

1 SB47
2 130273-4
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 01-MAR-11
6 PFD: 02/24/2011

1 SB47

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4 ENROLLED, An Act,

5 To amend Sections 15-22-23 and 15-22-36 of the Code
6 of Alabama 1975, relating to the meetings and authority of the
7 Board of Pardons and Paroles; to provide for changes in
8 notification of victims; to provide for victims and other
9 persons to supply contact information for notification
10 purposes; to allow victims to choose to not be notified under
11 certain conditions; to require victims' and other individuals'
12 information be entered into the automated victim notification
13 system under certain conditions; and to add Section 15-22-36.2
14 to the Code of Alabama 1975, to create the Implementation Task
15 Force to support the implementation of a statewide automated
16 victim notification system.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 15-22-23 and 15-22-36 of the
19 Code of Alabama 1975, are amended to read as follows:

20 "§15-22-23.

21 "(a) Meetings of the Board of Pardons and Paroles
22 shall be held at the call of the chairman or as may be
23 determined by the board. Meetings set for the purpose of
24 conducting hearings and making determinations concerning
25 pardons, paroles, restorations of political and civil rights,

1 remission of fines and forfeitures, and revocations may be set
2 by the chairman, the board, or a panel of the board designated
3 for such purpose.

4 "(b) The Board of Pardons and Paroles shall have no
5 power or authority to tentatively approve, grant, or order any
6 pardon, parole or remission of fine or other forfeiture unless
7 and until all of the following conditions are met:

8 "(1) The action is taken in an open public meeting
9 of the board held after notice of the meeting has been given
10 to each member of the board in such manner as the board
11 directs; and

12 "(2) Due notice of the time, date, and place of the
13 meeting and the action to be considered has been given in
14 writing sent by U. S. mail, electronic transmission, or by
15 other commonly accepted method of delivery at least 30 days
16 prior to the meeting to each of the following:

17 "a. The incumbent Attorney General.

18 "b. The district attorney who prosecuted and the
19 judge who presided over the case.

20 "c. The chief of police of the municipality wherein
21 the crime occurred, if the crime was committed in a
22 municipality with a police department.

23 "d. The sheriff of the county in which the crime was
24 committed.

1 "(3) If the district attorney who prosecuted the
2 case or the judge who presided over the case be not living or
3 serving, notice under subdivision (2) shall be given to the
4 district attorney and one of the judges of the circuit in
5 which the subject was convicted.

6 "(4) All persons who are required to be notified
7 under the provisions of this section have been allowed, at
8 their option, to either appear before the board or give their
9 views in writing.

10 "(c) "Due notice" as used in subdivision (b) (2) of
11 this section shall be defined to include all of the following:

12 "(1) The name of the prisoner or defendant involved.

13 "(2) The crime for which the prisoner or defendant
14 was convicted.

15 "(3) The date of the sentence.

16 "(4) The court in which the conviction occurred.

17 "(5) The sentence imposed, the prisoner's actual
18 time in confinement, and the prisoner's minimum release date,
19 as calculated by the Department of Corrections.

20 "(6) The action to be considered by the board.

21 "(7) The date, time, and location of the board
22 meeting at which the action is to be considered.

23 "(8) The right of any individual to present his or
24 her views to the board as specified in subsection (b) (2), (3),

1 and (4) or as otherwise permitted by the board's operating
2 rules.

3 "(d) All of the requirements set out in subsections
4 (b) and (c) are express conditions to any board action
5 approving, granting, or ordering any pardon, parole, remission
6 of fine or other forfeiture, or restoration of civil and
7 political rights.

8 "§15-22-36.

9 "(a) In all cases, except treason and impeachment
10 and cases in which sentence of death is imposed and not
11 commuted, as is provided by law, the Board of Pardons and
12 Paroles shall have the authority and power, after conviction
13 and not otherwise, to grant pardons and paroles and to remit
14 fines and forfeitures.

15 "(b) Each member of the Board of Pardons and Paroles
16 favoring a pardon, parole, remission of a fine or forfeiture,
17 or restoration of civil and political rights shall enter in
18 the file his or her reasons in detail, which entry and the
19 order shall be public records, but all other portions of the
20 file shall be privileged.

21 "(c) No pardon shall relieve one from civil and
22 political disabilities unless specifically expressed in the
23 pardon. No pardon shall be granted unless the prisoner has
24 successfully completed at least three years of permanent
25 parole or until the expiration of his or her sentence if his

1 or her sentence was for less than three years. Notwithstanding
2 the foregoing, a pardon based on innocence may be granted upon
3 the unanimous affirmative vote of the board following receipt
4 and filing of clear proof of his or her innocence of the crime
5 for which he or she was convicted and the written approval of
6 the judge who tried his or her case or district attorney or
7 with the written approval of a circuit judge in the circuit
8 where he or she was convicted if the judge who tried his or
9 her case is dead or no longer serving.

