

SECOND REGULAR SESSION

HOUSE BILL NO. 1744

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOGAN.

4032H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 217.800 and 217.805, RSMo, and to enact in lieu thereof four new sections relating to powers of the governor.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 217.800 and 217.805, RSMo, are repealed and four new sections
2 enacted in lieu thereof, to be known as sections 217.800, 217.802, 217.804, and 217.805, to
3 read as follows:

217.800. 1. In all cases in which the governor is authorized by the constitution to
2 grant pardons, he **or she** may grant the same, with such conditions and under such restrictions
3 as he **or she** may think proper.

4 2. ~~[All]~~ Applications for pardon~~[,]~~ **or** commutation of sentence ~~[or reprieve]~~ shall be
5 ~~[referred to the board for investigation. The board shall investigate each such case and submit~~
6 ~~to the governor a report of its investigation, with all other information the board may have~~
7 ~~relating to the applicant together with any recommendations the board deems proper to make]~~
8 **governed by sections 217.802 and 217.804. Applications for reprieve shall be governed**
9 **by section 217.802.**

10 3. The department of corrections shall notify the central repository, as provided in
11 sections 43.500 to 43.530, of any action of the governor granting a pardon, commutation of
12 sentence, or reprieve.

217.802. 1. (1) **Any application for pardon, commutation of sentence, reprieve,**
2 **or remittitur of fine or forfeiture shall be signed by the applicant under oath. The**
3 **application shall be deemed an official proceeding.**

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

4 **(2) An applicant shall obtain and include with his or her application a certified**
5 **copy of the applicant's judgment and commitment order or comparable document.**

6 **(3) Applications shall be referred to the board for investigation.**

7 **2. The board shall thereupon investigate each case and shall submit to the**
8 **governor the board's recommendation, a report of the investigation, and all other**
9 **information the board may have regarding the applicant.**

10 **3. (1) As part of the board's investigation, the chairperson of the board or his or**
11 **her designee shall have the power to issue oaths and subpoena witnesses to appear and**
12 **testify and to bring before the board any relevant books, papers, records, or documents.**

13 **(2) (a) The subpoena shall be directed to any sheriff, coroner, or constable of the**
14 **county in which the designated witness resides or may be found.**

15 **(b) The endorsed affidavit on the subpoena of any person shall be proof of the**
16 **service of the subpoena.**

17 **(c) The subpoena shall be served and returned in the same manner as subpoenas**
18 **in civil actions in the circuit courts are served and returned.**

19 **4. (1) Before the board considers an application for a pardon or recommends a**
20 **commutation of sentence, the board shall solicit the written or oral recommendation of**
21 **the committing court, the prosecuting attorney, and the sheriff of the county in which**
22 **the person was convicted.**

23 **(2) (a) Before considering an application for a pardon or recommending a**
24 **commutation of sentence of a person who was convicted of capital murder or a class A**
25 **or B felony, the board shall notify the victim of the crime or the victim's next of kin if the**
26 **victim or the victim's next of kin provided a written request to be notified.**

27 **(b) When the board provides notice under paragraph (a) of this subdivision, the**
28 **board shall solicit the written or oral recommendations of the victim or the victim's next**
29 **of kin regarding the granting of a pardon or commutation of sentence.**

30 **(3) The board shall retain a copy of the recommendations in the board's file.**

31 **(4) The recommendations shall not be binding upon the board in advising the**
32 **governor whether to grant a pardon or commute a sentence but shall be maintained in**
33 **the inmate's file.**

34 **(5) (a) If a hearing will be held on the application, the board shall notify the**
35 **victim or the victim's next of kin of the date, time, and place of the hearing.**

36 **(b) The notice shall be given when soliciting the recommendations of the victim**
37 **of the crime or the victim's next of kin.**

38 **5. At least thirty days before submitting to the governor a recommendation that**
39 **an application for pardon, commutation of sentence, or remittitur of fine or forfeiture**
40 **be granted, the board shall:**

41 (1) Issue a public notice of the board's intention to make such a
42 recommendation; and

43 (2) Send notice of the board's intention to the circuit judge who presided over
44 the applicant's trial, the prosecuting attorney, and the sheriff of the county in which the
45 applicant was convicted and, if applicable, to the victim or the victim's next of kin if the
46 victim or the victim's next of kin provided written request for notification.

47 6. Whether the board recommends that an application for pardon, commutation
48 of sentence, or remittitur of fine or forfeiture be granted or denied by the governor, the
49 board shall issue public notice of each recommendation.

 217.804. 1. (1) (a) At least thirty days before granting an application for
2 pardon, commutation of sentence, or remittitur of fine or forfeiture, the governor shall
3 file with the secretary of state a notice of his or her intention to grant the application.

4 (b) The governor shall also direct the department to send notice of his or her
5 intention to the judge, the prosecuting attorney, and the county sheriff of the county in
6 which the applicant was convicted and, if applicable, to the victim or the victim's next of
7 kin.

8 (2) The filing of the notice shall not preclude the governor from later denying the
9 application, but any pardon, commutation of sentence, or remittitur of fine or forfeiture
10 granted without filing the notice shall be null and void.

11 2. If the governor does not grant an application for pardon, commutation of
12 sentence, or remittitur of fine or forfeiture within two hundred forty days of the
13 governor's receipt of the recommendation of the board regarding the application, the
14 application shall be deemed denied by the governor, and any pardon, commutation of
15 sentence, or remittitur of fine or forfeiture granted after the two-hundred-forty-day
16 period shall be null and void.

