



Objective Parole Reform for Low-Risk Offenders

House Bill 5377, sponsored by Representative Klint Kesto (R – District 39)

The problem

Incarcerated people eligible for parole undergo a rigorous risk-assessment that is incorporated into their parole guidelines score. The parole board can deny parole to individuals that score “high probability of parole” (i.e. low risk of re-offense) on the parole guidelines only if it has a “substantial and compelling” reason to do so. The parole board has defined “substantial and compelling” reasons very loosely and often appears to deny release to low-risk incarcerated people based on the reactions of the individual board members to the offense.

The solution

HB 5377 simply defines what constitutes “substantial and compelling” reasons so that they are relevant to an incarcerated person’s current risk.

The bill eliminates *subjective*—i.e., not “evidence-based”— denials of parole, while still preserving the parole board's ability to deny paroles to low-risk incarcerated people based on *legitimate safety concerns*.

What HB 5377 *doesn't* do

- The bill does not guarantee the parole of any prisoner — even one with good behavior.
- The bill does not require the parole board to release any prisoner without adequate assurance that they are not a risk to public safety.

What HB 5377 *does* do

- The bill helps the parole board make evidence-based parole decisions.
- The bill ensures that the process is consistent, objective, and evidence-based.
- The bill includes additional safeguards to help ensure that low-risk individuals have invested in their own rehabilitation and do not pose a threat to public safety.
- The bill gives MDOC more flexibility to deny parole where *objective* evidence of danger to the public exists.

What are the objective reasons to deny parole to an incarcerated person?

- The incarcerated person exhibits a pattern of ongoing behavior while incarcerated that indicates they would be a substantial risk to public safety (additional convictions, major misconducts, etc.).
- The incarcerated person refuses to participate in programming ordered by the MDOC that designed to reduce the risk of reoffending.
- Verified, objective evidence of substantial harm to a victim that could not have been available for consideration at the time of sentencing.
- The incarcerated person has threatened harm to another person upon release.
- Objective evidence of post-sentencing conduct, not already considered, that indicates an incarcerated person would present a high risk to public safety.
- The incarcerated person is a suspect in an unsolved criminal case currently being investigated.
- The incarcerated person has a pending felony charge.
- The incarcerated person hasn't yet completed programming, programming is not otherwise available in the community if they are released and ordered to continue programming, and their risk cannot be managed in the community without programming prior to completion.
- The release of the incarcerated person is otherwise barred by another law.
- The incarcerated person has not adequately completed a parole plan.
- A recent psychiatric evaluation shows the incarcerated person presents a condition that makes them a high risk to reoffend.

Objective parole is a modest reform

HB 5377 - Objective Parole Reform - is a modest reform that applies only to low-risk incarcerated people. The existing parole statute *already requires* that a low-risk individual be paroled on their earliest release date unless there is a “substantial and compelling” reason not to do so.

This bill defines “substantial and compelling” reasons for this and future parole boards to emphasize both consistency in decision-making and safety for communities.