

1-1 By: Whitmire S.B. No. 1678
1-2 (In the Senate - Filed March 14, 2003; March 20, 2003, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 May 9, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 9, 2003, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1678 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the organization and duties of the Board of Pardons and
1-11 Paroles.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 508.001, Government Code, is amended by
1-14 amending Subdivision (8) and adding Subdivision (10) to read as
1-15 follows:

1-16 (8) "Parole commissioner" means a person employed by
1-17 the board to perform the duties described by Section 508.0441
1-18 [~~"Policy board" means the Board of Pardons and Paroles Policy~~
1-19 ~~Board~~].

1-20 (10) "Presiding officer" means the presiding officer
1-21 of the Board of Pardons and Paroles.

1-22 SECTION 2. Subsection (a), Section 508.031, Government
1-23 Code, is amended to read as follows:

1-24 (a) The board consists of seven [~~18~~] members appointed by
1-25 the governor with the advice and consent of the senate.

1-26 SECTION 3. Section 508.034, Government Code, is amended to
1-27 read as follows:

1-28 Sec. 508.034. GROUNDS FOR REMOVAL. (a) It is a ground for
1-29 removal from the board that a member:

1-30 (1) does not have at the time of taking office the
1-31 qualification required by Section 508.032(b) for appointment to the
1-32 board;

1-33 (2) is ineligible for membership under Section
1-34 508.033;

1-35 (3) is unable to discharge the member's duties for a
1-36 substantial part of the term for which the member is appointed
1-37 because of illness or disability; or

1-38 (4) is absent from more than half of the regularly
1-39 scheduled board or panel meetings that the member is eligible to
1-40 attend during each calendar year, except when the absence is
1-41 excused by [~~majority vote of~~] the presiding officer [~~board~~].

1-42 (b) [~~It is a ground for removal from the board and the policy~~
1-43 ~~board if a member of the policy board is absent from more than half~~
1-44 ~~of the regularly scheduled policy board meetings that the member is~~
1-45 ~~eligible to attend during each calendar year.~~

1-46 [~~(c)~~] The board administrator or the board administrator's
1-47 designee shall provide to members of the board [~~, to members of the~~
1-48 ~~policy board,~~] and to employees, as often as necessary, information
1-49 regarding their qualification for office or employment under this
1-50 chapter and their responsibilities under applicable laws relating
1-51 to standards of conduct for state officers or employees.

1-52 (c) [~~(d)~~] The validity of an action of [~~+~~
1-53 [~~(1)~~] the board or panel is not affected by the fact
1-54 that the action is taken when a ground for removal of a board member
1-55 exists [~~, and~~

1-56 [~~(2)~~ the policy board is not affected by the fact that
1-57 the action is taken when a ground for removal of a member of the
1-58 policy board exists].

1-59 (d) [~~(e)~~] If the general counsel to the board has knowledge
1-60 that a potential ground for removal exists, the general counsel
1-61 shall notify the presiding officer of the board of the potential
1-62 ground. The presiding officer shall notify the governor and the
1-63 attorney general that a potential ground for removal exists. If the

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

2-4 (e) ~~(f)~~ It is a ground for removal from the board that a
2-5 member fails to comply with policies or rules adopted by the
2-6 ~~[policy]~~ board.

2-7 SECTION 4. Section 508.035, Government Code, is amended by
2-8 amending Subsection (c) and adding Subsection (d) to read as
2-9 follows:

2-10 (c) The presiding officer reports directly to the governor
2-11 and serves as the administrative head of the ~~[policy board and the]~~
2-12 board.

2-13 (d) The presiding officer may:

2-14 (1) delegate responsibilities and authority to other
2-15 members of the board, parole commissioners, or to employees of the
2-16 board;

2-17 (2) appoint advisory committees from the membership of
2-18 the board or from parole commissioners to further the efficient
2-19 administration of board business; and

2-20 (3) establish policies and procedures to further the
2-21 efficient administration of the business of the board.

