rate. Instead of a thirty-day reduction for every thirty days in custody, the sentence decreases by three days for every seventeen days spent in actual custody.⁷⁸ If you are serving a life sentence, the rate of calculation is thirteen days diminished for every seven days in custody with good behavior.⁷⁹

Ultimately, no matter what rate is applied to your sentence, you will not be able to earn more than thirty-five days of good time during any one month (or thirty-day period).

e. How is Good Time Determined?

The Sheriff of the parish in which you were convicted is the only person who determines when you have earned good time. He applies the rules set out in the statute to determine when and how much good time you have earned.⁸⁰ In some cases, your correctional facility will not be operated by a sheriff. If that is the case, the superintendent of your facility will decide whether you earned good time.⁸¹

5. Work Release

a. What is Work Release?

Work release is a program that allows eligible prisoners to enter a work release facility. While at work release facilities, prisoners will work at an approved job *outside* of the prison, and return to the work release facility.⁸² The goal is to assist prisoners with the transition back to the workforce.⁸³ The local sheriff designs and operates work release programs. In the case that a sheriff does not oversee the area in which a prison or jail exists, the prison or jail superintendent will design and run the work release program.⁸⁴ The state is bound by law to design, provide, and manage work release programs.⁸⁵

b. How Does Work Release Work?

If you are approved for a work release program, you will report to your approved job and spend the rest of your time in the structured environment of the work release facility. Failure to show up at work is treated like an escape from incarceration.⁸⁶ Approved jobs may include placements at universities,

⁷⁵ LA. REV. STAT. ANN. § 15: 571.3(B)(1)(b) (2017).

⁷⁶ LA. REV. STAT. ANN. § 15:571.3(A)(1) (2017).

⁷⁷ LA. REV. STAT. ANN. § 15: 571.3(A)(1) (2017).

⁷⁸ LA. REV. STAT. ANN. § 15: 571.3(A)(1) (2017).

⁷⁹ LA. REV. STAT. ANN. § 15:571.3(B)(1)(a) (2017).

⁸⁰ LA. REV. STAT. ANN. § 15: 571.3(A)(2) (2017).

⁸¹ LA. REV. STAT. ANN. § 15: 571.3(A)(3) (2017).

⁸² Louisiana Department of Corrections, Reentry Initiatives, Work Release (2010).

⁸³ LA. REV. STAT. ANN. § 15:1199.5(B) (2007).

⁸⁴ LA. REV. STAT. ANN. § 15:711(A) (2017).

⁸⁵ LA. REV. STAT. ANN. § 15:1199.6 (2007).

⁸⁶ LA. REV. STAT. ANN. § 15:1111(B) (2017).

colleges, trade schools, vocational programs, or technical schools.⁸⁷ These placements are chosen to increase your skill set and make it easier for you to find a job and transition back into society once you are released from jail.⁸⁸

In order to be placed in the work release program, the Department of Corrections must be able to find housing space for you in an approved work release facility. You must also have accepted an approved job placement near the work release facility.⁸⁹

While you are in the work release facility, you will be responsible for paying the cost of your room, board, clothing, travel to and from work, and other necessary expenses.⁹⁰ However, the total amount of these deductions cannot be more than seventy percent of your wages.⁹¹ The remainder of your wages will be collected by the work release facility and will be deposited into a public bank account established on your behalf and will be available to you when you are released.⁹² You will be paid the same wage that non-prisoner employees receive.⁹³

c. Who is Eligible for Work Release?

You will not be eligible for work release if your sentence does not allow it, even if you meet other eligibility standards.⁹⁴ If you were sentenced for (1) certain sex offenses;⁹⁵ (2) certain crimes of violence;⁹⁶ or (3) if you are a habitual offender,⁹⁷ then you may not be able to participate in some types of work release programs.⁹⁸

However, if you were convicted of forcible rape, aggravated arson, armed robbery, attempted murder, attempted armed robbery, or were sentenced as a habitual offender and are not otherwise barred from work release by your sentence, you will be eligible to participate in a work release program during the last six months of your sentence. But, if you have served for at least fifteen years for any of the crimes

⁸⁷ LA. REV. STAT. ANN. § 15:1111(B) (2017).

⁸⁸ LA. REV. STAT. ANN. § 15:1199.5 (2017).

⁸⁹ LA. REV. STAT. ANN. § 15:1111(C) (2017).

⁹⁰ LA. REV. STAT. ANN. § 15:1111(D) (2017).

⁹¹ LA. REV. STAT. ANN. § 15:1111(H) (2017).

⁹² LA. REV. STAT. ANN. § 15:1111(E) (2017).

⁹³ LA. REV. STAT. ANN. § 15:1111(G) (2017).

⁹⁴ LA. REV. STAT. ANN. § 15:711(B) (2017).

⁹⁵ These sex offenses include: trafficking of children for sexual purposes; incest; aggravated incest; crime against nature; crime against nature by solicitation; felony carnal knowledge of a juvenile; indecent behavior with juveniles; pornography involving juveniles; indecent behavior with juveniles; molestation of a juvenile or a person with a physical or mental disability; computer-aided solicitation of a minor; prohibited sexual conduct between an educator and a student; contributing to the delinquency of juveniles; sexual battery of the infirm; obscenity by solicitation of a person under the age of seventeen; video voyeurism; aggravated rape; forcible rape; simple rape; sexual battery; second degree sexual battery; oral sexual battery; intentional exposure to AIDS virus; or a second conviction of voyeurism. LA. REV. STAT. § 15.541 (2017).

⁹⁶ Crimes include: (1) Solicitation for murder (2) First degree murder (3) Second degree murder (4) Manslaughter (5) Aggravated battery (6) Second degree battery (7) Aggravated assault (9) Aggravated rape (10) Forcible rape (11) Simple rape (12) Sexual battery (13) Second degree sexual battery (14) Intentional exposure to AIDS virus (15) Aggravated kidnapping (16) Second degree kidnapping (17) Simple kidnapping (18) Aggravated arson (19) Aggravated criminal damage to property (20) Aggravated burglary (21) Armed robbery (22) First degree robbery (23) Simple robbery (24) Purse snatching (26) Assault by drive-by shooting (27) Aggravated crime against nature (28) Carjacking (30) Terrorism (31) Aggravated second degree battery (32) Aggravated assault upon a peace officer (33) Aggravated assault with a firearm (34) Armed robbery; use of firearm; additional penalty (35) Second degree robbery (36) Disarming of a peace officer (37) Stalking (38) Second degree cruelty to juveniles (39) Aggravated flight from an officer (41) Battery of a police officer (42) Trafficking of children for sexual purposes (43) Human trafficking (44) Home invasion, (45) Domestic abuse aggravated assault, (46) Vehicular homicide, when the operator's blood alcohol concentration exceeds .20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, (47) Aggravated assault upon a dating partner. LA. REV. STAT. § 14:2(B) (2017).

⁹⁷ Sentencing implications for habitual offenders are explained in LA. REV. STAT. § 15:529.1 (2017).

