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Bill Analysis
Legislative Service Commission

Sub. H.B. 375

125th General Assembly
(As Reported by H. Juvenile and Family Law)

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

BILL SUMMARY

- Authorizes a board hearing officer, a board member, and the Office of Victims' Services to petition the Parole Board for a full board hearing regarding the re-parole of a prisoner.
- Provides that if a majority of the Parole Board members are present at a meeting, the majority of those present can decide whether to hold a full board hearing.
- Permits, in cases involving murder or aggravated murder, the victim, the victim's representative, or certain family members of the victim to ask the Parole Board to hold a full board hearing regarding the defendant's proposed parole or re-parole, and, if such a request is made, requires the Parole Board to hold a full board hearing.
- Requires the prosecutor to notify the victim of an offense of the services offered by the Office of Victims' Services if the Department of Rehabilitation and Correction is the offender's custodial agency.

CONTENT AND OPERATION

Background

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

Current law

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).

The bill

The bill authorizes a board hearing officer, a board member, and the Office of Victims' Services to petition the Parole Board for a full board hearing related to the *re-parole* of a prisoner. The bill also changes current law to provide that at a meeting where a majority of the members are present, the majority of those present shall decide whether to hold a full board hearing.¹

¹ *The Parole Board consists of up to 12 members (R.C. 5149.10).*

Under the bill, in cases involving murder or aggravated murder, either the victim, the victim's representative, or certain family members of the victim can request that the Parole Board hold a full board hearing regarding the defendant's proposed parole or re-parole.² The family members that can make the request are the spouse, parents, siblings, or children of the victim of the original offense. If such a request is made, the Board must hold a full board hearing.

The bill also makes changes in who must be permitted to testify at a full board hearing regarding the proposed parole or re-parole of a prisoner requested as described in the preceding two paragraphs. Under the bill, the following persons must be permitted to appear and give testimony or submit written statements:

(1) The prosecuting attorney of the county in which the *original* indictment was found;

(2) Members of any law enforcement agency that assisted in the prosecution of the *original* offense;

(3) The judge of the court of common pleas who imposed the *original* sentence of incarceration on the prisoner, or the judge's successor;

(4) The victim of the *original* offense or the victim's representative;

(5) *The victim of any behavior that resulted in parole being revoked;*

(6) *With respect to a full board hearing held because of the request of a victim of murder or aggravated murder, the victim's representative, or certain family members of the victim as described above, the spouse, parents, siblings, and children of the victim of the original offense. (R.C. 5149.101.)*

Notices under the victim's rights laws

Current law

Existing victim's 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

² *The bill provides that the victim of murder or aggravated murder can request a full board hearing of the Parole Board. As the victim of either of these offenses would be deceased, this language is unnecessary. An amendment might be needed to correct this oversight.*

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).)

The bill

In addition to the notices required under current law, the bill provides that if the agency with custody of the defendant is the Department of Rehabilitation and Correction, the prosecutor must notify the victim of the services offered by the Office of Victims' Services (R.C. 2930.16(A)).³ The bill also requires that, if the person being considered for parole was convicted of or pleaded guilty to murder or aggravated murder, the notice given by the APA must inform the victim of that

³ *Among other things, the Office of Victims' Services (OVS) provides information regarding the policies and procedures of the Department of Rehabilitation and Correction (DRC) and the status of offenders under the DRC's jurisdiction. The OVS also provides materials to assist victims in contacting DRC staff regarding problems with offenders on parole or in state correctional institutions under DRC's control.*

offense, the victim's representative, or a member of the victim's immediate family of the right to testify at a full board hearing of the Parole Board. The notice must also provide that the victim or victim's representative may contact the Office of Victims' Services for further information. The bill provides that the victim's immediate family means the mother, father, spouse, sibling, or child of the victim. (R.C. 2967.12.)

COMMENT

A cross reference needs to be added to R.C. 2967.03 to ensure that, if a victim's family member appears at a full board 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
Reported, H. Juvenile & Family Law	03-25-04	pp. 1742-1743

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