2-22 SECTION 5. Section 508.036, Government Code, is amended to
2-23 read as follows:

2-24 Sec. 508.036. ~~[POLICY BOARD: COMPOSITION,]~~ GENERAL
2-25 ADMINISTRATIVE DUTIES. (a) ~~The presiding officer [governor shall~~
2-26 ~~designate six members of the board to serve as the Board of Pardons~~
2-27 ~~and Paroles Policy Board. The governor shall designate the~~
2-28 ~~presiding officer of the board as one of the six members of the~~
2-29 ~~policy board, and the presiding officer of the board shall serve as~~
2-30 ~~presiding officer of the policy board. Service on the policy board~~
2-31 ~~is an additional duty of office for members appointed to the policy~~
2-32 ~~board.~~

2-33 ~~[(b) Members of the board designated as members of the~~
2-34 ~~policy board serve on the policy board for six-year terms that are~~
2-35 ~~concurrent with their six-year terms on the board, with the service~~
2-36 ~~of two members expiring February 1 of each odd-numbered year.~~

2-37 ~~[(c) The policy board] shall:~~

2-38 (1) develop and implement policies that clearly
2-39 separate the policy-making responsibilities of the board and the
2-40 management responsibilities of the board administrator, parole
2-41 commissioners, and the staff of the board [adopt rules relating to
2-42 the decision-making processes used by the board and parole panels];

2-43 (2) establish caseloads and required work hours for
2-44 members of the board and parole commissioners [assign duties to
2-45 members of the policy board that are in addition to the duties those
2-46 members have in handling a caseload];

2-47 (3) update parole guidelines, assign precedential
2-48 value to previous decisions of the board relating to the granting of
2-49 parole and the revocation of parole or mandatory supervision, and
2-50 develop policies to ensure that members of the board and parole
2-51 commissioners use guidelines and previous decisions of the board
2-52 and parole commissioners in making decisions under this chapter;

2-53 (4) require members of the board and parole
2-54 commissioners to file activity reports[, on forms provided by the
2-55 policy board,] that provide information on release decisions made
2-56 by members of the board and parole commissioners, the workload and
2-57 hours worked of the members of the board and parole commissioners,
2-58 and the use of parole guidelines by members of the board and parole
2-59 commissioners; and

2-60 (5) report at least annually to the governor and the
2-61 legislature on the [board] activities of the board and parole
2-62 commissioners, parole release decisions, and the use of parole
2-63 guidelines by the board and parole commissioners.

2-64 (b) The board shall:

2-65 (1) adopt rules relating to the decision-making
2-66 processes used by the board and parole panels;

2-67 (2) prepare information of public interest describing
2-68 the functions of the board and make the information available to the
2-69 public and appropriate state agencies;

3-1 (3) comply with federal and state laws related to
 3-2 program and facility accessibility; and

3-3 (4) prepare annually a complete and detailed written
 3-4 report that meets the reporting requirements applicable to
 3-5 financial reporting provided in the General Appropriations Act and
 3-6 accounts for all funds received and disbursed by the board during
 3-7 the preceding fiscal year.

3-8 (c) The board administrator shall prepare and maintain a
 3-9 written plan that describes how a person who does not speak English
 3-10 can be provided reasonable access to the board's programs and
 3-11 services.

3-12 (d) The board, in performing its duties, is subject to the
 3-13 open meetings law, Chapter 551, and the administrative procedure
 3-14 law, Chapter 2001. This subsection does not affect the provisions
 3-15 of Section 2001.223 exempting hearings and interviews conducted by
 3-16 the board or the division from Section 2001.038 and Subchapters
 3-17 C-H, Chapter 2001.

3-18 SECTION 6. Section 508.0362, Government Code, is amended to
 3-19 read as follows:

3-20 Sec. 508.0362. TRAINING REQUIRED. (a)(1) A person who is
 3-21 appointed to and qualifies for office as a member of the board [~~or~~
 3-22 ~~the policy board~~] may not vote, deliberate, or be counted as a
 3-23 member in attendance at a meeting of the board [~~or policy board~~]
 3-24 until the person completes at least one course of a training program
 3-25 that complies with this section.

3-26 (2) A parole commissioner employed by the board may
 3-27 not vote or deliberate on a matter described by Section 508.0441
 3-28 until the person completes at least one course of a training program
 3-29 that complies with this section.