⁹⁸ LA. REV. STAT. ANN. § 15:1199.7(C) (2017).

listed in this paragraph, then you will be eligible to participate in a work release program during the last year of your sentence, or possibly earlier.⁹⁹

If you were convicted of producing, manufacturing, distributing, or dispensing, or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance listed in R.S. 40:964, you will be eligible to participate in a work release program if you have met the other eligibility standards for work release as defined by the Department of Corrections or the state.¹⁰⁰

While you may be eligible for work release under the guidelines described in this section, ultimately the local sheriff or superintendent must determine which inmates are eligible for work release.¹⁰¹

d. Workforce Development Work Release

In 2008, the Legislature passed the “Reentry Advisory Council and Offender Rehabilitation Workforce Development Act” to encourage the development of skilled craftsmen among the prisoner populations. This is a special type of work release for prisoners who are already certified skilled workers in a particular field, or who have undergone a Department of Public Safety and Corrections “Workforce Development” program.¹⁰² To be eligible for this program, you must first meet all of the requirements for regular work release. However, there are some differences between regular work release and Workforce Development work release. For example, although some sexual offenders, violent offenders, and habitual offenders can participate in regular work release toward the end of their terms, they are completely ineligible for Workforce Development work release.¹⁰³

If you participate in the program, you will gain the benefits of training and working as a skilled craftsman. Most of the terms and conditions of your employment while in the program will match those of regular work release. However, under the Workforce Development program you are allowed to spend part of your wages on tuition, books, certification fees, and similar costs of certification.¹⁰⁴ The purpose of the legislation is to meet Louisiana’s pressing need for skilled labor, while at the same time helping you gain the occupational skills you’ll need to support your family and contribute to the community.¹⁰⁵

C. RULES OF PAROLE

1. Parole Decisions

a. Applications for Rehearings

If the Board decides to deny parole, then you may be able to apply for a rehearing. The rules for rehearings are found in the Louisiana Administrative Code, Section 22, Part XI, Chapter 7, § 705.¹⁰⁶ These rules are described below.

For all applications for rehearings, you must submit a Reapplication for Parole Form.¹⁰⁷ Either you or your attorney may submit this form.¹⁰⁸ If you have been permanently assigned to maximum custody status for disciplinary adjustment reasons, then you will NOT be able to apply for a rehearing until at least six months after you have been released from such status.¹⁰⁹

⁹⁹ LA. REV. STAT. ANN. § 15:1111(I)(1) (2017).

¹⁰⁰ LA. REV. STAT. ANN. § 15:1111(I)(2) (2017).

¹⁰¹ LA. REV. STAT. ANN. § 15:711(B) (2017).

¹⁰² LA REV. STAT. § 15:1199.9(A) (2017).

¹⁰³ LA REV. STAT. § 15:1199.7(C) (2017).

¹⁰⁴ LA REV. STAT. §§ 15:1199.9 (E)(3)–(5) (2017).

¹⁰⁵ LA REV. STAT. § 15:1199.2 (B), (D) (2017).

¹⁰⁶ LA. ADMIN. CODE tit. 22 § 705 (2017).

¹⁰⁷ LA. ADMIN. CODE tit. 22 § 705(A) (2017).

¹⁰⁸ LA. ADMIN. CODE tit. 22 § 705(B) (2017).

¹⁰⁹ LA. ADMIN. CODE tit. 22 §§ 705(C)(1)–(2) (2017).

i. *Nonviolent crimes: every six months*

If your conviction was for a nonviolent crime, you may reapply every six months from the Board's original denial of parole (unless your reapplication is otherwise restricted by some other rule).¹¹⁰

ii. *Violent crimes: one year later, then every two years*¹¹¹

If your conviction was for a *crime of violence* (as defined in R.S. 14:2¹¹², or as set forth by the court at the time of sentencing), or for a crime against persons (as defined in R.S. 14:29–14:47¹¹³), you may

¹¹⁰ LA. ADMIN. CODE tit. 22 § 705(C)(3) (2017).

¹¹¹ LA. ADMIN. CODE tit. 22 § 705(C)(3) (2017).

¹¹² LA. REV. STAT. ANN. §§ 14:2 (B)(1)–(47) (2007). In this Code, “crime of violence” means an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon. Crimes include: (1) Solicitation for murder (2) First degree murder (3) Second degree murder (4) Manslaughter (5) Aggravated battery (6) Second degree battery (7) Aggravated assault (8) Repealed by Acts 2017, No. 281, § 3 (9) Aggravated rape (10) Forcible rape (11) Simple rape (12) Sexual battery (13) Second degree sexual battery (14) Intentional exposure to AIDS virus (15) Aggravated kidnapping (16) Second degree kidnapping (17) Simple kidnapping (18) Aggravated arson (19) Aggravated criminal damage to property (20) Aggravated burglary (21) Armed robbery (22) First degree robbery (23) Simple robbery (24) Purse snatching (25) Repealed by Acts 2017, No. 281, § 3 (26) Assault by drive-by shooting (27) Aggravated crime against nature (28) Carjacking (29) Repealed by Acts 2017, No. 281, § 3 (30) Terrorism (31) Aggravated second degree battery (32) Aggravated assault upon a peace officer with a firearm (33) Aggravated assault with a firearm (34) Armed robbery; use of firearm; additional penalty (35) Second degree robbery (36) Disarming of a peace officer (37) Stalking (38) Second degree cruelty to juveniles (39) Aggravated flight from an officer (40) Repealed by Acts 2014, No. 602, § 7, eff. June 12, 2014 (41) Battery of a police officer (42) Trafficking of children for sexual purposes (43) Human trafficking (44) Home invasion (45) Domestic abuse aggravated assault (46) Vehicular homicide, when the operator's blood alcohol concentration exceeds 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood (47) Aggravated assault upon a dating partner.

¹¹³ LA. REV. STAT. ANN. §§ 14:29–14:50.2 (2017). In this Code, “person” means includes a human being from the moment of fertilization and implantation and also includes a body of persons, whether incorporated or not. Crimes against persons include: § 14:29 (Homicide), § 14:30 (First degree murder), § 14:30.1 (Second degree murder), § 14:31 (Manslaughter), § 14:32 (Negligent homicide), § 14:32.1 (Vehicular homicide), § 14:32.5 (Feticide), § 14:32.6 (First degree feticide), § 14:32.7 (Second degree feticide), § 14:32.8 (Third degree feticide), § 14:32.9 (Criminal abortion) § 14:32.9.1 (Aggravated criminal abortion by dismemberment) § 14:32.10 (Partial birth abortion), § 14:32.11 (Partial birth abortion), § 14:32.12 (Criminal assistance to suicide), § 14:33 (Battery defined), § 14:34 (Aggravated battery), § 14:34.1 (Second degree battery), § 14:34.2 (Battery of a police officer), § 14:34.3 (Battery of a school teacher), § 14:34.4 (Battery of a school or recreation athletic contest official), § 14:34.5 (Battery of a correctional facility employee), § 14:34.5.1 (Battery of a bus operator), § 14:34.6 (Disarming of a peace officer), § 14:34.7 (Aggravated second degree battery), § 14:35 (Simple battery), § 14:35.1 (Battery of a child welfare or adult protective service worker), § 14:35.2 (Simple battery of the infirm), § 14:35.3 (Domestic abuse battery), § 14:36 (Assault defined), § 14:37 (Aggravated assault), § 14:37.1 (Assault by drive-by shooting), § 14:37.2 (Aggravated assault upon a peace officer with a firearm), § 14:37.3 (Unlawful use of a laser on a police officer), § 14:37.4 (Aggravated assault with a firearm), § 14:37.5 (Aggravated assault upon a utility service employee with a firearm), § 14:37.6 (Aggravated assault with a motor vehicle upon a peace officer), § 14:37.7 (Domestic abuse aggravated assault) § 14:38 (Simple assault), § 14:38.1 (Mingling harmful substances), § 14:38.2 (Assault on a school teacher), § 14:38.3 (Assault on a child welfare worker), § 14:39 (Negligent injuring), § 14:39.1 (Vehicular negligent injuring), § 14:39.2 (First degree vehicular negligent injuring), § 14:40 (Intimidation by officers), § 14:40.1 (Terrorizing), § 14:40.2 (Stalking), § 14:40.3 (Cyberstalking), § 14:40.4 (Burning cross on property of another or public place; intent to intimidate), § 14:40.5 (Public display of a noose on property of another or public place; intent to intimidate), § 14:40.6 (Unlawful disruption of the operation of a school; penalties), § 14:40.7 (Cyberbullying), § 14:41 (Rape; defined), § 14:42 (First degree rape), § 14:42.1 (Second degree rape), § 14:43 (Third degree rape), § 14:43.1 (Sexual battery), § 14:43.1.1 (Misdemeanor sexual battery) § 14:43.2 (Second degree sexual battery), § 14:43.3 (Oral sexual battery), § 14:43.4 (Female genital mutilation) § 14:43.5 (Intentional exposure to aids virus), § 14:43.6 (Administration of medroxyprogesterone acetate (mpa) to certain sex offenders), § 14:44 (Aggravated kidnapping), § 14:44.1 (Second degree kidnapping), § 14:44.2 (Aggravated kidnapping of a child), § 14:45 (Simple kidnapping), § 14:45.1 (Interference with the custody of a child), § 14:46 (False imprisonment), § 14:46.1 (False imprisonment; offender armed with dangerous weapon), § 14:46.2 (Human trafficking), § 14:46.3 (Trafficking of children for sexual purposes), § 14:46.4 (Re-homing of a child) § 14:47 (Defamation) § 14:50.2 (Perpetration or attempted perpetration of certain crimes against a victim sixty-five years of age and older).

