

Recent Developments – Pardon and Parole Board

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November, 2018 changes – 57 O.S. §332.1; 57 O.S. §332.2; 57 O.S. §332.7

- Board Members background requirements
- Administrative Parole
 - Crime committed after November 1, 2018
 - ¼ of sentence served
 - Non-violent (571 or 13.1)
 - No misconducts in DOC
 - (Misconducts received any time before vote will result in being stricken)
- Aging Offender Parole
 - 60 years or older
 - Served either 1/3 of sentence or 10 years
 - Poses minimal public safety risk
 - Non-violent crimes (571 or 13.1)
 - No conviction requiring Sex Offender Registration

March, 2019 Pardon & Parole Board Meeting

- Current Board Members:
 - Robert Gilliland, Chair (Governor appointment)
 - Adam Luck, Vice-Chair (Governor appointment)
 - Kelly Doyle (Governor appointment)
 - Larry Morris (Court of Criminal Appeals appointment)
 - Hon. Allen McCall (Supreme Court appointment)
- First Administrative Parole Docket
 - 74 on docket
 - All granted unless stricken due to misconduct or discharge
- Aging Offender Parole
 - New application approved
 - Eligibility issues
 - Estimated impact
- New commutation application

- First Stage commutations
 - 49 of 111 passed to Stage 2
 - Multiple violent offenses passed to Stage 2

Future of Commutations

- What is a commutation?
 - Reduction of sentence to correct an unjust or excessive sentence
 - Not intended to be an early release mechanism
- Eligibility for Commutation
 - Currently in Department of Corrections
 - Unless a conviction for impeachment
 - If applied after September 15, 2018 and denied, may not reapply for 3 years
- Commutation Process
 - First Stage Application review
 - Second Stage Hearing
 - Governor approval
 - Board recommendations
- Reasons to seek a commutation
 - Penalty is excessive considering range of punishment at the time
 - There are facts that were not available at the time of trial
 - There is a statutory change in the penalty which makes the sentence now appear excessive
- Using commutations where criminal justice reform measures are not retroactive
 - Sentences changed by passage of State Question 780
 - Other drug law changes: Possession with Intent, Distribution, Trafficking
 - LWOP Trafficking
- Commutations under Governor Fallin
 - PPB published statistics from September, 2018 show 3% success in prior year
- Commutations under Governor Stitt
- Considerations for commutation
 - Conduct while in DOC
 - Family support
 - Reentry plan
 - Second Stage hearing preparation



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Title 57. Prisons and Reformatories

📖 Oklahoma Statutes Citationized

📖 Title 57. Prisons and Reformatories

📖 Chapter 7 - Pardons and Paroles

📖 Section 332.1B - Eligibility for Appointment as a Pardon and Parole Board Member

Cite as: 57 O.S. § 332.1B (OSCN 2019)

A. To be eligible for appointment as a Pardon and Parole Board member, a person shall possess a bachelor's degree from an accredited college or university and have at least five (5) years of experience in one or more of the following fields:

1. Criminal justice;
2. Parole;
3. Probation;
4. Corrections;
5. Criminal law;
6. Law enforcement;
7. Mental health services;
8. Substance abuse services; or
9. Social work.

B. At least two members of the Pardon and Parole Board shall have five (5) years of training or experience in mental health services, substance abuse services or social work.

Historical Data

Laws 2011, HB 2131, c. 218, § 4, eff. November 1, 2011; Amended by Laws 2018, SB 185, c. 263, § 2, eff. November 1, 2018 ([superseded document available](#)).

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Title 57. Prisons and Reformatories

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📁 Title 57. Prisons and Reformatories

📁 Chapter 7 - Pardons and Paroles

📄 Section 332.2 - Meetings of Pardon and Parole Board - Procedures for Applications for Commutation - Notice of Dockets and Recommendations to District Attorneys

Cite as: 57 O.S. § 332.2 (OSCN 2019)

A. The Pardon and Parole Board, which shall meet only on the call of the Chairman, is authorized, if and when an application made to the Governor for a reprieve, commutation, parole, pardon, or other act of clemency is certified thereto by the Governor, to examine into the merits of said application and make recommendations to the Governor in relation thereto, said recommendation being advisory to the Governor and not binding thereon.

B. Any consideration for commutation shall be made only after application is made to the Pardon and Parole Board pursuant to the procedures set forth in this section. The Pardon and Parole Board shall provide a copy of the application to the district attorney, the victim or representative of the victim and the Office of the Attorney General within ten (10) business days of receipt of such application.

