

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 2908

(SENATE AUTHORS: LATZ)

DATE
03/15/2023

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Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to corrections; modifying Board of Pardons provisions; establishing
1.3 Clemency Review Commission; requiring a report; authorizing rulemaking;
1.4 appropriating money; amending Minnesota Statutes 2022, section 638.01; proposing
1.5 coding for new law in Minnesota Statutes, chapter 638; repealing Minnesota
1.6 Statutes 2022, sections 638.02; 638.03; 638.04; 638.05; 638.06; 638.07; 638.075;
1.7 638.08.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2022, section 638.01, is amended to read:

1.10 **638.01 BOARD OF PARDONS; ~~HOW CONSTITUTED; POWERS.~~**

1.11 The Board of Pardons ~~shall consist~~ consists of the governor, the chief justice of the
1.12 supreme court, and the attorney general. ~~The board~~ governor in conjunction with the board
1.13 ~~may grant pardons and reprieves and commute the sentence of any person convicted of any~~
1.14 ~~offense against the laws of the state, in the manner and under the conditions and rules~~
1.15 ~~hereinafter prescribed, but not otherwise~~ clemency according to this chapter.

1.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.

1.17 Sec. 2. **[638.011] DEFINITIONS.**

1.18 Subdivision 1. **Scope.** For purposes of this chapter, the terms defined in this section have
1.19 the meanings given.

1.20 Subd. 2. **Board.** "Board" means the Board of Pardons under section 638.01.

2.1 Subd. 3. **Clemency.** Unless otherwise provided, "clemency" includes a pardon,
 2.2 commutation, and reprieve after conviction for an offense against the state except in cases
 2.3 of impeachment.

2.4 Subd. 4. **Commission.** "Commission" means the Clemency Review Commission under
 2.5 section 638.09.

2.6 Subd. 5. **Department.** "Department" means the Department of Corrections.

2.7 Subd. 6. **Request.** "Request" means a request to waive a time restriction under sections
 2.8 638.12, subdivisions 2 and 3, and 638.19, subdivision 1.

2.9 **EFFECTIVE DATE.** This section is effective August 1, 2023.

2.10 Sec. 3. **[638.09] CLEMENCY REVIEW COMMISSION.**

2.11 Subdivision 1. **Establishment; duties.** (a) The Clemency Review Commission is
 2.12 established to:

2.13 (1) review each eligible clemency application or request that it receives; and

2.14 (2) recommend to the board, in writing, whether to grant or deny the application or
 2.15 request, with each member's vote reported.

2.16 (b) Unless otherwise provided:

2.17 (1) the commission's recommendations under this chapter are nonbinding on the governor
 2.18 or the board; and

2.19 (2) chapter 15 applies unless otherwise inconsistent with this chapter.

2.20 Subd. 2. **Composition.** (a) The commission consists of nine members, each serving a
 2.21 term coterminous with the governor.

2.22 (b) The governor, the attorney general, and the chief justice of the supreme court must
 2.23 each appoint three members to serve on the commission and replace members when the
 2.24 members' terms expire. Members serve at the pleasure of their appointing authority.

2.25 Subd. 3. **Appointments to commission.** (a) An appointing authority is encouraged to
 2.26 consider the following criteria when appointing a member:

2.27 (1) expertise in law, corrections, victims' services, correctional supervision, mental
 2.28 health, and substance abuse treatment; and

2.29 (2) experience addressing systemic disparities, including but not limited to disparities
 2.30 based on race, gender, and ability.

3.1 (b) An appointing authority must seek out and encourage qualified individuals to apply
3.2 to serve on the commission, including:

3.3 (1) members of Indigenous communities, Black communities, and other communities
3.4 of color;

3.5 (2) members diverse as to gender identity; and

3.6 (3) members diverse as to age and ability.

3.7 (c) If there is a vacancy, the appointing authority who selected the previous incumbent
3.8 must make an interim appointment to expire at the end of the vacating member's term.

3.9 (d) A member may continue to serve until the member's successor is appointed, but a
3.10 member may not serve more than eight years in total.

3.11 Subd. 4. **Commission; generally.** (a) The commission must biennially elect one of its
3.12 members as chair and one as vice-chair. The chair serves as the board's secretary.