reapply one year after the Board's original denial of parole, and then every two years after that. However, this is not true for convictions for a sex offense or homicide (*see* subsection iii below).

iii. *Sex offense or homicide: every two years*¹¹⁴

If your conviction was for a sex offense (as defined in Louisiana Administrative Code, Section 22, Part XI, Chapter 9, § 903¹¹⁵), OR for first- or second-degree murder (if your sentence was reduced to a fixed term of years and you are otherwise eligible for parole), OR for manslaughter, then you may reapply every two years from the Board's original denial of parole.

iv. *Parole revoked*¹¹⁶

If you have been previously released on parole or diminution of sentence/parole supervision, and your parole was revoked for any reason, you may request reconsideration by the committee. You must make this request in writing no later than 21 days from the date of the hearing where your parole was revoked.

Please note that this does NOT apply if your conviction was for a sex offense, OR for first- or second-degree murder (if your sentence was reduced to a fixed term of years and you are otherwise eligible for parole), OR for manslaughter. If your conviction is in those categories, *see* subsection iii above.

2. Parole Conditions

The rules for parole conditions are found in the Louisiana Administrative Code, Section 22, Part XI, Chapter 9, § 901.¹¹⁷ These rules are described below.

a. Listed in Certificate of Parole

Before you are released, you should be told the conditions of your parole both orally and in writing.¹¹⁸ Your conditions of parole are those things that you must do or not do in order to ensure that your parole is not revoked. These conditions are listed in your Certificate of Parole. The Certificate of Parole will not go into effect until you show that you understand the conditions of your release by agreeing to them in writing.¹¹⁹

Though the conditions of your parole are listed in the Certificate of Parole, there may be other conditions of parole that are not listed in the Certificate of Parole.¹²⁰ You should ask the Parole Board or your supervising officer as soon as possible to explain to you any additional conditions of your parole that are not listed in the Certificate of Parole.

¹¹⁴ LA. ADMIN. CODE tit. 22 § 705(C)(3) (2017).

¹¹⁵ LA. ADMIN. CODE tit. 22 § 903 (2017). Section 903 defines the term *sex offender*. You are a sex offender if you have been convicted for the commission or attempted commission of any of the following offenses (or the equivalent, if committed in another jurisdiction): (1) aggravated rape, forcible rape, simple rape (2) sexual battery, aggravated sexual battery, oral sexual battery, aggravated oral sexual battery (3) intentional exposure of AIDS virus (4) bigamy, abetting in bigamy (5) incest, aggravated incest (6) carnal knowledge of a juvenile, indecent behavior with a juvenile, pornography involving a juvenile, molestation of a juvenile (7) crime against nature, aggravated crime against nature; or (8) contributing to the delinquency of juveniles by the performance of any sexual immoral act.

¹¹⁶ LA. ADMIN. CODE tit. 22 § 705(D)(2)(a) (2017).

¹¹⁷ LA. ADMIN. CODE tit. 22 § 901 (2017).

¹¹⁸ LA. ADMIN. CODE tit. 22 § 901(A)(1) (2017).

¹¹⁹ LA. ADMIN. CODE tit. 22 § 901(A) (2017).

¹²⁰ LA. ADMIN. CODE tit. 22 § 901(A)(2) (2017).

i. *Special Parole Conditions*

In addition to any conditions outlined by your Parole Certificate, the Certificate of Parole may also provide conditions listed in Louisiana law under R.S. 15:574.4(H).¹²¹ These conditions *only* apply to intensive supervision parole.¹²² These conditions may require you to:

- 1) Receive multiple monthly visits from supervising officers without warning;
- 2) Follow any curfew set by your supervising officers;
- 3) Perform at least one hundred hours of unpaid community service during your intensive parole supervision period and, if you are unemployed, perform additional hours;
- 4) Refrain from using or possessing any controlled dangerous substance or alcoholic beverage and submit, at your own expense, to screening, evaluation, and treatment for controlled dangerous substance or alcohol abuse as directed by your supervising officers; or
- 5) Pay any costs as ordered by your sentencing court or the Board of Parole.¹²³

In addition to any intensive supervision parole requirements, and even if you are not under intensive supervision parole, you may have other special conditions of parole. These may require you to:¹²⁴

- 1) Attend AA/NA meetings (the Board may specify the number of meetings you attend weekly);
- 2) Undergo mental health evaluation and treatment;
- 3) Undergo substance abuse evaluation and treatment;
- 4) Pay restitution for a direct money loss other than damage to or loss of property;
- 5) Pay fines and/or costs of court;
- 6) Refrain from contacting your victim(s);
- 7) Refrain from contacting your co-defendant(s);
- 8) Pursue or get a GED, vocational-tech, or other educational plan;
- 9) Comply with a treatment plan as ordered in any Substance Abuse Discharge Summary;
- 10) Follow any other special conditions that the Board may think appropriate.

The Parole Board may also place other conditions on your parole, depending on the details of the crime. Those might include:¹²⁵

- 1) If your victim had damage to his/her property, then you will be required to pay for it, either in a lump sum or in monthly installments. If the victim was paid from the Crime Victims Reparations

¹²¹ LA. ADMIN. CODE tit. 22 § 901(A)(2) (2017). LA. REV. STAT. ANN. § 15:574.4.4(H) (2017): When an offender completes intensive incarceration, the Board of Parole shall review the case of the offender and recommend either that the offender be released on intensive parole supervision or that the offender serve the remainder of his sentence as provided by law. When the offender is released to intensive parole supervision by the Board, the Board shall require the offender to comply with the following conditions of intensive parole supervision in addition to any other conditions of parole ordered by the Board:

- (1) Be subject to multiple monthly visits with his supervising officers without prior notice.
- (2) Abide by any curfew set by his supervising officers.
- (3) Perform at least one hundred hours of unpaid community service work during the period of intensive parole supervision and, if unemployed, perform additional hours as instructed by his supervising officers.
- (4) Refrain from using or possessing any controlled dangerous substance or alcoholic beverage and submit, at his own expense, to screening, evaluation, and treatment for controlled dangerous substance or alcohol abuse as directed by his supervising officers.
- (5) Pay any costs as ordered by the sentencing court or Board of Parole.

