

2024 Regular Session

HOUSE BILL NO. 723

BY REPRESENTATIVE SCHLEGEL

PARDON/PAROLE: Provides relative to clemency procedures

1 AN ACT

2 To amend and reenact R.S. 15:572(A), 572.4(B)(1)(introductory paragraph) and (a) and (3)
3 and (C) through (E), and 572.5(B) and to enact R.S. 15:572.4(F) and (G) and
4 574.6.2, relative to clemency; to provide relative to notification procedures; to
5 provide relative to the approval or rejection of a favorable recommendation for
6 commutation or pardon; to provide relative to application procedures; to provide
7 relative to clemency hearings; to provide relative to clemency investigations; to
8 provide relative to the supervised release of certain offenders; to provide for
9 evaluations; to provide for duties of the Department of Public Safety and
10 Corrections; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 15:572(A), 572.4(B)(1)(introductory paragraph) and (a) and (3) and
13 (C) through (E), and 572.5(B) are hereby amended and reenacted and R.S. 15:572.4(F) and
14 (G) and 574.6.2 are hereby enacted to read as follows:

15 §572. Powers of governor to grant reprieves and pardons; automatic pardon for first
16 offender; payment of court costs required

17 A.(1) The governor may grant reprieves to persons convicted of offenses
18 against the state and, upon recommendation of the Board of Pardons as hereinafter
19 provided for by this Part, may commute sentences, pardon those convicted of
20 offenses against the state, and remit fines and forfeitures imposed for such offenses.

21 Notwithstanding any provision of law to the contrary, the governor shall not grant
22 any pardon to any person unless that person has paid all of the court costs which

1 were imposed in connection with the conviction of the crime for which the pardon
2 is to be issued.

3 (2) The governor shall notify the following individuals at least thirty days
4 before commuting a criminal sentence or granting a pardon to any person:

5 (a) The attorney general, the district attorney, the sheriff of the parish in
6 which the applicant was convicted, and, in Orleans Parish, the superintendent of
7 police.

8 (b) The victim or the spouse or next of kin of a deceased victim.

9 (3) The governor shall approve or reject a favorable recommendation for
10 commutation or pardon within one hundred eighty days of receipt of the
11 recommendation from the Board of Pardons.

12 * * *

13 §572.4. Board of Pardons; rules, regulations, and procedures; notice; restrictions on
14 applications; time periods for additional review

15 * * *

16 B.(1) Before considering the application for pardon or commutation of
17 sentence of any person, the board shall give written notice of the date and time at
18 which the application will be heard and considered, at least ~~thirty~~ ninety days prior
19 to the hearing, to the following:

20 (a) The attorney general, the district attorney, the sheriff of the parish in
21 which the applicant was convicted, and in Orleans Parish, the superintendent of
22 police.

23 * * *

24 (3) The attorney general, the district attorney, and any other persons who
25 desire to do so shall be given a reasonable opportunity to attend the meeting and be
26 heard.

27 C. Before setting a hearing on an application for pardon or commutation of
28 sentence, notice of application to the board for ~~clemency~~ pardon or commutation of
29 sentence shall be published on three separate days within a thirty-day period of time,

1 without cost to the state, in any newspaper recognized, at any time during the six-
2 month period prior to or following the publication of the first notice, as the official
3 journal of the governing authority of the parish where the offense occurred for which
4 the person was convicted.

5 D.(1) ~~Notwithstanding any provisions of law to the contrary~~ Except as
6 provided in Paragraph (2) of this Subsection, any applicant who has been sentenced
7 to life imprisonment shall not be eligible to apply to the board for a pardon or
8 commutation of sentence for a period of fifteen years after being sentenced by the
9 trial court, except that periods of time prior to the imposition of the sentence in
10 which the defendant was in actual custody for the offense for which he was
11 sentenced to life imprisonment shall be included in computing the fifteen-year
12 period.

13 (2) Any applicant who has been sentenced to life imprisonment for an
14 offense that is either a crime of violence as defined in R.S. 14:2(B) or a sex offense
15 as defined in R.S. 15:541 shall not be eligible to apply to the board for a pardon or
16 commutation of sentence for a period of twenty-five years after being sentenced by
17 the trial court, except that periods of time prior to the imposition of the sentence in
18 which the defendant was in actual custody for the offense for which he was
19 sentenced to life imprisonment shall be included in computing the twenty-five-year
20 period. A person who is serving a life sentence resulting from a commutation of a
21 sentence of death shall not thereafter be eligible to apply for commutation of
22 sentence to a specific number of years.

23 (3) If the application is denied, the applicant shall be notified in writing of
24 the reason for the denial and thereafter may file a new application to the board no
25 earlier than five years from the date of action by the board. Any subsequent
26 applications shall not be filed earlier than five years after the immediately preceding
27 action taken by the board.

