

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

HOUSE BILL 1758

5 By: Representatives J. Johnson, Scroggin
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For An Act To Be Entitled

9 AN ACT TO AMEND THE EXECUTIVE CLEMENCY
10 PROCEDURES; AND FOR OTHER PURPOSES.
11

Subtitle

12 AN ACT TO AMEND THE EXECUTIVE CLEMENCY
13 PROCEDURES.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 16-93-204 is amended to read as follows:
20 16-93-204. Executive clemency – Applications.

21 (a) All applications for pardon, commutation of sentence, reprieve,
22 respite, or remission of fine or forfeiture shall be ~~referred to~~ filed by the
23 applicant with the Post Prison Transfer Board for investigation.

24 (b) The Post Prison Transfer Board shall thereupon investigate each
25 case and shall submit to the Governor its recommendation, a report of the
26 investigation, and all other information the Post Prison Transfer Board may
27 have regarding the applicant.

28 (c)(1) Before the Post Prison Transfer Board shall consider an
29 application for a pardon or recommend a commutation of sentence, the board
30 shall solicit the written or oral recommendation of the committing court, the
31 prosecuting attorney, and the sheriff of the county from which the person was
32 committed.

33 (2)(A) Before considering an application for a pardon or
34 recommending a commutation of sentence of a person who was convicted of
35 capital murder, § 5-10-101, or a Class Y, Class A, or Class B felony, the
36 board shall notify the victim of the crime or the victim's next of kin, if he



1 or she files a request for notice with the prosecuting attorney.

2 (B) When the board provides notice under subsection (c) of
 3 this section, the board shall solicit the written or oral recommendations of
 4 the victim or his or her next of kin regarding the granting of a pardon or
 5 commutation of sentence.

6 (3) The board shall retain a copy of the recommendations in the
 7 board's file.

8 (4) The recommendations shall not be binding upon the board in
 9 advising the Governor whether to grant a pardon or commute a sentence, but
 10 shall be maintained in the inmate's file.

11 (5)(A) If a hearing will be held on the application, the board
 12 shall notify the victim or his or her next of kin of the date, time, and
 13 place of the hearing.

14 (B) The notice shall be given when soliciting the
 15 recommendations of the victim of the crime or his or her next of kin.

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 17 SECTION 2. Arkansas Code § 16-93-207 is amended to read as follows:

18 16-93-207. ~~Applications for pardon, commutation of sentence, and~~
 19 ~~remission of fines and forfeitures~~ Executive clemency – Procedures for the
 20 Governor.

21 (a)(1)(A) At least thirty (30) days before granting an application for
 22 pardon, commutation of sentence, or remission of fine or forfeiture, the
 23 Governor shall file with the Secretary of State a notice of his or her
 24 intention to grant such application.

25 (B)~~(i)~~ The Governor shall also direct the Department of
 26 Correction to send notice of his or her intention to the judge, the
 27 prosecuting attorney, and the sheriff of the county in which the applicant
 28 was convicted and, if applicable, to the victim or the victim's next of kin.

29 ~~(ii) The notification to the victim or the victim's~~
 30 ~~next of kin shall not be required if the conviction occurred more than ten~~
 31 ~~(10) years prior to the filing of the notice under subdivision (a)(1)(A) of~~
 32 ~~this section.~~

33 (2) The filing of such notice shall not preclude the Governor
 34 from later denying the application, but any pardon, commutation of sentence,
 35 or remission of fine or forfeiture granted without filing such notice shall
 36 be null and void.

1 **(b) If the Governor grants the application for pardon, commutation of**
 2 **sentence, or remission of fine or forfeiture, he or she shall:**

3 **(1) Include in his or her written order the reasons for granting**
 4 **clemency; and**

5 **(2) File the written order with the Secretary of State.**

6 **(c)** If the Governor does not grant an application for pardon,
 7 commutation of sentence, or remission of fine or forfeiture within one
 8 hundred twenty (120) days of ~~the Governor's receipt of the recommendation of~~
 9 ~~the Post Prison Transfer Board regarding the application~~ **the date that the**
 10 **Post Prison Transfer Board issued its recommendation under § 16-93-204,** the
 11 application shall be deemed denied by the Governor, and any pardon,
 12 commutation of sentence, or remission of fine or forfeiture granted after the
 13 one hundred twenty-day period shall be null and void.

14 **(d)**(1) If an application for pardon, commutation of sentence, or
 15 remission of fine or forfeiture is denied in writing by the Governor, the
 16 person filing the application shall not be eligible to file a new application
 17 for pardon, commutation of sentence, or remission of fine or forfeiture
 18 related to the same offense for a period of four (4) years from the date of
 19 the denial.

20 (2) If an application for pardon, commutation of sentence, or
 21 remission of fine or forfeiture is deemed denied by the Governor pursuant to
 22 subsection (b) of this section, the person filing the application may
 23 immediately file a new application for pardon, commutation of sentence, or
 24 remission of fine or forfeiture related to the same offense.

25 **(e)** This section shall not apply to reprieves, and reprieves may be
 26 granted as presently provided by law.

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