

BILL ANALYSIS

H.B. 1149
By: Thompson
Corrections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law permits an inmate in a capital case to file a clemency petition with the Texas Board of Pardons and Paroles. Members of the board review the petition and make a determination as to whether a recommendation of commutation, conditional pardon, or reprieve should be made. Current law does not always require the members to meet as a body to perform their duties in clemency matters.

H.B. 1149 requires members of the board, in a capital case, to perform their duties in clemency matters by meeting in person or by participating in a telephone conference call or a videoconference call. The bill authorizes the inmate, the inmate's representative, and family members of the victim to be present and requires board recommendations to be made public.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Board of Pardons and Paroles in SECTIONS 3 and 4 of this bill.

ANALYSIS

H.B. 1149 amends the Code of Criminal Procedure to require the members of the Board of Pardons and Paroles, in a capital case, to perform the members' duties in clemency matters by meeting in person or by participating in a telephone conference call or a videoconference call. The bill authorizes the attorney or other person representing the inmate in the capital case and any person representing the family of the victim, regardless of whether board members meet in person or participate in a telephone conference call or videoconference call, to appear in person at the meeting or be present on either such conference call to make a presentation on the clemency matter. The bill authorizes the board to limit the number of persons authorized to make a presentation and to prohibit any person other than a board member from being heard. The bill specifies that a hearing relating to clemency matters is not subject to the law that requires a hearing of a governmental body to be open to the public.

H.B. 1149 requires a hearing conducted in person to be held at the correctional facility where the inmate is housed and requires the inmate to be allowed to appear in person at the hearing or be present on the telephone conference call or videoconference call, as applicable, unless there is an overriding security measure.

H.B. 1149 authorizes the board to deliberate privately after holding a hearing relating to clemency matters and requires the presiding officer of the board to announce publicly at the conclusion of deliberations each member's decision regarding whether to recommend clemency. The bill requires each member to sign the member's name with the member's written recommendation and reasons, if any, for the recommendation. The bill requires the board to adopt rules as necessary to implement the requirements regarding hearings on clemency matters not later than June 1, 2010.

H.B. 1149 amends the Government Code to include a videoconference call as a method by which the board is authorized to hold a hearing on clemency matters at the call of the presiding officer. The bill exempts such a board hearing held by videoconference call from state laws regarding quorum requirements for a videoconference call and specifies that the notice of such a hearing held by videoconference call is not required to specify the intent to have a quorum or a majority of a quorum physically present at a hearing location.

H.B. 1149 makes its provisions applicable only to a consideration by the board regarding a clemency matter filed after June 1, 2010, in a capital case.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.