¹²² LA. ADMIN. CODE tit. 22 § 901(B) (2017). *See* Online Publications of the Louisiana Code, *available at* <http://www.doa.la.gov/pages/osr/lac/books.aspx> (last visited Jan. 22, 2018). *See* footnote 121 for full text of LA. REV. STAT. ANN. § 15:574.4.4(H) (2017), *available at* <http://www.legis.la.gov/Legis/Law.aspx?d=724971> (last visited Jan. 22, 2018).

¹²³ LA. REV. STAT. ANN. § 15:574.4.4(H)(1)–(5) (2017).

¹²⁴ LA. ADMIN. CODE tit. 22 § 901(B) (2017).

¹²⁵ LA. ADMIN. CODE tit. 22 § 901(C) (2017).

Fund, then the Board will order you to repay the Fund. The Department of Public Safety and Corrections will verify whether you have paid.¹²⁶

- 2) If you owe any costs of court, costs of the prosecution or proceeding, or any fine that is a part of your sentence, then you must pay in either a lump sum or a schedule of payments, based on your ability to pay.¹²⁷
- 3) If you do not have a high school degree or GED, then the Board will require you to enroll in and attend an adult education or reading program until you obtain a GED, or until you complete the program and have attained a sixth-grade reading level, or until your term of parole is over, whichever happens first. You must pay all costs of this requirement.¹²⁸ However, this condition may be suspended if there are no such programs in the place where you will be living, if you cannot afford such a program, or if attendance would create an undue hardship for you.¹²⁹ This condition does not apply to you if you are unable to participate due to reasons related to mental, physical, age, infirmity, or dyslexia (or other such learning disorders) issues.¹³⁰

3. Grievances

a. What Counts as a Grievance?

You may file a grievance if there was a violation of parole rules. The violation must be a violation of the Louisiana Board of Parole Rules and Procedures, Department of Public Safety and Corrections regulations, or the Louisiana Revised Statutes.¹³¹ Any person may file a grievance under this procedure.¹³² The person you file a grievance against has the right to be represented by a lawyer.¹³³

However, you CANNOT file a grievance against the Board or its members for a decision of the Board regarding:¹³⁴

- 1) Release or delayed release on parole;
- 2) New or modified parole conditions;
- 3) The ending or restarting of parole supervision or discharge from parole before the end of the parole period; or
- 4) The revocation or reconsideration of revocation of parole (except for the denial of a parole revocation hearing that is otherwise allowed under R.S. 15:574.9¹³⁵).

For example, in one case, a Louisiana court found that you cannot appeal a Board decision that prevents early release on parole.¹³⁶

b. Procedure

In order to file a grievance, you must write it down and then give it to the chairman of the Board.¹³⁷ When the chairman gets the grievance, he will review it and, if appropriate, will give it to the proper authority for further action.¹³⁸

¹²⁶ LA. ADMIN. CODE tit. 22 § 901(C)(1) (2017).

¹²⁷ LA. ADMIN. CODE tit. 22 § 901(C)(2) (2017).

¹²⁸ LA. ADMIN. CODE tit. 22 § 901(C)(3)(a) (2017).

¹²⁹ LA. ADMIN. CODE tit. 22 § 901(C)(3)(b) (2017).

¹³⁰ LA. ADMIN. CODE tit. 22 § 901(C)(3)(c) (2017).

¹³¹ LA. ADMIN. CODE tit. 22 § 1701(B) (2017).

¹³² LA. ADMIN. CODE tit. 22 § 1701(A) (2017).

¹³³ LA. ADMIN. CODE tit. 22 § 1701(C) (2017).

¹³⁴ LA. ADMIN. CODE tit. 22 § 1701(A) (2017).

¹³⁵ LA. REV. STAT. ANN. § 15:574.9 (2017): “When a parolee has been returned to the physical custody of the Department of Public Safety and Corrections, office of corrections services, the Board shall hold a hearing to determine whether his parole should be revoked, unless said hearing is expressly waived in writing by the parolee. A waiver shall constitute an admission of the findings of the pre-revocation proceeding and result in immediate revocation.”

¹³⁶ Sinclair v. Stalder, 2003-1568, p. 2 (La. App. 1 Cir. 10/17/03); 867 So. 2d 743, 744.

¹³⁷ LA. ADMIN. CODE tit. 22 § 1703(A) (2017).

¹³⁸ LA. ADMIN. CODE tit. 22 § 1703(A) (2017).

If your grievance relates to the Board, or a member of the Board, or the staff assigned to the Board, the chairman or his designee will investigate to see if your grievance is true.¹³⁹ If your grievance is found to possibly be true, then the chairman will try to fix the grievance.¹⁴⁰

If the chairman cannot fix the grievance, then your grievance will be given to a grievance committee to handle.¹⁴¹ This grievance committee is made up of the chairman of the Board, the vice chairman, and any other people selected by both the chairman and the vice chairman.¹⁴² The chairman cannot be on the committee if the grievance is about him.¹⁴³ The vice chairman also cannot be on the committee if the grievance is about him or the chairman.¹⁴⁴

If the grievance committee cannot fix the grievance, then your grievance will be given to the governor's executive counsel, along with any supporting documents.¹⁴⁵ The supporting documents will include:¹⁴⁶

- 1) A reference to the relevant statute, rules, regulations, and/or code of ethics, etc. that you claim the Board violated;
- 2) A written summary of the attempts made to fix the grievance; and
- 3) Any other relevant documents.

If the grievance is against the chairman of the Board, the grievance will be given directly to the vice chairman.¹⁴⁷ In this situation, the chairman will not serve on the grievance committee and will not appoint someone to stand in for him on the committee.¹⁴⁸ Similarly, if the grievance is against the vice chairman, the vice chairman will not serve on the grievance committee and will not appoint someone to stand in for him on the committee.¹⁴⁹ The remaining member of the committee will select a member of the Board to serve in place of the chairman or vice chairman.¹⁵⁰ If the grievance is against a Board member, that member will not serve on the committee.¹⁵¹

The decision of the chairman, the grievance committee, or the executive counsel (whichever applies, depending on the situation) is final, and you cannot appeal it.¹⁵²

A written response to the grievance will be mailed to you.¹⁵³ If a Board member violated the Louisiana Board of Parole Rules and Procedures, the Department of Public Safety and Corrections regulations, or the Louisiana Revised Statutes, that Board member will get a letter about the violation.¹⁵⁴ The governor will also receive a copy of that letter for settling the matter.¹⁵⁵

D. END OF PAROLE

Your parole can end by termination or revocation. This Section will focus on the revocation of parole, where you may be taken off parole and returned to prison or jail. This Section will discuss how the Parole Board can revoke your parole and will explain the procedure through which your parole may be

¹³⁹ LA. ADMIN. CODE tit. 22 § 1703(B) (2017).

¹⁴⁰ LA. ADMIN. CODE tit. 22 § 1703(B)(1) (2017).

¹⁴¹ LA. ADMIN. CODE tit. 22 § 1703(B)(2) (2017).

¹⁴² LA. ADMIN. CODE tit. 22 §§ 1703(B)(2)(a)–(c) (2017).

¹⁴³ LA. ADMIN. CODE tit. 22 § 1703(D)(1) (2017).

¹⁴⁴ LA. ADMIN. CODE tit. 22 § 1703(B)(2)(b), (D)(2) (2017).

¹⁴⁵ LA. ADMIN. CODE tit. 22 § 1703(C) (2017).

¹⁴⁶ LA. ADMIN. CODE tit. 22 §§ 1703(C)(1)–(3) (2017).

¹⁴⁷ LA. ADMIN. CODE tit. 22 § 1703(D)(1) (2017).