3-30 (b) A training program must provide information to the
 3-31 person regarding:

3-32 (1) the enabling legislation that created the board
 3-33 [~~and the policy board~~];

3-34 (2) the programs operated by the board;

3-35 (3) the role and functions of the board and parole
 3-36 commissioners;

3-37 (4) the rules of the board;

3-38 (5) the current budget for the board;

3-39 (6) the results of the most recent formal audit of the
 3-40 board;

3-41 (7) the requirements of the:

3-42 (A) open meetings law, Chapter 551;

3-43 (B) open records law, Chapter 552; and

3-44 (C) administrative procedure law, Chapter 2001;

3-45 (8) the requirements of the conflict of interest laws
 3-46 and other laws relating to public officials; and

3-47 (9) any applicable ethics policies adopted by the
 3-48 [~~policy~~] board or the Texas Ethics Commission.

3-49 (c) A person appointed to the board [~~or policy board~~] is
 3-50 entitled to reimbursement, as provided by the General
 3-51 Appropriations Act, for the travel expenses incurred in attending
 3-52 the training program regardless of whether the attendance at the
 3-53 program occurs before or after the person qualifies for office.

3-54 SECTION 7. Subsection (a), Section 508.040, Government
 3-55 Code, is amended to read as follows:

3-56 (a) The presiding officer is responsible for the employment
 3-57 and supervision of [~~policy board shall employ and supervise~~]:

3-58 (1) parole commissioners;

3-59 (2) a general counsel to the board;

3-60 (3) [~~(2)~~] a board administrator to manage the
 3-61 day-to-day activities of the board;

3-62 (4) [~~(3)~~] hearing officers;

3-63 (5) [~~(4)~~] personnel to assist in clemency and hearing
 3-64 matters; and

3-65 (6) [~~(5)~~] secretarial or clerical personnel.

3-66 SECTION 8. Section 508.041, Government Code, is amended to
 3-67 read as follows:

3-68 Sec. 508.041. DESIGNEE TRAINING; HANDBOOK. (a) The
 3-69 [~~policy~~] board shall develop and implement:

4-1 (1) a training program that each newly hired employee
4-2 of the board designated to conduct hearings under Section 508.281
4-3 must complete before conducting a hearing without the assistance of
4-4 a board member or experienced parole commissioner or designee; and

4-5 (2) a training program to provide an annual update to
4-6 designees of the board on issues and procedures relating to the
4-7 revocation process.

4-8 (b) The [~~policy~~] board shall prepare and biennially update a
4-9 procedural manual to be used by designees of the board. The
4-10 [~~policy~~] board shall include in the manual:

4-11 (1) descriptions of decisions in previous hearings
4-12 determined by the [~~policy~~] board to have value as precedents for
4-13 decisions in subsequent hearings;

4-14 (2) laws and court decisions relevant to decision
4-15 making in hearings; and

4-16 (3) case studies useful in decision making in
4-17 hearings.

4-18 (c) The [~~policy~~] board shall prepare and update as necessary
4-19 a handbook to be made available to participants in hearings under
4-20 Section 508.281, such as defense attorneys, persons released on
4-21 parole or mandatory supervision, and witnesses. The handbook must
4-22 describe in plain language the procedures used in a hearing under
4-23 Section 508.281.

4-24 SECTION 9. Section 508.042, Government Code, is amended to
4-25 read as follows:

4-26 Sec. 508.042. TRAINING PROGRAM FOR MEMBERS AND PAROLE
4-27 COMMISSIONERS. (a) The [~~policy~~] board shall develop for board
4-28 members and parole commissioners a comprehensive training and
4-29 education program on the criminal justice system, with special
4-30 emphasis on the parole process.

4-31 (b) (1) A new member may not participate in a vote of the
4-32 board or a panel, deliberate, or be counted as a member in
4-33 attendance at a meeting of the board [~~or policy board~~] until the
4-34 member completes the program.

4-35 (2) A new parole commissioner may not participate in a
4-36 vote of a panel until the commissioner completes the program. This
4-37 subdivision does not apply to a new parole commissioner who as a
4-38 board member completed the program.

