

By: Swinford

H.B. No. 23

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

11 (2) A person who is employed by the department on
12 August 1, 2003, may not be employed by the board before August 1,
13 2005.

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

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

19 SECTION 5. Section 508.034, Government Code, is amended to
20 read as follows:

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

23 (1) does not have at the time of taking office the
24 qualification required by Section 508.032(b) for appointment to the
25 board;

26 (2) is ineligible for membership under Section
27 508.033;

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

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

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

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

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

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

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

25 (d) [~~(e)~~] If the general counsel to the board has knowledge
26 that a potential ground for removal exists, the general counsel
27 shall notify the presiding officer of the board of the potential

1 ground. The presiding officer shall notify the governor and the
2 attorney general that a potential ground for removal exists. If the
3 potential ground for removal involves the presiding officer, the
4 general counsel to the board shall notify the governor and the
5 attorney general that a potential ground for removal exists.

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

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

12 (c) The presiding officer reports directly to the governor
13 and serves as the administrative head of the [~~policy board and the~~]
14 board.

15 (d) The presiding officer may:

16 (1) delegate responsibilities and authority to other
17 members of the board, parole commissioners, or to employees of the
18 board;

19 (2) appoint advisory committees from the membership of
20 the board or from parole commissioners to further the efficient
21 administration of board business; and

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

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

27 Sec. 508.036. [~~POLICY BOARD: COMPOSITION,~~] GENERAL

1 ADMINISTRATIVE DUTIES. (a) The presiding officer [~~governor shall~~
2 ~~designate seven members of the board to serve as the Board of~~
3 ~~Pardons and Paroles Policy Board. The governor shall designate the~~
4 ~~presiding officer of the board as one of the seven members of the~~
5 ~~policy board, and the presiding officer of the board shall serve as~~
6 ~~presiding officer of the policy board. Service on the policy board~~
7 ~~is an additional duty of office for members appointed to the policy~~
8 ~~board.~~

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

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

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

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

24 (3) update parole guidelines, assign precedential
25 value to previous decisions of the board relating to the granting of
26 parole and the revocation of parole or mandatory supervision, and
27 develop policies to ensure that members of the board and parole

1 commissioners use guidelines and previous decisions of the board
2 and parole commissioners in making decisions under this chapter;

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

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

14 (b) The board shall:

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

17 (2) prepare information of public interest describing
18 the functions of the board and make the information available to the
19 public and appropriate state agencies;

20 (3) comply with federal and state laws related to
21 program and facility accessibility; and

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

27 (c) The board administrator shall prepare and maintain a

1 written plan that describes how a person who does not speak English
2 can be provided reasonable access to the board's programs and
3 services.

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

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

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

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

22 (b) A training program must provide information to the
23 person regarding:

24 (1) the enabling legislation that created the board
25 [~~and the policy board~~];

26 (2) the programs operated by the board;

27 (3) the role and functions of the board and parole

1 commissioners;

2 (4) the rules of the board;

3 (5) the current budget for the board;

4 (6) the results of the most recent formal audit of the
5 board;

6 (7) the requirements of the:

7 (A) open meetings law, Chapter 551;

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

9 (C) administrative procedure law, Chapter 2001;

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

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

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

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

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

24 (1) parole commissioners;

25 (2) a general counsel to the board;

26 (3) ~~[(2)]~~ a board administrator to manage the
27 day-to-day activities of the board;

- 1 (4) [~~(3)~~] hearing officers;
- 2 (5) [~~(4)~~] personnel to assist in clemency and hearing
- 3 matters; and
- 4 (6) [~~(5)~~] secretarial or clerical personnel.

5 SECTION 10. Section 508.041, Government Code, is amended to

6 read as follows:

7 Sec. 508.041. DESIGNEE TRAINING; HANDBOOK. (a) The

8 [~~policy~~] board shall develop and implement:

9 (1) a training program that each newly hired employee

10 of the board designated to conduct hearings under Section 508.281

11 must complete before conducting a hearing without the assistance of

12 a board member or experienced parole commissioner or designee; and

13 (2) a training program to provide an annual update to

14 designees of the board on issues and procedures relating to the

15 revocation process.

16 (b) The [~~policy~~] board shall prepare and biennially update a

17 procedural manual to be used by designees of the board. The

18 [~~policy~~] board shall include in the manual:

19 (1) descriptions of decisions in previous hearings

20 determined by the [~~policy~~] board to have value as precedents for

21 decisions in subsequent hearings;

22 (2) laws and court decisions relevant to decision

23 making in hearings; and

24 (3) case studies useful in decision making in

25 hearings.