28 (4) ~~However, the~~ The provisions of this Subsection shall not apply when the
29 board determines that new and material evidence that, notwithstanding the exercise

1 of reasonable diligence by the applicant, was not discovered before or during his
2 trial, is available, and if it had been introduced at the trial, it would probably have
3 changed the verdict or judgment of guilty.

4 E.(1) When no action is taken by the governor on a recommendation for
5 ~~clemency~~ pardon or commutation of sentence issued by the board, the person seeking
6 ~~clemency~~ pardon or commutation of sentence shall ~~not~~ be required to reapply to the
7 board and the recommendation shall ~~not~~ expire upon the expiration of the ~~governor's~~
8 ~~term in office and may be reviewed by the next governor to take office~~ one hundred
9 eighty days provided in R.S. 15:572.

10 (2) The board shall adopt rules pursuant to the Administrative Procedure Act
11 to provide for the provisions of this Subsection, ~~but the rules shall not require the~~
12 ~~person seeking clemency to reapply when no action is taken by the governor on the~~
13 ~~board's recommendation that the person receive clemency.~~

14 F. The board shall, to the extent feasible, schedule hearings for pardon or
15 commutation of sentence in the order in which the applications are filed.

16 G. When the board notifies the governor that it has granted a favorable
17 recommendation of an application for pardon or commutation of sentence, the board
18 shall also provide simultaneous notice to the persons listed in Subsection B of this
19 Section that this favorable recommendation has been sent to the governor for his
20 approval.

21 §572.5. Information to be provided to Board of Pardons

22 * * *

23 B. The Department of Public Safety and Corrections may charge a fee not
24 to exceed ~~one~~ two hundred ~~fifty~~ dollars for conducting the clemency investigation
25 provided ~~for~~ in this Section.

26 * * *

27 §574.6.2. Supervised release; commuted sentences

28 A.(1) Any offender who has received a commuted sentence and who is
29 released on parole or because of diminution of sentence shall be evaluated through

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 a validated risk assessment instrument approved by the secretary of the Department
 2 of Public Safety and Corrections and shall have an approved residence plan prior to
 3 release.

4 (2) In approving the residence plan of the offender, the department shall
 5 consider the likelihood that the offender will be able to comply with all of the
 6 conditions of his parole.

7 B. The committee on parole may impose any special conditions of
 8 supervision which may include participation in additional programming by the
 9 offender as determined to be necessary by the validated risk-assessment instrument.

10 C. The department shall secure all relevant data and assist the offender in
 11 formulating a release plan that includes any necessary conditions as determined by
 12 the department.

13 D. Any offender who has received a commuted sentence and who is released
 14 shall be placed on supervised release for the remainder of his sentence.

15 E. Notwithstanding any other provision of law to the contrary, any person
 16 who was placed upon supervised release pursuant to the provisions of this Section
 17 may petition the parole board for a termination of the supervision.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 723 Reengrossed

2024 Regular Session

Schlegel

Abstract: Provides relative to clemency procedures.

Present law (R.S. 15:572) provides for the powers of the governor to grant reprieves and pardons.

Proposed law retains present law.

Proposed law provides that the governor shall notify the following individuals at least 30 days before commuting a criminal sentence or granting a pardon to any person:

- (1) The attorney general, the district attorney, the sheriff of the parish in which the applicant was convicted, and, in Orleans Parish, the superintendent of police.
- (2) The victim or the spouse or next of kin of a deceased victim.

Proposed law provides that the governor shall approve or reject a favorable recommendation for commutation or pardon within 180 days of receipt of the recommendation from the Board of Pardons.

Present law (R.S. 15:572.4) provides for the rules, regulations, and procedures relative to the Board of Pardons.

Present law further provides that before considering the application for pardon of any person, the board shall give written notice of the date and time at which the application will be heard and considered, at least 30 days prior to the hearing, to the following:

- (1) The district attorney, the sheriff of the parish in which the applicant was convicted, and in Orleans Parish, the superintendent of police.
- (2) The applicant.
- (3) The victim or the spouse or next of kin of a deceased victim.
- (4) Any other interested person on whose behalf a written request for such notification has been made by any other person who has a right, under law, to present testimony.

Proposed law amends present law to clarify that notice shall be provided before considering the application for pardon or commutation of sentence for a person. Further adds the attorney general as a party to be notified.

Present law provides that before setting a hearing on an application for pardon or commutation of sentence, notice of application to the board for clemency or commutation of sentence shall be published on three separate days within a 30-day period of time, without cost to the state, in any newspaper recognized, at any time during the six-month period prior to or following the publication of the first notice, as the official journal of the governing authority of the parish where the offense occurred for which the person was convicted.