3.13 (b) Each commission member must be compensated at a rate of \$150 for each day or
3.14 part of the day spent on commission activities. A member must be reimbursed for all
3.15 reasonable expenses actually paid or incurred by the member in the performance of official
3.16 duties. Beginning January 1, 2025, and annually thereafter, the board may set a new per
3.17 diem rate for commission members, not to exceed an amount ten percent higher than the
3.18 previous year's rate.

3.19 Subd. 5. **Executive director.** (a) The board must appoint a commission executive director
3.20 knowledgeable about clemency and criminal justice. The executive director serves at the
3.21 pleasure of the board in the unclassified service as an executive branch employee.

3.22 (b) The executive director's salary is set in accordance with section 15A.0815, subdivision
3.23 3.

3.24 (c) The executive director may obtain office space and supplies and hire administrative
3.25 staff necessary to carry out the commission's official functions, including providing
3.26 administrative support to the board and attending board meetings. Any additional staff serve
3.27 in the unclassified service at the pleasure of the executive director.

3.28 **EFFECTIVE DATE.** This section is effective August 1, 2023.

3.29 Sec. 4. **[638.10] CLEMENCY APPLICATION.**

3.30 Subdivision 1. **Required contents.** A clemency application must:

3.31 (1) be in writing;

4.1 (2) be signed under oath by the applicant; and

4.2 (3) state the clemency sought, state why the clemency should be granted, and contain
4.3 the following information and any additional information that the commission or board
4.4 requires:

4.5 (i) the applicant's name, address, and date and place of birth, and every alias by which
4.6 the applicant is or has been known;

4.7 (ii) the applicant's demographic data, including race, ethnicity, gender, disability status,
4.8 and age, only if voluntarily reported;

4.9 (iii) the name of the offense for which clemency is requested, the date and county of
4.10 conviction, the sentence imposed, and the sentence's expiration or discharge date;

4.11 (iv) the names of the sentencing judge, the prosecuting attorney, and any victims of the
4.12 offense;

4.13 (v) a brief description of the offense;

4.14 (vi) the date and outcome of any prior clemency application, including any application
4.15 submitted before January 1, 2024;

4.16 (vii) to the best of an applicant's knowledge, a statement of any past criminal conviction
4.17 and any pending criminal charge or investigation;

4.18 (viii) for an applicant under the department's custody, a statement describing the
4.19 applicant's reentry plan should clemency be granted; and

4.20 (ix) an applicant statement acknowledging and consenting to the disclosure to the
4.21 commission, board, and public of any private data on the applicant in the application or in
4.22 any other record relating to the clemency being sought, including conviction and arrest
4.23 records.

4.24 Subd. 2. **Required form.** (a) An application must be made on a commission-approved
4.25 form or forms and filed with the commission by commission-prescribed deadlines. The
4.26 commission must consult with the board on the forms and deadlines.

4.27 (b) The application must include language informing the applicant that the board and
4.28 the commission will consider any and all past convictions and that the applicant may provide
4.29 information about the convictions.

4.30 Subd. 3. **Reviewing application for completeness.** The commission must review an
4.31 application for completeness. An incomplete application must be returned to the applicant,

5.1 who may then provide the missing information and resubmit the application within a
5.2 commission-prescribed period.

5.3 Subd. 4. **Denying commutation application without meeting.** The commission may
5.4 recommend denying a commutation application without meeting under section 638.14 if:

5.5 (1) the applicant is challenging the conviction or sentence through court proceedings;

5.6 (2) the applicant has failed to exhaust all available state court remedies for challenging
5.7 the sentence; or

5.8 (3) the commission determines that the matter should first be considered by the parole
5.9 authority.

5.10 Subd. 5. **Equal access to information.** Each board and commission member must have
5.11 equal access to information under this section that is used when making a clemency decision.

5.12 Sec. 5. **[638.11] THIRD-PARTY NOTIFICATIONS.**

5.13 Subdivision 1. **Notice to victim; victim rights.** (a) After receiving an application for a
5.14 pardon or commutation, the commission must make all reasonable efforts to locate any
5.15 victim of the applicant's crime.