10 "(d) The Board of Pardons and Paroles shall have no
11 power to grant a pardon, order a parole, remit a fine or
12 forfeiture, or restore civil and political rights until 30
13 days' notice that the prisoner is being considered therefor
14 has been given by the board to the Attorney General, the judge
15 who presided over the case, the district attorney who tried
16 the subject's case, the chief of police in the municipality in
17 which the crime occurred, if the crime was committed in an
18 incorporated area with a police department, and to the sheriff
19 of the county where convicted, and to the same officials of
20 the county where the crime occurred if different from the
21 county of conviction; provided, however, that if they are dead
22 or not serving, the notice shall be given to the district
23 attorney, incumbent sheriff, and one of the judges of the
24 circuit in which the subject was convicted. The board shall

1 also be required to provide the same notice to the Crime
2 Victims Compensation Commission.

3 "(e) (1) Until and unless at least 30 days' written
4 notice of the board's action to be considered has been given
5 by the board to the victim named in the indictment, the
6 victim's representative, or any other interested individual,
7 after the board has received a request through the automated
8 victim notification system or otherwise upon direct request
9 made to the board or other authorized individual 30 days or
10 more in advance of the board's action to be considered for
11 notice from the victim, victim's representative, or other
12 interested individual, including the preferred mode of
13 notification, the Board of Pardons and Paroles shall have no
14 power or authority to in any way approve or order any parole,
15 pardon, remission of fine or forfeiture, restoration of civil
16 and political rights, furlough, leave or early release of a
17 person convicted of the following offenses:

18 "a. A Class A felony.

19 "b. Any felony committed prior to the first day of
20 January, 1980, which if committed after the first day of
21 January, 1980, would be designated a Class A felony.

22 "c. Any felony involving violence, death, or any
23 physical injury to the person of another.

24 "d. Any felony involving unlawful sexual assault or
25 other unlawful sexual conduct on the person of another.

1 "e. Any felony involving sexual assault, or a lewd
2 or lascivious act upon a child under the age of 16 years or
3 attempt thereof.

4 "f. Sexual abuse or any other criminal conduct
5 committed prior to the first day of January, 1980, which if
6 committed after the first day of January, 1980, would be
7 defined as sexual abuse under the Alabama Criminal Code.

8 "g. Child abuse or any criminal conduct committed
9 prior to the first day of January, 1980, which if committed
10 after the first day of January, 1980, would be defined as
11 child abuse under the Alabama Criminal Code.

12 "h. Sodomy or any criminal conduct committed prior
13 to the first day of January, 1980, which if committed after
14 the first day of January, 1980, would be defined as sodomy
15 under the Alabama Criminal Code.

16 "i. Any violation of Section 13A-6-69, as amended.

17 "(2) If, however, the victim, victim's
18 representative, or other interested individual has not been
19 registered for notice through the automated victim
20 notification system or otherwise made a direct request to the
21 board for notice or to another authorized individual, the
22 victim's information has not been updated, or a particular
23 mode of notification has not been requested at least 30 days
24 or more in advance of the board's action to be considered, the
25 board shall not be limited in power or authority in any way to

1 approve or order any parole, pardon, remission of fine or
2 forfeiture, restoration of civil and political rights,
3 furlough, leave, or early release of a person convicted of the
4 offenses named in subsection (e)(1)a. to i., inclusive.

5 "(3) The notice shall be given by U.S. certified
6 mail, return receipt requested, U.S. mail, electronic
7 transmission, or by other commonly accepted method of
8 delivery, upon a request made through the automated victim
9 notification system or otherwise upon direct request made to
10 the board or other authorized individual 30 days or more in
11 advance of the board's action to be considered and shall
12 include:

13 "a. The name of the prisoner or defendant involved.

14 "b. The crime for which the prisoner or defendant
15 was convicted.

16 "c. The date of the sentence.

17 "d. The court in which the conviction occurred.

18 "e. The sentence imposed.

19 "f. The actual time the prisoner has been held in
20 confinement and the prisoner's minimum release date, as
21 computed by the Department of Corrections.

22 "g. The action to be considered by the board.

23 "h. The date, time, and location of the board
24 meeting at which the action is to be considered.

1 "i. The right of the victim named in the indictment,
2 a victim's representative, or if the victim is deceased as a
3 result of the offense, the victim's immediate family, as
4 defined by the board's operating rules, or, in the event there
5 is no immediate family, a relative of a victim, if any, to
6 present his or her views to the board in person or in writing.

7 "Notice for robbery victims who were robbed while on
8 duty as an employee of a business establishment shall be
9 sufficient if mailed to the last address provided by the
10 victim or as otherwise noted on the indictment or in the board
11 files.