C. An application for commutation must be sent to the trial officials, who shall have twenty (20) business days to provide a written recommendation or protest prior to consideration of the application. Trial officials shall include:

1. The current elected judge of the court where the conviction was had;
2. The current elected district attorney of the jurisdiction where the conviction was had; or
3. The chief or head administrative officer of the arresting law enforcement agency.

D. In cases resolved prior to the tenure of the present officeholders, the recommendation or protest of persons holding such offices at the time of conviction may also be considered by the Board.

E. The recommendation for commutation of a sentence by a trial official may include the following:

1. A statement that the penalty now appears to be excessive;
2. A recommendation of a definite term now considered by the official as just and proper; and
3. A statement of the reasons for the recommendation based upon facts directly related to the case which were not available to the court or jury at the time of the trial or based upon there having been a statutory change in penalty for the crime which makes the original penalty appear excessive.

F. The Pardon and Parole Board shall schedule the application on a commutation docket in compliance with the notice requirements set forth herein. The Board shall provide the victim or representative of the victim at least twenty (20) days to offer recommendations or protests before consideration of the application.

G. Applications for commutation shall be given impartial review as required in Section 10 of Article VI of the Oklahoma Constitution.

H. Any consideration for pardon shall be made only after application is made to the Pardon and Parole Board. Upon receipt of an application for pardon, the Board shall provide a copy of the application to the district attorney, the victim or representative of the victim and the Office of the Attorney General within twenty (20) business days of receipt of such application. The district attorney and the victim or representative of the victim shall have twenty (20) business days to provide written recommendation or protest prior to the consideration of the application. The Board shall schedule the application on a pardon docket in compliance with the notice requirements set forth herein.

I. In accordance with Section 10 of Article VI of the Oklahoma Constitution, the Board shall communicate to the Legislature, at each regular session, by providing a summary of the activities of the Board. This summary shall include, but not be limited to, the following Board activity:

1. The approval or recommendation rates of the Board for both violent and nonviolent offenses;
2. The parole approval rates for each individual Board member for both violent and nonviolent offenses; and
3. The percentage of public comments to and personal appearances before the Board including victim protests and personal appearances, district attorney protests and personal appearances, and delegate recommendations and personal appearances on behalf of the offender.

This summary shall be made available to the public through publication on the website of the Pardon and Parole Board.

J. The Pardon and Parole Board shall provide a copy of their regular docket and administrative parole docket to each district attorney in this state at least twenty (20) days before such docket is considered by the Board, or in the case of a supplemental, addendum or special docket, at least ten (10) days before such docket is considered by the Board, and shall notify the district attorney of any recommendations for commutations or paroles no later than twenty (20) days after the docket is considered by the Board.

K. The Pardon and Parole Board shall notify all victims or representatives of the victim in writing at least twenty (20) days before an inmate is considered by the Board provided the Board has received a request from the victim or representatives of the victim for notice. The Board shall provide all victims or representatives of the victim with the date, time and place of the scheduled meeting and rules for attendance and providing information or input to the Board regarding the inmate or the crime. If requested by the victim or representatives of the victim, the Board shall allow the victim or representatives of the victim to testify at the parole hearing of the inmate for at least five (5) minutes.

L. The Pardon and Parole Board shall notify all victims or representatives of the victim in writing of the decision of the Board no later than twenty (20) days after the inmate is considered by the Board.

M. Any notice required to be provided to the victims or the representatives of the victim shall be mailed by first-class mail to the last-known address of the victim or representatives of the victim. It is the responsibility of the victims or representatives of the victim to provide the Pardon and Parole Board a current mailing address. The victim-witness coordinator of the district attorney shall assist the victims or representatives of the victim with supplying their address to the Board if they wish to be notified. Upon failure of the Pardon and Parole Board to notify a victim who has requested notification and has provided a current mailing address, the final decision of the Board may be voidable, provided, the victim who failed to receive notification requests a reconsideration hearing within thirty (30) days of the recommendation by the Board for parole. The Pardon and Parole Board may reconsider previous action and may rescind a recommendation if deemed appropriate as determined by the Board.

N. For purposes of this section, "victim" shall mean all persons who have suffered direct or threatened physical or emotional harm, or financial loss as the result of the commission or attempted commission of criminally injurious conduct, and "representatives of the victim" shall mean those persons who are members of the immediate family of the victim, including stepparents, stepbrothers, stepsisters, and stepchildren.

