

Report Highlights

Why DLA Performed This Audit

The audit was performed to determine if there is a continued need for the board and if its termination date should be extended. The board is set to sunset on June 30, 2025, and will have one year from that date to conclude its administrative operations.

What the Legislative Auditor Recommends

1. The board chair should work with DOC's commissioner to ensure all hearings are conducted in a confidential manner.
2. The board chair and DOC's commissioner should ensure regulations are updated in a timely manner.
3. DOC's commissioner should ensure fiscal notes for pending legislation properly reflect decreases, as appropriate.

A Sunset Review of the Department of Corrections (DOC), Board of Parole (board)

July 31, 2024

Audit Control Number 20-20139-24

REPORT CONCLUSIONS

The audit concluded that the board generally complied with State law when conducting its meetings, setting parole conditions, and holding hearings. Furthermore, the board complied with State law when granting discretionary parole; however, the board granted discretionary parole at a much lower rate than it granted before criminal justice reform. The board was unable to provide specific reasons why its parole approval rate decreased.

The audit found that the board's fiscal note for House Bill 49, the bill that repealed criminal justice reform, did not decrease staff positions even though it was clear the bill would decrease the board's workload. The continued need for five board staff positions is questionable given the board's workload reverted back to pre-reform levels. The audit also noted the board and DOC management did not update regulations in a timely manner.

In accordance with AS 44.66.010(a)(2), the board is scheduled to terminate on June 30, 2025. We recommend that the legislature extend the board's termination date four years to June 30, 2029, which is half of the maximum allowed by statute. The reduced extension recommendation reflects the need for more timely legislative oversight considering the unexplained decrease in the parole approval rate, as well as the audit findings related to unjustified staff positions and outdated regulations.

REPORT CONCLUSIONS

In developing our conclusion regarding whether the Board of Parole's (board) termination date should be extended, its operations were evaluated using the 11 factors set out in AS 44.66.050(c), which are included as Appendix A to this report. Under the State's "sunset" law, these factors are to be considered in assessing whether an entity has demonstrated a public policy need for continuing operations.

The audit concluded that the board generally complied with State law when conducting its meetings, setting parole conditions, and holding hearings. Furthermore, the board complied with State law when granting discretionary parole; however, the board granted discretionary parole at a much lower rate than it granted before criminal justice reform. The board was unable to provide specific reasons why its parole approval rate decreased.

The audit found that the board's fiscal note for House Bill (HB) 49, the bill that repealed criminal justice reform, did not decrease staff positions even though it was clear the bill would decrease the board's workload. The continued need for five board staff positions is questionable given the board's workload reverted back to pre-reform levels. The audit also noted the board and Department of Corrections (DOC) management did not update regulations in a timely manner.

In accordance with AS 44.66.010(a)(2), the board is scheduled to terminate on June 30, 2025. We recommend that the legislature extend the board's termination date four years to June 30, 2029, which is half of the maximum allowed by statute. The reduced extension recommendation reflects the need for more timely legislative oversight considering the unexplained decrease in the parole approval rate, as well as the audit findings related to unjustified staff positions and outdated regulations.

Detailed report conclusions are as follows.

Board staff positions authorized by criminal justice reform continued to be funded despite the subsequent repeal.

An additional four parole hearing officers were authorized during FY 17 as part of the main criminal justice reform bill, Senate Bill (SB) 91, to respond to an increase in hearings. The board's SB 91 fiscal note estimated approximately \$493,000 in recurring costs for the four hearing officer positions. Additionally, a criminal justice technician was authorized to facilitate the newly established system of compliance credits at a recurring cost of approximately \$98,000. The additional positions helped the board effectively address the significant increase in workload resulting from SB 91.

