

## **2015 Revisions to Georgia’s Drug Recidivist Law: House Bill 328’s Parole Eligibility Provisions**

House Bill (“HB”) 328 extends parole eligibility to **some** nonviolent drug offenders who, until now, were not eligible for parole consideration. HB 328 does not create a **right** to parole. It allows certain people to ask for parole consideration if they meet several requirements. The requirements are summarized below, and the text of the new law is on the reverse side of this sheet. **HB 328 is effective July 1, 2015.**

### **I. Eligible nonviolent drug offenders**

HB 328 does not give parole eligibility to all drug offenders. It is limited to people who: (1) were sentenced to 12 years in prison or more without parole as recidivists (or repeat offenders) under O.C.G.A. §§ 16-13-30(d)<sup>1</sup> and 17-10-7(c), and (2) have served at least 12 years of their sentence. The new law does not extend to people in prison for possession-only offenses, O.C.G.A. § 16-13-30(a), or those convicted of drug trafficking.

### **II. Disqualifying prior offenses**

A person who meets the criteria in Section I may be still barred from parole consideration if he was previously convicted of any of the following **at any time in the past**:

- A “serious violent felony” as defined in O.C.G.A. § 17-10-6.1;
- A sex offense that requires annual registration as a sex offender, *see* O.C.G.A. § 42-1-12, **except** sex offenses that became punishable as misdemeanors after July 1, 2006, *see* O.C.G.A. § 16-6-3(c), § 16-6-4(b)(2)-(d)(2), § 16-6-2(d);
- Certain aggravated assault offenses, *see* O.C.G.A. § 16-5-21(b)(1) and (2);
- Possession of a firearm or weapon during the commission of a crime, *see* O.C.G.A. § 16-11-106;
- Possession of a firearm by a convicted felon, *see* O.C.G.A. § 16-11-131.

### **III. Additional requirements**

A person must also meet the following criteria to be eligible for parole consideration under the new law:

- A low-risk recidivism classification as determined by a DOC-approved risk assessment instrument;
- A medium or less than medium security housing classification;
- Completion of all programming requirements as determined by a DOC-approved risk assessment instrument;
- No guilty findings for serious disciplinary infractions in the 12 months preceding parole consideration; and
- A high school or GED diploma. If a person cannot obtain a high school or GED diploma because of illiteracy or a learning disability, he or she must complete a job skills training program, a literacy program, an adult basic education program, or a faith based program.

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<sup>1</sup> O.C.G.A. § 16-13-30(d) sets forth the punishment for persons convicted of manufacturing, delivering, distributing, dispensing, administering, selling, or possessing with intent to distribute any Schedule I or II controlled substance.

**O.C.G.A. § 42-9-45(b)(3)**  
**(Text of HB 328's Parole Eligibility Provisions)**

(3) When an inmate was sentenced pursuant to subsection (d) of Code Section 16-13-30 and subsection (c) of Code Section 17-10-7 to a term of at least 12 years and up to a life sentence, he or she may become eligible for consideration for parole if he or she:

(A) Has never been convicted of:

- (i) A serious violent felony as such term is defined in Code Section 17-10-6.1;
- (ii) An offense for which he or she was or could have been required to register pursuant to Code Section 42-1-12; provided, however, that this paragraph shall not apply to any felony that became punishable as a misdemeanor on or after July 1, 2006;
- (iii) A violation of paragraph (1) or (2) of subsection (b) of Code Section 16-5-21;
- (iv) A violation of Code Section 16-11-106; and
- (v) A violation of Code Section 16-11-131;

(B) Has completed at least 12 years of his or her sentence;

(C) Has obtained a low-risk for recidivism rating as determined by a validated risk assessment instrument approved by the Department of Corrections;

(D) Has been classified as a medium or less than medium security risk for institutional housing classification purposes by the Department of Corrections;

(E) Has completed all criminogenic programming requirements as determined by a validated risk assessment instrument approved by the Department of Corrections;

(F) In the 12 months preceding consideration, has not been found guilty of any serious disciplinary infractions; and

(G) Has a high school diploma or general educational development (GED) diploma, unless he or she is unable to obtain such educational achievement due to a learning disability or illiteracy. If the inmate is incapable of obtaining such education, he or she shall have completed a job skills training program, a literacy program, an adult basic education program, or a faith based program.