5.16 (b) At least 30 calendar days before the commission meeting at which the application
5.17 will be heard, the commission must notify any located victim of the application, the meeting's
5.18 time and place, and the victim's right to attend the meeting and submit an oral or written
5.19 statement to the commission.

5.20 (c) The commission must make all reasonable efforts to ensure that a victim can submit
5.21 an oral or written statement and receive victim support services as necessary to help the
5.22 victim submit a statement and participate in the clemency process.

5.23 Subd. 2. **Notice to sentencing judge and prosecuting attorney.** At least 30 calendar
5.24 days before the commission meeting at which the application will be heard, the commission
5.25 must notify the sentencing judge and prosecuting attorney or their successors of the
5.26 application and solicit the judge's and attorney's views on whether to grant clemency.

5.27 Subd. 3. **Notice to applicant.** After the commission's initial investigation of a clemency
5.28 application, the commission must notify the applicant of the scheduled date, time, and
5.29 location that the applicant must appear before the commission for a meeting under section
5.30 638.14.

6.1 Sec. 6. **[638.12] TYPES OF CLEMENCY; ELIGIBILITY AND WAIVER.**

6.2 **Subdivision 1. Types of clemency; requirements.** (a) The board may:

6.3 (1) pardon a criminal conviction imposed under the laws of this state;

6.4 (2) commute a criminal sentence imposed by a court of this state to time served or a
6.5 lesser sentence; or

6.6 (3) grant a reprieve of a sentence imposed by a court of this state.

6.7 (b) A grant of clemency must be in writing and has no force or effect if the governor or
6.8 a board majority duly convened opposes the clemency. Every conditional grant of clemency
6.9 must state the terms and conditions upon which it was granted, and every commutation
6.10 must specify the terms of the commuted sentence.

6.11 (c) A granted pardon sets aside the conviction and purges the conviction from an
6.12 individual's criminal record. The individual is not required to disclose the conviction:

6.13 (1) at any time or place other than in a judicial proceeding; or

6.14 (2) during the licensing process for peace officers.

6.15 **Subd. 2. Pardon eligibility; waiver.** (a) An individual convicted of a crime in a court
6.16 of this state may apply for a pardon of the individual's conviction on or after five years from
6.17 the sentence's expiration or discharge date.

6.18 (b) An individual may request the board to waive the waiting period if there is a showing
6.19 of unusual circumstances and special need.

6.20 (c) The commission must review a waiver request and recommend to the board whether
6.21 to grant the request. When considering a waiver request, the commission is exempt from
6.22 the meeting requirements under section 638.14 and chapter 13D.

6.23 (d) The board must grant a waiver request unless the governor or a board majority
6.24 opposes the waiver.

6.25 **Subd. 3. Commutation eligibility.** (a) An individual may apply for a commutation of
6.26 an unexpired criminal sentence imposed by a court of this state, including an individual
6.27 confined in a correctional facility or on probation, parole, supervised release, or conditional
6.28 release. An application for commutation may not be filed until the date that the individual
6.29 has served at least one-half of the sentence imposed or on or after five years from the
6.30 conviction date, whichever is earlier.

7.1 (b) An individual may request the board to waive the waiting period if there is a showing
7.2 of unusual circumstances and special need.

7.3 (c) The commission must review a waiver request and recommend to the board whether
7.4 to grant the request. When considering a waiver request, the commission is exempt from
7.5 the meeting requirements under section 638.14 and chapter 13D.

7.6 (d) The board must grant a waiver request unless the governor or a board majority
7.7 opposes the waiver.

7.8 **Sec. 7. [638.13] ACCESS TO RECORDS; ISSUING SUBPOENA.**

7.9 Subdivision 1. **Access to records.** (a) Notwithstanding chapter 13 and other law to the
7.10 contrary, upon receiving a clemency application, the board or commission may request and
7.11 obtain any relevant reports, data, and other information from state courts, law enforcement
7.12 agencies, or state agencies. The board and the commission must have access to all relevant
7.13 sealed or otherwise inaccessible court records, presentence investigation reports, police
7.14 reports, criminal history reports, prison records, and any other relevant information.