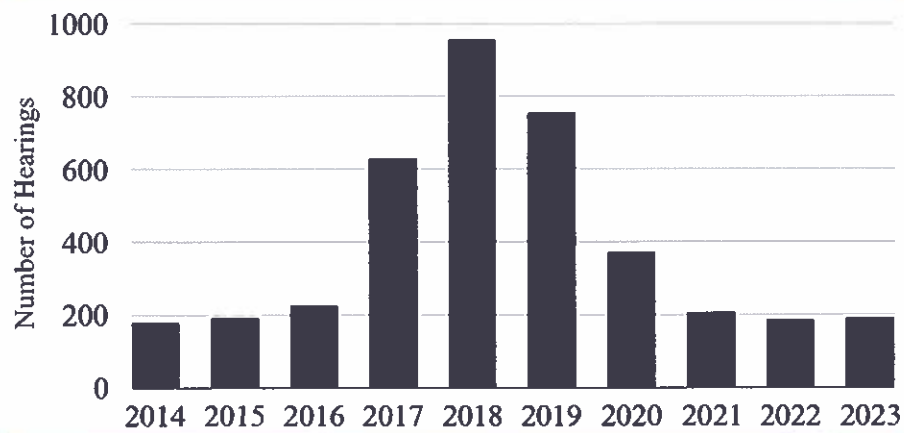
Criminal justice reform laws were largely repealed during 2019 by HB 49. As a result, the number of hearings declined. Exhibit 3 on the following page shows discretionary parole hearings returned to the level that existed prior to SB 91. Furthermore, Exhibit 4 on the following page shows that the number of parole revocation hearings was lower after HB 49 when compared to the level that existed before passage of SB 91.

Despite the decrease in hearings and the scaling back of compliance credits, all five positions authorized by SB 91 were retained by the board. (See Recommendation 3) The audit questions whether those positions continued to be necessary. Rather than decrease positions, the parole board's HB 49 fiscal note requested an additional board staff position, beginning FY 20, to help determine whether parole decisions were confidential and to post board non-confidential decisions to a public website. Once the new position was approved, the board hired an administrative assistant position to carry out the duties. However, a different board administrative position was transferred from the board to DOC's Division of Administrative Services during FY 23. The transfer of the board administrative position raises the question as to whether the additional position authorized as part of HB 49 was necessary, or whether it continued to be necessary.

The audit also noted that despite the significant statutory changes noted above, parole regulations had not been updated since 2015. (See Recommendation 2)

Exhibit 3

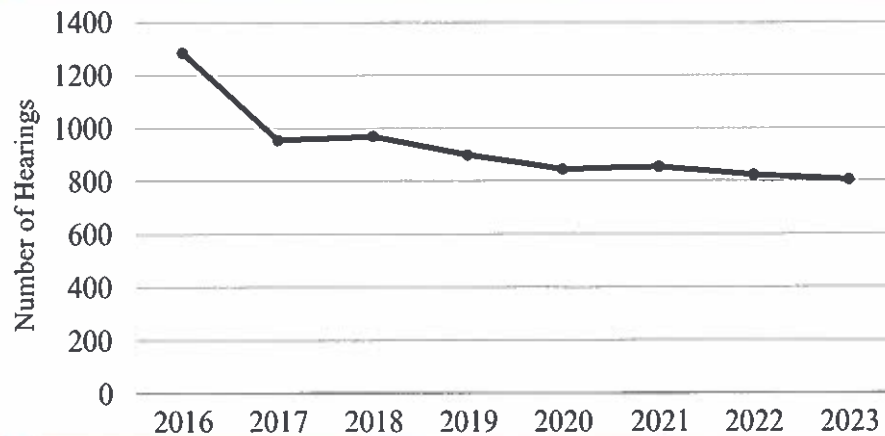
**Discretionary Parole Hearings
Calendar Years 2014-2023
(Unaudited)**



Source: Board website.

Exhibit 4

**Revocation Hearings
Calendar Years 2016-2019
(Unaudited)**



Source: Board website.

The board generally conducted parole hearings as required by State law.

The board conducted parole hearings monthly, with hearings held at each institution at least quarterly. After the onset of the Coronavirus Disease 2019 pandemic in the spring of 2020, the board transitioned to the Zoom platform and all parole hearings were conducted remotely. The board resumed in-person discretionary parole hearings around six months after the public health emergency ended (January 2023). The Zoom platform continued to be used for most revocation hearings.