¹⁴⁸ LA. ADMIN. CODE tit. 22 § 1703(D)(1) (2017).

¹⁴⁹ LA. ADMIN. CODE tit. 22 § 1703(D)(2) (2017).

¹⁵⁰ LA. ADMIN. CODE tit. 22 § 1703(D)(3) (2017).

¹⁵¹ LA. ADMIN. CODE tit. 22 § 1703(D)(4) (2017).

¹⁵² LA. ADMIN. CODE tit. 22 § 1703(E) (2017).

¹⁵³ LA. ADMIN. CODE tit. 22 § 1705(A) (2017).

¹⁵⁴ LA. ADMIN. CODE tit. 22 § 1705(B) (2017).

¹⁵⁵ LA. ADMIN. CODE tit. 22 § 1705(B) (2017).

revoked. For example, you may be required to attend a pre-revocation hearing or a revocation hearing, depending on the parole violation in question. Finally, this Section will explain the various decisions that the Parole Board may make and how you may appeal the revocation of your parole.

1. How and Why Parole Revocation Begins

If an arresting police officer has “probable cause” to believe that you violated your parole, he can enter your house without an arrest warrant.¹⁵⁶ “Probable cause” means there is a reasonable basis for the belief of guilt, supported by more than just suspicion, but less than conclusive proof.¹⁵⁷

a. Technical Violations

A technical violation is any violation of your conditions of parole that is not a felony conviction (discussed in Part D(1)(b) below).¹⁵⁸ Therefore, if you engage in felony or misdemeanor behavior (even if a court has not had the opportunity to review that behavior), you can still violate your parole.¹⁵⁹ Thus, even before a court finds that your behavior is a felony or misdemeanor, you may have your parole revoked if your behavior amounts to a technical violation of your parole. If you are held in jail by the Division of Probation and Parole for committing a technical violation of your parole, you will have a pre-revocation hearing at your place of detention scheduled as soon as possible.¹⁶⁰ Pre-revocation hearings are discussed in Part D(2)(b).

b. New Felony Convictions

If you are convicted and sentenced for a new felony and the appeals process has been exhausted (meaning you have unsuccessfully gone through all your opportunities to appeal),¹⁶¹ your parole will be *automatically* revoked.¹⁶² You will not have a right to a revocation hearing if you are convicted for a felony. Revocation hearings are discussed in detail in Part D(2)(c). It is possible that your parole may be revoked before you exhaust all appeals of your new convictions. The behavior that led to your new felony conviction may also represent a technical violation, in which case your parole may be revoked.¹⁶³

c. Convictions in Other States

If you are convicted of a new felony in another state, your parole will automatically be revoked.¹⁶⁴ If your parole is automatically revoked, you will not have any right to a preliminary or final revocation hearing.¹⁶⁵ If you are convicted of a misdemeanor in another state, but that misdemeanor would be a

¹⁵⁶ See *State v. Bass*, 595 So. 2d 820, 823 (La. App. 2 Cir. 1992), *writ denied*, 598 So. 2d 373 (La. 1992) (holding that the arrest warrant requirement for arresting someone in their home does not apply to the search of a parolee’s home when arresting a parolee for violation of his parole).

¹⁵⁷ See *U.S. v. One 1987 Mercedes 560 SEL*, 919 F.2d 327, 331 (5th Cir. 1990) (providing a definition of probable cause).

¹⁵⁸ LA. ADMIN. CODE tit. 22 § 1101(B)(1) (2017).

¹⁵⁹ LA. ADMIN. CODE tit. 22 § 1101(B)(1) (2017). See *State v. Brown*, 387 So. 2d 567, 569 (La. 1980) (stating that associating with other felons and failing to notify parole officer about a job change could be technical violations). See also *McKendall v. Tanner*, 2009 WL 1811013, at *7 (E.D. La. 2009) (upholding Parole Board’s decision to revoke parole because parolee violated condition of parole of going to a substance abuse program).

¹⁶⁰ LA. ADMIN. CODE tit. 22 § 1101(B)(2) (2017).

¹⁶¹ See *State ex rel. Clark v. Hunt*, 337 So. 2d 438, 440 (La. 1976) (holding that a conviction itself is only a violation of parole when the conviction is final). Your appeals process has been exhausted when you can no longer appeal your conviction. For more information on appeals, refer to Chapter 3 of this Supplement, “Appealing Your Conviction.”

¹⁶² See *Lay v. Louisiana Parole Bd.*, 98-0053, p. 9 (La. App. 1 Cir 04/01/99); 741 So. 2d 80, 87 (holding that automatic revocation of parole after new felony conviction does not violate due process).

¹⁶³ LA. ADMIN. CODE tit. 22 § 1101(A)(1) (2017).

¹⁶⁴ LA. ADMIN. CODE tit. 22 § 1101(A)(2) (2017).

¹⁶⁵ See *generally Lay v. Louisiana Parole Bd.*, 98-0053 (La. App. 1 Cir 04/01/99); 741 So. 2d 80, 87 (discussing automatic revocation of parole). If you are not entitled to a preliminary or final revocation hearing, this means that you have effectively been denied a revocation hearing and can only appeal that denial to an appellate court. If you do not appeal, any decision made by the Board after the denial of your hearing and regarding your revocation and sentence will be final. See Part 2 of this Chapter.

felony in Louisiana, then your parole will also be automatically revoked.¹⁶⁶ When you are released from the other state's prison system, you will be returned to Louisiana, where you will have to serve the remainder of your original sentence.¹⁶⁷

d. Absconders

You are considered to have “absconded supervision” if you leave your approved place of residence without getting permission from the Division of Probation and Parole.¹⁶⁸ If you leave your approved place of residence without permission and you are taken into custody, you will be returned to the Department of Public Safety and Corrections for a revocation hearing.¹⁶⁹ If you abscond out of state, you will not be entitled to a pre-revocation hearing.¹⁷⁰ A warrant also may be issued for your arrest if you are charged with absconding your parole.¹⁷¹

When you get returned to the Department of Public Safety and Corrections, the Department will fill out a parole revocation form and send it to the Board.¹⁷² You should carefully examine the terms of your parole regarding where you are allowed to go and what permission you need to go to a location, in order to make sure that you are not deemed to have absconded.

2. Revocation Procedure

a. Activity Report

If you violate the terms of your parole, the Division of Probation and Parole must submit an activity report to the Parole Board.¹⁷³ This report must include a short summary of the violation and may include a recommendation for action based on the facts of the case and the seriousness of the violation.¹⁷⁴ These include, but are not limited to, the recommendations that:

- 1) An arrest warrant should be issued;
- 2) Bond should be allowed;
- 3) New conditions of parole should be added;
- 4) Certain conditions of parole should be removed; or
- 5) Your arrest warrant should be recalled.¹⁷⁵

After the activity report is received, your case will be decided by the Division of Probation and Parole.¹⁷⁶ After the Division decides on a recommendation, it will send a decision notice to the Probation and Parole District Officer where you are assigned.¹⁷⁷ You will then receive notice of the decision.¹⁷⁸

b. Pre-revocation Hearing

¹⁶⁶ LA. ADMIN. CODE tit. 22 § 1101(A)(2) (2017).

¹⁶⁷ LA. ADMIN. CODE tit. 22 § 1301(A)(2) (2017).

¹⁶⁸ LA. ADMIN. CODE tit. 22 § 1101(C)(1) (2017); *see also* Jones v. Cooper, No. 09-0086, 2009 WL 4823837, at *9–10 (W.D. La. Dec. 14, 2009) (explaining the difference between “absconding” and “failing to report”).

