

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3661

By: Kannady

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5
6 AS INTRODUCED

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

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

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

17 Section 332.2 A. The Pardon and Parole Board, which shall meet
18 only on the call of the Chairman, is authorized, if and when an
19 application made to the Governor for a reprieve, commutation,
20 parole, pardon, or other act of clemency is certified thereto by the
21 Governor, to examine ~~into~~ the merits of said application and make
22 recommendations to the Governor in relation thereto, said
23 ~~recommendation~~ recommendations being advisory to the Governor and
24 not binding thereon.

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

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

16 1. The current elected judge of the court where the conviction
17 was had;

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

20 3. The chief or head administrative officer of the arresting
21 law enforcement agency.

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

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

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

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

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

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

1 serving a probationary term as a result of a deferment or suspension
2 of a sentence.

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

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

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

22 J. In accordance with Section 10 of Article VI of the Oklahoma
23 Constitution, the Board shall communicate to the Legislature, at
24 each regular session, by providing a summary of the activities of

1 the Board. This summary shall include, but not be limited to, the
2 following Board ~~activity~~ activities:

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

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

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

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

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

22 L. The Pardon and Parole Board shall notify all victims or
23 representatives of the victim in writing at least twenty (20) days
24 before an inmate is considered by the Board provided the Board has

1 received a request from the victim or representatives of the victim
2 for notice. The Board shall provide all victims or representatives
3 of the victim with the date, time and place of the scheduled meeting
4 and rules for attendance and providing information or input to the
5 Board regarding the inmate or the crime. If requested by the victim
6 or representatives of the victim, the Board shall allow the victim
7 or representatives of the victim to testify at the parole hearing of
8 the inmate for at least five (5) minutes.

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

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

1 reconsideration hearing within thirty (30) days of the
2 recommendation by the Board for parole. The Pardon and Parole Board
3 may reconsider previous action and may rescind a recommendation if
4 deemed appropriate as determined by the Board.

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

12 P. All meetings of the Pardon and Parole Board shall comply
13 with Section 301 et seq. of Title 25 of the Oklahoma Statutes;
14 provided that the Board shall have the authority to limit the number
15 of persons attending in support of, or in opposition to, any inmate
16 being considered for parole and shall have the authority to exclude
17 persons from attendance in accordance with prison security
18 regulations and the capacity of the meeting room. Persons excluded
19 from attending the meeting under this provision shall be informed of
20 their right to be informed of the vote of the Board in accordance
21 with Section 312 of Title 25 of the Oklahoma Statutes. Provided
22 further, nothing in this section shall be construed to prevent any
23 member of the press or any public official from attending any

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1 meeting of the Pardon and Parole Board, except as provided by the
2 Oklahoma Open Meeting Act.

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

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

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11 57-2-9031 GRS 09/12/19

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