

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3633

By: McDugle

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to the Pardon and Parole Board;
10 amending 57 O.S. 2021, Section 332.2, as amended by
11 Section 1, Chapter 198, O.S.L. 2022 (57 O.S. Supp.
12 2023, Section 332.2), which relates to meetings and
13 procedures of the Pardon and Parole Board; providing
14 for alternate membership on the Pardon and Parole
15 Board; stating purpose of alternate members;
16 providing for the selection of alternate members;
17 granting equivalent powers and responsibilities;
18 providing for the reimbursement of expenses; and
19 providing an effective date.

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

21 SECTION 1. AMENDATORY 57 O.S. 2021, Section 332.2, as
22 amended by Section 1, Chapter 198, O.S.L. 2022 (57 O.S. Supp. 2023,
23 Section 332.2), is amended to read as follows:

24 Section 332.2 A. 1. The Pardon and Parole Board, which shall
 meet only on the call of the Chair, is authorized, if and when an
 application made to the Governor for a reprieve, commutation,
 parole, pardon, or other act of clemency is certified thereto by the

1 Governor, to examine into the merits of said application and make
2 recommendations to the Governor in relation thereto, said
3 recommendation being advisory to the Governor and not binding
4 thereon.

5 2. Upon the effective date of this act, two additional
6 individuals shall be selected to serve as alternate members of the
7 Pardon and Parole Board for the purpose of serving in the absence of
8 regularly appointed Board members and, when all regularly appointed
9 Board members are present, for the purpose of casting a vote in the
10 case of a tie vote or when a Board member abstains from
11 participating in a recommendation for clemency. The first alternate
12 member of the Board shall be selected by the Speaker of the Oklahoma
13 House of Representatives. The second alternate member of the Board
14 shall be selected by the President Pro Tempore of the Oklahoma State
15 Senate. Alternate members appointed to the Board shall serve at the
16 pleasure of their appointing authority. Any person serving as an
17 alternate member of the Board, while serving, shall have all of the
18 powers and responsibilities of a regularly appointed Board member
19 and shall receive reimbursement for reasonable and necessary
20 expenses as provided for regularly appointed members of the Board
21 pursuant to Section 332.4a of this title.

22 B. Any consideration for commutation shall be made only after
23 application is made to the Pardon and Parole Board pursuant to the
24 procedures set forth in this section. The Pardon and Parole Board

1 shall provide a copy of the application to the district attorney,
2 the victim or representative of the victim and the Office of the
3 Attorney General within ten (10) business days of receipt of such
4 application.

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

10 1. The current elected judge of the court where the conviction
11 was had;

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

14 3. The chief or head administrative officer of the arresting
15 law enforcement agency.

16 D. In cases resolved prior to the tenure of the present
17 officeholders, the recommendation or protest of persons holding such
18 offices at the time of conviction may also be considered by the
19 Board.

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

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

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

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

6 F. The Pardon and Parole Board shall establish an accelerated,
7 single-stage commutation docket for any applicant who has been
8 convicted of a crime that has been reclassified from a felony to a
9 misdemeanor under Oklahoma law. The Pardon and Parole Board shall
10 be empowered to recommend to the Governor for commutation, by
11 majority vote, any commutation application placed on the
12 accelerated, single-stage commutation docket that meets the
13 eligibility criteria provided above. The Department of Corrections
14 shall certify a list of potentially eligible inmates to the Pardon
15 and Parole Board within thirty (30) days of the effective date of
16 this act.

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

22 H. Applications for commutation shall be given impartial review
23 as required in Section 10 of Article VI of the Oklahoma
24 Constitution.

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

12 J. In accordance with Section 10 of Article VI of the Oklahoma
13 Constitution, the Board shall communicate to the Legislature, at
14 each regular session, by providing a summary of the activities of
15 the Board. This summary shall include, but not be limited to, the
16 following Board activity:

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

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

21 3. The percentage of public comments to and personal
22 appearances before the Board including victim protests and personal
23 appearances, district attorney protests and personal appearances,
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1 and delegate recommendations and personal appearances on behalf of
2 the offender.

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

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

13 L. The Pardon and Parole Board shall notify all victims or
14 representatives of the victim in writing at least twenty (20) days
15 before an inmate is considered by the Board provided the Board has
16 received a request from the victim or representatives of the victim
17 for notice. The Board shall provide all victims or representatives
18 of the victim with the date, time and place of the scheduled meeting
19 and rules for attendance and providing information or input to the
20 Board regarding the inmate or the crime. If requested by the victim
21 or representatives of the victim, the Board shall allow the victim
22 or representatives of the victim to testify at the parole hearing of
23 the inmate for at least five (5) minutes.

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

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

21 O. For purposes of this section, "victim" shall mean all
22 persons who have suffered direct or threatened physical or emotional
23 harm, or financial loss as the result of the commission or attempted
24 commission of criminally injurious conduct, and "representatives of

1 the victim" shall mean those persons who are members of the
2 immediate family of the victim, including stepparents, stepbrothers,
3 stepsisters, and stepchildren.

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

18 Q. All victim information maintained by the Department of
19 Corrections and the Pardon and Parole Board shall be confidential
20 and shall not be released.

21 R. When a commutation is granted or denied, the Secretary of
22 State shall give notice of that fact to the district attorney and
23 clerk of the court in the county where the sentence was originally
24 obtained within thirty (30) business days. Said notice may be given

1 by either first-class mail or email. Upon receipt of said notice,
2 the clerk of the court shall file the notice. The district attorney
3 shall confirm that the clerk of the court has filed said notice.

4 The notice shall include the following information:

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

7 2. The decision of the Governor to grant or deny commutation;
8 and

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

11 S. The district attorney in the district where the sentence was
12 originally obtained shall ensure that all victims or representatives
13 of the victim are given notice of the decision regarding
14 commutation.

15 SECTION 2. This act shall become effective November 1, 2024.

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17 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,
18 dated 02/08/2024 - DO PASS, As Amended.

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