O. All meetings of the Pardon and Parole Board shall comply with [Section 301](#) et seq. of Title 25 of the Oklahoma Statutes; provided that the Board shall have the authority to limit the number of persons attending in support of, or in opposition to, any inmate being considered for parole and shall have the authority to exclude persons from attendance in accordance with prison security regulations and the capacity of the meeting room. Persons excluded from attending the meeting under this provision shall be informed of their right to be informed of the vote of the Board in accordance with [Section 312](#) of Title 25 of the Oklahoma Statutes. Provided further, nothing in this section shall be construed to prevent any member of the press or any public official from attending any meeting of the Pardon and Parole Board, except as provided by the Oklahoma Open Meeting Act.

P. All victim information maintained by the Department of Corrections and the Pardon and Parole Board shall be confidential and shall not be released.

Historical Data

Laws 1943, SB 83, c. 12a, § 2; Amended by Laws 1981, HB 1049, c. 95, § 1; Amended by Laws 1987, HB 1427, c. 117, § 3, eff. November 1, 1987; Amended by Laws 1991, HB 1004, c. 14, § 1, eff. September 1, 1991; Amended by Laws 1992, SB 816, c. 136, § 5, emerg. eff. July 1, 1992; Amended by Laws 1993, SB 456, c. 29, § 1, emerg. eff. April 2, 1993; Amended by Laws 1993, SB 451, c. 325, § 21, emerg. eff. June 7, 1993; Amended by Laws 1997, SB 610, c. 357, § 7, emerg. eff. June 9, 1997 ([superseded document available](#)); Amended by Laws 2013, HB 1722, c. 124, § 1, eff. November 1, 2013 ([superseded document available](#)); Amended by Laws 2018, HB 2286, c. 117, § 1, eff. November 1, 2018 ([superseded document available](#)).

Citationizer® Summary of Documents Citing This Document

Cite Name	Level
Oklahoma Attorney General's Opinions	
<i>Cite</i>	<i>Name</i> <i>Level</i>
2010 OK AG 15	Question Submitted by: Chairman Allen Smallwood, Judicial Nominating Commission Cited
2013 OK AG 19	Question Submitted by: The Honorable Harry Coates, State Senator, District 28 Discussed at Length
1988 OK AG 87	Question Submitted by: The Honorable Denver Talley, Oklahoma House of Representatives Cited
Oklahoma Court of Criminal Appeals Cases	
<i>Cite</i>	<i>Name</i> <i>Level</i>
2002 OK CR 23, 48 P.3d 110	ALEXANDER v. STATE Cited
1976 OK CR 42, 546 P.2d 650	JERRY v. PARDON AND PAROLE BOARD Cited
Title 21. Crimes and Punishments	
<i>Cite</i>	<i>Name</i> <i>Level</i>
21 O.S. 142A-2	Duty of District Attorney to Inform Victims and Witnesses of Rights Cited

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None Found.



OKLAHOMA State Courts Network

Title 57. Prisons and Reformatories

📖 Oklahoma Statutes Citationized

📖 Title 57. Prisons and Reformatories

📖 Chapter 7 - Pardons and Paroles

📖 Section 332.7 - Persons Eligible for Consideration for Parole - Inquiry - Recommendation to Governor - Administrative Parole

Cite as: 57 O.S. § 332.7 (OSCN 2019)

A. For a crime committed prior to July 1, 1998, any person in the custody of the Department of Corrections shall be eligible for consideration for parole at the earliest of the following dates:

1. Has completed serving one-third (1/3) of the sentence;
2. Has reached at least sixty (60) years of age and also has served at least fifty percent (50%) of the time of imprisonment that would have been imposed for that offense pursuant to the applicable matrix, provided in Sections 598 through 601, Chapter 133, O.S.L. 1997; provided, however, no inmate serving a sentence for crimes listed in Schedules A, S-1, S-2 or S-3 of Section 6, Chapter 133, O.S.L. 1997, or serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph;
3. Has reached eighty-five percent (85%) of the midpoint of the time of imprisonment that would have been imposed for an offense that is listed in Schedule A, B, C, D, D-1, S-1, S-2 or S-3 of Section 6, Chapter 133, O.S.L. 1997, pursuant to the applicable matrix; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph; or
4. Has reached seventy-five percent (75%) of the midpoint of the time of imprisonment that would have been imposed for an offense that is listed in any other schedule, pursuant to the applicable matrix; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph.

B. For a crime committed on or after July 1, 1998, and before November 1, 2018, any person in the custody of the Department of Corrections shall be eligible for consideration for parole who has completed serving one-third (1/3) of the sentence; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this subsection.