17 3. (1) Except as provided under subdivision (3) of this subsection and subsection
18 4 this section, if an application for pardon, commutation of sentence, or remittitur of
19 fine or forfeiture is denied in writing by the governor, the person filing the application
20 shall not be eligible to file a new application for pardon, commutation of sentence, or
21 remittitur of fine or forfeiture related to the same offense for a period of four years from
22 the date of filing the application that was denied.

23 (2) If an application for pardon, commutation of sentence, or remittitur of fine
24 or forfeiture is denied by the governor under subsection 2 of this section, the person
25 filing the application may immediately file a new application for pardon, commutation
26 of sentence, or remittitur of fine or forfeiture related to the same offense.

27 **(3) (a) The board may waive the waiting period for filing a new application for**
28 **pardon, commutation of sentence, or remittitur of fine or forfeiture described under**
29 **subdivision (1) of this subsection if:**

30 **a. It has been at least twelve months after the date of filing the application that**
31 **was denied; and**

32 **b. The board determines that the person whose application was denied has**
33 **established that:**

34 **(i) New material evidence relating to the person's guilt or punishment has been**
35 **discovered;**

36 **(ii) The person's physical or mental health has substantially deteriorated; or**

37 **(iii) Other meritorious circumstances justify a waiver of the waiting period.**

38 **(b) a. The board shall promulgate rules that establish policies and procedures**
39 **for waiver of the waiting period. Any rule or portion of a rule, as that term is defined in**
40 **section 536.010, that is created under the authority delegated in this section shall**
41 **become effective only if it complies with and is subject to all of the provisions of chapter**
42 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable,**
43 **and if any of the powers vested with the general assembly pursuant to chapter 536 to**
44 **review, to delay the effective date, or to disapprove and annul a rule are subsequently**
45 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
46 **adopted after August 28, 2022, shall be invalid and void.**

47 **b. The board may make additions, amendments, changes, or alterations to the**
48 **rules in accordance with chapter 536.**

49 **4. (1) Except as provided under subdivision (3) of this subsection, if an**
50 **application for pardon, commutation of sentence, or remittitur of fine or forfeiture of a**
51 **person sentenced to life imprisonment without parole is denied in writing by the**
52 **governor, the person filing the application shall not be eligible to file a new application**
53 **for pardon, commutation of sentence, or remittitur of fine or forfeiture related to the**
54 **same offense for a period of:**

55 **(a) Six years from the date of the denial; or**

56 **(b) Eight years from the date of the denial if the applicant is serving a sentence**
57 **of life without parole for capital murder.**

58 **(2) If an application for pardon, commutation of sentence, or remittitur of fine**
59 **or forfeiture of a person sentenced to life imprisonment without parole is denied by the**
60 **governor under subsection 2 of this section, the person filing the application may**
61 **immediately file a new application for pardon, commutation of sentence, or remittitur of**
62 **fine or forfeiture related to the same offense.**

63 **(3) (a) The board or the governor may waive the waiting period for filing a new**
64 **application for pardon, commutation of sentence, or remittitur of fine or forfeiture**
65 **described under subdivision (1) of this subsection if:**

66 **a. It has been at least twelve months after the date of filing the application that**
67 **was denied; and**

68 **b. The board determines that the person whose application was denied has**
69 **established that:**

70 **(i) New material evidence relating to the person's guilt or punishment has been**
71 **discovered;**

72 **(ii) The person's physical or mental health has substantially deteriorated; or**

73 **(iii) Other meritorious circumstances justify a waiver of the waiting period.**

74 **(b) a. The board shall promulgate rules that establish policies and procedures**
75 **for waiver of the waiting period. Any rule or portion of a rule, as that term is defined in**
76 **section 536.010, that is created under the authority delegated in this section shall**
77 **become effective only if it complies with and is subject to all of the provisions of chapter**
78 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable,**
79 **and if any of the powers vested with the general assembly pursuant to chapter 536 to**
80 **review, to delay the effective date, or to disapprove and annul a rule are subsequently**
81 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
82 **adopted after August 28, 2022, shall be invalid and void.**

83 **b. The board may make additions, amendments, changes, or alterations to the**
84 **rules in accordance with chapter 536.**

85 **5. If an application for pardon, commutation of sentence, or remittitur of fine or**
86 **forfeiture is granted, the governor shall:**

87 **(1) Include in his or her written order the reasons for granting the application;**
88 **and**

89 **(2) File with the senate and house of representatives a copy of the order that**
90 **includes:**

91 **(a) The applicant's name;**

92 **(b) The offense of which the applicant was convicted;**

93 **(c) The sentence imposed upon the applicant;**

94 **(d) The date that the sentence was imposed; and**

95 **(e) The effective date of the pardon, commutation of sentence, or remittitur of**
96 **fine or forfeiture.**

97 **6. This section shall not apply to reprieves. Reprieves may be granted as**
98 **presently provided by law.**

217.805. For any fine imposed by any statute, and for any forfeiture of a
2 recognizance, where the securities are made liable, the governor shall have power to grant a
3 remittitur, when it shall be made to appear to him **or her** that there is by such fine or forfeiture
4 an injustice done, or great hardship suffered by the defendant or defendants, which equity and
5 good conscience would seem to entitle relief for the defendant or defendants. [All]
6 Applications for such relief shall be ~~[in writing, signed by the party or parties seeking such~~
7 ~~remittitur, and accompanied by a statement of the facts of the case, signed by the judge or~~
8 ~~prosecuting attorney of the county in which such fine or forfeiture is entered, and a certificate~~
9 ~~of the clerk that all costs have been paid; and the governor shall endorse his decision on each~~
10 ~~case and file the same in the office of the secretary of state]~~ **governed by sections 217.802**
11 **and 217.804.**

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