



Ohio Legislative Service Commission

Bill Analysis

Dennis Papp

S.B. 133

130th General Assembly
(As Introduced)

Sens. Kearney, Brown

BILL SUMMARY

- Requires that the notice the Adult Parole Authority provides to a prosecuting attorney before it recommends any pardon or commutation of sentence, or grants any parole, and the notice the Authority provides to a prosecuting attorney when a hearing on the pardon, commutation of sentence, or parole is continued to a date certain, must be provided by certified mail, return receipt requested.
- Requires that the notice the Parole Board provides to a prosecuting attorney with respect to a scheduled full Board hearing must be provided by certified mail, return receipt requested.

CONTENT AND OPERATION

Notice to prosecuting attorney – before recommendation of pardon or commutation of sentence or grant of parole

Under existing law, subject to an exception for a type of release under a shock incarceration program, at least 60 days before the Adult Parole Authority (the APA) of the Department of Rehabilitation and Correction (DRC) recommends any pardon or commutation of sentence, or grants any parole, the Authority must provide a notice of the pendency of the pardon, commutation, or parole, setting forth the name of the person on whose behalf it is made, the offense of which the person was convicted or to which the person pleaded guilty, the time of conviction or the guilty plea, and the term of the person's sentence, 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. If there is more than one judge of that court of common pleas, the APA must provide the notice to the presiding judge. Upon the request of the prosecuting attorney or of any law enforcement agency, the APA must provide to the requesting prosecuting attorney

and agency an institutional summary report with respect to the subject person.¹ Existing law also includes mechanisms, not relevant to and unchanged by the bill, for providing notice to the victim and posting an Internet notice prior to either a pardon or commutation of sentence recommendation or a grant of parole.²

Under existing law, when notice of the pendency of any pardon, commutation of sentence, or parole has been provided to a judge or prosecutor as described in the preceding paragraph and a hearing on the pardon, commutation, or parole is continued to a date certain, the APA must provide notice of the further consideration of the pardon, commutation, or parole at least 60 days before the further consideration. The notice of the further consideration may be provided using electronic means. If the prosecuting attorney or a law enforcement agency was provided with the initial notice a copy of the institutional summary report relative to the subject person, the APA must include with the notice of the further consideration any new information with respect to the person.³ Existing law also includes mechanisms, not relevant to and unchanged by the bill, for providing notice to the victim and posting an Internet notice of the further consideration.⁴

Existing law, unchanged by the bill, specifies that, in the case of an application for the pardon or commutation of sentence of a person sentenced to capital punishment, the Governor may modify the notification requirements described above if there is not sufficient time for compliance with the requirements before the date fixed for the execution of sentence.⁵ The failure of the APA to comply with the notice provisions described above does not give any rights or any grounds for appeal or post-conviction relief to the person serving the sentence.⁶

The bill specifies that the initial notice and the notice of further consideration to the prosecuting attorney described above must be provided by certified mail, return receipt requested. Related to this, it specifies that the existing provision authorizing the notice of further consideration to be given to a judge or prosecuting attorney by electronic means applies only with respect to such a notice given to a judge. It does not

¹ R.C. 2967.12(A).

² R.C. 2967.12(B) and (H).

³ R.C. 2967.12(C).

⁴ R.C. 2967.12(C) and (H).

⁵ R.C. 2967.12(D).

⁶ R.C. 2967.12(F).

make a similar change in the existing provision that authorizes DRC to give the initial notice to a prosecuting attorney and judge by electronic means.⁷

Notice to prosecuting attorney – before full Parole Board hearing

Under existing law, unchanged by the bill, when an offender convicted of a felony is under consideration by the Parole Board for a parole, the Board does not always conduct a "full Board hearing" (see below). The Board is required to conduct a full Board hearing in certain circumstances. A Board hearing officer, a Board member, or DRC's Office of Victim Services may petition the Board for a full Board hearing for an offender. At a meeting of the Board at which a majority of its members are present, the majority of those present must determine whether a full Board hearing will be held. Also, a victim of a "aggravated murder," "murder," a first, second, or third degree felony offense of violence, or an offense punished by a sentence of life imprisonment, the victim's representative, or certain specified relatives of the victim may request the Board to hold a full Board hearing that relates to the proposed parole or re-parole of an offender. If a victim, victim's representative, or other person requests a full Board hearing, the Board must hold a full Board hearing.⁸ A "full Board hearing" is a Parole Board hearing conducted by a majority of Board members (the Parole Board consists of "up to 12 members").⁹

Under existing law, at least 30 days before a full Board hearing, the Parole Board must give notice of the date, time, and place of the hearing to the prosecuting attorney in the case and the law enforcement agency that arrested the prisoner if any officer of that agency was a victim of the offense. If the prosecuting attorney has not previously been sent an institutional summary report with respect to the prisoner, upon the request of the prosecuting attorney, the Board must include with the notice sent to the prosecuting attorney an institutional summary report with respect to the offender. Upon the request of a law enforcement agency that has not previously been sent an institutional summary report with respect to the prisoner, the Board also must send a copy of the institutional summary report to the agency. If notice is to be provided, the Board may give the notice by any reasonable means, including regular mail, telephone, and electronic mail.¹⁰ Existing law also includes mechanisms, not relevant to and

⁷ R.C. 2967.12(A) and (C).

⁸ R.C. 5149.101(A)(1) and (2).

⁹ R.C. 5149.01 and 5149.10, not in the bill.

¹⁰ R.C. 5149.101(A)(2).



unchanged by the bill, for providing notice to the victim or, in certain cases, a member of the victim's family of the full Board hearing.¹¹

The bill specifies that the notice of a full Board hearing provided to a prosecuting attorney as described above must be provided by certified mail, return receipt requested. Related to this, it specifies that the existing provision authorizing the notice of a full Board hearing to be given by any reasonable means, including regular mail, telephone, and electronic means, applies only with respect to such a notice given to a law enforcement agency (or to the victim or victim's relative under the mechanism that applies to them).¹²

HISTORY

ACTION	DATE
Introduced	05-15-13

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¹¹ R.C. 5149.101(A)(2).

¹² R.C. 5149.101(A)(2).

