

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 HOUSE BILL 3661

 By: Kannady

7 AS INTRODUCED

8 An Act relating to prisons and reformatories;
9 amending 57 O.S. 2011, Section 332.2, as last amended
10 by Section 5, Chapter 459, O.S.L. 2019 (57 O.S. Supp.
11 2019, Section 332.2), which relates to commutations;
12 clarifying eligibility requirements for commutation
13 applicants; and declaring an emergency.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 57 O.S. 2011, Section 332.2, as
16 last amended by Section 5, Chapter 459, O.S.L. 2019 (57 O.S. Supp.
17 2019, Section 332.2), is amended to read as follows:

18 Section 332.2 A. The Pardon and Parole Board, which shall meet
19 only on the call of the Chairman, is authorized, if and when an
20 application made to the Governor for a reprieve, commutation,
21 parole, pardon, or other act of clemency is certified thereto by the
22 Governor, to examine ~~into~~ the merits of said application and make
23 recommendations to the Governor in relation thereto, said
24

1 ~~recommendation~~ recommendations being advisory to the Governor and
2 not binding thereon.

3 B. Any consideration for commutation shall be made only after
4 application is made to the Pardon and Parole Board pursuant to the
5 procedures set forth in this section. The Pardon and Parole Board
6 shall provide a copy of the application to the district attorney,
7 the victim or representative of the victim and the Office of the
8 Attorney General within ten (10) business days of receipt of such
9 application. Inmates in the custody of the Department of
10 Corrections and persons serving a probationary term as a result of a
11 deferment or suspension of a sentence shall be eligible for
12 commutation consideration.

13 C. An application for commutation, other than those provided
14 for in subsection F of this section, must be sent to the trial
15 officials, who shall have twenty (20) business days to provide a
16 written recommendation or protest prior to consideration of the
17 application. Trial officials shall include:

18 1. The current elected judge of the court where the conviction
19 was had;

20 2. The current elected district attorney of the jurisdiction
21 where the conviction was had; or

22 3. The chief or head administrative officer of the arresting
23 law enforcement agency.

1 D. In cases resolved prior to the tenure of the present
2 officeholders, the recommendation or protest of persons holding such
3 offices at the time of conviction may also be considered by the
4 Board.

5 E. The recommendation for commutation of a sentence by a trial
6 official may include the following:

7 1. A statement that the penalty now appears to be excessive;

8 2. A recommendation of a definite term now considered by the
9 official as just and proper; and

10 3. A statement of the reasons for the recommendation based upon
11 facts directly related to the case which were not available to the
12 court or jury at the time of the trial or based upon there having
13 been a statutory change in penalty for the crime which makes the
14 original penalty appear excessive.

15 F. The Pardon and Parole Board shall establish an accelerated,
16 single-stage commutation docket for any applicant who has been
17 convicted of a crime that has been reclassified from a felony to a
18 misdemeanor under Oklahoma law. The Pardon and Parole Board shall
19 be empowered to recommend to the Governor for commutation, by
20 majority vote, any commutation application placed on the
21 accelerated, single-stage commutation docket that meets the
22 eligibility criteria provided above. The Department of Corrections
23 shall certify a list of potentially eligible inmates to the Pardon
24 and Parole Board within thirty (30) days of the effective date of

1 this act. As used in this subsection, "any applicant" shall include
2 inmates in the custody of the Department of Corrections and persons
3 serving a probationary term as a result of a deferment or suspension
4 of a sentence.

5 G. The Pardon and Parole Board shall schedule the application
6 on a commutation docket in compliance with the notice requirements
7 set forth herein. The Board shall provide the victim or
8 representative of the victim at least twenty (20) days to offer
9 recommendations or protests before consideration of the application.

10 H. Applications for commutation shall be given impartial review
11 as required in Section 10 of Article VI of the Oklahoma
12 Constitution.

13 I. Any consideration for pardon shall be made only after
14 application is made to the Pardon and Parole Board. Upon receipt of
15 an application for pardon, the Board shall provide a copy of the
16 application to the district attorney, the victim or representative
17 of the victim and the Office of the Attorney General within twenty
18 (20) business days of receipt of such application. The district
19 attorney and the victim or representative of the victim shall have
20 twenty (20) business days to provide written recommendation or
21 protest prior to the consideration of the application. The Board
22 shall schedule the application on a pardon docket in compliance with
23 the notice requirements set forth herein.