The audit reviewed 32 of 1,328 revocation hearings and 15 of 1,267 waived revocation hearings held from January 2019 through December 2023 and found the board consistently followed statutory requirements. Additionally, the audit reviewed 32 of 1,702 discretionary parole hearings and three of nine special medical parole hearings held during the same time period and found the board followed State laws when considering an offender for parole, except for one case. The one exception involved a hearing where the victim was notified of the upcoming hearing two days later than required and the board's decision was not sent to the victim. Furthermore, the audit noted that hearings were held, at times, via telephone in an institution's non-confidential, general population area. (See Recommendation 1)

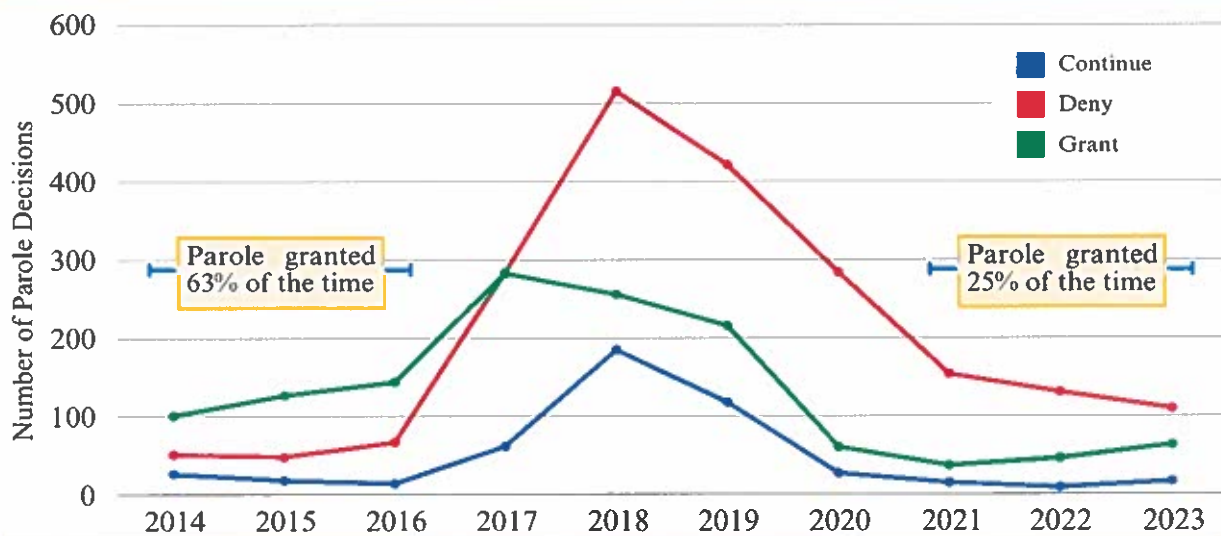
The board granted discretionary parole at a decreasing rate.

Statistics published by the board show a change in the rate the board granted discretionary parole. As demonstrated in Exhibit 5, the board granted parole much more frequently during the years before criminal justice reform than it granted after reform was repealed.

During the three years before criminal justice reform (2014 through 2016), on average, the board granted discretionary parole 63 percent of the time. In contrast, after criminal justice reforms were repealed (2021 through 2023), the board granted parole, on average, only 25 percent of the time. The board chair and the executive director were unable to provide specific reasons why the parole rate decreased.

Exhibit 5

**Board Discretionary Parole Decisions
Calendar Years 2014-2023**



Source: Board website.

The board conducted annual administrative meetings in accordance with State law and did not duplicate the efforts of other entities.

Annual board meetings were conducted in an effective manner. A review of the five annual board meetings held during the audit period found meetings were public noticed and properly allotted time for public comment. Quorum was met for all five meetings.

As the only entity authorized to grant parole, the board did not significantly duplicate the efforts of other entities.