26 (c) The [~~policy~~] board shall prepare and update as necessary

27 a handbook to be made available to participants in hearings under

1 Section 508.281, such as defense attorneys, persons released on
2 parole or mandatory supervision, and witnesses. The handbook must
3 describe in plain language the procedures used in a hearing under
4 Section 508.281.

5 SECTION 11. Section 508.042, Government Code, is amended to
6 read as follows:

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

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

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

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

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

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

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

3 (1) which inmates are to be released on parole or
4 mandatory supervision;

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

7 (3) the modification and withdrawal of conditions of
8 parole or mandatory supervision;

9 (4) which releasees may be released from supervision
10 and reporting; and

11 (5) the continuation, modification, and revocation of
12 parole or mandatory supervision.

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

17 (1) a parole decision; or

18 (2) a decision to revoke parole or mandatory
19 supervision.

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

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

24 (2) the conduct of a parole or mandatory supervision
25 hearing; or

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

27 (d) ~~[(e)]~~ The presiding officer ~~[policy board]~~ may provide

1 a written plan for the administrative review of actions taken by a
2 parole panel by a review panel [~~the entire membership or by a subset~~
3 ~~of the entire membership of the board~~].

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

7 SECTION 13. Section 508.045, Government Code, is amended to
8 read as follows:

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

- 12 (1) release on parole;
- 13 (2) release to mandatory supervision; and
- 14 (3) revocation of parole or mandatory supervision.

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

19 (c) A parole panel may:

- 20 (1) grant, deny, or revoke parole;
- 21 (2) revoke mandatory supervision; and
- 22 (3) conduct parole revocation hearings and mandatory
23 supervision revocation hearings.

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

26 (a) The members of the [~~policy~~] board shall meet at least
27 once in each quarter of the calendar year at a site determined by

1 the presiding officer.

2 SECTION 15. Section 508.049, Government Code, is amended to
3 read as follows:

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

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

14 SECTION 16. Section 508.082, Government Code, is amended to
15 read as follows:

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

18 (1) the submission and presentation of information and
19 arguments to the board, a parole panel, and the department for and
20 in behalf of an inmate; and

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

23 (A) a member of the board or a parole
24 commissioner;

25 (B) an employee of the board; or

26 (C) an employee of the department.

27 SECTION 17. Section 508.141(g), Government Code, as added

1 by Senate Bill No. 917, Acts of the 78th Legislature, Regular
2 Session, 2003, is amended to read as follows:

3 (g) The [~~policy~~] board shall adopt a policy establishing the
4 date on which the board may reconsider for release an inmate who has
5 previously been denied release. The policy must require the board
6 to reconsider for release an inmate serving a sentence for an
7 offense listed in Section 508.149(a) during a month designated by
8 the parole panel that denied release. The designated month must
9 begin after the first anniversary of the date of the denial and end
10 before the fifth anniversary of the date of the denial. The policy
11 must require the board to reconsider for release an inmate other
12 than an inmate serving a sentence for an offense listed in Section
13 508.149(a) as soon as practicable after the first anniversary of
14 the date of the denial.

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

17 (b) If a board member or parole commissioner deviates from
18 the parole guidelines in voting on a parole decision, the member or
19 parole commissioner shall:

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

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

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

26 (b) If more than one person is entitled to appear in person
27 before the board members or parole commissioners, only the person

1 chosen by all persons entitled to appear as the persons' sole
2 representative may appear [~~before the board members~~].

3 SECTION 20. Section 508.281(a), Government Code, is amended
4 to read as follows:

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

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

15 (2) is arrested after an ineligible release.

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

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

22 (1) the governor;

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

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

26 (4) an eligible entity requesting information for a
27 law enforcement, prosecutorial, correctional, clemency, or

1 treatment purpose.

2 SECTION 22. (a) Section 508.0361, Government Code, is
3 repealed.

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

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

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

13 (2) were serving on the Board of Pardons and Paroles on
14 May 1, 2003, or on that date had been nominated for board membership
15 and were awaiting confirmation.

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

22 (c) On December 1, 2003, a rule of the Board of Pardons and
23 Paroles Policy Board is a rule of the Board of Pardons and Paroles.

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

1 consent of the Board of Pardons and Paroles Policy Board.

2 SECTION 25. It is the intent of the legislature that members
3 serving on the Board of Pardons and Paroles on May 1, 2003, be
4 offered the first opportunity to be hired as parole commissioners
5 employed under Chapter 508, Government Code, as amended by this
6 Act.

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