

1 ENGROSSED HOUSE  
2 BILL NO. 3661

By: Kannady of the House

and

Daniels of the Senate

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7 An Act relating to prisons and reformatories;  
8 amending 57 O.S. 2011, Section 332.2, as last amended  
9 by Section 5, Chapter 459, O.S.L. 2019 (57 O.S. Supp.  
10 2019, Section 332.2), which relates to commutations;  
11 prohibiting recommendations for commutation of  
12 restitution; clarifying eligibility requirements for  
13 commutation applicants; and declaring an emergency.

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

15 SECTION 1. AMENDATORY 57 O.S. 2011, Section 332.2, as  
16 last amended by Section 5, Chapter 459, O.S.L. 2019 (57 O.S. Supp.  
17 2019, 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 Chairman, 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 ~~recommendation~~ recommendations being advisory to the Governor and  
24 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. The Pardon and Parole Board shall be prohibited from  
8 recommending to the Governor any application that seeks to commute  
9 restitution owed by a person in a criminal case. Inmates in the  
10 custody of the Department of Corrections or persons serving a  
11 probationary term as a result of a suspension of a sentence shall be  
12 eligible for commutation consideration.

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

18 1. The current elected judge of the court where the conviction  
19 was had;

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

22 3. The chief or head administrative officer of the arresting  
23 law enforcement agency.

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

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

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

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

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

15 F. The Pardon and Parole Board shall establish an accelerated,  
16 single-stage commutation docket for any applicant who has been  
17 convicted of a crime that has been reclassified from a felony to a  
18 misdemeanor under Oklahoma law. The Pardon and Parole Board shall  
19 be empowered to recommend to the Governor for commutation, by  
20 majority vote, any commutation application placed on the  
21 accelerated, single-stage commutation docket that meets the  
22 eligibility criteria provided above. The Department of Corrections  
23 shall certify a list of potentially eligible inmates to the Pardon  
24 and Parole Board within thirty (30) days of the effective date of

1 this act. As used in this subsection, "any applicant" shall include  
2 inmates in the custody of the Department of Corrections or persons  
3 -serving a probationary term as a result of a suspension of a  
4 sentence.

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

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

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

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

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

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

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

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

17 K. The Pardon and Parole Board shall provide a copy of their  
18 regular docket and administrative parole docket to each district  
19 attorney in this state at least twenty (20) days before such docket  
20 is considered by the Board, or in the case of a supplemental,  
21 addendum or special docket, at least ten (10) days before such  
22 docket is considered by the Board, and shall notify the district  
23 attorney of any recommendations for commutations or paroles no later  
24 than twenty (20) days after the docket is considered by the Board.

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

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

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

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

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

15 P. All meetings of the Pardon and Parole Board shall comply  
16 with Section 301 et seq. of Title 25 of the Oklahoma Statutes;  
17 provided that the Board shall have the authority to limit the number  
18 of persons attending in support of, or in opposition to, any inmate  
19 being considered for parole and shall have the authority to exclude  
20 persons from attendance in accordance with prison security  
21 regulations and the capacity of the meeting room. Persons excluded  
22 from attending the meeting under this provision shall be informed of  
23 their right to be informed of the vote of the Board in accordance  
24 with Section 312 of Title 25 of the Oklahoma Statutes. Provided

1 further, nothing in this section shall be construed to prevent any  
2 member of the press or any public official from attending any  
3 meeting of the Pardon and Parole Board, except as provided by the  
4 Oklahoma Open Meeting Act.

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

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

12 Passed the House of Representatives the 5th day of March, 2020.

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Presiding Officer of the House  
of Representatives

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Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2020.

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Presiding Officer of the Senate

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