



H.B. 375

125th General Assembly
(As Introduced)

Reps. Kilbane, Willamowski, Collier, Kearns, McGregor, Hollister, C. Evans, Clancy, Strahorn, S. Smith, Widener, Key, Hartnett, Ujvagi, Fessler, Harwood, Setzer, Webster

BILL SUMMARY

- At a panel hearing that relates to the proposed parole of a prisoner who is serving a term of imprisonment for committing an offense of violence, authorizes the victim of the offense or the victim's representative to appear and give testimony or submit written statements.

CONTENT AND OPERATION

Background

Parole Board and parole

The Parole Board, which is part of the Adult Parole Authority (APA), makes a recommendation for or against the parole of prisoners eligible for parole; these recommendations are final and not subject to review or change by the Chief of the APA. But, the APA itself is the entity that grants the parole. (R.C. 2967.03, 5149.02, and 5149.10(D)--none in the bill.)

Full board hearings of the Parole Board

Under existing law, a board hearing officer, a Parole Board member, or the Office of Victims' Services may petition the Parole Board for a full board hearing that relates to the proposed parole of a prisoner. At a meeting of the Board at which at least seven board members are present, a majority of those present must determine whether a full board hearing will be held. A full board hearing consists of at least seven members of the Parole Board.

If the Board grants a full board hearing, the Parole Board must permit the following persons to appear and give testimony or submit written statements: (1) the prosecuting attorney of the county in which the indictment against the prisoner

was found, (2) members of any law enforcement agency that assisted in the prosecution of the offense, (3) the judge of the court of common pleas who imposed the sentence of incarceration on the prisoner, or the judge's successor, and (4) *the victim of the offense for which the prisoner is serving the sentence or the victim's representative*. The prisoner being considered for parole has no right to be present at the hearing but may be represented by counsel or some other person designated by the prisoner.

Representatives of the press, radio and television stations, and broadcasting networks who are members of a generally recognized professional media organization also may attend the full board hearing. At the request of the victim or the victim's representative, the Board must exclude representatives of the news media from the hearing while the victim or representative is giving testimony. (R.C. 5149.01(C) and 5149.101.)

If a victim or victim's representative appears at a full board hearing of the Parole Board and gives testimony, the APA must consider the testimony in determining whether to grant a parole (see **COMMENT**) (R.C. 2967.03).

Notices under the victim's rights laws

Existing victims rights laws authorize the victim of the offense to be given notices regarding the offender's procession through the criminal justice system, including notice of whether the offender is incarcerated, certain hearings regarding the offender's potential release, and whether the offender has escaped, been released, or died in custody (R.C. 2930.16). Specifically, on the victim's request made at any time before the particular notice would be due, at least three weeks prior to a hearing before the APA regarding a grant of parole to the defendant, the custodial agency of an offender must give the victim notice of the victim's right to submit a statement regarding the impact of the defendant's release in accordance with R.C. 2967.12 and, if applicable, of the victim's right to appear at a full board hearing of the Parole Board to give testimony (R.C. 2930.16(C)(1)).

Generally, at least three weeks before the APA grants any parole, the APA must send a notice to the prosecuting attorney and the judge of the court of common pleas of the county in which the indictment against the person was found. The notice must inform the judge and prosecutor of the pendency of the parole, setting forth the name of the person on whose behalf it is made, the offense of which the person was convicted, the time of conviction, and the term of the person's sentence.

If so requested, the APA also must give notice to the victim or the victim's representative prior to granting any parole. The notice must be sent at the same time and contain the same information as the notice described in the preceding

paragraph. The notice also must inform the victim or the victim's representative that the victim or representative may send a written statement relative to the victimization and the pending action to the APA and that, if the APA receives any written statement prior to granting a parole, the APA will consider the statement before it grants the parole. The notice must inform the victim or the victim's representative that a full board hearing of the Parole Board may be held and that the victim or victim's representative may contact the Office of Victims' Services for further information. If the hearing is continued to a date certain, the APA must give notice of the further consideration to the victim or the victim's representative. (R.C. 2967.12(A), (B), and (C).)

Operation of the bill

Under the bill, at a panel hearing¹ that relates to the proposed parole of a prisoner who is serving a term of imprisonment for committing an offense of violence,² the victim of the offense or the victim's representative is authorized to appear and give testimony or submit written statements. At the request of the victim or the victim's representative, any representatives of the news media otherwise authorized to attend the hearing must be excluded from the hearing while that person is giving testimony. (R.C. 5149.102.)

The bill also expands the notices the victim receives to include a notice informing the victim of the victim's rights under the bill. The notice must be given

¹ As used in the bill, "panel hearing" means the consideration by Parole Board members of the proposed parole of a prisoner when that consideration is not a full board hearing. Under existing law, a full board hearing consists of at least seven members of the Parole Board. (R.C. 5149.01(C) and 5149.102.)

² As used in existing law, "offense of violence" means any of the following: aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault, permitting child abuse, aggravated menacing, menacing by stalking, menacing, kidnapping, abduction, extortion, rape, sexual battery, gross sexual imposition, aggravated arson, arson, terrorism, aggravated robbery, robbery, aggravated burglary, burglary (in an occupied structure), inciting to violence, aggravated riot, riot, inducing panic, domestic violence, intimidation, intimidation of an attorney, victim, or witness in a criminal case, escape, improperly discharging a firearm at or into a habitation or in a school safety zone, endangering children (relating to abuse, torture, corporal punishment, or physical restraint), and the former offense of felonious sexual penetration; a violation of an existing or former law of any jurisdiction that is substantially the same as any of the above offenses; any offense purposely or knowingly committed that involves physical harm or a risk of physical harm to persons; and any conspiracy or attempt to commit or complicity in committing any of the above offenses (R.C. 2901.01(A)(9)).

at the same times that the victim receives notices of the victim's rights to testify at a full board hearing of the Parole Board (R.C. 2930.16(C)(1) and 2967.12(B)).

COMMENT

A cross reference needs to be added to R.C. 2967.03 to ensure that, if a victim or victim's representative appears at a panel hearing of the Parole Board and gives testimony as authorized by the bill, the APA must consider the testimony in determining whether to grant a parole to the offender.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-20-04	p. 1494

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