

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 27

By: Shaw

AS INTRODUCED

An Act relating to pardon and parole notification; amending 57 O.S. 2011, Section 332.2, as last amended by Section 1, Chapter 117, O.S.L. 2018 (57 O.S. Supp. 2018, Section 332.2), which relates to notice of dockets and recommendations; modifying allowable notification procedures; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 57 O.S. 2011, Section 332.2, as last amended by Section 1, Chapter 117, O.S.L. 2018 (57 O.S. Supp. 2018, Section 332.2), is amended to read as follows:

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

8 C. An application for commutation must be sent to the trial
9 officials, who shall have twenty (20) business days to provide a
10 written recommendation or protest prior to consideration of the
11 application. Trial officials shall include:

12 1. The current elected judge of the court where the conviction
13 was had;

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

16 3. The chief or head administrative officer of the arresting
17 law enforcement agency.

18 D. In cases resolved prior to the tenure of the present
19 officeholders, the recommendation or protest of persons holding such
20 offices at the time of conviction may also be considered by the
21 Board.

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

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

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

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

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

13 G. Applications for commutation shall be given impartial review
14 as required in Section 10 of Article VI of the Oklahoma
15 Constitution.

16 H. Any consideration for pardon shall be made only after
17 application is made to the Pardon and Parole Board. Upon receipt of
18 an application for pardon, the Board shall provide a copy of the
19 application to the district attorney, the victim or representative
20 of the victim and the Office of the Attorney General within twenty
21 (20) business days of receipt of such application. The district
22 attorney and the victim or representative of the victim shall have
23 twenty (20) business days to provide written recommendation or
24 protest prior to the consideration of the application. The Board

1 shall schedule the application on a pardon docket in compliance with
2 the notice requirements set forth herein.

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

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

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

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

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

19 J. The Pardon and Parole Board shall provide a copy of their
20 regular docket and administrative parole docket to each district
21 attorney in this state at least twenty (20) days before such docket
22 is considered by the Board, or in the case of a supplemental,
23 addendum or special docket, at least ten (10) days before such
24 docket is considered by the Board, and shall notify the district

1 attorney of any recommendations for commutations or paroles no later
2 than twenty (20) days after the docket is considered by the Board.

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

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

18 M. Any notice required to be provided to the victims or the
19 representatives of the victim shall either be mailed by first-class
20 mail or by electronic mail to the last-known mailing or electronic
21 mail address of the victim or representatives of the victim. It is
22 the responsibility of the victims or representatives of the victim
23 to provide the Pardon and Parole Board a current mailing or
24 electronic mail address. The victim-witness coordinator of the

1 district attorney shall assist the victims or representatives of the
2 victim with supplying their address to the Board if they wish to be
3 notified. Upon failure of the Pardon and Parole Board to notify a
4 victim who has requested notification and has provided a current
5 mailing or electronic mail address, the final decision of the Board
6 may be voidable, provided, the victim who failed to receive
7 notification requests a reconsideration hearing within thirty (30)
8 days of the recommendation by the Board for parole. The Pardon and
9 Parole Board may reconsider previous action and may rescind a
10 recommendation if deemed appropriate as determined by the Board.

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

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

1 from attending the meeting under this provision shall be informed of
2 their right to be informed of the vote of the Board in accordance
3 with Section 312 of Title 25 of the Oklahoma Statutes. Provided
4 further, nothing in this section shall be construed to prevent any
5 member of the press or any public official from attending any
6 meeting of the Pardon and Parole Board, except as provided by the
7 Oklahoma Open Meeting Act.

8 P. All victim information maintained by the Department of
9 Corrections and the Pardon and Parole Board shall be confidential
10 and shall not be released.

11 SECTION 2. This act shall become effective November 1, 2019.
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