

NEVADA BOARD OF PAROLE COMMISSIONERS

Review of Parole Eligible ~~*Prisoners*~~ *Inmates* *In Absentia*

This document details the general internal process for the review of certain cases eligible for review in absentia. This document is not all inclusive. ~~and does not contain information relative to changes that affect the in absentia review of cases set forth in Assembly Bill 236 that become effective on July 1, 2020.~~ This document may be revised from time to time and the internal processes related to the in-absentia review of inmate cases may be altered when necessary to accomplish business in the most efficient manner.

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Contents

In-Absentia Discretionary Review of Eligible Parole Cases.....	2
Types of “117” Eligible Cases.....	2
Excluded “117” Cases	2
Initial Review of “117” Eligible Cases	3
Assigned Location for Initial Voting on “117” cases.....	3
Review and Initial Voting on “117” Cases by Commissioners.....	3
Rejection of In-absentia Parole Grant Recommendations.....	3
Grouping of Files – Three Concurring Votes to Grant Parole.....	4
Grouping of Files – Two Votes to Grant Parole & 3 rd Vote Needed.....	4
Fourth and Final Vote	4

In-Absentia Discretionary Review of Eligible Parole Cases

Assembly Bill (AB) 117, approved during the 2009 Legislative Session, authorized the Parole Board to grant parole to certain ~~prisoners~~ inmates without conducting a formal hearing.

NRS 213.133(8), (9), & (10) states:

~~8. A member of the Board or a person who has been designated as a case hearing representative in accordance with NRS 213.135 may recommend to the Board that a prisoner be released on parole without a meeting if:~~

~~(a) The prisoner is not serving a sentence for a crime described in subsection 6 [a capital offense, a sentence of imprisonment for life, a sexual offense involving the use or threat of use of force or violence, a habitual criminal, or a sentence that has been commuted by the State Board of Pardons Commissioners];~~

~~(b) The parole standards created pursuant to NRS 213.10885 suggest that parole should be granted;~~

~~(c) There are no current requests for notification of hearings made in accordance with subsection 4 of NRS 213.131 or, if the Board is not required to provide notification of hearings pursuant to NRS 213.10915, the Board has not been notified by the automated victim notification system that a victim of the prisoner has registered with the system to receive notification of hearings; and~~

~~(d) Notice to law enforcement of the eligibility for parole of the prisoner was given pursuant to subsection 5 of NRS 213.1085, and no person objected to granting parole without a meeting during the 30-day notice period.~~

8. In accordance with any regulations adopted by the Board, a member of the Board or a person who has been designated as a case hearing representative in accordance with NRS 213.135 shall review the parole eligibility of a prisoner and recommend to the Board that a prisoner be released on parole without a meeting if:

(a) The prisoner is not serving a sentence for a crime described in subsection 6;

(b) The parole standards created pursuant to NRS 213.10885 suggest that parole should be granted;

(c) There are no current requests for notification of hearings made in accordance with subsection 4 of NRS 213.131 or, if the Board is not required to provide notification of hearings pursuant to NRS 213.10915, the Board has not been notified by the automated victim notification system that a victim of the prisoner has registered with the system to receive notification of hearings; and

(d) Notice to law enforcement of the eligibility for parole of the prisoner was given pursuant to subsection 5 of NRS 213.1085, and no person objected to granting parole without a meeting during the 30-day notice period.

9. If a member of the Board or a person who has been designated as a case hearing representative in accordance with NRS 213.135 does not recommend that a prisoner be released on parole without a meeting pursuant to subsection 8, the prisoner must have a parole hearing.

10. A recommendation made in accordance with subsection 8 is subject to final approval by the affirmative action of a majority of the members appointed to the Board. The final approval by affirmative action must not take place until the expiration of the 30-day notice period to law enforcement of the eligibility for parole of the prisoner in accordance with subsection 5 of NRS 213.1085. Such action may be taken at a meeting of the Board or without a meeting of the Board by delivery of written approval to the Executive Secretary of the Board by a majority of the members.

These in-absentia hearings are typically referred to as “117” hearings.

Types of “117” Eligible Cases

On or about the 7th day of each month, a report¹ is prepared from NOTIS that sorts the names of ~~prisoners~~ inmates on a queried month’s eligibility list by the parole guideline recommendation categories of “deny parole,” “consider factors,” “parole at 1st or 2nd hearing” and “parole at initial eligibility.”

Beginning July 1, 2020, all inmates eligible for discretionary parole pursuant to NRS 213.133 with a guideline recommendation to grant parole must be considered in-absentia in accordance with AB 236.

The types of cases eligible to be granted in-absentia are those in which the parole guideline

¹ PARAB117 report

recommends that parole should be granted at “initial eligibility” or at the “1st or 2nd hearing.” In addition, all inmates eligible under Mandatory Parole must be considered in-absentia beginning July 1, 2020. The Board is not required to grant parole in-absentia and will schedule a hearing to consider any inmate not granted in-absentia.

Excluded “117” Cases

There are types of cases that may meet the initial criteria to be granted in-absentia based on the guideline recommendation but are excluded from consideration by the Board for other reasons. Cases on prisoners inmates who have an active request for notification of a parole hearing by a victim are automatically excluded. Cases requiring a 3-panel hearing cannot be considered for MPR in absentia. The Board has also historically excluded the in-absentia review of prisoners inmates who are sex offenders and prisoners inmates who are serving sentences for Robbery and other violent related offenses.