7.15 (b) State courts, law enforcement agencies, and state agencies must promptly respond
7.16 to record requests from the board or the commission.

7.17 Subd. 2. **Issuing subpoena.** The board and the commission may issue a subpoena
7.18 requiring the presence of any person before the commission or board and the production of
7.19 papers, records, and exhibits in any pending matter. When a person is summoned before
7.20 the commission or the board, the person may be allowed compensation for travel and
7.21 attendance as the commission or the board considers reasonable.

7.22 **Sec. 8. [638.14] COMMISSION MEETINGS.**

7.23 Subdivision 1. **Frequency; when open to public.** (a) The commission must meet at
7.24 least four times each year for one or more days at each meeting to hear eligible clemency
7.25 applications and recommend appropriate action to the board on each application. One or
7.26 more of the meetings may be held at a department-operated correctional facility.

7.27 (b) All commission meetings are open to the public as provided under chapter 13D, but
7.28 the commission may hold closed meetings as provided under chapter 13D or as necessary
7.29 to protect sensitive or confidential information, including (1) a victim's identity, and (2)
7.30 sensitive or confidential victim testimony.

7.31 (c) When possible, the commission must record its meetings by audio or audiovisual
7.32 means.

8.1 Subd. 2. Meeting conduct. (a) An applicant for clemency must appear before the
8.2 commission either in person or through available forms of telecommunication.

8.3 (b) The victim of an applicant's crime may appear and speak at the meeting or submit a
8.4 written statement to the commission. The commission may treat a victim's written statement
8.5 as confidential and not disclose the statement to the applicant or the public if there is or has
8.6 been an order for protection, restraining order, or other no-contact order prohibiting the
8.7 applicant from contacting the victim.

8.8 (c) A law enforcement agency's representative may appear and speak at the meeting or
8.9 submit a written statement to the commission, providing the agency's position on whether
8.10 the commission should recommend clemency.

8.11 **Sec. 9. [638.15] COMMISSION RECOMMENDATION.**

8.12 Subdivision 1. Grounds for recommending clemency. (a) When recommending whether
8.13 to grant clemency, the commission must consider any factors that the commission deems
8.14 appropriate, including but not limited to:

8.15 (1) the nature, seriousness, circumstances, and age of the applicant's offense;

8.16 (2) the successful completion or revocation of previous probation, parole, supervised
8.17 release, or conditional release;

8.18 (3) the number, nature, and circumstances of the applicant's other criminal convictions;

8.19 (4) the extent to which the applicant has demonstrated rehabilitation through
8.20 postconviction conduct, character, and reputation;

8.21 (5) the extent to which the applicant has accepted responsibility, demonstrated remorse,
8.22 and made restitution to victims;

8.23 (6) whether the sentence is clearly excessive in light of the applicant's offense and
8.24 criminal history and any sentence received by an accomplice, with due regard given to:

8.25 (i) any plea agreement;

8.26 (ii) the sentencing judge's views; and

8.27 (iii) the sentencing ranges established by law;

8.28 (7) whether the applicant's age or medical status indicates that it is in the best interest
8.29 of society that the applicant receive clemency;

8.30 (8) the applicant's asserted need for clemency, including family needs and barriers to
8.31 housing or employment created by the conviction;

9.1 (9) for an applicant under the department's custody, the adequacy of the applicant's
9.2 reentry plan;

9.3 (10) the amount of time already served by the applicant and the availability of other
9.4 forms of judicial or administrative relief;

9.5 (11) the extent to which there is credible evidence indicating that the applicant is or may
9.6 be innocent of the crime for which that person was convicted; and

9.7 (12) if provided by the applicant, the applicant's demographic data, including race,
9.8 ethnicity, gender, disability status, and age.

9.9 (b) Unless an applicant knowingly omitted past criminal convictions on the application,
9.10 the commission or the board must not prejudice an applicant for failing to identify past
9.11 criminal convictions.

9.12 Subd. 2. **Considering public statements.** When making its recommendation on an
9.13 application, the commission must consider any statement provided by a victim, sentencing
9.14 judge, prosecuting attorney, or law enforcement agency.

