

By: Allen

H.B. No. 72

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the organization and duties of the Board of Pardons and
3 Paroles.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 492.0131, Government Code, is amended to
6 read as follows:

7 Sec. 492.0131. PAROLE RULES, POLICIES, PROCEDURES. The
8 board and the presiding officer of the Board of Pardons and Paroles
9 [~~Policy Board~~] shall jointly review all rules, policies, and
10 procedures of the department and the Board of Pardons and Paroles
11 that relate to or affect the operation of the parole process. The
12 board and the presiding officer of the Board of Pardons and Paroles
13 [~~policy board~~] shall identify areas of inconsistency between the
14 department and the Board of Pardons and Paroles and shall amend
15 rules or change policies and procedures as necessary for consistent
16 operation of the parole process.

17 SECTION 2. Section 508.001, Government Code, is amended by
18 amending Subdivision (8) and adding Subdivision (10) to read as
19 follows:

20 (8) "Parole commissioner" means a person employed by
21 the board to perform the duties described by Section 508.0441
22 [~~"Policy board" means the Board of Pardons and Paroles Policy~~
23 ~~Board~~].

24 (10) "Presiding officer" means the presiding officer

1 of the Board of Pardons and Paroles.

2 SECTION 3. Section 508.031(a), Government Code, is amended
3 to read as follows:

4 (a) The board consists of seven [~~18~~] members appointed by
5 the governor with the advice and consent of the senate.

6 SECTION 4. Section 508.032, Government Code, is amended by
7 adding Subsections (c)-(e) to read as follows:

8 (c) A person who is a former employee of the department may
9 not serve on the board before the second anniversary of the date the
10 person terminated employment with the department.

11 (d) At any time not more than three members of the board may
12 be former employees of the department.

13 (e) For purposes of Subsections (c) and (d), previous
14 service as a board member is not considered to be employment with
15 the department.

16 SECTION 5. Section 508.034, Government Code, is amended to
17 read as follows:

18 Sec. 508.034. GROUNDS FOR REMOVAL. (a) It is a ground for
19 removal from the board that a member:

20 (1) does not have at the time of taking office the
21 qualification required by Section 508.032(b) for appointment to the
22 board;

23 (2) is ineligible for membership under Section
24 508.033;

25 (3) is unable to discharge the member's duties for a
26 substantial part of the term for which the member is appointed
27 because of illness or disability; or

1 (4) is absent from more than half of the regularly
2 scheduled board or panel meetings that the member is eligible to
3 attend during each calendar year [~~, except when the absence is~~
4 ~~excused by majority vote of the board~~].

5 (b) [~~It is a ground for removal from the board and the policy~~
6 ~~board if a member of the policy board is absent from more than half~~
7 ~~of the regularly scheduled policy board meetings that the member is~~
8 ~~eligible to attend during each calendar year.~~

9 [~~(c)~~] The board administrator or the board administrator's
10 designee shall provide to members of the board [~~, to members of the~~
11 ~~policy board,~~] and to employees, as often as necessary, information
12 regarding their qualification for office or employment under this
13 chapter and their responsibilities under applicable laws relating
14 to standards of conduct for state officers or employees.

15 (c) [~~(d)~~] The validity of an action of [~~+~~

16 [~~(1)~~] the board or panel is not affected by the fact
17 that the action is taken when a ground for removal of a board member
18 exists [~~, and~~

19 [~~(2)~~ ~~the policy board is not affected by the fact that~~
20 ~~the action is taken when a ground for removal of a member of the~~
21 ~~policy board exists~~].

22 (d) [~~(e)~~] If the general counsel to the board has knowledge
23 that a potential ground for removal exists, the general counsel
24 shall notify the presiding officer of the board of the potential
25 ground. The presiding officer shall notify the governor and the
26 attorney general that a potential ground for removal exists. If the
27 potential ground for removal involves the presiding officer, the

1 general counsel to the board shall notify the governor and the
2 attorney general that a potential ground for removal exists.

3 (e) [~~(f)~~] It is a ground for removal from the board that a
4 member fails to comply with policies or rules adopted by the
5 [~~policy~~] board.

6 SECTION 6. Section 508.035, Government Code, is amended by
7 amending Subsection (c) and adding Subsection (d) to read as
8 follows:

9 (c) The presiding officer reports directly to the governor
10 and serves as the administrative head of the [~~policy board and the~~]
11 board.