~~Beginning July 1, 2020, all prisoners eligible for discretionary parole with a guideline recommendation to grant parole at initial eligibility or parole at 1st or 2nd hearing, must be considered in-absentia in accordance with AB 236. In addition, all prisoners eligible under Mandatory Parole must be considered in-absentia beginning July 1, 2020. The Board is not required to grant parole in absentia and will schedule a personal hearing to consider any prisoner not granted in-absentia. Cases with active victim notification requests will continue to be excluded from in-absentia consideration.~~

Initial Review of “117” Eligible Cases

The initial review of eligible cases may be conducted by parole commissioners, parole hearings examiners and case hearing representatives.

The longstanding practice has been for contracted case hearing representatives to conduct the initial review and make a recommendation to grant parole on cases that are most likely to be granted if scheduled for ~~an in-person~~ a hearing.

Each in-absentia case file is “worked-up” with worksheets printed on **Green** colored legal paper and voted on in the panel recommendation tab in NOTIS. The file is then circulated for votes by Members of the Board.

Assigned Location for Initial Voting on “117” cases

The term “assigned location” means the office of the Parole Board where the files are first reviewed and voted on by Board Members. The “opposite location” means the ~~p~~Parole ~~b~~Board location that was not the assigned location for that month.

When there are three Board Members, excluding the Chair, available in each Parole Board office, the assigned location for the initial voting on in-absentia cases will alternate monthly between Board Members in Las Vegas (even-numbered months) and Carson City (odd-numbered months).

During the extended absence of a Board Member during the period when voting on “117’s” is performed, or when there is a Board Member vacancy, the assigned location may be designated as the location where three Board Members, excluding the Chair, are available.

Review and Initial Voting on “117” Cases by Commissioners

The term “initial voting” means the review and voting made by the Board Members collectively assigned to the assigned location.

Once a recommendation to grant parole in-absentia is made, files are distributed to all the Board Members at the assigned location for review. Board Members who concur with the recommendation to grant parole will notate their “grant” decision on the worksheet and enter the “grant” vote in NOTIS on the final votes tab in the hearing details screen in NOTIS.

Rejection of In-absentia Parole Grant Recommendations

If any of the first three Board Members reviewing a case in absentia do not concur in the recommendation to grant parole, the case will be rejected for parole consideration in-absentia. The Board Member rejecting the case should immediately notify the Executive Secretary of the rejection by email, and then forward the file to the Executive Secretary who will schedule the ~~prisoner~~ inmate for ~~an~~ ~~in-person~~ a hearing.

A rejection from in-absentia consideration does not mean parole is or will be denied. It means a Board Member did not want to grant parole in-absentia.

Grouping of Files – Three Concurring Votes to Grant Parole

When three Board Members at the assigned location concur in a recommendation to grant parole in absentia, the applicable files will be shipped to the opposite location. These files should be bundled together with a note on the top indicating “117’s – Fourth Vote Needed –do not vote until _____.”

Staff at the receiving office should set these files aside until the first working day of the eligible month, and then equally distribute these files to Board Members at the opposite location for review.

Grouping of Files – Two Votes to Grant Parole & 3rd Vote Needed

When two Board Members at the assigned location concur in a recommendation to grant parole in absentia, and a third Board Member is not available at the assigned location, the applicable files will be shipped to the opposite location. These files should be bundled together with a note on the top indicating “117’s – 3rd Vote Needed.”

Staff at the receiving office should distribute these files equally to available Board Members who will review and either enter the third vote to grant, or reject the case from consideration.

When the 3rd vote is made at the opposite location, the commissioner making the 3rd vote should bundle the files together with a note on the top indicating “117’s – Fourth Vote Needed –do not vote until _____” and distribute them evenly to the other commissioners at their location who will hold those files for voting until the 1st day of the eligible month.

Fourth and Final Vote

The Fourth Vote to Grant Parole may not be entered until the 1st day of the month in which the ~~prisoner~~ inmate appears on the NDOC Parole Eligibility list; however, the fourth vote must be entered no later than the third business day of the eligible month. This will be the month following the month when the recommendation to grant parole is made. For example, ~~prisoners~~ inmates who are eligible for parole during the month of May will be reviewed in-absentia during the month of April. The final vote may not be entered until May 1st.

If the fourth Board Member does not concur in the recommendation to grant parole, the Board Member should indicate the in-absentia denial on the worksheet (but not enter a deny vote in NOTIS) and pass the file to the next commissioner.

If, after rejection by the fourth Board Member, the fifth Board Member does not concur in the recommendation to grant parole, the Board Member rejecting the case should indicate the in-absentia denial on the worksheet and immediately notify the Executive Secretary of the rejection by email, and then forward the file to the Executive Secretary who will schedule the ~~prisoner~~ inmate for an in-person a hearing.

Once a majority of the Board concurs in the recommendation, the final grant vote should be noted on the worksheet and entered on the votes tab in NOTIS. The file should then be returned to staff at the office where the fourth vote is entered who will prepare the final order and distribute copies to the required recipients.