9.15 Subd. 3. **Commission recommendation; notifying applicant.** (a) Before the board's
9.16 next meeting at which the clemency application may be considered, the commission must
9.17 send to the board the application, the commission's recommendation, any recording of the
9.18 commission's meeting related to the application, and all statements from victims, judges,
9.19 and law enforcement agencies.

9.20 (b) No later than 14 calendar days after its dated recommendation, the commission must
9.21 notify the applicant in writing of its recommendation.

9.22 **Sec. 10. [638.16] BOARD MEETINGS.**

9.23 Subdivision 1. **Frequency; when open to public.** (a) The board must meet at least two
9.24 times each year to consider clemency applications that have received a favorable
9.25 recommendation from the commission and any other applications for which at least one
9.26 board member seeks consideration.

9.27 (b) All board meetings are open to the public as provided under chapter 13D, but the
9.28 board may hold closed meetings as necessary to protect sensitive or confidential information,
9.29 including (1) a victim's identity, and (2) sensitive or confidential victim testimony.

9.30 (c) Unless excused by the board, the executive director and the commission's chair or
9.31 vice-chair must attend all board meetings.

10.1 Subd. 2. **Meeting conduct.** Unless the board requests additional testimony, applicants,
10.2 victims, and law enforcement agencies may not submit oral or written statements at a board
10.3 meeting. The board must consider any statements provided to the commission when
10.4 determining whether to grant a clemency application.

10.5 Sec. 11. [638.17] **BOARD DECISION; NOTIFYING APPLICANT.**

10.6 Subdivision 1. **Board decision.** (a) At each meeting, the board must render a decision
10.7 on each clemency application considered at the meeting or continue the matter to a future
10.8 board meeting. If the board continues consideration of an application, the board must notify
10.9 the applicant in writing and explain why the matter was continued.

10.10 (b) If the commission recommends denying an application and no board member seeks
10.11 consideration of the recommendation, it is presumed that the board concurs with the adverse
10.12 recommendation and that the application has been considered and denied on the merits.

10.13 Subd. 2. **Notifying applicant.** The commission must notify the applicant in writing of
10.14 the board's decision to grant or deny clemency no later than 14 calendar days from the date
10.15 of the board's decision.

10.16 Sec. 12. [638.18] **FILING COPY OF CLEMENCY; COURT ACTION.**

10.17 Subdivision 1. **Filing with district court.** After granting clemency, the board must file
10.18 a copy of the pardon, commutation, or reprieve with the district court of the county in which
10.19 the conviction and sentence were imposed.

10.20 Subd. 2. **Court action; pardon.** For a pardon, the court must:

10.21 (1) order the conviction set aside;

10.22 (2) include a copy of the pardon in the court file; and

10.23 (3) send a copy of the order and the pardon to the Bureau of Criminal Apprehension.

10.24 Subd. 3. **Court action; commutation.** For a commutation, the court must:

10.25 (1) amend the sentence to reflect the specific relief granted by the board;

10.26 (2) include a copy of the commutation in the court file; and

10.27 (3) send a copy of the amended sentencing order and commutation to the commissioner
10.28 of corrections and the Bureau of Criminal Apprehension.

11.1 **Sec. 13. [638.19] REAPPLYING FOR CLEMENCY.**

11.2 Subdivision 1. **Time-barred from reapplying; exception.** (a) After the board has
 11.3 considered and denied a clemency application on the merits, a subsequent application may
 11.4 not be filed for five years after the date of the most recent denial.

11.5 (b) An individual may request permission to reapply before the five-year period expires
 11.6 based only on new and substantial information that was not and could not have been
 11.7 previously considered by the board or commission.

11.8 (c) If a request contains new and substantial information, the commission must review
 11.9 the request and recommend to the board whether to waive the time restriction. When
 11.10 considering a waiver request, the commission is exempt from the meeting requirements
 11.11 under section 638.14 and chapter 13D.

11.12 (d) The board must grant a waiver request unless the governor or a board majority
 11.13 opposes the waiver.

