

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2386

By: Kannady

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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 commutations;  
11 prohibiting recommendations for commuting  
12 restitution; clarifying eligibility requirements for  
13 commutations; defining term; updating internal  
14 citation; and declaring an emergency.

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

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

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

1 ~~recommendation~~ recommendations being advisory to the Governor and  
2 not binding thereon.

3 B. 1. Any consideration for commutation shall be made only  
4 after application is made to the Pardon and Parole Board pursuant to  
5 the procedures set forth in this section. The Pardon and Parole  
6 Board shall provide a copy of the application to the district  
7 attorney, the victim or representative of the victim and the Office  
8 of the Attorney General within ten (10) business days of receipt of  
9 such application.

10 2. The Pardon and Parole Board shall be prohibited from  
11 recommending to the Governor any application that seeks to commute  
12 restitution owed by a person in a criminal case.

13 3. Inmates in the custody of the Department of Corrections or  
14 persons serving a probationary term as a result of the suspension of  
15 a sentence shall be eligible for commutation consideration.

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

21 1. The current elected judge of the court where the conviction  
22 was had;

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

1           3. The chief or head administrative officer of the arresting  
2 law enforcement agency.

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

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

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

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

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

17           F. The Pardon and Parole Board shall establish an accelerated,  
18 single-stage commutation docket for any applicant who has been  
19 convicted of a crime that has been reclassified from a felony to a  
20 misdemeanor under Oklahoma law. The Pardon and Parole Board shall  
21 be empowered to recommend to the Governor for commutation, by  
22 majority vote, any commutation application placed on the  
23 accelerated, single-stage commutation docket that meets the  
24 eligibility criteria provided above. The Department of Corrections

1 shall certify a list of potentially eligible inmates to the Pardon  
2 and Parole Board within thirty (30) days of the effective date of  
3 this act. As used in this subsection, "any applicant" shall include  
4 inmates in the custody of the Department of Corrections or persons  
5 -serving a probationary term as a result of the suspension of a  
6 sentence.

7 G. The Pardon and Parole Board shall schedule the application  
8 on a commutation docket in compliance with the notice requirements  
9 set forth herein. The Board shall provide the victim or  
10 representative of the victim at least twenty (20) days to offer  
11 recommendations or protests before consideration of the application.

12 H. Applications for commutation shall be given impartial review  
13 as required in Section 10 of Article VI of the Oklahoma  
14 Constitution.

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

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

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

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

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

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

19 K. The Pardon and Parole Board shall provide a copy of their  
20 regular docket and administrative parole docket to each district  
21 attorney in this state at least twenty (20) days before such docket  
22 is considered by the Board, or in the case of a supplemental,  
23 addendum or special docket, at least ten (10) days before such  
24 docket is considered by the Board, and shall notify the district

1 attorney of any recommendations for commutations or paroles no later  
2 than twenty (20) days after the docket is considered by the Board.

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

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

18 N. Any notice required to be provided to the victims or the  
19 representatives of the victim shall be mailed by first-class mail to  
20 the last-known address of the victim or representatives of the  
21 victim. It is the responsibility of the victims or representatives  
22 of the victim to provide the Pardon and Parole Board a current  
23 mailing address. The victim-witness coordinator of the district  
24 attorney shall assist the victims or representatives of the victim

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

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

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

1 shall be informed of their right to be informed of the vote of the  
2 Board in accordance with Section 312 of Title 25 of the Oklahoma  
3 Statutes. Provided further, nothing in this section shall be  
4 construed to prevent any member of the press or any public official  
5 from attending any meeting of the Pardon and Parole Board, except as  
6 provided by the Oklahoma Open Meeting Act.

7 Q. All victim information maintained by the Department of  
8 Corrections and the Pardon and Parole Board shall be confidential  
9 and shall not be released.

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

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

20 2. The decision of the Governor to grant or deny commutation;  
21 and

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

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

5 SECTION 2. It being immediately necessary for the preservation  
6 of the public peace, health or safety, an emergency is hereby  
7 declared to exist, by reason whereof this act shall take effect and  
8 be in full force from and after its passage and approval.

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10 59-1-5085 GRS 12/13/22

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