12 "

13 "(4) If a victim, victim's representative, or
14 otherwise interested individual requests not to be notified,
15 the request shall be made to the Board of Pardons and Paroles
16 in writing or by electronic signature. Confirmation of a
17 request to not be notified shall be provided to the victim so
18 requesting. After a request is received, the board shall
19 provide no further notifications, unless and until the victim,
20 victim's representative, or otherwise interested individual
21 subsequently requests future notifications, at least 30 days
22 in advance of the board's action to be considered through the
23 automated victim notification system designated by the board
24 or by contacting the board or other authorized individual in
25 writing, in person, or by telephone.

1 "(5) Should a victim, victim's representative, or
2 otherwise interested person wish to receive notice of any
3 specific board hearing and action taken by the board, if any,
4 in a specific case, the individual may register to request the
5 notice through the automated victim notification system or
6 otherwise request notice by making a direct request to the
7 board or other authorized individual to receive notice at
8 least 30 days in advance of the board's action to be
9 considered. The individual shall be required to designate his
10 or her preferred mode or modes of communication.

11 "(6) Prior to the sentencing of any defendant
12 convicted of the offenses named in subsection (e)(1)a. to i.,
13 inclusive, and only after the most recent victim information
14 has been furnished to the Board of Pardons and Paroles
15 pursuant to Section 12-17-184(9), in those cases, the
16 probation and parole officer assigned to prepare a
17 pre-sentence investigation report shall register the most
18 recent information for the victim named in the indictment into
19 the automated victim notification system designated by the
20 board. In case of a homicide, the information of immediate
21 family members shall be entered into the automated victim
22 notification system designated by the board. If a surviving
23 victim is a minor, information for parents or guardians shall
24 be entered into the automated victim notification system
25 designated by the board. The probation and parole officer

1 assigned to prepare a pre-sentence investigation report shall
2 then report to the sentencing court that all most current
3 victim information has been so registered. The sentencing
4 court shall then record into the case record that the victim
5 information has been entered into the automated victim
6 notification system.

7 "(7) For those cases in which a defendant has been
8 convicted and sentenced prior to the implementation task force
9 determining that the automated victim notification system
10 complies with the requirements of this act, for any homicide,
11 and Class A felony, except Burglary I in which no victim was
12 present, or any criminal sex offense, as defined by Section
13 15-20-21(4), the board shall exercise due diligence to locate
14 the victim or victims and register the most recent victim
15 information into the automated victim notification system
16 designated by the board. If all attempts to locate a victim,
17 or in case of a homicide to locate immediate family member or
18 members, have failed and the agent of the board has certified
19 that due diligence has been exercised, no future location
20 attempts shall be required.

21 "(f) After any board action is taken granting any
22 pardon or parole, the board shall promptly notify all persons
23 who timely requested notice, pursuant to this section as to
24 the action taken by the board and the conditions, if any, of
25 any such parole or pardon via electronic notification through

1 the automated victim notification system or posting publicly
2 on a state agency website."

3 Section 2. Section 15-22-36.2 is added to the Code
4 of Alabama 1975, to read as follows:

5 §15-22-36.2. Implementation Task Force.

6 There is hereby created the Implementation Task
7 Force to guide and support the implementation of a statewide
8 automated victim notification system in Alabama. The task
9 force shall be composed of two representatives of victims'
10 rights organizations designated by the Attorney General and at
11 least one designee from each of the following: The Board of
12 Pardons and Paroles, the Department of Corrections, the
13 Alabama Criminal Justice Information Center, the Alabama Crime
14 Victims Compensation Commission, the District Attorneys
15 Association or a district attorney representative, the
16 Attorney General, and any other entity or organization as
17 deemed appropriate by a majority vote of the current
18 representatives composing the task force. The task force shall
19 elect a chair to function as the administrative head. The task
20 force shall meet initially no more than 60 days from the
21 effective date of this act at the call of the Attorney
22 General. The task force shall meet not less than once a month
23 prior to January 1, 2012, quarterly after January 1, 2012,
24 until December 31, 2015, and otherwise at the call of the
25 chair or a majority vote of the current task force

1 representatives. Pursuant to this act, the task force shall be
2 responsible for overseeing the development and integration of
3 a process to automatically update victim information into the
4 automated victim notification system on a continual basis. The
5 task force shall also oversee a statewide public education and
6 awareness campaign for the implementation of the automated
7 victim notification system and shall be charged with
8 confirming, by majority vote, that the automated victim
9 notification system complies with the requirements of this
10 act. Approval from the task force shall not be required for
11 the validity of any action taken by any entity represented on
12 the task force in the exercise of any of the power or
13 authority granted to it by the Legislature. The task force
14 shall be dissolved effective December 31, 2015.

15 Section 3. The Board of Pardons and Paroles shall
16 have authority to carry out the enforcement of this act.

17 Section 4. This act shall become effective on
18 January 1, 2012, following its passage and approval by the
19 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB47
Senate 25-MAY-11
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 09-JUN-11

By: Senator Ward