C. For a crime committed on or after November 1, 2018, any person in the custody of the Department of Corrections shall be eligible for parole after serving one-fourth (1/4) of the sentence or consecutive sentences imposed, according to the following criteria:

1. A person eligible for parole under this subsection shall be eligible for administrative parole under subsection R of this section once the person serves one-fourth (1/4) of the sentence or consecutive sentences imposed; provided, however, no inmate serving a sentence of life imprisonment without parole, a sentence for a violent crime as set forth in [Section 571](#) of this title or any crime enumerated in [Section 13.1 of Title 21](#) of the Oklahoma Statutes shall be eligible for administrative parole.

2. A person eligible for parole under this subsection shall be eligible for parole once the person serves one-fourth (1/4) of the sentence or consecutive sentences imposed; provided, however no inmate serving a sentence of life imprisonment without parole is eligible for parole.

D. The parole hearings conducted for persons pursuant to paragraph 3 of subsection A of this section or for any person who was convicted of a violent crime as set forth in Section 571 of this title and who is eligible for parole consideration pursuant to paragraph 1 of subsection A of this section, subsection B or paragraph 2 of subsection C of this section shall be conducted in two stages, as follows:

1. At the initial hearing, the Pardon and Parole Board shall review the completed report submitted by the staff of the Board and shall conduct a vote regarding whether, based upon that report, the Board decides to consider the person for parole at a subsequent meeting of the Board; and

2. At the subsequent meeting, the Board shall hear from any victim or representatives of the victim that want to contest the granting of parole to that person and shall conduct a vote regarding whether parole should be recommended for that person.

E. Any inmate who has parole consideration dates calculated pursuant to subsection A, B or C of this section may be considered up to two (2) months prior to the parole eligibility date. Except as otherwise directed by the Pardon and Parole Board, any person who has been considered for parole and was denied parole or who has waived consideration shall not be reconsidered for parole:

1. Within three (3) years of the denial or waiver, if the person was convicted of a violent crime, as set forth in Section 571 of this title, and was eligible for consideration pursuant to paragraph 1 of subsection A of this section, subsection B of this section or paragraph 2 of subsection C of this section, unless the person is within one (1) year of discharge; or

2. Until the person has served at least one-third (1/3) of the sentence imposed, if the person was eligible for consideration pursuant to paragraph 3 of subsection A of this section. Thereafter the person shall not be considered more frequently than once every three (3) years, unless the person is within one (1) year of discharge.

F. Any person in the custody of the Department of Corrections for a crime committed prior to July 1, 1998, who has been considered for parole on a docket created for a type of parole consideration that has been abolished by the Legislature shall not be considered for parole except in accordance with this section.

G. The Pardon and Parole Board shall promulgate rules for the implementation of subsections A, B and C of this section. The rules shall include, but not be limited to, procedures for reconsideration of persons denied parole under this section and procedure for determining what sentence a person eligible for parole consideration pursuant to subsection A of this section would have received under the applicable matrix.

H. The Pardon and Parole Board shall not recommend to the Governor any person who has been convicted of three or more felonies arising out of separate and distinct transactions, with three or more incarcerations for such felonies, unless such person shall have served the lesser of at least one-third (1/3) of the sentence imposed, or ten (10) years; provided, that whenever the population of the prison system exceeds ninety-five percent (95%) of the capacity as certified by the State Board of Corrections, the Pardon and Parole Board may, at its discretion, recommend to the Governor for parole any person who is incarcerated for a nonviolent offense not involving injury to a person and who is within six (6) months of his or her statutory parole eligibility date.

I. Inmates sentenced to consecutive sentences shall not be eligible for parole consideration on any such consecutive sentence until one-third (1/3) of the consecutive sentence has been served or where parole has been otherwise limited by law, until the minimum term of incarceration has been served as required by law. Unless otherwise ordered by the sentencing court, any credit for jail time served shall be credited to only one offense.

J. The Pardon and Parole Board shall consider the prior criminal record of inmates under consideration for parole recommendation or granting of parole.

K. In the event the Board grants parole for a nonviolent offender who has previously been convicted of an offense enumerated in Section 13.1 of Title 21 of the Oklahoma Statutes or Section 571 of this title, such offender shall be subject to nine (9) months postimprisonment supervision upon release.

