

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3918

By: Pfeiffer

AS INTRODUCED

An Act relating to commutations; amending 57 O.S. 2021, Section 332.2, which relates to application procedures for commutations and pardons; providing gender-neutral language; directing the Governor to file notice of commutation with the clerk of the court; stating requirements for the notice; requiring notice of commutation decision to victims or representatives of victims; and providing an effective date.

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

SECTION 1. AMENDATORY 57 O.S. 2021, 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~~ Chair, 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 application and make recommendations to the Governor in relation thereto, said 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, other than those provided
9 for in subsection F of this section, must be sent to the trial
10 officials, who shall have twenty (20) business days to provide a
11 written recommendation or protest prior to consideration of the
12 application. Trial officials shall include:

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

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

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

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

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

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

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

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

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

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

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

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

15 J. In accordance with Section 10 of Article VI of the Oklahoma
16 Constitution, the Board shall communicate to the Legislature, at
17 each regular session, by providing a summary of the activities of
18 the Board. This summary shall include, but not be limited to, the
19 following Board activity:

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

22 2. The parole approval rates for each individual Board member
23 for both violent and nonviolent offenses; and
24

1 3. The percentage of public comments to and personal
2 appearances before the Board including victim protests and personal
3 appearances, district attorney protests and personal appearances,
4 and delegate recommendations and personal appearances on behalf of
5 the offender.

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

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

16 L. The Pardon and Parole Board shall notify all victims or
17 representatives of the victim in writing at least twenty (20) days
18 before an inmate is considered by the Board provided the Board has
19 received a request from the victim or representatives of the victim
20 for notice. The Board shall provide all victims or representatives
21 of the victim with the date, time and place of the scheduled meeting
22 and rules for attendance and providing information or input to the
23 Board regarding the inmate or the crime. If requested by the victim
24 or representatives of the victim, the Board shall allow the victim

1 or representatives of the victim to testify at the parole hearing of
2 the inmate for at least five (5) minutes.

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

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

23 O. For purposes of this section, "victim" shall mean all
24 persons who have suffered direct or threatened physical or emotional

1 harm, or financial loss as the result of the commission or attempted
2 commission of criminally injurious conduct, and "representatives of
3 the victim" shall mean those persons who are members of the
4 immediate family of the victim, including stepparents, stepbrothers,
5 stepsisters, and stepchildren.

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

20 Q. All victim information maintained by the Department of
21 Corrections and the Pardon and Parole Board shall be confidential
22 and shall not be released.

23 R. When a commutation is granted, the Governor shall file
24 notice of that fact with the clerk of the court which imposed the

1 original sentence within thirty (30) days. The notice shall be
2 filed in the original criminal case number which resulted in the
3 sentence commuted, and the notice shall include the following
4 information:

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

7 2. Whether the original sentence was the result of a trial by
8 jury, a trial by the court, a plea of guilty or no contest with an
9 agreed sentence, or a plea of guilty or no contest with sentencing
10 left to the court;

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

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

15 S. The Governor shall ensure that all victims or
16 representatives of the victim are given notice in writing of the
17 decision regarding commutation no later than twenty (20) days after
18 commutation has been granted or denied by the Governor. Notice
19 shall be mailed by first-class mail to the last-known address of the
20 victim or representatives of the victim consistent with the
21 notification provisions set forth in subsection N of this section.

22 SECTION 2. This act shall become effective November 1, 2022.

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24 58-2-9956 GRS 01/06/22