

## HB0246S01 compared with HB0246

~~deleted text~~ shows text that was in HB0246 but was deleted in HB0246S01.

inserted text shows text that was not in HB0246 but was inserted into HB0246S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Judy Weeks Rohner proposes the following substitute bill:

### BOARD OF PARDONS AND PAROLE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Judy Weeks Rohner**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill modifies the responsibilities of the Board of Pardons and Parole.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Board of Pardons and Parole to prioritize public safety when making a decision about an offender;
- ▶ enacts reporting requirements; and
- ▶ makes technical changes.

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

## HB0246S01 compared with HB0246

None

### Utah Code Sections Affected:

#### AMENDS:

**77-27-5**, as last amended by Laws of Utah 2021, Chapters 21, 246 and 260 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 260

#### ENACTS:

**77-27-32**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **77-27-5** is amended to read:

**77-27-5. Board of Pardons and Parole authority.**

(1) (a) Subject to this chapter and other laws of the state, and except for a conviction for treason or impeachment, the board shall determine by majority decision when and under what conditions an offender's conviction may be pardoned or commuted.

(b) The Board of Pardons and Parole shall determine by majority decision when and under what conditions an offender committed to serve a sentence at a penal or correctional facility, which is under the jurisdiction of the department, may:

(i) be released upon parole;

(ii) have a fine or forfeiture remitted;

(iii) have the offender's criminal accounts receivable remitted in accordance with Section 77-32b-105 or 77-32b-106;

(iv) have the offender's payment schedule modified in accordance with Section 77-32b-103; or

(v) have the offender's sentence terminated.

(c) The board shall prioritize public safety when making a determination under Subsection (1)(a) or (1)(b).

~~(d)~~ (d) (i) The board may sit together or in panels to conduct hearings.

(ii) The chair shall appoint members to the panels in any combination and in accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board.

(iii) The chair may participate on any panel and when doing so is chair of the panel.

## HB0246S01 compared with HB0246

(iv) The chair of the board may designate the chair for any other panel.

~~[(d)]~~ (e) (i) Except after a hearing before the board, or the board's appointed examiner, in an open session, the board may not:

(A) remit a fine or forfeiture for an offender or the offender's criminal accounts receivable;

(B) release the offender on parole; or

(C) commute, pardon, or terminate an offender's sentence.

(ii) An action taken under this Subsection (1) other than by a majority of the board shall be affirmed by a majority of the board.

~~[(e)]~~ (f) A commutation or pardon may be granted only after a full hearing before the board.

(2) (a) In the case of any hearings, timely prior notice of the time and location of the hearing shall be given to the offender.

(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

(d) (i) Notice to the victim or the victim's representative shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section.

(ii) The information under Subsection (2)(d)(i) shall be provided in terms that are reasonable for the lay person to understand.

(3) (a) A decision by the board is final and not subject for judicial review if the decision is regarding:

(i) a pardon, parole, commutation, or termination of an offender's sentence;

(ii) the modification of an offender's payment schedule for restitution; or

(iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

(b) Deliberative processes are not public and the board is exempt from Title 52, Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's deliberative process.

## HB0246S01 compared with HB0246

(c) Pursuant to Subsection 63G-2-103(22)(b)(xi), records of the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(d) Unless it will interfere with a constitutional right, deliberative processes are not subject to disclosure, including discovery.

(e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

(4) (a) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment.

(b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole.

(c) At the next session of the board, the board:

(i) shall continue or terminate the respite or reprieve; or

(ii) may commute the punishment or pardon the offense as provided.

(d) In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at the Legislature's next session.

(e) The Legislature shall pardon or commute the sentence or direct the sentence's execution.

(5) (a) In determining when, where, and under what conditions an offender serving a sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's criminal accounts receivable remitted, or have the offender's sentence commuted or terminated, the board shall:

(i) consider whether the offender has made restitution ordered by the court under Section 77-38b-205, or is prepared to pay restitution as a condition of any parole, pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or termination of the offender's sentence;

(ii) except as provided in Subsection (5)(b), develop and use a list of criteria for making determinations under this Subsection (5);

(iii) consider information provided by the Department of Corrections regarding an offender's individual case action plan; and

(iv) review an offender's status within 60 days after the day on which the board receives notice from the Department of Corrections that the offender has completed all of the

## HB0246S01 compared with HB0246

offender's case action plan components that relate to activities that can be accomplished while the offender is imprisoned.

(b) The board shall determine whether to remit an offender's criminal accounts receivable under this Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.

(7) For an offender placed on parole after December 31, 2018, the board shall terminate parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

Section 2. Section **77-27-32** is enacted to read:

### **77-27-32. Reporting requirements.**

~~{~~ ~~(1) As used in this section:~~

~~—— (a) "Calendar quarter" means the period of three consecutive months ending on March 31, June 30, September 30, or December 31.~~

~~—— (b) "Current parole recidivism rate" means the number of offenders who are returned to the custody of a correctional facility for a parole violation within a calendar quarter as compared to the total number of offenders who are on parole supervision during the calendar quarter.~~

~~—— (c) "Offender" means an individual who has been:~~

~~—— (i) convicted of a crime; and~~

~~—— (ii) placed under a period of parole supervision to complete the individual's sentence for the conviction.~~

~~—— (d) "Post parole recidivism rate" means the number of offenders who complete parole supervision during a calendar quarter and are then convicted of a crime during the next three years as compared to the total number of offenders who complete parole supervision during the same calendar quarter.~~

~~‡~~ ~~(~~2~~) (~~a~~) 1)~~ The board shall publicly display metrics on the board's website, including:

~~(~~i~~) the current parole recidivism rate;~~

## HB0246S01 compared with HB0246

- ~~\_\_\_\_\_ (ii) the post parole recidivism rate;~~
  - ~~\_\_\_\_\_ (iii) measures of successful parole, as defined by the board; and~~
  - ~~\_\_\_\_\_ (iv) summary statistics outlining the board's reasons for departing from the sentencing~~
    - a) a measure of recidivism;
    - (b) a measure of time under board jurisdiction;
    - (c) a measure of prison releases by category;
    - (d) a measure of parole revocations;
    - (e) a measure of alignment of board decisions with the guidelines established by the Sentencing Commission under Section 63M-7-404; and
    - (f) a measure of the aggregate reasons for departing from the guidelines described in Subsection (1)(e).
- ~~(b) (i) 2~~ On or before September 30~~, 2023~~ of each year, the board shall submit ~~fa~~ report that summarizes the metrics in Subsection (2)(a) to the Law Enforcement and Criminal Justice Interim Committee.
- ~~\_\_\_\_\_ (ii) The board shall submit an updated report to~~ to the commission and the Law Enforcement and Criminal Justice Interim Committee ~~each calendar quarter following the initial~~ a report ~~described~~ for the previous fiscal year that summarizes the metrics in Subsection ~~(2)(b)(i) 1~~.