

By: Ellis

S.B. No. 166

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to hearings by the Board of Pardons and Paroles regarding  
3 clemency matters.

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

5 SECTION 1. Section 508.047(b), Government Code, is amended  
6 to read as follows:

7 (b) Except as provided by Article 48.011, Code of Criminal  
8 Procedure, and Section 551.124, the [~~The~~] members of the board are  
9 not required to meet as a body to perform the members' duties in  
10 clemency matters.

11 SECTION 2. Section 551.124, Government Code, is amended to  
12 read as follows:

13 Sec. 551.124. BOARD OF PARDONS AND PAROLES. At the call of  
14 the presiding officer of the Board of Pardons and Paroles, the board  
15 may hold a hearing on clemency matters by videoconference call, as  
16 provided by Section 551.127, or by telephone conference call.  
17 Sections 551.127(b) and (c) do not apply to a hearing by  
18 videoconference call held under this section, and the notice  
19 required by Section 551.127(e) is not required to specify the  
20 intent to have a quorum or a majority of a quorum physically present  
21 at a hearing location.

22 SECTION 3. Chapter 48, Code of Criminal Procedure, is  
23 amended by adding Article 48.011 to read as follows:

24 Art. 48.011. HEARING BY BOARD OF PARDONS AND PAROLES IN

1 CAPITAL CASE. (a) In a capital case, the members of the Board of  
2 Pardons and Paroles shall perform the members' duties in clemency  
3 matters by meeting in person or by participating in a telephone  
4 conference call, as provided by Section 551.124, Government Code,  
5 or a videoconference call, as provided by Section 551.127,  
6 Government Code.

7 (b) Regardless of whether board members meet in person or  
8 participate in a telephone conference call or videoconference call,  
9 the attorney or other person representing the inmate and any person  
10 representing the family of the victim may appear in person or be  
11 present on the telephone conference call or videoconference call,  
12 as applicable, to make a presentation on the clemency matter. The  
13 board may limit the number of persons who may make a presentation  
14 and may prohibit any person other than a board member from being  
15 heard. A hearing under this article is not subject to the  
16 requirement of Section 551.002, Government Code, that the hearing  
17 be open to the public.

18 (c) A hearing conducted in person shall be held at the  
19 correctional facility where the inmate is housed. The inmate must  
20 be allowed to appear in person or be present on the telephone  
21 conference call or videoconference call, as applicable, unless  
22 there is an overriding security issue.

23 (d) The board may deliberate privately after holding a  
24 hearing under this article, but at the conclusion of deliberations,  
25 the presiding officer shall announce publicly each member's  
26 decision regarding whether to recommend clemency. Each member  
27 shall sign the member's name with the member's written

1 recommendation and reasons, if any, for the recommendation.

2 (e) The board shall adopt rules as necessary to implement  
3 the requirements of this article.

4 SECTION 4. (a) The change in law made by this Act applies  
5 only to a consideration by the Board of Pardons and Paroles  
6 regarding a clemency matter filed after June 1, 2010, in a capital  
7 case. A consideration regarding a clemency matter filed before  
8 June 1, 2010, in a capital case is covered by the law in effect on  
9 the date the clemency matter was filed, and the former law is  
10 continued in effect for that purpose.

11 (b) The Board of Pardons and Paroles Policy Board shall  
12 adopt the rules required by Article 48.011(e), Code of Criminal  
13 Procedure, as added by this Act, not later than June 1, 2010.

14 SECTION 5. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2009.