¹⁶⁹ LA. ADMIN. CODE tit. 22 § 1101(C)(2) (2017).

¹⁷⁰ LA. ADMIN. CODE tit. 22, § 1101(C)(2)(a) (2017); *see also* Jones v. Cooper, No. 09-0086, 2009 WL 4823837, at *9 (W.D. La. Dec. 14, 2009) (holding that someone who absconded does not have a right to a pre-revocation hearing).

¹⁷¹ *See* Scott v. Travis, 07-4150 (E.D. La. 01/11/08); 2008 WL 161716, at *1 (discussing arrest warrant issued for parolee suspected of absconding).

¹⁷² LA. ADMIN. CODE tit. 22 § 1101(C)(2)(c) (2017).

¹⁷³ LA. ADMIN. CODE tit. 22 § 1103(A) (2017).

¹⁷⁴ LA. ADMIN. CODE tit. 22 § 1103(A) (2017).

¹⁷⁵ LA. ADMIN. CODE tit. 22 § 1103(B)(1) (2017).

¹⁷⁶ LA. ADMIN. CODE tit. 22 § 1103(D) (2017).

¹⁷⁷ LA. ADMIN. CODE tit. 22 § 1103(D) (2017).

¹⁷⁸ LA. ADMIN. CODE tit. 22 § 1103(D) (2017).

If you are suspected of violating the terms of your parole, a pre-revocation hearing will be held to determine if there is “probable cause” that you violated the conditions of your parole.¹⁷⁹ “Probable cause” exists when there is a reasonable basis for the belief of guilt, supported by more than just suspicion, but less than conclusive proof.¹⁸⁰ If you are detained for violations of the conditions of your parole, then you must be given a pre-revocation hearing, unless there are other relevant rules.¹⁸¹ For example, if you are an absconder or have been convicted of a new offense, you may not have the right to a pre-revocation hearing.¹⁸²

i. *Pre-revocation Hearing Procedure*

A pre-revocation hearing is held in front of an officer from the Probation and Parole District Office.¹⁸³ The hearing must take place within a “reasonable time” following your detention and in a location close to where the alleged violation took place so that you can bring witnesses.¹⁸⁴ The hearing officer should not know you or anything about the facts surrounding the allegations that you violated your parole until the hearing takes place.¹⁸⁵ If the officer finds that there is probable cause that you violated your parole, then you may be held in detention until your final revocation hearing, as discussed in Section D(2)(c).¹⁸⁶ The facts and allegations in the pre-revocation hearing documents, such as the Activity Report, will be considered at the final revocation hearing stage.¹⁸⁷ Once the hearing is complete, the officer will rule whether there is probable cause.¹⁸⁸

ii. *Your Rights at your Pre-revocation Hearing*

Before your hearing, you must get a written notification that states the charges against you, your rights at the hearing, and the date, time, and place of the hearing.¹⁸⁹ You have the right to an attorney at your pre-revocation hearing.¹⁹⁰ You might even have an attorney appointed for you.¹⁹¹ You also have the right to waive your pre-revocation hearing.

iii. *Pre-revocation Hearing Findings*

If the hearing officer rules that there is no probable cause to believe that you violated your parole, then you will be released from custody.¹⁹² However, if the hearing officer finds that there is probable cause, he will make one of four possible recommendations to the Parole Board:

- 1) That you should be detained;

¹⁷⁹ LA. ADMIN. CODE tit. 22 § 1105(A) (2017).

¹⁸⁰ See *U.S. v. One 1987 Mercedes 560 SEL*, 919 F.2d 327, 331 (5th Cir. 1990) (defining “probable cause”).

¹⁸¹ See *Frank v. Pitre*, 353 So. 2d 1293, 1295 (La. 1977) (holding that parole violator has a right to a “quick ‘probable cause’ hearing when charged with violating conditions” of parole).

¹⁸² LA. REV. STAT. ANN. § 15:574.9(C) (2017); see *Pickens v. Butler*, 814 F.2d 237, 241 (5th Cir. 1987) (holding that parolee did not have right to pre-revocation or revocation hearing after being convicted of felony); see also *Jones v. Cooper*, 09-0086 (W.D. La. Dec. 14, 2009); 2009 WL 4823837, at *9 (holding that absconder is not entitled to a pre-revocation hearing).

¹⁸³ LA. ADMIN. CODE tit. 22 § 1105(A) (2017).

¹⁸⁴ LA. ADMIN. CODE tit. 22 § 1105(A)(3) (2017); see also *Morrissey v. Brewer*, 408 U.S. 471, 488, 92 S. Ct. 2593, 2604, 33 L. Ed. 2d 484 (1972) (holding that a pre-revocation hearing must take place within a “reasonable time” after the parolee’s detention); see also *State v. Langley*, 95-1489, p. 24 (La. 04/14/98); 711 So. 2d 651, 669 (stating that an “unreasonable delay” may violate due process).

¹⁸⁵ LA. ADMIN. CODE tit. 22 § 1105(A) (2017).

¹⁸⁶ LA. ADMIN. CODE tit. 22 § 1107(A)(2) (2017).

¹⁸⁷ LA. ADMIN. CODE tit. 22 § 1105(A)(3) (2017).

¹⁸⁸ LA. ADMIN. CODE tit. 22 § 1105(C)(3) (2017).

¹⁸⁹ LA. ADMIN. CODE tit. 22 § 1105(B)(1) (2017).

¹⁹⁰ LA. ADMIN. CODE tit. 22 § 1105(C)(1) (2017).

¹⁹¹ LA. ADMIN. CODE tit. 22 § 1105(C)(1) (2017). For more information on whether you are eligible to have an attorney appointed to you at the pre-revocation hearing, please refer to Chapter 4 of the main *JLM*.

¹⁹² LA. ADMIN. CODE tit. 22 § 1107(A)(1) (2017).

- 2) If new charges are pending, that you should be allowed to make bond while waiting for the Parole Board to make its final decision;¹⁹³
- 3) That you should remain incarcerated without bond until the Board makes its final decision, or
- 4) That you should be reprimanded (disciplined) and remain under parole supervision.¹⁹⁴

If the hearing officer finds probable cause, he will complete a parole revocation questionnaire and send it to the Parole Board.

iv. *Violation Report*

After the pre-revocation hearing officer makes his decision (or after you waive your right to a pre-revocation hearing), the Division of Probation and Parole prepares a violation report.¹⁹⁵ The Division of Probation and Parole must complete this report within five days of receiving the pre-revocation decision.¹⁹⁶ The report must:

- 1) Contain a summary of your conduct on supervision;
- 2) Advise the Parole Board of your alleged violations; and
- 3) Make recommendations to the Board for action.¹⁹⁷

The violation report may recommend a number of actions, including automatic revocation, reprimand, or creation of new conditions of parole.¹⁹⁸ The actions recommended may be temporary or final.¹⁹⁹ The violation report and all corresponding documentation are then forwarded to the Parole Board.²⁰⁰ After the case is decided, a decision notice will be sent to you and the Probation and Parole District Office where you are placed under supervision.²⁰¹

c. *Revocation Hearing*

If both the pre-revocation hearing officer and the Division of Probation and Parole have found probable cause, the next and final step is a revocation hearing with the Parole Board.²⁰² At the final revocation hearing, the Board determines if you violated one or more of the conditions of your parole.²⁰³ Unlike in a criminal trial where the standard of proof is “beyond a reasonable doubt” (where no reasonable person who examines the evidence would think that the person is innocent), at a revocation hearing, the standard of proof is “by a preponderance of the evidence” (where the evidence simply persuades the decision maker of your guilt).²⁰⁴ As a parolee, you may, upon request, be given the right to an attorney at the revocation hearing.²⁰⁵ First, you must make a claim that you have not committed the alleged violations or that even if you did, there are substantial reasons that explain or mitigate (reduce your blameworthiness) the violations. Next, you must also claim that it may be difficult for you to present these

¹⁹³ In Louisiana, you have a right to bail. Before and during your trial, you shall be bailable unless you are charged with a capital offense. However, if you are charged with a violent crime or certain controlled dangerous substances laws, you may not be bailable if there is clear and convincing evidence that there is a substantial risk that you may flee while on bond or that you may pose a danger to another person or the community. LA. CONST. art. I, § 18.