12 (d) The presiding officer may:

13 (1) delegate responsibilities and authority to other
14 members of the board, parole commissioners, or to employees of the
15 board;

16 (2) appoint advisory committees from the membership of
17 the board or from parole commissioners to further the efficient
18 administration of board business; and

19 (3) establish policies and procedures to further the
20 efficient administration of the business of the board.

21 SECTION 7. Section 508.036, Government Code, as amended by
22 Section 31.01, Senate Bill No. 287, Acts of the 78th Legislature,
23 Regular Session, 2003, is amended to read as follows:

24 Sec. 508.036. [~~POLICY BOARD: COMPOSITION,~~] GENERAL
25 ADMINISTRATIVE DUTIES. (a) The presiding officer [~~governor shall~~
26 ~~designate seven members of the board to serve as the Board of~~
27 ~~Pardons and Paroles Policy Board. The governor shall designate the~~

1 ~~presiding officer of the board as one of the seven members of the~~
2 ~~policy board, and the presiding officer of the board shall serve as~~
3 ~~presiding officer of the policy board. Service on the policy board~~
4 ~~is an additional duty of office for members appointed to the policy~~
5 ~~board.~~

6 ~~[(b) Members of the board designated as members of the~~
7 ~~policy board serve on the policy board for six-year terms that are~~
8 ~~concurrent with their six-year terms on the board, with the service~~
9 ~~of two or three members expiring February 1 of each odd-numbered~~
10 ~~year.~~

11 ~~[(c) The policy board] shall:~~

12 (1) develop and implement policies that clearly
13 separate the policy-making responsibilities of the board and the
14 management responsibilities of the board administrator, parole
15 commissioners, and the staff of the board ~~[adopt rules relating to~~
16 ~~the decision-making processes used by the board and parole panels];~~

17 (2) establish caseloads and required work hours for
18 members of the board and parole commissioners ~~[assign duties to~~
19 ~~members of the policy board that are in addition to the duties those~~
20 ~~members have in handling a caseload];~~

21 (3) update parole guidelines, assign precedential
22 value to previous decisions of the board relating to the granting of
23 parole and the revocation of parole or mandatory supervision, and
24 develop policies to ensure that members of the board and parole
25 commissioners use guidelines and previous decisions of the board
26 and parole commissioners in making decisions under this chapter;

27 (4) require members of the board and parole

1 commissioners to file activity reports[~~, on forms provided by the~~
2 ~~policy board,~~] that provide information on release decisions made
3 by members of the board and parole commissioners, the workload and
4 hours worked of the members of the board and parole commissioners,
5 and the use of parole guidelines by members of the board and parole
6 commissioners; and

7 (5) report at least annually to the governor and the
8 legislature on the [board] activities of the board and parole
9 commissioners, parole release decisions, and the use of parole
10 guidelines by the board and parole commissioners.

11 (b) The board shall:

12 (1) adopt rules relating to the decision-making
13 processes used by the board and parole panels;

14 (2) prepare information of public interest describing
15 the functions of the board and make the information available to the
16 public and appropriate state agencies;

17 (3) comply with federal and state laws related to
18 program and facility accessibility; and

19 (4) prepare annually a complete and detailed written
20 report that meets the reporting requirements applicable to
21 financial reporting provided in the General Appropriations Act and
22 accounts for all funds received and disbursed by the board during
23 the preceding fiscal year.

24 (c) The board administrator shall prepare and maintain a
25 written plan that describes how a person who does not speak English
26 can be provided reasonable access to the board's programs and
27 services.

1 (d) The board, in performing its duties, is subject to the
2 open meetings law, Chapter 551, and the administrative procedure
3 law, Chapter 2001. This subsection does not affect the provisions
4 of Section 2001.223 exempting hearings and interviews conducted by
5 the board or the division from Section 2001.038 and Subchapters
6 C-H, Chapter 2001.

7 SECTION 8. Section 508.0362, Government Code, is amended to
8 read as follows:

9 Sec. 508.0362. TRAINING REQUIRED. (a)(1) A person who is
10 appointed to and qualifies for office as a member of the board [~~or~~
11 ~~the policy board~~] may not vote, deliberate, or be counted as a
12 member in attendance at a meeting of the board [~~or policy board~~]
13 until the person completes at least one course of a training program
14 that complies with this section.