L. It shall be the duty of the Pardon and Parole Board to cause an examination to be made at the penal institution where the person is assigned, and to make inquiry into the conduct and the record of the said person during his custody in the Department of Corrections, which shall be considered as a basis for consideration of said person for recommendation to the Governor for parole. However, the Pardon and Parole Board shall not be required to consider for parole any person who has completed the time period provided for in this subsection if the person has participated in a riot or in the taking of hostages, or has been placed on escape status, while in the custody of the Department of Corrections. The Pardon and Parole Board shall adopt policies and procedures governing parole consideration for such persons.

M. Any person in the custody of the Department of Corrections who is convicted of an offense not designated as a violent offense by Section 571 of this title, is not a citizen of the United States and is subject to or becomes subject to a final order of deportation issued by the United States Department of Justice shall be considered for parole to the custody of the United States Immigration and Naturalization Service for continuation of deportation proceedings at any time subsequent to reception and processing through the Department of Corrections. No person shall be considered for parole under this subsection without the concurrence of at least three members of the Pardon and Parole Board. The vote on whether or not to consider such person for parole and the names of the concurring Board members shall be set forth in the written minutes of the meeting of the Board at which the issue is considered.

N. Upon application of any person convicted and sentenced by a court of this state and relinquished to the custody of another state or federal authorities pursuant to Section 61.2 of Title 21 of the Oklahoma Statutes, the Pardon and Parole Board may determine a parole consideration date consistent with the provisions of this section and criteria established by the Pardon and Parole Board.

O. All references in this section to matrices or schedules shall be construed with reference to the provisions of Sections 6, 598, 599, 600 and 601, Chapter 133, O.S.L. 1997.

P. Any person in the custody of the Department of Corrections who is convicted of a felony sex offense pursuant to Section 582 of this title who is paroled shall immediately be placed on intensive supervision.

Q. A person in the custody of the Department of Corrections whose parole consideration date is calculated pursuant to subsection B or C of this section, and is not serving a sentence of life imprisonment without parole or who is not convicted of an offense designated as a violent offense by Section 571 of this title or any crime enumerated in Section 13.1 of Title 21 of the Oklahoma Statutes shall be eligible for administrative parole under subsection R of this section.

R. The Pardon and Parole Board shall, by majority vote, grant administrative parole to any person in the custody of the Department of Corrections if:

1. The person has substantially complied with the requirements of the case plan established pursuant to Section 512 of this title;
 2. A victim, as defined in Section 332.2 of this title, or the district attorney speaking on behalf of a victim, has not submitted an objection;
 3. The person has not received a primary class X infraction within two (2) years of the parole eligibility date;
 4. The person has not received a secondary class X infraction within one (1) year of the parole eligibility date; or
 5. The person has not received a class A infraction within six (6) months of the parole eligibility date.
- S. Any person granted parole pursuant to subsection R of this section shall be released from the institution at the time of the parole eligibility date of the person as calculated under subsection B or C of this section.
- T. No less than ninety (90) days prior to the parole eligibility date of the person, the Department shall notify the Pardon and Parole Board in writing of the compliance or noncompliance of the person with the case plan and any infractions committed by the person.
- U. The Pardon and Parole Board shall not be required to conduct a hearing before granting administrative parole pursuant to subsection R of this section.
- V. Any person who is not granted administrative parole shall be otherwise eligible for parole pursuant to this section.
- W. Any person who is granted administrative parole under subsection R of this section shall be supervised and managed by the Department of Corrections in the same manner as a parolee who has been granted parole pursuant to this section. The person shall be subject to all of the rules and regulations of parole.

Historical Data

Laws 1947, SB 274, p. 343, § 1; Amended by Laws 1980, SB 505, c. 84, § 1, eff. October 1, 1980; Amended by Laws 1987, HB 1160, c. 28, § 1, eff. November 1, 1987; Amended by Laws 1988, HB 1218, c. 141, § 2, eff. November 1, 1988; Amended by Laws 1989, HB 1514, c. 348, § 22, eff. November 1, 1989; Amended by Laws 1993, SB 467, c. 276, § 1, emerg. eff. May 27, 1993; Amended by Laws 1996, HB 2735, c. 168, § 1, emerg. eff. July 1, 1996; Amended by Laws 1997, HB 1213, c. 133, § 26, emerg. eff. July 1, 1997 (superseded document available); Amended by Laws 1997, HB 1225, c. 333, § 23, emerg. eff. July 1, 1997 (superseded document available); Amended by Laws 1998, HB 2616, c. 89, § 6, emerg. eff. July 1, 1998 (superseded document available); Amended by Laws 1998, 1st Extr. Sess., HB 1002, c. 2, § 18, emerg. eff. June 19, 1998 (superseded document available); Amended by Laws 1999, 1st Extr. Sess., HB 1009, § 12, emerg. eff. July 1, 1999 (superseded document available); Amended by Laws 2001, SB 397, c. 437, § 27, emerg. eff. July 1, 2001 (superseded document available); Amended by Laws 2003, HB 1484, c. 306, § 1, eff. November 1, 2003 (superseded document available); Amended by Laws 2004, SB 1397, c. 168, § 7, eff. November 1, 2004 (effective date changed to April 27, 2004, by Laws 2004, HB 2205 (2d), c. 382, § 4, eff. June 3, 2004) (superseded document available); Amended by Laws 2013, HB 1722, c. 124, § 2, eff. November 1, 2013 (superseded document available); Amended by Laws 2018, HB 2286, c. 117, § 2, eff. November 1, 2018 (superseded document available).