¹⁹⁴ LA. ADMIN. CODE tit. 22 § 1107(A)(2) (2017).

¹⁹⁵ LA. ADMIN. CODE tit. 22 § 1109(C) (2017).

¹⁹⁶ LA. ADMIN. CODE tit. 22 § 1109(C) (2017).

¹⁹⁷ LA. ADMIN. CODE tit. 22 § 1109(A)(1) (2017).

¹⁹⁸ LA. ADMIN. CODE tit. 22 § 1109(B) (2017).

¹⁹⁹ LA. ADMIN. CODE tit. 22 § 1109(A)(2) (2017).

²⁰⁰ LA. ADMIN. CODE tit. 22 § 1109(C) (2017).

²⁰¹ LA. ADMIN. CODE tit. 22 § 1109(E) (2017).

²⁰² LA. ADMIN. CODE tit. 22 § 1113 (2017).

²⁰³ LA. ADMIN. CODE tit. 22 § 1113(A) (2017).

²⁰⁴ Powell v. Louisiana Parole Bd., 2010-2058 (La. App. 1 Cir. 5/6/11); 2011 La. App. LEXIS 317, at *3 (unpublished) (upholding the Parole Board's decision to revoke parole “because a preponderance of the evidence established that [the defendant] had been engaged in criminal activity.”).

²⁰⁵ Gagnon v. Scarpelli, 411 U.S. 778, 790–791, 93 S. Ct. 1756, 1764, 36 L. Ed. 2d 656 (1973); State v. Rideau, 376 So. 2d 1251, 1253 (La. 1979).

claims without the assistance of counsel.²⁰⁶ If your request for counsel is denied, the reason will be stated in the record.²⁰⁷ A revocation hearing is somewhat less formal than a typical criminal trial, and the Board can more freely consider hearsay and circumstantial evidence.²⁰⁸ The Board then decides whether the violations were severe enough to justify sending you back to prison to serve the rest of your sentence.²⁰⁹

i. *Your Rights at the Revocation Hearing*

You must be present at the hearing and you may be represented by an attorney.²¹⁰ You have some due process rights at the revocation hearings,²¹¹ but you do not have all the rights that you would have in a normal criminal prosecution.²¹² The United States Supreme Court has held that you have the following rights at revocation hearings:

- 1) The right to written notice of the alleged violation;
- 2) The right to know the evidence against you;
- 3) An opportunity to be heard in person and to present evidence and witnesses,
- 4) The right to confront and cross-examine adverse witnesses;
- 5) The right to a neutral, detached body to consider the claim against you; and
- 6) The right to receive a written statement by the fact finders stating the evidence they used and their reasons for revoking parole.²¹³

In addition, you typically can bring one witness to testify on your behalf, and the Board may allow you to present more witnesses if you can show good cause (a good reason for requiring them).²¹⁴ The allegations will be read to you, and you will be asked to respond to each allegation by saying “guilty” or “not guilty”.²¹⁵ You may speak for yourself or your attorney may speak on your behalf.²¹⁶

In some situations, you may not have a revocation hearing. For example, you can waive your right to a revocation hearing. However, if you waive your hearing, you are treated as if you had admitted to all of the findings in the pre-revocation proceedings and you will have your parole revoked immediately.²¹⁷ In addition, by law, if you are “convicted” (found guilty of committing a crime) of a new felony while on parole, you may not be granted a final revocation hearing.²¹⁸

ii. *Revocation Hearing Decisions*

At the end of the revocation hearing, the panel may make one of four decisions:

²⁰⁶ *Gagnon v. Scarpelli*, 411 U.S. 778, 790, 93 S. Ct. 1756, 1764, 36 L. Ed. 2d 656 (1973); *State v. Rideau*, 376 So. 2d 1251, 1253 (La. 1979); *see also* *State v. Baggert*, 350 So. 2d 652, 654 (La. 1977) (discussing limits on right to counsel in parole revocation hearings).

²⁰⁷ *Gagnon v. Scarpelli*, 411 U.S. 778, 791, 93 S. Ct. 1756, 1764, 36 L. Ed. 2d 656 (1973).

²⁰⁸ *Powell v. Louisiana Parole Bd.*, 2010-2058 (La. App. 1 Cir. 5/6/11); 2011 La. App. LEXIS 317, at *3 (unpublished).

²⁰⁹ LA. ADMIN. CODE tit. 22 § 1113(A) (2017).

²¹⁰ LA. ADMIN. CODE tit. 22 § 1113(C) (2017).

²¹¹ *See generally* *Morrissey v. Brewer*, 408 U.S. 471, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972) (discussing due process rights owed to parolees at revocation hearings).

²¹² *See* *Lay v. Louisiana Parole Bd.*, 98-0053 (La. App. 1 Cir. 4/1/99); 741 So. 2d 80, 85–86 (holding that a parolee at a revocation hearing does not have the full set of rights owed to a defendant in a criminal proceeding); *see also* *State v. Langlely*, 95-1489, pp. 23–24 (La. 4/14/98); 711 So. 2d 651, 669 (parolees have less due process rights at revocation hearings than in ordinary criminal trial).

²¹³ *Morrissey v. Brewer*, 408 U.S. 471, 489, 92 S. Ct. 2593, 2604, 33 L. Ed. 2d 484 (1972).

²¹⁴ LA. ADMIN. CODE tit. 22 § 1113(C)(2) (2017).

²¹⁵ LA. ADMIN. CODE tit. 22 § 1113(E)(2) (2017).

²¹⁶ LA. ADMIN. CODE tit. 22 §§ 1113(F)(1)–(2) (2017).

²¹⁷ LA. REV. STAT. ANN. § 15:574.9(A) (2017).

²¹⁸ LA. ADMIN. CODE tit. 22 § 1117(A) (2017). *See also* *State ex. rel. Bertrand v. Hunt*, 325 So. 2d 788, 789–790 (La. 1976) (holding that due process does not require final revocation hearing where parole is automatically revoked because of the conviction of another offense). *See also* *Pickens v. Butler*, 814 F.2d 237, 239 (5th Cir. 1987) (holding that due process did not require that parolee be given final revocation hearing since revocation was mandatory by statute).