15 (2) A parole commissioner employed by the board may
16 not vote or deliberate on a matter described by Section 508.0441
17 until the person completes at least one course of a training program
18 that complies with this section.

19 (b) A training program must provide information to the
20 person regarding:

21 (1) the enabling legislation that created the board
22 [~~and the policy board~~];

23 (2) the programs operated by the board;

24 (3) the role and functions of the board and parole
25 commissioners;

26 (4) the rules of the board;

27 (5) the current budget for the board;

1 (6) the results of the most recent formal audit of the
2 board;

3 (7) the requirements of the:

4 (A) open meetings law, Chapter 551;

5 (B) open records law, Chapter 552; and

6 (C) administrative procedure law, Chapter 2001;

7 (8) the requirements of the conflict of interest laws
8 and other laws relating to public officials; and

9 (9) any applicable ethics policies adopted by the
10 ~~[policy]~~ board or the Texas Ethics Commission.

11 (c) A person appointed to the board ~~[or policy board]~~ is
12 entitled to reimbursement, as provided by the General
13 Appropriations Act, for the travel expenses incurred in attending
14 the training program regardless of whether the attendance at the
15 program occurs before or after the person qualifies for office.

16 SECTION 9. Section 508.040(a), Government Code, is amended
17 to read as follows:

18 (a) The presiding officer, with the advice and consent of a
19 majority of the board, is responsible for the employment and
20 supervision of ~~[policy board shall employ and supervise]:~~

21 (1) parole commissioners;

22 (2) a general counsel to the board;

23 (3) ~~[(2)]~~ a board administrator to manage the
24 day-to-day activities of the board;

25 (4) ~~[(3)]~~ hearing officers;

26 (5) ~~[(4)]~~ personnel to assist in clemency and hearing
27 matters; and

1 (6) [~~(5)~~] secretarial or clerical personnel.

2 SECTION 10. Section 508.041, Government Code, is amended to
3 read as follows:

4 Sec. 508.041. DESIGNEE TRAINING; HANDBOOK. (a) The
5 [~~policy~~] board shall develop and implement:

6 (1) a training program that each newly hired employee
7 of the board designated to conduct hearings under Section 508.281
8 must complete before conducting a hearing without the assistance of
9 a board member or experienced parole commissioner or designee; and

10 (2) a training program to provide an annual update to
11 designees of the board on issues and procedures relating to the
12 revocation process.

13 (b) The [~~policy~~] board shall prepare and biennially update a
14 procedural manual to be used by designees of the board. The
15 [~~policy~~] board shall include in the manual:

16 (1) descriptions of decisions in previous hearings
17 determined by the [~~policy~~] board to have value as precedents for
18 decisions in subsequent hearings;

19 (2) laws and court decisions relevant to decision
20 making in hearings; and

21 (3) case studies useful in decision making in
22 hearings.

23 (c) The [~~policy~~] board shall prepare and update as necessary
24 a handbook to be made available to participants in hearings under
25 Section 508.281, such as defense attorneys, persons released on
26 parole or mandatory supervision, and witnesses. The handbook must
27 describe in plain language the procedures used in a hearing under

1 Section 508.281.

2 SECTION 11. Section 508.042, Government Code, is amended to
3 read as follows:

4 Sec. 508.042. TRAINING PROGRAM FOR MEMBERS AND PAROLE
5 COMMISSIONERS. (a) The [~~policy~~] board shall develop for board
6 members and parole commissioners a comprehensive training and
7 education program on the criminal justice system, with special
8 emphasis on the parole process.

9 (b) (1) A new member may not participate in a vote of the
10 board or a panel, deliberate, or be counted as a member in
11 attendance at a meeting of the board [~~or policy board~~] until the
12 member completes the program.

13 (2) A new parole commissioner may not participate in a
14 vote of a panel until the commissioner completes the program. This
15 subdivision does not apply to a new parole commissioner who as a
16 board member completed the program.

17 SECTION 12. Subchapter B, Chapter 508, Government Code, is
18 amended by amending Section 508.044 and adding Section 508.0441 to
19 read as follows:

20 Sec. 508.044. POWERS AND DUTIES OF BOARD. [~~(a)~~] A board
21 member shall give full time to the duties of the member's office,
22 including[-

23 [~~(b) In addition to performing the~~] duties imposed on the
24 board by the Texas Constitution and other law.