11.14 Subd. 2. **Applying for pardon not precluded.** If an individual is denied or granted a
 11.15 commutation, the individual is not precluded from later seeking a pardon of the criminal
 11.16 conviction once the eligibility requirements of this chapter have been satisfied.

11.17 **Sec. 14. [638.20] COMMISSION RECORD KEEPING.**

11.18 Subdivision 1. **Record keeping.** The commission must keep a record of every application
 11.19 received, its recommendation on each application, and the final disposition of each
 11.20 application.

11.21 Subd. 2. **When open to public.** The commission's records and files are open to public
 11.22 inspection at all reasonable times, except for:

11.23 (1) sealed court records;

11.24 (2) presentence investigation reports;

11.25 (3) Social Security numbers;

11.26 (4) financial account numbers;

11.27 (5) driver's license information;

11.28 (6) medical records;

11.29 (7) confidential Bureau of Criminal Apprehension records; and

12.1 (8) the identities of victims who wish to remain anonymous and confidential victim
12.2 statements.

12.3 **Sec. 15. [638.21] LANGUAGE ACCESS AND VICTIM SUPPORT.**

12.4 Subdivision 1. **Language access.** The commission and the board must take reasonable
12.5 steps to provide meaningful language access to applicants and victims. Applicants and
12.6 victims must have language access to information, documents, and services under this
12.7 chapter, with each communicated in a language or manner that the applicant or victim can
12.8 understand.

12.9 Subd. 2. **Interpreters.** (a) Applicants and victims are entitled to interpreters as necessary
12.10 to fulfill the purposes of this chapter, including oral or written communication. Sections
12.11 546.42 to 546.44 apply, to the extent consistent with this section.

12.12 (b) The commission or the board may not discriminate against an applicant or victim
12.13 who requests or receives interpretation services.

12.14 Subd. 3. **Victim services.** The commission and the board must contract for victim support
12.15 services as necessary to support victims under this chapter.

12.16 **Sec. 16. [638.22] LEGISLATIVE REPORT.**

12.17 Beginning February 15, 2025, and every February 15 thereafter, the commission must
12.18 submit a written report to the chairs and ranking minority members of the house of
12.19 representatives and senate committees with jurisdiction over public safety, corrections, and
12.20 judiciary that contains at least the following information:

12.21 (1) the number of clemency applications received by the commission during the preceding
12.22 calendar year;

12.23 (2) the number of favorable and adverse recommendations made by the commission for
12.24 each type of clemency;

12.25 (3) the number of applications granted and denied by the board for each type of clemency;

12.26 (4) the crimes for which the applications were granted by the board, the year of each
12.27 conviction, and the individual's age at the time of the offense; and

12.28 (5) aggregate demographic data voluntarily reported by applicants, including race,
12.29 ethnicity, gender, disability status, and age, of applicants recommended or not recommended
12.30 for clemency by the commission.

13.1 Sec. 17. **[638.23] RULEMAKING.**

13.2 (a) The board and commission may jointly adopt rules, including amending Minnesota
13.3 Rules, chapter 6600, to enforce their powers and duties under this chapter and the efficient
13.4 processing of applications.

13.5 (b) The time limit to adopt rules under section 14.125 does not apply.

13.6 Sec. 18. **TRANSITION PERIOD.**

13.7 (a) Beginning July 1, 2024, the Clemency Review Commission must begin reviewing
13.8 applications for pardons, commutations, and reprieves. Applications received after the
13.9 effective date of this section but before July 1, 2024, must be considered according to
13.10 Minnesota Statutes, sections 638.02, subdivisions 2 to 5, and 638.03 to 638.08.

13.11 (b) A pardon, commutation, or reprieve that is granted during the transition period has
13.12 no force or effect if the governor or a board majority duly convened opposes the clemency.

13.13 (c) By July 1, 2024, the Clemency Review Commission must develop application forms
13.14 in consultation with the Board of Pardons.

13.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.

13.16 Sec. 19. **APPROPRIATION.**

13.17 (a) \$..... in fiscal year 2024 and \$..... in fiscal year 2025 are appropriated from the
13.18 general fund to the Clemency Review Commission for its establishment and operation. \$.....
13.19 is the base for fiscal year 2026 and thereafter.

