



Am. Sub. H.B. 375*
125th General Assembly
(As Reported by S. Judiciary)

Reps. Kilbane, Willamowski, Collier, Kearns, McGregor, Hollister, C. Evans, Clancy, Strahorn, S. Smith, Widener, Key, Hartnett, Ujvagi, Fessler, Harwood, Setzer, Webster, Aslanides, Barrett, Book, Carano, Carmichael, Cates, Chandler, Daniels, DeGeeter, Distel, Domenick, Driehaus, Faber, Flowers, Gibbs, Gilb, Grendell, Hagan, Hoops, Hughes, Jerse, Koziura, Latta, Martin, Niehaus, Oelslager, Otterman, S. Patton, T. Patton, Perry, Peterson, Price, Redfern, Reidelbach, Schaffer, Schlichter, Schmidt, Schneider, Skindell, Slaby, G. Smith, D. Stewart, Taylor, Trakas, Walcher, Widowfield, Wolpert, Woodard, Young

BILL SUMMARY

- Authorizes a Parole Board hearing officer, a Board member, and the Office of Victims' Services of the Department of Rehabilitation and Correction (DRC) to petition the Parole Board for a full Board hearing regarding the re-parole of a prisoner.
- Provides that, if a Parole Board hearing officer, a Board member, or DRC's Office of Victims' Services petitions the Board for a full Board hearing relating to the proposed parole or re-parole of a prisoner and if a majority of the Parole Board members are present at a meeting, the majority of those present can decide whether a full Board hearing will be held.
- 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 proposed parole or re-parole of the prisoner who committed the offense, and, if such a request is made, requires the Board to hold a full Board hearing, permits

** This analysis was prepared before the report of the Senate Judiciary Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

any party authorized to make the request to attend the full Board hearing and give testimony or submit written statements, and specifies that any notice regarding the potential parole of the prisoner provided to any of those parties under the Crime Victim's Rights Law must inform the party of the party's right to give testimony at the full Board hearing.

- Provides that, if a victim's spouse, parent, sibling, or child appears at a full Board hearing and gives testimony as described in the preceding paragraph, the Adult Parole Authority must consider the testimony in determining whether to grant a parole.
- Requires the prosecutor to notify the victim of an offense of the services offered by DRC's Office of Victims' Services if DRC is the offender's custodial agency.

CONTENT AND OPERATION

Background

The Parole Board is part of the Adult Parole Authority (the APA) of the Department of Rehabilitation and Correction (DRC). The Board consists of up to 12 members, appointed in a specified manner. The Board has various duties specified by statute, including making determinations for or against the parole of a prisoner under a sentence for a felony who is eligible for parole. The Chief of the APA, subject to the approval of a specified division chief of DRC, is required to adopt rules governing the Board's proceedings. The rules must provide for the convening of full Board hearings ("full Board hearings" are Board hearings conducted by a minimum of seven Board members; full Board hearings also are addressed by existing statutory provisions, as described below), the procedures to be followed in full Board hearings, and general procedures to be followed in other hearings of the Board and by the Board's hearing officers. The Board's Chairperson is required to transmit to the APA's Chief all determinations for or against parole that the Board makes; parole determinations are final and are not subject to review or change by the Chief. The APA is authorized to grant a parole to any prisoner for whom parole is authorized if, in its judgment, there is reasonable ground to believe that paroling the prisoner would further the interests of justice and be consistent with the welfare and security of society. (R.C. 2967.03, and R.C. 5149.01, 5149.02, and 5149.10--not in the bill.)

Full Board hearings of the Parole Board

Current law

In general. Under existing law, a Parole Board hearing officer, a Board member, or DRC's Office of Victims' Services may petition the 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 is a Board hearing conducted by at least seven members of the Board.

At a full Board hearing granted as described above that relates to the proposed parole of a prisoner, 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. Full Board meetings are not subject to the Open Meetings Law.

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. But, 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.)

Testimony of victim, representative, and family. Existing law specifies that, if a victim or victim's representative appears at a full Board hearing and gives testimony as authorized under the provision described above in "**In general,**" the APA must consider the testimony in determining whether to grant a parole. Regarding the granting of paroles in general, existing law prohibits the APA from granting a parole to any prisoner until it has provided specified notices required by law and until it has considered any statement made by a victim or a victim's representative that is relevant to the prisoner's case and that was sent to the APA under a specified provision of the Crime Victim's Rights Law (see "**Notices under crime victim's rights laws,**" below) and any other statements made by a victim or a victim's representative that are relevant to the prisoner's case and that the APA received after it provided notice of the pendency of the action under specified provisions of that Law.

Operation of the bill

The bill expands the existing provisions regarding full Board hearings to also authorize 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 does not define the term "re-parole"). The bill also changes current law to provide that, when a petition for a full Board hearing is made under existing law or under the expansion described in the preceding sentence at a meeting at which a majority of Board members are present, the majority of those present must decide whether to hold a full Board hearing.

The bill also expands the list of persons who may request a full Board hearing. Under the bill, in cases involving murder or aggravated murder, the victim,¹ the victim's representative, or certain family members of the victim may request that the Parole Board hold a full Board hearing regarding the offender's proposed parole or re-parole. 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 modifies the existing provisions that specify who must be permitted to testify at a full board hearing regarding the proposed parole of a prisoner, and expands the provisions to also apply at full Board hearings regarding the re-parole of a prisoner and regarding those requested under the new provision described in the preceding paragraph. Under the bill, the following persons must be permitted to appear and give testimony or submit written statements at a full Board hearing: (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*, and (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, parent or parents, sibling, and child or children of the victim of the original offense.* (R.C. 5149.101.)

Related to the provisions described in the preceding paragraph, the bill specifies that, if a victim's spouse, parent, sibling, or child (added by the bill), or a

¹ *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.*

victim or victim's representative (as under existing law) appears at a full Board hearing and gives testimony as authorized under those provisions, the APA must consider the testimony in determining whether to grant a parole (R.C. 2967.03).

Notices under crime victim's rights laws

Current law

The existing Crime Victim's Rights Law authorizes the victim of a felony or of certain specified misdemeanors to request that the victim 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 and requires specified officials subsequent to the request to give the appropriate notice. Specifically, on the victim's request made at any time before the 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 the defendant (generally, DRC) 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 (see below) 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)).

Under R.C. 2967.12, 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 a request has been made as described in the second preceding paragraph, 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 DRC's 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

In addition to the notices that current law requires to be provided to a victim who has requested notice, the bill provides that, if the agency with custody of the defendant is DRC, the prosecutor must notify the victim of the services offered by DRC's Office of Victims' Services (R.C. 2930.16(A)).² The bill also requires that, if a 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 offense, the victim's representative, or a member of the victim's immediate family that the victim, the victim's representative, and the victim's immediate family have 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 DRC's 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 (under R.C. 5120.161, as amended by the bill and as described above in "Full Board hearings of the Parole Board," the victim's family members who are given the right to testify at the full Board hearing are the spouse, parent or parents, sibling, and child or children of the victim of the original offense). (R.C. 2967.12.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-20-04	p. 1494
Reported, H. Juvenile & Family Law	03-25-04	pp. 1742-1743
Passed House (96-0)	05-05-04	pp. 1839-1841
Reported, S. Judiciary	---	---

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² Among other things, the Office of Victims' Services (OVS) provides information regarding the policies and procedures of 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.