

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2431

By: Lowe (Jason)

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5
6 AS INTRODUCED

7 An Act relating to prisons and reformatories;
8 amending 57 O.S. 2021, Section 332.2, as amended by
9 Section 1, Chapter 198, O.S.L. 2022 (57 O.S. Supp.
10 2022, Section 332.2), which relates to procedures
11 when applying for commutations; authorizing the
12 submission of applications for commutations every two
13 years; and 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, as
16 amended by Section 1, Chapter 198, O.S.L. 2022 (57 O.S. Supp. 2022,
17 Section 332.2), is amended to read as follows:

18 Section 332.2 A. The Pardon and Parole Board, which shall meet
19 only on the call of the Chair, is authorized, if and when an
20 application made to the Governor for a reprieve, commutation,
21 parole, pardon, or other act of clemency is certified thereto by the
22 Governor, to examine into the merits of said application and make
23 recommendations to the Governor in relation thereto, said
24 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. A nonviolent offender shall be authorized to submit an
5 application for commutation once every two (2) years.

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

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

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

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

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

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

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

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

1 Board regarding the inmate or the crime. If requested by the victim
2 or representatives of the victim, the Board shall allow the victim
3 or representatives of the victim to testify at the parole hearing of
4 the inmate for at least five (5) minutes.

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

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

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

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

22 ~~Θ.~~ R. All victim information maintained by the Department of
23 Corrections and the Pardon and Parole Board shall be confidential
24 and shall not be released.

1 ~~R.~~ S. When a commutation is granted or denied, the Secretary of
2 State shall give notice of that fact to the district attorney and
3 clerk of the court in the county where the sentence was originally
4 obtained within thirty (30) business days. Said notice may be given
5 by either first-class mail or email. Upon receipt of said notice,
6 the clerk of the court shall file the notice. The district attorney
7 shall confirm that the clerk of the court has filed said notice.

8 The notice shall include the following information:

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

11 2. The decision of the Governor to grant or deny commutation;
12 and

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

15 ~~S.~~ T. The district attorney in the district where the sentence
16 was originally obtained shall ensure that all victims or
17 representatives of the victim are given notice of the decision
18 regarding commutation.

19 SECTION 2. This act shall become effective November 1, 2023.

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21 59-1-6182 GRS 01/05/23

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