25 Sec. 508.0441. RELEASE AND REVOCATION DUTIES. (a) Board[-
26 board] members and parole commissioners shall determine:

27 (1) which inmates are to be released on parole or

1 mandatory supervision;

2 (2) conditions of parole or mandatory supervision,
3 including special conditions;

4 (3) the modification and withdrawal of conditions of
5 parole or mandatory supervision;

6 (4) which releasees may be released from supervision
7 and reporting; and

8 (5) the continuation, modification, and revocation of
9 parole or mandatory supervision.

10 (b) [~~(c)~~] The [~~policy~~] board shall develop and implement a
11 policy that clearly defines circumstances under which a board
12 member or parole commissioner should disqualify himself or herself
13 from voting on:

14 (1) a parole decision; or

15 (2) a decision to revoke parole or mandatory
16 supervision.

17 (c) [~~(d)~~] The [~~policy~~] board may adopt reasonable rules as
18 [~~the policy board considers~~] proper or necessary relating to:

19 (1) the eligibility of an inmate for release on parole
20 or release to mandatory supervision;

21 (2) the conduct of a parole or mandatory supervision
22 hearing; or

23 (3) conditions to be imposed on a releasee.

24 (d) [~~(e)~~] The presiding officer [~~policy board~~] may provide
25 a written plan for the administrative review of actions taken by a
26 parole panel by a review panel [~~the entire membership or by a subset~~
27 ~~of the entire membership of the board~~].

1 (e) [~~(f)~~] Board members and parole commissioners shall, at
2 the direction of the presiding officer, file activity reports on
3 duties performed under this chapter.

4 SECTION 13. Section 508.045, Government Code, is amended to
5 read as follows:

6 Sec. 508.045. PAROLE PANELS. (a) Except as provided by
7 Section 508.046, board members and parole commissioners shall act
8 in panels composed of three [~~persons each~~] in matters of:

- 9 (1) release on parole;
10 (2) release to mandatory supervision; and
11 (3) revocation of parole or mandatory supervision.

12 (b) The presiding officer [~~of the board~~] shall designate the
13 composition of each panel and shall designate panels composed of at
14 least one board member and any combination of board members and
15 parole commissioners.

16 (c) A parole panel may:

- 17 (1) grant, deny, or revoke parole;
18 (2) revoke mandatory supervision; and
19 (3) conduct parole revocation hearings and mandatory
20 supervision revocation hearings.

21 SECTION 14. Section 508.047(a), Government Code, is amended
22 to read as follows:

23 (a) The members of the [~~policy~~] board shall meet at least
24 once in each quarter of the calendar year at a site determined by
25 the presiding officer.

26 SECTION 15. Section 508.049, Government Code, is amended to
27 read as follows:

1 Sec. 508.049. MISSION STATEMENT. (a) The [~~policy~~] board,
2 after consultation with the governor and the Texas Board of
3 Criminal Justice, shall adopt a mission statement that reflects the
4 responsibilities for the operation of the parole process that are
5 assigned to the [~~policy board, the~~] board, the division, the
6 department, or the Texas Board of Criminal Justice.

7 (b) The [~~policy~~] board shall include in the mission
8 statement a description of specific locations at which the board
9 intends to conduct business related to the operation of the parole
10 process.

11 SECTION 16. Section 508.082, Government Code, is amended to
12 read as follows:

13 Sec. 508.082. RULES. The [~~policy~~] board shall adopt rules
14 relating to:

15 (1) the submission and presentation of information and
16 arguments to the board, a parole panel, and the department for and
17 in behalf of an inmate; and

18 (2) the time, place, and manner of contact between a
19 person representing an inmate and:

20 (A) a member of the board or a parole
21 commissioner;

22 (B) an employee of the board; or

23 (C) an employee of the department.

24 SECTION 17. Section 508.141(g), Government Code, as added
25 by Senate Bill No. 917, Acts of the 78th Legislature, Regular
26 Session, 2003, is amended to read as follows:

27 (g) The [~~policy~~] board shall adopt a policy establishing the

1 date on which the board may reconsider for release an inmate who has
2 previously been denied release. The policy must require the board
3 to reconsider for release an inmate serving a sentence for an
4 offense listed in Section 508.149(a) during a month designated by
5 the parole panel that denied release. The designated month must
6 begin after the first anniversary of the date of the denial and end
7 before the fifth anniversary of the date of the denial. The policy
8 must require the board to reconsider for release an inmate other
9 than an inmate serving a sentence for an offense listed in Section
10 508.149(a) as soon as practicable after the first anniversary of
11 the date of the denial.