- 1) “Revoke” (take away) parole;
- 2) “Reprimand” (lecture) you and restore you to parole supervision with or without new conditions of parole;
- 3) Rule that you did not meet the requirements to terminate (get off of) parole even if the full term of parole supervision ended; or
- 4) Place you on work release for up to six months instead of revoking your parole.²¹⁹

In addition to those four options, in some cases, the Board may commit you to a rehabilitation or substance abuse program as a substitute to revocation. You may be placed in such a program for up to six months, so long as the period committed does not extend the period of parole beyond the full term of parole.²²⁰ The panel may choose not to issue an immediate decision until certain testimony that was unavailable at the pre-revocation hearing can be heard, further evidence can be presented, or there is an outcome to the charges pending against you.²²¹ This situation arises if evidence that was unavailable at the pre-revocation hearing becomes available at the revocation stage, or if your charged parole violation was the “commission” (act of doing) of a crime that was being considered in a separate trial.²²² At the end of the hearing, the panel will orally tell you its decision and then give you a copy of the Parole Revocation Decision Form.²²³

d. Review of Denial of Revocation Hearing

The Louisiana state district court will have jurisdiction to hear an appeal of a revocation hearing *only* if your right to a revocation hearing was denied.²²⁴ If you seek review on the grounds that you were denied a revocation hearing, you will have 90 days from the day of revocation to file your petition.²²⁵ After the 90-day period, your petition for review will be dismissed with “prejudice” (once and for all).²²⁶ The only proper defendant in such a lawsuit is the Board of Parole.²²⁷ You must “serve process” (give notice of any legal action) for the petition of review on the chairman of the Board of Parole or one of his designees.²²⁸

The district court will review the revocation hearing without a jury and will only look at the record created in the revocation hearing.²²⁹ The district court will limit its review of the Board’s decision to the issues presented in the parolee’s petition for review.²³⁰ The district court will review the findings and decisions of the Board in the revocation hearing to decide if the Board’s findings were clearly wrong and thus an abuse of its power.²³¹ The court may only review the parole revocation process to make sure that you received “due process” (fair treatment) in the revocation process.²³² The court may either “affirm” (confirm) the revocation decision or reverse (change or disagree with the decision) it and send the case back to the Parole Board for revocation proceedings; if the district court confirms the revocation decision, you may appeal the district court’s judgment to a court of appeal.²³³

²¹⁹ LA. ADMIN. CODE tit. 22 § 1115(A) (2017).

²²⁰ LA. ADMIN. CODE tit. 22 § 1115(A)(5) (2017); LA. REV. STAT. ANN. § 15:574.7(C)(2)(b) (2017).

²²¹ LA. ADMIN. CODE tit. 22 § 1115(B) (2017).

²²² LA. ADMIN. CODE tit. 22 § 1115(B) (2017).

²²³ LA. ADMIN. CODE tit. 22 § 1115(C)(1) (2017).

²²⁴ LA. REV. STAT. ANN. §§ 15:574.11(A)–(C) (2017). *See* Leach v Louisiana Parole Bd., 2007-0848, p. 7 (La. App. 1 Cir. 6/6/08); 991 So. 2d 1120, 1124, *writ denied*, 2008-2385 (La. 8/12/09); 17 So. 3d 378, and *writ denied*, 2008-2001 (La. 12/18/09); 23 So. 3d 947 (affirming that only where a revocation hearing was denied may a parolee seek appellate review in court).

²²⁵ LA. REV. STAT. ANN. § 15:574.11(D) (2017).

²²⁶ LA. REV. STAT. ANN. § 15:574.11(D) (2017).

²²⁷ LA. REV. STAT. ANN. § 15:574.11(D) (2017).

²²⁸ LA. REV. STAT. ANN. § 15:574.11(D) (2017).

²²⁹ LA. REV. STAT. ANN. § 15:574.11(C) (2017).

²³⁰ LA. REV. STAT. ANN. § 15:574.11(C) (2017).

²³¹ *See* Bertrand v. Louisiana Parole Bd., 2006-0871, p. 4 (La. App. 1 Cir. 3/28/07); 960 So. 2d 979, 981 (upholding the Parole Board’s findings in the revocation hearing because they were not clearly wrong nor did they show an abuse of the Board’s discretion).

²³² *See* Morrissey v. Brewer, 408 U.S. 471, 488–489, 92 S. Ct. 2593, 2604 (1972).

²³³ LA. REV. STAT. ANN. § 15:574.11(C) (2017). For more information on appealing your conviction, please refer to Chapter 2.

e. Effect on Sentence Length

If you are returned to incarceration for violating parole, and the violation does not include a new sentence for a felony crime, you will serve the remainder of your original sentence as of your date of release on parole.²³⁴ However, your remaining sentence may be shortened depending on the relevant commutation statutes. Your remaining sentence may also be shortened for any good time credit or credit for time served for good behavior while you are on parole.²³⁵ If you violate the terms of your parole and your parole is revoked, you will give up all good time earned for the part of the sentence that you served before being granted parole.²³⁶

3. Release from Parole Supervision

a. Suspension of Supervised Parole

The Parole Board may find that you should be on unsupervised parole and suspend your supervision.²³⁷ Under unsupervised parole, you will not be supervised by your parole officer. Nonetheless, you will still be expected to comply with the requirements of your parole. However, in order to have your parole supervision suspended, you must have been on supervised parole for at least one and a half years, the Division of Probation and Parole must recommend that you be placed on unsupervised parole, and you must meet other standards, as well.²³⁸ If you believe you are qualified for early release, you should consult your parole office. However, if you commit parole violations prior to the end of your full-term discharge date, your parole may be revoked. You may also be placed back on maximum supervision parole at any time prior to the end of your full-term discharge date if the Division of Probation and Parole makes a report that shows that maximum supervision is in the interests of the public or the parolee.²³⁹

b. Termination of parole

As a parolee, you will be given a Certificate of Discharge from the Department of Public Safety and Corrections when you complete your sentence.²⁴⁰ The Parole Board cannot terminate your parole until the full-term discharge date.²⁴¹

c. Your Rights on Release from Parole Supervision

If you are convicted of a felony and are on parole, you may lose certain rights.²⁴² However, the Louisiana constitution provides that your “full rights of citizenship shall be restored upon termination of state and federal supervision following conviction for any offense”.²⁴³ The full rights of citizenship include basic rights of citizenship such as “the right to vote, work or hold public office.”²⁴⁴ However, upon release from parole, you may lose certain freedoms, such as the privilege to hold a license to practice certain professions.²⁴⁵

²³⁴ LA. ADMIN. CODE tit. 22 § 1301(A)(2) (2017).

²³⁵ LA. ADMIN. CODE tit. 22 § 1301(A)(2) (2017). A commutation statute is a statute that regards the shortening of a legal punishment, often the length of imprisonment. For more information on commutation statute, please refer to Part B(4) of this Chapter.

²³⁶ LA. ADMIN. CODE tit. 22 § 1301(A)(3) (2017).

²³⁷ LA. ADMIN. CODE tit. 22 § 1501(A) (2017).

²³⁸ LA. ADMIN. CODE tit. 22 § 1501(A) (2017).

²³⁹ LA. ADMIN. CODE tit. 22 § 1501(B) (2017).

²⁴⁰ LA. ADMIN. CODE tit. 22 § 1503 (2017).

²⁴¹ LA. ADMIN. CODE tit. 22 § 1503 (2017).

²⁴² See LA. CONST. art I, § 3 (right against involuntary servitude).

²⁴³ LA. CONST. art I, § 20.

²⁴⁴ State v. Adams, 355 So. 2d 917, 922 (La. 1978).

²⁴⁵ State v. Adams, 355 So. 2d 917, 922 (La. 1978).

D. CONCLUSION

First, you should figure out whether your conviction has any built-in parole rules. If it does, those rules apply. If not, the general rules for parole that were discussed in this chapter apply. If the general rules of parole apply to you, read Part B to determine whether you are eligible for any of those types of parole. If you are denied parole, you can apply for a rehearing. If you are denied parole, you will have another parole hearing after a certain amount of time. That amount of time will depend on what crime you were convicted of. If you are released on parole, you will be told of any conditions of parole you have. You might have special conditions for your parole. Your parole can end by termination or revocation. If you violate the terms of your parole, your parole might be revoked. In most cases, there will be several hearings to determine whether you violated the terms of your parole. In some cases, your parole can be automatically revoked without hearings. At your full-term discharge date, your parole will be terminated (ended) and you will get back some of your rights.