

BOARD OF PARDONS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill codifies the Board of Pardons and Parole's authority to rescind the termination or release date of an inmate or offender in state custody.

Highlighted Provisions:

This bill:

- ▶ codifies the board's authority to rescind an inmate's prison release date before an inmate is released from custody; and
- ▶ codifies the board's authority to rescind a parolee's termination date before termination occurs.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-27-9, as last amended by Laws of Utah 2018, Chapters 5 and 334

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

Section 1. Section **77-27-9** is amended to read:

77-27-9. Parole proceedings.



28 (1) (a) The Board of Pardons and Parole may parole any offender or terminate the
29 sentence of any offender committed to a penal or correctional facility under the jurisdiction of
30 the Department of Corrections except as provided in Subsection (2).

31 (b) The board may not release any offender before the minimum term has been served
32 unless the board finds mitigating circumstances which justify the release and unless the board
33 has granted a full hearing, in open session, after previous notice of the time and location of the
34 hearing, and recorded the proceedings and decisions of the board.

35 (c) The board may not parole any offender or terminate the sentence of any offender
36 unless the board has granted a full hearing, in open session, after previous notice of the time
37 and location of the hearing, and recorded the proceedings and decisions of the board.

38 (d) The release of an offender shall be at the initiative of the board, which shall
39 consider each case as the offender becomes eligible. However, a prisoner may submit the
40 prisoner's own application, subject to the rules of the board promulgated in accordance with
41 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

42 (2) (a) An individual sentenced to prison prior to April 29, 1996, for a first degree
43 felony involving child kidnapping, a violation of Section 76-5-301.1; aggravated kidnapping, a
44 violation of Section 76-5-302; rape of a child, a violation of Section 76-5-402.1; object rape of
45 a child, a violation of Section 76-5-402.3; sodomy upon a child, a violation of Section
46 76-5-403.1; aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4);
47 aggravated sexual assault, a violation of Section 76-5-405; or a prior offense as described in
48 Section 76-3-407, may not be eligible for release on parole by the Board of Pardons and Parole
49 until the offender has fully completed serving the minimum mandatory sentence imposed by
50 the court. This Subsection (2)(a) supersedes any other provision of law.

51 (b) The board may not parole any offender or commute or terminate the sentence of
52 any offender before the offender has served the minimum term for the offense, if the offender
53 was sentenced prior to April 29, 1996, and if:

54 (i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape,
55 aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual assault as defined
56 in Title 76, Chapter 5, Offenses Against the Person; and

57 (ii) the victim of the offense was under 18 years of age at the time the offense was
58 committed.

59 (c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the
60 board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole as
61 provided in this section.

62 (d) The board may not pardon or parole any offender or commute or terminate the
63 sentence of any offender who is sentenced to life in prison without parole except as provided in
64 Subsection ~~[(6)]~~ (7).

65 (e) On or after April 27, 1992, the board may commute a sentence of death only to a
66 sentence of life in prison without parole.

67 (f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come
68 before the Board of Pardons and Parole on or after April 27, 1992.

69 (3) The board may rescind:

70 (a) an inmate's prison release date prior to the inmate being released from custody; or

71 (b) an offender's termination date from parole prior to the offender being terminated
72 from parole.

73 ~~[(3)]~~ (4) (a) The board may issue subpoenas to compel the attendance of witnesses and
74 the production of evidence, to administer oaths, and to take testimony for the purpose of any
75 investigation by the board or any of its members or by a designated hearing examiner in the
76 performance of its duties.

77 (b) A person who willfully disobeys a properly served subpoena issued by the board is
78 guilty of a class B misdemeanor.

79 ~~[(4)]~~ (5) (a) The board may adopt rules consistent with law for its government,
80 meetings and hearings, the conduct of proceedings before it, the parole and pardon of
81 offenders, the commutation and termination of sentences, and the general conditions under
82 which parole may be granted and revoked.

83 (b) The rules shall ensure an adequate opportunity for victims to participate at hearings
84 held under this chapter, as provided in Section 77-27-9.5.

85 (c) The rules may allow the board to establish reasonable and equitable time limits on
86 the presentations by all participants in hearings held under this chapter.

87 ~~[(5)]~~ (6) The board does not provide counseling or therapy for victims as a part of their
88 participation in any hearing under this chapter.

89 ~~[(6)]~~ (7) The board may parole a person sentenced to life in prison without parole if the

90 board finds by clear and convincing evidence that the person is permanently incapable of being
91 a threat to the safety of society.