13.20 (b) \$..... in fiscal year 2024 and \$..... in fiscal year 2025 are appropriated from the
13.21 general fund to the Office of Justice Programs to administer grants for outreach and
13.22 engagement on the clemency process and to help prepare applicants for hearings before the
13.23 Clemency Review Commission and the Board of Pardons.

13.24 **EFFECTIVE DATE.** This section is effective July 1, 2023.

13.25 Sec. 20. **REPEALER.**

13.26 Minnesota Statutes 2022, sections 638.02; 638.03; 638.04; 638.05; 638.06; 638.07;
13.27 638.075; and 638.08, are repealed.

13.28 Sec. 21. **EFFECTIVE DATE.**

13.29 Sections 4 to 17 and 20 are effective July 1, 2024.

638.02 PARDONS.

Subdivision 1. **Absolute or conditional pardons; commutation of sentences.** The Board of Pardons may grant an absolute or a conditional pardon, but every conditional pardon shall state the terms and conditions on which it was granted. Every pardon or commutation of sentence shall be in writing and shall have no force or effect unless granted by a unanimous vote of the board duly convened.

Subd. 2. **Petition; pardon extraordinary.** Any person, convicted of a crime in any court of this state, who has served the sentence imposed by the court and has been discharged of the sentence either by order of court or by operation of law, may petition the Board of Pardons for the granting of a pardon extraordinary. Unless the Board of Pardons expressly provides otherwise in writing by unanimous vote, the application for a pardon extraordinary may not be filed until the applicable time period in clause (1) or (2) has elapsed:

(1) if the person was convicted of a crime of violence as defined in section 624.712, subdivision 5, ten years must have elapsed since the sentence was discharged and during that time the person must not have been convicted of any other crime; and

(2) if the person was convicted of any crime not included within the definition of crime of violence under section 624.712, subdivision 5, five years must have elapsed since the sentence was discharged and during that time the person must not have been convicted of any other crime.

If the Board of Pardons determines that the person is of good character and reputation, the board may, in its discretion, grant the person a pardon extraordinary. The pardon extraordinary, when granted, has the effect of setting aside and nullifying the conviction and of purging the person of it, and the person shall never after that be required to disclose the conviction at any time or place other than in a judicial proceeding or as part of the licensing process for peace officers.

The application for a pardon extraordinary, the proceedings to review an application, and the notice requirements are governed by the statutes and the rules of the board in respect to other proceedings before the board. The application shall contain any further information that the board may require.

Subd. 3. **Pardon extraordinary; filing; copies sent.** Upon granting a pardon extraordinary the Board of Pardons shall file a copy of it with the district court of the county in which the conviction occurred, and the court shall order the conviction set aside and include a copy of the pardon in the court file. The court shall send a copy of its order and the pardon to the Bureau of Criminal Apprehension.

Subd. 4. **Grandfather provision.** Any person granted a pardon extraordinary by the Board of Pardons prior to April 12, 1974 may apply to the district court of the county in which the conviction occurred for an order setting aside the conviction as set forth in subdivision 3.

Subd. 5. **Records.** The term "records" shall include but is not limited to all matters, files, documents and papers incident to the arrest, indictment, information, trial, appeal, dismissal and discharge, which relate to the conviction for which the pardon extraordinary has been granted.

638.03 WARRANT; RETURN.

The Board of Pardons may issue its warrant, under its seal, to any proper officers to carry into effect any pardon, commutation, or reprieve. As soon as may be after the execution of the warrant, the officer to whom it is directed shall make return thereof, under hand, with the doings thereon, to the governor. Such officer shall also file with the court administrator in which the offender was convicted an attested copy of the warrant and return, a brief abstract of which such court administrator shall subjoin to the record of the conviction.

638.04 MEETINGS.

The Board of Pardons shall hold meetings at least twice each year and shall hold a meeting whenever it takes formal action on an application for a pardon or commutation of sentence. All board meetings shall be open to the public as provided in chapter 13D.

The victim of an applicant's crime has a right to submit an oral or written statement at the meeting. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the application for a pardon or commutation should be granted or denied. In addition, any law enforcement agency may submit an oral or written statement at the meeting, giving its recommendation on whether the application should be granted

or denied. The board must consider the victim's and the law enforcement agency's statement when making its decision on the application.

