

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3918

By: Pfeiffer

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to commutations; amending 57 O.S.
10 2021, Section 332.2, which relates to application
11 procedures for commutations and pardons; providing
12 gender-neutral language; directing the Secretary of
13 State to file notice of commutation with the clerk of
14 the court; stating requirements for the notice;
15 requiring notice of commutation decision to victims
16 or representatives of victims; and providing an
17 effective date.

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

19 SECTION 1. AMENDATORY 57 O.S. 2021, Section 332.2, is
20 amended to read as follows:

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

1 recommendations to the Governor in relation thereto, said
2 recommendation being advisory to the Governor and not binding
3 thereon.

4 B. Any consideration for commutation shall be made only after
5 application is made to the Pardon and Parole Board pursuant to the
6 procedures set forth in this section. The Pardon and Parole Board
7 shall provide a copy of the application to the district attorney,
8 the victim or representative of the victim and the Office of the
9 Attorney General within ten (10) business days of receipt of such
10 application.

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.

24

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

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

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

20 J. In accordance with Section 10 of Article VI of the Oklahoma
21 Constitution, the Board shall communicate to the Legislature, at
22 each regular session, by providing a summary of the activities of
23 the Board. This summary shall include, but not be limited to, the
24 following Board activity:

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

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

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

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

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

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

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

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

11 N. Any notice required to be provided to the victims or the
12 representatives of the victim shall be mailed by first-class mail to
13 the last-known address of the victim or representatives of the
14 victim. It is the responsibility of the victims or representatives
15 of the victim to provide the Pardon and Parole Board a current
16 mailing address. The victim-witness coordinator of the district
17 attorney shall assist the victims or representatives of the victim
18 with supplying their address to the Board if they wish to be
19 notified. Upon failure of the Pardon and Parole Board to notify a
20 victim who has requested notification and has provided a current
21 mailing address, the final decision of the Board may be voidable,
22 provided, the victim who failed to receive notification requests a
23 reconsideration hearing within thirty (30) days of the
24 recommendation by the Board for parole. The Pardon and Parole Board

1 may reconsider previous action and may rescind a recommendation if
2 deemed appropriate as determined by the Board.

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

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

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

4 R. When a commutation is granted, the Secretary of State shall
5 file notice of that fact with the clerk of the court which imposed
6 the original sentence within thirty (30) days. The notice shall be
7 filed in the original criminal case number which resulted in the
8 sentence commuted, and the notice shall include the following
9 information:

10 1. The month and year in which the commutation was considered
11 by the Pardon and Parole Board;

12 2. Whether the original sentence was the result of a trial by
13 jury, a trial by the court, a plea of guilty or no contest with an
14 agreed sentence, or a plea of guilty or no contest with sentencing
15 left to the court;

16 3. The original sentence including conditions thereof, if any,
17 and date of its imposition for each charged count; and

18 4. The sentence after commutation including conditions thereof,
19 if any, for each charged count.

20 S. The Secretary of State shall ensure that all victims or
21 representatives of the victim are given notice in writing of the
22 decision regarding commutation no later than twenty (20) days after
23 commutation has been granted or denied by the Governor. Notice
24 shall be mailed by first-class mail to the last-known address of the

1 victim or representatives of the victim consistent with the
2 notification provisions set forth in subsection N of this section.

3 SECTION 2. This act shall become effective November 1, 2022.
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5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
6 03/02/2022 - DO PASS, As Amended.
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