

BOARD OF PARDONS AND PAROLE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill makes changes to the Board of Pardons and Parole hearing notification procedures.

Highlighted Provisions:

This bill:

- ▶ provides that timely notice of hearings be given to the offender;
- ▶ requires that the victim or victim's representative who requests to be notified of hearings provide current contact information to the board; and
- ▶ allows notification of hearings to county or district attorneys and law enforcement to be through the board's website.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-27-5, as last amended by Laws of Utah 2018, Chapters 5 and 334

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-27-5** is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1) (a) The Board of Pardons and Parole shall determine by majority decision when and

30 under what conditions any convictions, except for treason or impeachment, may be pardoned or
31 commuted, subject to this chapter and other laws of the state.

32 (b) The Board of Pardons and Parole shall determine by majority decision when and
33 under what conditions, subject to this chapter and other laws of the state, individuals
34 committed to serve sentences at penal or correctional facilities that are under the jurisdiction of
35 the Department of Corrections, except treason or impeachment convictions or as otherwise
36 limited by law, may be released upon parole, ordered to pay restitution, or have their fines,
37 forfeitures, or restitution remitted, or their sentences terminated.

38 (c) The board may sit together or in panels to conduct hearings. The chair shall appoint
39 members to the panels in any combination and in accordance with rules made in accordance
40 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board. The chair may
41 participate on any panel and when doing so is chair of the panel. The chair of the board may
42 designate the chair for any other panel.

43 (d) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole,
44 pardon, or commutation granted or sentence terminated, except after a full hearing before the
45 board or the board's appointed examiner in open session. Any action taken under this
46 subsection other than by a majority of the board shall be affirmed by a majority of the board.

47 (e) A commutation or pardon may be granted only after a full hearing before the board.

48 (f) The board may determine restitution as provided in Section 77-27-6 and Subsection
49 77-38a-302(5)(d)(iii)(A).

50 (2) (a) In the case of [~~original parole grant hearings, rehearings, and parole revocation~~]
51 any hearings, timely prior notice of the time and location of the hearing shall be given to the
52 [~~defendant,~~] offender.

53 (b) [~~the~~] The county or district attorney's office responsible for prosecution of the case,
54 the sentencing court, and law enforcement officials responsible for the defendant's arrest and
55 conviction shall be notified of any board hearings through the board's website.

56 (c) [~~, and whenever~~] Whenever possible, the victim or the victim's [~~family~~]
57 representative, if designated, shall be notified of original hearings and any hearing after that if

58 notification is requested and current contact information has been provided to the board.

59 ~~[(b)]~~ (d) Notice to the victim~~;~~ or the victim's representative~~[, or the victim's family]~~
60 shall include information provided in Section 77-27-9.5, and any related rules made by the
61 board under that section. This information shall be provided in terms that are reasonable for the
62 lay person to understand.

63 (3) Decisions of the board in cases involving paroles, pardons, commutations or
64 terminations of sentence, restitution, or remission of fines or forfeitures are final and are not
65 subject to judicial review. Nothing in this section prevents the obtaining or enforcement of a
66 civil judgment, including restitution as provided in Section 77-27-6.

67 (4) This chapter may not be construed as a denial of or limitation of the governor's
68 power to grant respite or reprieves in all cases of convictions for offenses against the state,
69 except treason or conviction on impeachment. However, respites or reprieves may not extend
70 beyond the next session of the Board of Pardons and Parole and the board, at that session, shall
71 continue or terminate the respite or reprieve, or it may commute the punishment, or pardon the
72 offense as provided. In the case of conviction for treason, the governor may suspend execution
73 of the sentence until the case is reported to the Legislature at its next session. The Legislature
74 shall then either pardon or commute the sentence, or direct its execution.

75 (5) In determining when, where, and under what conditions an offender serving a
76 sentence may be paroled, pardoned, have restitution ordered, or have the offender's fines or
77 forfeitures remitted, or the offender's sentence commuted or terminated, the board shall:

78 (a) consider whether the offender has made or is prepared to make restitution as
79 ascertained in accordance with the standards and procedures of Section 77-38a-302, as a
80 condition of any parole, pardon, remission of fines or forfeitures, or commutation or
81 termination of sentence; and

82 (b) develop and use a list of criteria for making determinations under this Subsection

83 (5).

84 (6) In determining whether parole may be terminated, the board shall consider:

85 (a) the offense committed by the parolee; and

86 (b) the parole period as provided in Section 76-3-202, and in accordance with Section
87 77-27-13.

88 (7) For offenders placed on parole after December 31, 2018, the board shall terminate
89 parole in accordance with the supervision length guidelines established by the Utah Sentencing
90 Commission under Section 63M-7-404, to the extent the guidelines are consistent with the
91 requirements of the law.