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Oklahoma Attorney General's Opinions	
<u>Cite</u>	<u>Name</u> <u>Level</u>
<u>2009 OK AG 34</u>	<u>Question Submitted by: Terry Jenks, Executive Director, Oklahoma Pardon and Parole Board</u> <u>Cited</u>
<u>2013 OK AG 19</u>	<u>Question Submitted by: The Honorable Harry Coates, State Senator, District 28</u> <u>Discussed at Length</u>
<u>2019 OK AG 2</u>	<u>Question Submitted by: The Honorable Kevin L. Matthews, State Senator, District 11</u> <u>Discussed at Length</u>

Oklahoma Court of Criminal Appeals Cases		
<u>Cite</u>	<u>Name</u>	<u>Level</u>
<u>2006 OK CR 6, 130 P.3d 273</u>	<u>ANDERSON v. STATE</u>	<u>Cited</u>
<u>2009 OK CR 24, 217 P.3d 625</u>	<u>VERDUZCO v. STATE</u>	<u>Cited</u>
<u>2018 OK CR 14, 422 P.3d 782</u>	<u>LEE v. STATE</u>	<u>Cited</u>
<u>2018 OK CR 27, 426 P.3d 614</u>	<u>RUNNELS v. STATE</u>	<u>Cited</u>
<u>2018 OK CR 32, 429 P.3d 690</u>	<u>THOMPSON v. STATE</u>	<u>Cited</u>

Oklahoma Court of Civil Appeals Cases		
<u>Cite</u>	<u>Name</u>	<u>Level</u>
<u>2018 OK CIV APP 34, 417 P.3d 1232</u>	<u>PARKS v. STATE ex rel PARDON AND PAROLE BD.</u>	<u>Discussed</u>

Title 57. Prisons and Reformatories		
<u>Cite</u>	<u>Name</u>	<u>Level</u>
<u>57 O.S. 510.9</u>	<u>Electronic Monitoring Program</u>	<u>Cited</u>
<u>57 O.S. 530.5</u>	<u>Required Inmate Case Plan - Time Limit - Inclusions - Distribution</u>	<u>Cited</u>

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Pardon and Parole Board

Frequently Asked Questions About Commutations

GENERAL QUESTIONS

1. What is a commutation?

A commutation is a substitution of a lesser incarceration term for a greater one, or modification or reduction of a punishment, such as the change of an indefinite term to a definite term. The purpose of a commutation is to correct an unjust or excessive sentence. A commutation is not intended to serve as an early release mechanism.

2. What is considered an unjust or excessive sentence?

There are three reasons a sentence could be considered excessive or unjust: 1) The sentence for the range of punishment of the crime was excessive; 2) facts now known were not available to the court or jury at the time of the trial; or 3) there is a statutory change in the penalty for the crime which makes the original penalty appear excessive.

3. How frequently are commutations granted?

It is rare that a commutation is recommended by the Pardon or Parole Board. During the most recent twelve-month period, the Pardon and Parole reviewed 477 commutation applications. Of those, the Board recommended only 19, or 3%.

4. Who is eligible to apply for a commutation?

An Inmate in the custody of the Department of Corrections, not serving a probationary term as a result of a deferment or suspension of a sentence and not on parole, shall be eligible for commutation consideration of a sentence except for a conviction of impeachment.

5. When can I apply for a commutation?

An inmate can apply at any time for a commutation. However, after an unfavorable recommendation, or denial, an inmate must wait three years from the date of denial.

6. Who grants a commutation?

At least three (3) members of the Pardon and Parole Board must favorably recommend a commutation before the application can be presented to the Governor. In Oklahoma, only the Governor can grant a commutation.