1 J. In accordance with Section 10 of Article VI of the Oklahoma
2 Constitution, the Board shall communicate to the Legislature, at
3 each regular session, by providing a summary of the activities of
4 the Board. This summary shall include, but not be limited to, the
5 following Board ~~activity~~ activities:

6 1. The approval or recommendation rates of the Board for both
7 violent and nonviolent offenses;

8 2. The parole approval rates for each individual Board member
9 for both violent and nonviolent offenses; and

10 3. The percentage of public comments to and personal
11 appearances before the Board including victim protests and personal
12 appearances, district attorney protests and personal appearances,
13 and delegate recommendations and personal appearances on behalf of
14 the offender.

15 This summary shall be made available to the public through
16 publication on the website of the Pardon and Parole Board.

17 K. The Pardon and Parole Board shall provide a copy of their
18 regular docket and administrative parole docket to each district
19 attorney in this state at least twenty (20) days before such docket
20 is considered by the Board, or in the case of a supplemental,
21 addendum or special docket, at least ten (10) days before such
22 docket is considered by the Board, and shall notify the district
23 attorney of any recommendations for commutations or paroles no later
24 than twenty (20) days after the docket is considered by the Board.

1 L. The Pardon and Parole Board shall notify all victims or
2 representatives of the victim in writing at least twenty (20) days
3 before an inmate is considered by the Board provided the Board has
4 received a request from the victim or representatives of the victim
5 for notice. The Board shall provide all victims or representatives
6 of the victim with the date, time and place of the scheduled meeting
7 and rules for attendance and providing information or input to the
8 Board regarding the inmate or the crime. If requested by the victim
9 or representatives of the victim, the Board shall allow the victim
10 or representatives of the victim to testify at the parole hearing of
11 the inmate for at least five (5) minutes.

12 M. The Pardon and Parole Board shall notify all victims or
13 representatives of the victim in writing of the decision of the
14 Board no later than twenty (20) days after the inmate is considered
15 by the Board.

16 N. Any notice required to be provided to the victims or the
17 representatives of the victim shall be mailed by first-class mail to
18 the last-known address of the victim or representatives of the
19 victim. It is the responsibility of the victims or representatives
20 of the victim to provide the Pardon and Parole Board a current
21 mailing address. The victim-witness coordinator of the district
22 attorney shall assist the victims or representatives of the victim
23 with supplying their address to the Board if they wish to be
24 notified. Upon failure of the Pardon and Parole Board to notify a

1 victim who has requested notification and has provided a current
2 mailing address, the final decision of the Board may be voidable,
3 provided, the victim who failed to receive notification requests a
4 reconsideration hearing within thirty (30) days of the
5 recommendation by the Board for parole. The Pardon and Parole Board
6 may reconsider previous action and may rescind a recommendation if
7 deemed appropriate as determined by the Board.

8 O. For purposes of this section, "victim" shall mean all
9 persons who have suffered direct or threatened physical or emotional
10 harm, or financial loss as the result of the commission or attempted
11 commission of criminally injurious conduct, and "representatives of
12 the victim" shall mean those persons who are members of the
13 immediate family of the victim, including stepparents, stepbrothers,
14 stepsisters, and stepchildren.

15 P. All meetings of the Pardon and Parole Board shall comply
16 with Section 301 et seq. of Title 25 of the Oklahoma Statutes;
17 provided that the Board shall have the authority to limit the number
18 of persons attending in support of, or in opposition to, any inmate
19 being considered for parole and shall have the authority to exclude
20 persons from attendance in accordance with prison security
21 regulations and the capacity of the meeting room. Persons excluded
22 from attending the meeting under this provision shall be informed of
23 their right to be informed of the vote of the Board in accordance
24 with Section 312 of Title 25 of the Oklahoma Statutes. Provided

1 further, nothing in this section shall be construed to prevent any
2 member of the press or any public official from attending any
3 meeting of the Pardon and Parole Board, except as provided by the
4 Oklahoma Open Meeting Act.

5 Q. All victim information maintained by the Department of
6 Corrections and the Pardon and Parole Board shall be confidential
7 and shall not be released.

8 SECTION 2. It being immediately necessary for the preservation
9 of the public peace, health or safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

12
13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/10/2020 - DO
14 PASS.
15
16
17
18
19
20
21
22
23
24