

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1433

By: Boren

6 AS INTRODUCED

7 An Act relating to pardons and paroles; amending 57
8 O.S. 2021, Sections 332.2 and 332.19, which relate to
9 consideration of commutation and actions by Governor;
10 modifying requirements for Governor upon receipt of
11 approval of an application for commutation in certain
12 cases; authorizing certain testimony in certain
13 hearing; requiring certain notice; conforming
14 language; making language gender neutral; updating
15 statutory language; updating statutory reference; and
16 providing an effective date.

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

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

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

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~~ November 1, 2019.

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
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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. Within thirty (30) days after approval of an application for
24 commutation, the Pardon and Parole Board shall forward all relevant

1 documentation to the Governor. Upon receipt of the approval of the
2 application for commutation in a death penalty case, the Governor
3 shall schedule a hearing at the Court of Criminal Appeals within
4 three (3) days of receipt of the approved application. The Governor
5 shall preside over the hearing to personally consider testimony
6 introduced by the prosecution and defense. Testimony from experts,
7 trial witnesses, family members of the victim, and family members of
8 the accused may be introduced by the parties in support of or
9 opposition to the approved application. The Governor shall have
10 ninety (90) days to grant or deny the application for commutation.
11 If an application for commutation is not approved by the Pardon and
12 Parole Board, the application for commutation shall be deemed
13 denied. If no action is taken by the Governor, the application
14 shall be deemed denied. The Pardon and Parole Board shall notify
15 the person making application for commutation of any action taken by
16 the Pardon and Parole Board or the Governor regarding the
17 application for commutation.

18 SECTION 2. AMENDATORY 57 O.S. 2021, Section 332.19, is
19 amended to read as follows:

20 Section 332.19. Within thirty (30) days after approval of an
21 application for pardon, the Pardon and Parole Board shall forward
22 all relevant documentation to the Governor. Upon receipt of the
23 approval of the application for commutation in a death penalty case,
24 the Governor shall schedule a hearing at the Court of Criminal
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1 Appeals within three (3) days of receipt of the approved
2 application. The Governor shall preside over the hearing to
3 personally consider testimony introduced by the prosecution and
4 defense. Testimony from experts, trial witnesses, family members of
5 the victim, and family members of the accused may be introduced by
6 the parties in support of or opposition to the approved application.
7 The Governor shall have ninety (90) days to grant or deny the
8 application for pardon. If an application for pardon is not
9 approved by the Pardon and Parole Board, the application for pardon
10 shall be deemed denied. If no action is taken by the Governor, the
11 application shall be deemed denied. The Pardon and Parole Board
12 shall notify the person making application for pardon of all actions
13 taken by the Pardon and Parole Board or the Governor regarding the
14 application for pardon.

15 SECTION 3. This act shall become effective November 1, 2022.

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