7. Does the Governor have to accept a commutation recommendation from the Pardon and Parole Board?

No, the Governor can accept or deny the recommendation made by the Pardon and Parole Board. The Governor can also change a recommendation made by the Board and grant a different commutation sentence.

8. Can the Pardon and Parole Board commute active suspended sentences No, the Pardon and Parole Board only considers cases for which an offender is serving time and is in physical custody in the Department of Corrections. Offenders who are on parole or are serving probationary terms are not eligible for commutation.

Pardon and Parole Board

Frequently Asked Questions About Commutations

9. Can my application for commutation be protested?

Yes, victims and/or representatives of the victim, the judicial representative from the court of conviction, a representative from the arresting law enforcement agency, and the District Attorney are allowed to protest the application.

10. How can my family or friends support my application for commutation?

An inmate's family or friends may write letters of support on an inmate's behalf. Letters may be typed or handwritten on one-side only. Handwritten letters must be legible. Please do not use staples. Letters must include the inmate's name, DOC number, and docket month and year on top of the each page and on the back of the envelope. The deadline to submit such documentation is the Tuesday before the hearing date.

11. Does an applicant need a lawyer to file for a commutation?

No, an applicant does not need a lawyer to apply for a commutation.

12. Is there a deadline to apply for a commutation?

No, there is no deadline to apply. Once the application is reviewed and deemed complete, the application will be placed on the next docket.

13. Is there a fee to apply for a commutation?

No, there is no fee to apply for a commutation.

APPLICATION QUESTIONS

14. How can I apply for a commutation?

To apply for a commutation, the current application form must be completed and submitted to the Pardon and Parole Board. If the application is illegible, the application will be returned and will not be processed. Each question must be answered fully, truthfully, and accurately. Sections should not be left blank. It is the applicant's responsibility to submit a complete application. If the application is not complete, the applicant will be notified and given an opportunity to provide the missing information. No further action will occur until the information is received and the application is complete.

15. How do I get a commutation application?

The Pardon and Parole Board does not provide applications directly to inmates. For an inmate to obtain an application, the law library should have a sign-up sheet to request a commutation application. At the end of the month, the list of requests is forwarded to the Pardon and Parole Board. Copies are then distributed to the facilities based on the requests from the sign-in sheet. If an application is required immediately, the Department of Corrections may charge an inmate .25 cents per page or \$4.50 for the application. The Pardon and Parole Board cannot waive this fee. Another option to obtain an application is for a family member to print a copy from the Pardon and Parole Board's website, at <http://www.ok.gov/ppb/Publications/Forms/index.html>, and mail the application to the inmate. A copy of the commutation application should be available in the law library within the facility for review prior to requesting an application so an inmate may see the required information in the application.

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16. Who can fill out the application for an inmate?

A delegate, family member or attorney can assist an inmate in filling out an application.

17. What is required in a commutation application?

The commutation application is detailed and requires a substantial amount of information due to the serious nature of the request.

18. Can the parole investigator or my case manager assist me in completing the application or providing information necessary to complete the application?

No. Parole investigators and case managers cannot advise an applicant regarding completion of a commutation.

19. How long does a commutation take?

On average, a commutation application will take six (6) months to process. If an application is incomplete, an inmate or the attorney, if retained, will be notified and the application will not move forward until the incomplete information is provided to the Pardon and Parole Board. Once the application is determined to be complete, an applicant will be placed on the next available docket for an initial review and study by the Board. If an applicant is passed to the Stage Two hearing, a parole investigator will complete a report. A commutation investigation takes approximately 90 days. Then, the application is then placed on the next available docket for a Stage Two hearing.

20. Where do I send the application?

The application must be mailed to the Pardon and Parole Board at 2915 N. Classen, Suite 405, Oklahoma City, Oklahoma, 73106.

21. Should I keep a copy of the application?

Yes, the applicant or attorney, if retained, should keep a copy of the application. Denied applications are not returned. An open records request may be made for a copy of the application which will be provided at .25 cents per page. Payment must be made before the copy is provided.

22. Will I get a letter telling me that my application was received?

No, the Pardon and Parole Board does not send notice that an application was received. Notification is given to the Case Managers who advise an applicant about an incomplete application and to notify the applicant of a hearing date.

23. What if I receive notification that my application is incomplete?

The application will not be processed until it is complete. If the application is not complete, the applicant will be notified about the missing information, along with a deadline to provide the missing information.

