

**BOARD OF PARDONS AND PAROLE AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Judy Weeks Rohner**

**Senate Sponsor: Jacob L. Anderegg**

6	Cosponsors:	Tyler Clancy	Trevor Lee
7	Nelson T. Abbott	Jon Hawkins	Rosemary T. Lesser
8	Cheryl K. Acton	Sandra Hollins	Karen M. Peterson
9	Carl R. Albrecht	Dan N. Johnson	Christine F. Watkins
10	Melissa G. Ballard	Marsha Judkins	
11	Walt Brooks	Michael L. Kohler	
	Kay J. Christofferson		

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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:**

None

**Utah Code Sections Affected:**

28 AMENDS:

29 **77-27-5**, as last amended by Laws of Utah 2021, Chapters 21, 246 and 260 and last  
30 amended by Coordination Clause, Laws of Utah 2021, Chapter 260

31 ENACTS:

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



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

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

36 **77-27-5. Board of Pardons and Parole authority.**

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

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

- 43 (i) be released upon parole;
- 44 (ii) have a fine or forfeiture remitted;
- 45 (iii) have the offender's criminal accounts receivable remitted in accordance with  
46 Section **77-32b-105** or **77-32b-106**;
- 47 (iv) have the offender's payment schedule modified in accordance with Section  
48 **77-32b-103**; or
- 49 (v) have the offender's sentence terminated.

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

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

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

- 56 (iii) The chair may participate on any panel and when doing so is chair of the panel.
- 57 (iv) The chair of the board may designate the chair for any other panel.
- 58 ~~[(d)]~~ (e) (i) Except after a hearing before the board, or the board's appointed examiner,  
59 in an open session, the board may not:
- 60 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts  
61 receivable;
- 62 (B) release the offender on parole; or
- 63 (C) commute, pardon, or terminate an offender's sentence.
- 64 (ii) An action taken under this Subsection (1) other than by a majority of the board  
65 shall be affirmed by a majority of the board.
- 66 ~~[(e)]~~ (f) A commutation or pardon may be granted only after a full hearing before the  
67 board.
- 68 (2) (a) In the case of any hearings, timely prior notice of the time and location of the  
69 hearing shall be given to the offender.
- 70 (b) The county or district attorney's office responsible for prosecution of the case, the  
71 sentencing court, and law enforcement officials responsible for the defendant's arrest and  
72 conviction shall be notified of any board hearings through the board's website.
- 73 (c) Whenever possible, the victim or the victim's representative, if designated, shall be  
74 notified of original hearings and any hearing after that if notification is requested and current  
75 contact information has been provided to the board.
- 76 (d) (i) Notice to the victim or the victim's representative shall include information  
77 provided in Section [77-27-9.5](#), and any related rules made by the board under that section.
- 78 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are  
79 reasonable for the lay person to understand.
- 80 (3) (a) A decision by the board is final and not subject for judicial review if the  
81 decision is regarding:
- 82 (i) a pardon, parole, commutation, or termination of an offender's sentence;
- 83 (ii) the modification of an offender's payment schedule for restitution; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

112 termination of the offender's sentence;

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

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

117 (iv) review an offender's status within 60 days after the day on which the board  
118 receives notice from the Department of Corrections that the offender has completed all of the  
119 offender's case action plan components that relate to activities that can be accomplished while  
120 the offender is imprisoned.

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

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

124 (a) the offense committed by the parolee; and

125 (b) the parole period under Section 76-3-202, and in accordance with Section  
126 77-27-13.

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

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

132 **77-27-32. Reporting requirements.**

133 (1) The board shall publicly display metrics on the board's website, including:

134 (a) a measure of recidivism;

135 (b) a measure of time under board jurisdiction;

136 (c) a measure of prison releases by category;

137 (d) a measure of parole revocations;

138 (e) a measure of alignment of board decisions with the guidelines established by the

139 Sentencing Commission under Section 63M-7-404; and

140            (f) a measure of the aggregate reasons for departing from the guidelines described in

141 Subsection (1)(e).

142            (2) On or before September 30 of each year, the board shall submit to the commission

143 and the Law Enforcement and Criminal Justice Interim Committee a report for the previous

144 fiscal year that summarizes the metrics in Subsection (1).