4-39 SECTION 10. Subchapter B, Chapter 508, Government Code, is
4-40 amended by amending Section 508.044 and adding Section 508.0441 to
4-41 read as follows:

4-42 Sec. 508.044. POWERS AND DUTIES OF BOARD. [~~(a)~~] A board
4-43 member shall give full time to the duties of the member's office,
4-44 including [-

4-45 [(b) In addition to performing the] duties imposed on the
4-46 board by the Texas Constitution and other law.

4-47 Sec. 508.0441. RELEASE AND REVOCATION DUTIES. (a) Board[-
4-48 board] members and parole commissioners shall determine:

4-49 (1) which inmates are to be released on parole or
4-50 mandatory supervision;

4-51 (2) conditions of parole or mandatory supervision,
4-52 including special conditions;

4-53 (3) the modification and withdrawal of conditions of
4-54 parole or mandatory supervision;

4-55 (4) which releasees may be released from supervision
4-56 and reporting; and

4-57 (5) the continuation, modification, and revocation of
4-58 parole or mandatory supervision.

4-59 (b) [~~(c)~~] The [~~policy~~] board shall develop and implement a
4-60 policy that clearly defines circumstances under which a board
4-61 member or parole commissioner should disqualify himself or herself
4-62 from voting on:

4-63 (1) a parole decision; or

4-64 (2) a decision to revoke parole or mandatory
4-65 supervision.

4-66 (c) [~~(d)~~] The [~~policy~~] board may adopt reasonable rules as
4-67 [~~the policy board considers~~] proper or necessary relating to:

4-68 (1) the eligibility of an inmate for release on parole
4-69 or release to mandatory supervision;

5-1 (2) the conduct of a parole or mandatory supervision
5-2 hearing; or

5-3 (3) conditions to be imposed on a releasee.
5-4 (d) [~~(e)~~] The presiding officer [~~policy board~~] may provide
5-5 a written plan for the administrative review of actions taken by a
5-6 parole panel by a review panel [~~the entire membership or by a subset~~
5-7 ~~of the entire membership of the board~~].

5-8 (e) [~~(f)~~] Board members and parole commissioners shall, at
5-9 the direction of the presiding officer, file activity reports on
5-10 duties performed under this chapter.

5-11 SECTION 11. Section 508.045, Government Code, is amended to
5-12 read as follows:

5-13 Sec. 508.045. PAROLE PANELS. (a) Except as provided by
5-14 Section 508.046, board members and parole commissioners shall act
5-15 in panels composed of three [~~persons each~~] in matters of:

- 5-16 (1) release on parole;
- 5-17 (2) release to mandatory supervision; and
- 5-18 (3) revocation of parole or mandatory supervision.

5-19 (b) The presiding officer [~~of the board~~] shall designate the
5-20 composition of each panel, and may designate panels composed only
5-21 of board members, composed only of parole commissioners, or
5-22 composed of any combination of members and parole commissioners.

5-23 (c) A parole panel may:
5-24 (1) grant, deny, or revoke parole;
5-25 (2) revoke mandatory supervision; and
5-26 (3) conduct parole revocation hearings and mandatory
5-27 supervision revocation hearings.

5-28 SECTION 12. Subsection (a), Section 508.047, Government
5-29 Code, is amended to read as follows:

5-30 (a) The members of the [~~policy~~] board shall meet at least
5-31 once in each quarter of the calendar year at a site determined by
5-32 the presiding officer.

5-33 SECTION 13. Section 508.049, Government Code, is amended to
5-34 read as follows:

5-35 Sec. 508.049. MISSION STATEMENT. (a) The [~~policy~~] board,
5-36 after consultation with the governor and the Texas Board of
5-37 Criminal Justice, shall adopt a mission statement that reflects the
5-38 responsibilities for the operation of the parole process that are
5-39 assigned to the [~~policy board, the~~] board, the division, the
5-40 department, or the Texas Board of Criminal Justice.

5-41 (b) The [~~policy~~] board shall include in the mission
5-42 statement a description of specific locations at which the board
5-43 intends to conduct business related to the operation of the parole
5-44 process.

5-45 SECTION 14. Section 508.082, Government Code, is amended to
5-46 read as follows:

5-47 Sec. 508.082. RULES. The [~~policy~~] board shall adopt rules
5-48 relating to:

- 5-49 (1) the submission and presentation of information and
5-50 arguments to the board, a parole panel, and the department for and
5-51 in behalf of an inmate; and
- 5-52 (2) the time, place, and manner of contact between a
5-53 person representing an inmate and:
 - 5-54 (A) a member of the board or a parole
 - 5-55 commissioner;
 - 5-56 (B) an employee of the board; or
 - 5-57 (C) an employee of the department.