Proposed law changes the term "clemency" to "pardon".

Present law provides that any applicant who has been sentenced to life imprisonment shall not be eligible to apply to the board for a pardon or commutation of sentence for a period of 15 years after being sentenced by the trial court, except that periods of time prior to the imposition of the sentence in which the defendant was in actual custody for the offense for which he was sentenced to life imprisonment shall be included in computing the 15-year period.

Proposed law retains present law.

Proposed law provides that any applicant who has been sentenced to life imprisonment for an offense that is either a crime of violence as defined in present law (R.S. 14:2(B)) or a sex offense as defined in present law (R.S. 15:541) shall not be eligible to apply to the board for a pardon or commutation of sentence for a period of 25 years after being sentenced by the trial court, except that periods of time prior to the imposition of the sentence in which the defendant was in actual custody for the offense for which he was sentenced to life imprisonment shall be included in computing the 25-year period.

Proposed law further provides that a person who is serving a life sentence resulting from a commutation of a sentence of death shall not thereafter be eligible to apply for commutation of sentence to a specific number of years.

Present law provides that when no action is taken by the governor on a recommendation for clemency issued by the board, the person seeking clemency shall not be required to reapply

to the board and the recommendation shall not expire upon the expiration of the governor's term in office and may be reviewed by the next governor to take office.

Proposed law amends present law to provide that when no action is taken by the governor on a recommendation for pardon or commutation of sentence issued by the board, the person seeking pardon or commutation of sentence shall be required to reapply to the board and the recommendation shall expire upon the expiration of the 180 days provided in proposed law.

Present law provides that the board shall adopt rules pursuant to the Administrative Procedure Act to provide for the provisions of present law, but the rules shall not require the person seeking clemency to reapply when no action is taken by the governor on the board's recommendation that the person receive clemency.

Proposed law retains present law relative to the adoption of rules, but removes the provision of present law that provides that the rules shall not require the person seeking clemency to reapply when no action is taken by the governor on the board's recommendation that the person receive clemency.

Proposed law provides that the board shall, to the extent feasible, schedule hearings for pardon or commutation of sentence in the order in which the applications are filed.

Proposed law provides that when the board notifies the governor that it has granted a favorable recommendation of an application for pardon or commutation of sentence, the board shall also provide simultaneous notice to the persons listed in present law that this favorable recommendation has been sent to the governor for his approval.

Present law (R.S. 15:572.5) provides for information to be provided to the Board of Pardons.

Proposed law retains present law.

Present law provides that the Dept. of Public Safety and Corrections may charge a fee not to exceed \$150 for conducting the clemency investigation provided in present law.

Proposed law changes this amount from \$150 to \$200.

Proposed law (R.S. 15:574.6.2) provides that any offender who has received a commuted sentence and who is released on parole or because of diminution of sentence shall be evaluated through a validated risk assessment instrument approved by the secretary of the department and shall have an approved residence plan prior to release.

Proposed law provides that in approving the residence plan of the offender, the department shall consider the likelihood that the offender will be able to comply with all of the conditions of his parole.

Proposed law provides that the committee on parole may impose any special conditions of supervision which may include participation in additional programming by the offender as determined to be necessary by the validated risk-assessment instrument.

Proposed law provides that the department shall secure all relevant data and assist the offender in formulating a release plan that includes any necessary conditions as determined by the department.

Proposed law provides that any offender who has received a commuted sentence and who is released shall be placed on supervised release for the remainder of his sentence.

Proposed law provides that any person who was placed upon supervised release pursuant to the provisions of proposed law may petition the parole board for a termination of the supervision.

(Amends R.S. 15:572(A), 572.4(B)(1)(intro. para.) and (a) and (3) and (C)-(E), and 572.5(B); Adds R.S. 15:572.4(F) and (G) and 574.6.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes.
2. Remove provisions of proposed law relative to finality of clemency determinations.
3. Provide the following for an offender who has received a commuted sentence and who is released on parole or because of diminution of sentence:
 - (a) Evaluation through a validated risk assessment instrument approved by the secretary of the department.
 - (b) Approval of a residence plan prior to release, with considerations from the department on the likelihood of the offender's compliance with all of the conditions of his parole.
 - (c) Placement on supervised release for the remainder of his sentence.
 - (d) Imposition of special conditions of supervision by the committee on parole, which may include the offender's participation in additional programming as determined by the validated risk-assessment tool.
 - (e) The ability to petition the parole board for termination of the supervision.
4. Require the department to secure all relevant data and assist an offender in formulating a release plan that includes any necessary conditions as determined by the department.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Change terminology from "risk-assessment tool" to "risk-assessment instrument".