

1-1 By: Ellis, Van de Putte, Shapleigh S.B. No. 548  
1-2 (In the Senate - Filed February 16, 2005; February 28, 2005,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 April 14, 2005, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 4, Nays 1; April 14, 2005,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 548 By: Ellis

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

1-10 relating to considerations by the Board of Pardons and Paroles  
1-11 regarding clemency matters.

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

1-13 SECTION 1. Subsection (b), Section 508.047, Government  
1-14 Code, is amended to read as follows:

1-15 (b) Except as provided by Article 48.011, Code of Criminal  
1-16 Procedure, and Section 551.124, the [The] members of the board are  
1-17 not required to meet as a body to perform the members' duties in  
1-18 clemency matters.

1-19 SECTION 2. Section 551.124, Government Code, is amended to  
1-20 read as follows:

1-21 Sec. 551.124. BOARD OF PARDONS AND PAROLES. (a) At the  
1-22 call of the presiding officer of the Board of Pardons and Paroles,  
1-23 the board may hold a hearing on clemency matters by telephone  
1-24 conference call or by videoconference call as provided by Section  
1-25 551.127, except that Sections 551.127(b) and (c) do not apply to a  
1-26 hearing under this section and the notice required by Section  
1-27 551.127(e) need not specify the intent to have a quorum or a  
1-28 majority of a quorum physically present at a meeting location.

1-29 (b) The board may deliberate privately, but at the  
1-30 conclusion of deliberations the presiding officer shall announce  
1-31 publicly individual members' decisions as to whether to recommend  
1-32 clemency. Each member shall sign the member's name with the  
1-33 member's written recommendation and reasons, if any, for the  
1-34 recommendation.

1-35 (c) The board shall adopt rules to implement the  
1-36 requirements of this section.

1-37 SECTION 3. Chapter 48, Code of Criminal Procedure, is  
1-38 amended by adding Article 48.011 to read as follows:

1-39 Art. 48.011. MEETINGS: CAPITAL CASE. (a) In a capital  
1-40 case, the members of the Board of Pardons and Paroles shall perform  
1-41 the members' duties in clemency matters by meeting as a body or by  
1-42 participating in a telephone conference call as permitted by  
1-43 Section 551.124, Government Code, or a videoconference call as  
1-44 permitted by Section 551.127, Government Code.

1-45 (b) Regardless of whether the members of the board meet in  
1-46 person, participate in a telephone conference call, or participate  
1-47 in a videoconference call, the attorney or other person  
1-48 representing the inmate and any person representing the family of  
1-49 the victim may appear in person or be present on the telephone  
1-50 conference call or videoconference call, as applicable, to make a  
1-51 presentation on the clemency matter. Except with respect to  
1-52 individual members of the board, the board may limit the number of  
1-53 persons who may make a presentation and may prohibit any person from  
1-54 being heard. A hearing under this section is not subject to the  
1-55 requirement of Section 551.002, Government Code, that the hearing  
1-56 be open to the public.

1-57 (c) The hearing shall be conducted at the correctional  
1-58 facility where the inmate is housed. The inmate shall be allowed to  
1-59 be present, absent overriding security issues.

1-60 (d) The board must cause a record to be kept.

1-61 (e) The board shall adopt rules as necessary to implement  
1-62 the requirements of this article.

1-63 SECTION 4. (a) The change in law made by this Act applies

2-1 only to a consideration by the Board of Pardons and Paroles  
2-2 regarding a clemency matter in a capital case that occurs on or  
2-3 after the effective date of this Act.

2-4 (b) The Board of Pardons and Paroles Policy Board shall  
2-5 adopt the rules required by Subsection (e), Article 48.011, Code of  
2-6 Criminal Procedure, as added by this Act, and Section 551.124,  
2-7 Government Code, as amended by this Act, not later than June 1,  
2-8 2006.

2-9 SECTION 5. This Act takes effect immediately if it receives  
2-10 a vote of two-thirds of all the members elected to each house, as  
2-11 provided by Section 39, Article III, Texas Constitution. If this  
2-12 Act does not receive the vote necessary for immediate effect, this  
2-13 Act takes effect September 1, 2005.

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