5-58 SECTION 15. Subsection (b), Section 508.144, Government
5-59 Code, is amended to read as follows:

5-60 (b) If a board member or parole commissioner deviates from
5-61 the parole guidelines in voting on a parole decision, the member or
5-62 parole commissioner shall:

- 5-63 (1) produce a brief written statement describing the
5-64 circumstances regarding the departure from the guidelines; and
- 5-65 (2) place a copy of the statement in the file of the
5-66 inmate for whom the parole decision was made.

5-67 SECTION 16. Subsection (b), Section 508.153, Government
5-68 Code, is amended to read as follows:

5-69 (b) If more than one person is entitled to appear in person

6-1 before the board members or parole commissioners, only the person
6-2 chosen by all persons entitled to appear as the persons' sole
6-3 representative may appear [~~before the board members~~].

6-4 SECTION 17. Subsection (a), Section 508.281, Government
6-5 Code, is amended to read as follows:

6-6 (a) A releasee, a person released although ineligible for
6-7 release, or a person granted a conditional pardon is entitled to a
6-8 hearing before a parole panel or a designated agent of the board
6-9 under the rules adopted by the [~~policy~~] board and within a period
6-10 that permits a parole panel, a designee of the board, or the
6-11 department to dispose of the charges within the periods established
6-12 by Sections 508.282(a) and (b) if the releasee or person:

6-13 (1) is accused of a violation of the releasee's parole
6-14 or mandatory supervision or the person's conditional pardon, on
6-15 information and complaint by a peace officer or parole officer; or

6-16 (2) is arrested after an ineligible release.

6-17 SECTION 18. Subsection (c), Section 508.313, Government
6-18 Code, is amended to read as follows:

6-19 (c) The department may provide information that is
6-20 confidential and privileged under Subsection (a) to:

6-21 (1) the governor;

6-22 (2) a member of the board or a parole commissioner;

6-23 (3) the Criminal Justice Policy Council in performing
6-24 duties of the council under Section 413.017; or

6-25 (4) an eligible entity requesting information for a
6-26 law enforcement, prosecutorial, correctional, clemency, or
6-27 treatment purpose.

6-28 SECTION 19. Section 492.0131, Government Code, is amended
6-29 to read as follows:

6-30 Sec. 492.0131. PAROLE RULES, POLICIES, PROCEDURES. The
6-31 board and the presiding officer of the Board of Pardons and Paroles
6-32 [~~Policy Board~~] shall jointly review all rules, policies, and
6-33 procedures of the department and the Board of Pardons and Paroles
6-34 that relate to or affect the operation of the parole process. The
6-35 board and the presiding officer of the Board of Pardons and Paroles
6-36 [~~policy board~~] shall identify areas of inconsistency between the
6-37 department and the Board of Pardons and Paroles and shall amend
6-38 rules or change policies and procedures as necessary for consistent
6-39 operation of the parole process.

6-40 SECTION 20. Section 508.0361, Government Code, is repealed.

6-41 SECTION 21. (a) The governor shall appoint new members to
6-42 the Board of Pardons and Paroles on or before January 1, 2004, and
6-43 the terms of members serving on December 31, 2003, expire on the
6-44 appointment of the new members. The governor may appoint but is
6-45 not required to appoint as new members persons who served on the
6-46 board before January 1, 2004.

6-47 (b) Of the new members of the Board of Pardons and Paroles,
6-48 the governor shall appoint two to serve terms expiring February 1,
6-49 2005, two to serve terms expiring February 1, 2007, and three to
6-50 serve terms expiring February 1, 2009. On the expiration of the
6-51 terms of the initial members of the new board, the term of a member
6-52 appointed by the governor is six years.

6-53 (c) On September 1, 2003, a rule of the Board of Pardons and
6-54 Paroles Policy Board is a rule of the Board of Pardons and Paroles.

6-55 SECTION 22. This Act takes effect September 1, 2003.

6-56 * * * * *