638.05 APPLICATION FOR PARDON.

Every application for relief by the Pardon Board shall be in writing, addressed to the Board of Pardons, signed under oath by the convict or someone in the convict's behalf, shall state concisely the grounds upon which the relief is sought, and in addition shall contain the following facts:

- (1) the name under which the convict was indicted, and every alias by which the convict is or was known;
- (2) the date and terms of sentence, and the names of the offense for which it was imposed;
- (3) the name of the trial judge and the county attorney who participated in the trial of the convict, together with that of the county of trial;
- (4) a succinct statement of the evidence adduced at the trial, with the endorsement of the judge or county attorney who tried the case that the statement is substantially correct. If this statement and endorsement are not furnished, the reason for failing to furnish them shall be stated;
- (5) the age, birthplace, and occupation and residence of the convict during five years immediately preceding conviction;
- (6) a statement of other arrests, indictments, and convictions, if any, of the convict.

Every application for relief by the pardon board shall contain a statement by the applicant consenting to the disclosure to the board of any private data concerning the applicant contained in the application or in any other record relating to the grounds on which the relief is sought. In addition, if the applicant resided in another state after the sentence was discharged, the application for relief by the pardon board shall contain a statement by the applicant consenting to the disclosure to the board of any data concerning the applicant that was collected or maintained by the foreign state relating to the grounds on which the relief is sought, including disclosure of criminal arrest and conviction records.

638.06 ACTION ON APPLICATION.

Every application for relief by the Pardon Board shall be filed with the secretary of the Board of Pardons not less than 60 days before the meeting of the board at which consideration of the application is desired. If an application for a pardon or commutation has been once heard and denied on the merits, no subsequent application shall be filed without the consent of two members of the board endorsed on the application. Immediately on receipt of any application, the secretary to the board shall mail notice of the application, and of the time and place of hearing on it, to the judge of the court where the applicant was tried and sentenced, and to the prosecuting attorney who prosecuted the applicant, or a successor in office. Additionally, the secretary shall publish notice of an application for a pardon extraordinary in the local newspaper of the county where the crime occurred. The secretary shall also make all reasonable efforts to locate any victim of the applicant's crime. The secretary shall mail notice of the application and the time and place of the hearing to any victim who is located. This notice shall specifically inform the victim of the victim's right to be present at the hearing and to submit an oral or written statement to the board as provided in section 638.04.

638.07 RECORDS; SECRETARY.

The Board of Pardons shall keep a record of every petition received, and of every pardon, reprieve, or commutation of sentence granted or refused, and the reasons assigned therefor, and shall have a seal, with which every pardon, reprieve, or commutation of sentence shall be attested. It may adopt such additional necessary and proper rules as are not inconsistent herewith. The commissioner of corrections or a designee shall be the secretary of the board. The commissioner shall have charge of and keep its records and perform such other duties as the board may from time to time direct. The commissioner is hereby authorized and empowered to serve subpoenas and other writs or processes necessary to return parole violators to prison, and to bring before the board witnesses to be heard in matters pending before it. The records and all the files shall be kept and preserved by the secretary, and shall be open to public inspection at all reasonable times.

638.075 ANNUAL REPORTS TO LEGISLATURE.

By February 15 of each year, the Board of Pardons shall file a written report with the legislature containing the following information:

APPENDIX
Repealed Minnesota Statutes: 23-04219

(1) the number of applications received by the board during the preceding calendar year for pardons, pardons extraordinary, and commutations of sentence;

(2) the number of applications granted by the board for each category; and

(3) the crimes for which the applications were granted by the board, the year of each conviction, and the age of the offender at the time of the offense.

638.08 ISSUANCE OF PROCESS; WITNESSES; STANDING APPROPRIATION.

The Board of Pardons may issue process requiring the presence of any person or officer before it, with or without books and papers, in any matter pending, and may take such reasonable steps in the matter as it may deem necessary to a proper determination thereof. When any person is summoned before the board by its authority, the person may be allowed such compensation for travel and attendance as it may deem reasonable.