12 SECTION 18. Section 508.144(b), Government Code, is amended
13 to read as follows:

14 (b) If a board member or parole commissioner deviates from
15 the parole guidelines in voting on a parole decision, the member or
16 parole commissioner shall:

17 (1) produce a brief written statement describing the
18 circumstances regarding the departure from the guidelines; and

19 (2) place a copy of the statement in the file of the
20 inmate for whom the parole decision was made.

21 SECTION 19. Section 508.153(b), Government Code, is amended
22 to read as follows:

23 (b) If more than one person is entitled to appear in person
24 before the board members or parole commissioners, only the person
25 chosen by all persons entitled to appear as the persons' sole
26 representative may appear [~~before the board members~~].

27 SECTION 20. Section 508.281(a), Government Code, is amended

1 to read as follows:

2 (a) A releasee, a person released although ineligible for
3 release, or a person granted a conditional pardon is entitled to a
4 hearing before a parole panel or a designated agent of the board
5 under the rules adopted by the [~~policy~~] board and within a period
6 that permits a parole panel, a designee of the board, or the
7 department to dispose of the charges within the periods established
8 by Sections 508.282(a) and (b) if the releasee or person:

9 (1) is accused of a violation of the releasee's parole
10 or mandatory supervision or the person's conditional pardon, on
11 information and complaint by a peace officer or parole officer; or

12 (2) is arrested after an ineligible release.

13 SECTION 21. Section 508.313(c), Government Code, as amended
14 by Section 3, Senate Bill No. 519, Acts of the 78th Legislature,
15 Regular Session, 2003, is amended to read as follows:

16 (c) The department, on request or in the normal course of
17 official business, shall provide information that is confidential
18 and privileged under Subsection (a) to:

19 (1) the governor;

20 (2) a member of the board or a parole commissioner;

21 (3) the Criminal Justice Policy Council in performing
22 duties of the council under Section 413.017; or

23 (4) an eligible entity requesting information for a
24 law enforcement, prosecutorial, correctional, clemency, or
25 treatment purpose.

26 SECTION 22. (a) Section 508.0361, Government Code, is
27 repealed.

1 (b) Section 31.02, Senate Bill No. 287, Acts of the 78th
2 Legislature, Regular Session, 2003, is repealed.

3 SECTION 23. (a) The governor shall appoint new members to
4 the Board of Pardons and Paroles on or before January 1, 2004, and
5 the terms of members serving on December 31, 2003, expire on the
6 appointment of the new members. The governor shall appoint as new
7 members at least three persons who:

8 (1) have never been employed by the Texas Department
9 of Criminal Justice; and

10 (2) were serving on the Board of Pardons and Paroles on
11 May 1, 2003, or on that date had been nominated for board membership
12 and were awaiting confirmation or had been confirmed during the
13 78th Legislature.

14 (b) Of the new members of the Board of Pardons and Paroles,
15 the governor shall appoint two to serve terms expiring February 1,
16 2005, two to serve terms expiring February 1, 2007, and three to
17 serve terms expiring February 1, 2009. On the expiration of the
18 terms of the initial members of the new board, the term of a member
19 appointed by the governor is six years.

20 (c) On November 1, 2003, a rule of the Board of Pardons and
21 Paroles Policy Board is a rule of the Board of Pardons and Paroles.

22 SECTION 24. Notwithstanding Section 508.040(a), Government
23 Code, as amended by this Act, until January 1, 2004, the presiding
24 officer of the Board of Pardons and Paroles shall exercise
25 responsibilities imposed by Section 508.040(a) with the advice and
26 consent of the Board of Pardons and Paroles Policy Board.

27 SECTION 25. It is the intent of the legislature that members

1 serving on the Board of Pardons and Paroles on May 1, 2003, or who on
2 that date had been nominated for board membership and were awaiting
3 confirmation or had been recently confirmed by the 78th
4 Legislature, be offered the first opportunity to be hired as parole
5 commissioners employed under Chapter 508, Government Code, as
6 amended by this Act.

7 SECTION 26. This Act takes effect November 1, 2003.