

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 HOUSE BILL 2431

By: Lowe (Jason) of the House

5 and

6 **Matthews** of the Senate

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10 AS INTRODUCED

11 An Act relating to prisons and reformatories;  
12 amending 57 O.S. 2021, Section 332.2, as amended by  
13 Section 1, Chapter 198, O.S.L. 2022 (57 O.S. Supp.  
14 2022, Section 332.2), which relates to procedures  
when applying for commutations; authorizing the  
submission of applications for commutations every two  
years; and providing an effective date.

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

19 SECTION 1. AMENDATORY 57 O.S. 2021, Section 332.2, as  
20 amended by Section 1, Chapter 198, O.S.L. 2022 (57 O.S. Supp. 2022,  
21 Section 332.2), is amended to read as follows:

22 Section 332.2 A. The Pardon and Parole Board, which shall meet  
23 only on the call of the Chair, is authorized, if and when an  
24 application made to the Governor for a reprieve, commutation,

1 parole, pardon, or other act of clemency is certified thereto by the  
2 Governor, to examine into the merits of said application and make  
3 recommendations to the Governor in relation thereto, said  
4 recommendation being advisory to the Governor and not binding  
5 thereon.

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

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

18 1. The current elected judge of the court where the conviction  
19 was had;

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

22 3. The chief or head administrative officer of the arresting  
23 law enforcement agency.

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

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

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

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

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

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

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. A nonviolent offender shall be authorized to submit an  
12 application for commutation once every two (2) years.

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

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

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

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

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

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

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

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

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

16       ~~N.~~ O. Any notice required to be provided to the victims or the  
17 representatives of the victim shall be mailed by first-class mail to  
18 the last-known address of the victim or representatives of the  
19 victim. It is the responsibility of the victims or representatives  
20 of the victim to provide the Pardon and Parole Board a current  
21 mailing address. The victim-witness coordinator of the district  
22 attorney shall assist the victims or representatives of the victim  
23 with supplying their address to the Board if they wish to be  
24 notified. Upon failure of the Pardon and Parole Board to notify a

1 victim who has requested notification and has provided a current  
2 mailing address, the final decision of the Board may be voidable,  
3 provided, the victim who failed to receive notification requests a  
4 reconsideration hearing within thirty (30) days of the  
5 recommendation by the Board for parole. The Pardon and Parole Board  
6 may reconsider previous action and may rescind a recommendation if  
7 deemed appropriate as determined by the Board.

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

15 ~~P.~~ Q. All meetings of the Pardon and Parole Board shall comply  
16 with ~~Section 301 et seq. of Title 25 of the Oklahoma Statutes~~ the  
17 Oklahoma Open Meeting Act; provided that the Board shall have the  
18 authority to limit the number of persons attending in support of, or  
19 in opposition to, any inmate being considered for parole and shall  
20 have the authority to exclude persons from attendance in accordance  
21 with prison security regulations and the capacity of the meeting  
22 room. Persons excluded from attending the meeting under this  
23 provision shall be informed of their right to be informed of the  
24 vote of the Board in accordance with Section 312 of Title 25 of the

1 Oklahoma Statutes. Provided further, nothing in this section shall  
2 be construed to prevent any member of the press or any public  
3 official from attending any meeting of the Pardon and Parole Board,  
4 except as provided by the Oklahoma Open Meeting Act.

5 ~~Q.~~ R. All victim information maintained by the Department of  
6 Corrections and the Pardon and Parole Board shall be confidential  
7 and shall not be released.

8 ~~R.~~ S. When a commutation is granted or denied, the Secretary of  
9 State shall give notice of that fact to the district attorney and  
10 clerk of the court in the county where the sentence was originally  
11 obtained within thirty (30) business days. Said notice may be given  
12 by either first-class mail or email. Upon receipt of said notice,  
13 the clerk of the court shall file the notice. The district attorney  
14 shall confirm that the clerk of the court has filed said notice.  
15 The notice shall include the following information:

16 1. The month and year in which the commutation was recommended  
17 by the Pardon and Parole Board;

18 2. The decision of the Governor to grant or deny commutation;  
19 and

20 3. If commutation is granted, the new term of sentence,  
21 including conditions thereof, if any, for each charged count.

22 ~~S.~~ T. The district attorney in the district where the sentence  
23 was originally obtained shall ensure that all victims or  
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1 representatives of the victim are given notice of the decision  
2 regarding commutation.

3 SECTION 2. This act shall become effective November 1, 2023.  
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5 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,  
6 dated 02/21/2024 - DO PASS, As Coauthored.  
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