PARDON AND PAROLE BOARD HEARING

24. What is the process for commutation consideration?

The Pardon and Parole Board utilizes a two-stage process for commutations. The initial review and study of the application will determine if the application should be passed to Stage Two hearing for

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further investigation and consideration. The inmate will not receive a personal appearance during the initial Board review.

If a favorable vote is received at the initial review, the application is passed to a Stage Two hearing. During the Stage Two hearing, the inmate will have a personal appearance before the Pardon and Parole Board via video conferencing. The Stage Two hearing is an open meeting and family and friends may attend the Stage Two hearing; however, only two (2) persons can go before the Pardon and Parole Board and only one (1) is allowed to speak to the Board for two (2) minutes.

25. Will I receive notification when my commutation application has been placed on a docket?

When a commutation has been placed on a docket, an inmate will be notified by the case manager.

26. How often does the Board meet?

The Board meets once per month.

27. What will happen if my commutation is recommended by the Board?

A recommendation for the commutation will be sent to the Governor where an inmate's application, support letters, and protest letters will be reviewed. The Governor will then approve or deny the commutation. The Governor can also accept the recommendation to grant a commutation but change the recommendation by the Board.

28. If the commutation is recommended, how long does it take the Governor to approve or deny the commutation?

There is no time limit on how long the Governor has to respond to a commutation.

29. Can the Pardon and Parole Board commute sentences that I am not currently serving?

Yes, the Pardon and Parole Board looks at all cases for which an inmate is ordered to serve time in the physical custody of the Department of Corrections. Applications should contain a list of all cases for which commutation is being sought. Only cases contained in the application may be considered for commutation.

30. Can I find out why the application was denied?

Neither the Board nor the Governor is required to give reasons for their decisions.

31. If an application is denied, when can a new commutation application be submitted?

A new application may be submitted three (3) years from the last date of denial.

32. How can someone find out the results of a commutation review or hearing?

The inmate can find out the results of the commutation review and/or hearing from the case manager. An inmate's family can find out the results of an application by visiting the Pardon and Parole Board's website <https://www.ok.gov/ppb/>, or by calling the Pardon and Parole Board at 405-521-6600 on the Tuesday the week following the Board meeting.

Commutations

A commutation is a change of a sentence to one that is less severe, such as from life without the possibility of parole to life with parole, or the substitution of a lesser penalty from a greater penalty or punishment. Commutation is not intended to serve as an early release mechanism for an offender in prison. A commutation is intended to correct an unjust or excessive sentence.

A commutation is a rare, separate, and distinct process from a parole or a pardon. In Oklahoma, only the Governor can approve the commutation of a sentence after a favorable recommendation of the Pardon and Parole Board. The submission of an application does not imply or guarantee that the Pardon and Parole Board will favorably recommend a commutation and/or that the Governor will approve a commutation.

The Pardon and Parole Board utilizes a two-stage process for commutation review. The first stage is a Qualification Review. During the Stage One - Qualification Review, the Pardon and Parole Board will conduct a jacket review to determine if the Application has merit and should be passed to Stage Two - Commutation Hearing for further investigation and consideration for a sentence commutation. A jacket review is a review of the Application as well as any other materials, which may be submitted to the Board for review.

If the application is passed to Stage Two, the offender will have a personal appearance with the Pardon and Parole Board via video conferencing. If an offender receives a misconduct prior to the hearing, the personal appearance is stricken, or cancelled, and the offender becomes ineligible for commutation at the scheduled hearing.

For a Stage Two Commutation Hearing, an offender's family and/or friends, often referred to as delegates, may speak on his/her behalf. Family and friends are allowed to attend the Stage Two Commutation Hearing; however, only two (2) persons can go before the Pardon and Parole Board and only one (1) is allowed to speak for two minutes. Delegates may also submit letters in support of the offender's application to the Pardon and Parole Board for review. The support letters must be submitted with the application. Letters may be typed or handwritten on one-side only. Handwritten letters must be legible. Please do not use staples. Letters must include the offender's name, DOC number, and docket month and year on top of the each page and on the back of the envelope. The deadline to submit such documentation is two weeks prior to the hearing date.

Victims and/or victim's representatives, the judicial representative from the court of conviction, a representative from the arresting law enforcement agency, and/or the District Attorney are also allowed to protest the application.

After the personal appearance, the Pardon and Parole Board will vote to either favorably recommend a commutation and/or deny the request. If a favorable vote occurs, the commutation will be forwarded to the Governor. The Governor does not have a statutory time line in which to respond.

Click on the following link to apply for a commutation:

[Commutation Application](#)

