

Michael K. McKell proposes the following substitute bill:

Offender Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses provisions related to offenders on the Sex, Kidnap, and Child Abuse Offender Registry.

Highlighted Provisions:

This bill:

- requires the Board or Pardons and Parole (board), if considering whether to parole an offender who has previously been paroled and had the offender's parole revoked due to a new criminal offense, to consider the facts and circumstances of the new criminal offense in determining whether the offender should be paroled again;

- allows the board, with certain exceptions, to only consider a pardon for an offender who has committed an offense that requires the offender to register on the Sex, Kidnap, and Child Abuse Offender Registry (the registry) if:

- for a sex offender required to register on the registry for 10 years, 10 years have passed from when the sex offender entered the community after the sex offender's conviction; or

- for a sex offender required to register on the registry for the sex offender's lifetime, 20 years have passed from when the sex offender entered the community after the sex offender's conviction;

- does not allow an offender who has committed an offense that requires the offender to register on the registry at the time the offender is sentenced to receive a certificate of eligibility of expungement from the Bureau of Criminal Identification; and

- adds to the requirements for the board to meet before the board may parole an offender before the offender's minimum term of imprisonment has been met.

Money Appropriated in this Bill:

None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **77-27-5**, as last amended by Laws of Utah 2025, Chapters 476, 52634 **77-27-9**, as last amended by Laws of Utah 2022, Chapter 43035 **77-40a-303**, as last amended by Laws of Utah 2025, Chapters 239, 277 and 291

36 ENACTS:

37 **77-27-5.6**, Utah Code Annotated 1953

38 REPEALS:

39 **77-27-31**, as enacted by Laws of Utah 1980, Chapter 15

40

41 *Be it enacted by the Legislature of the state of Utah:*42 Section 1. Section **77-27-5** is amended to read:43 **77-27-5 . Board of Pardons and Parole authority.**

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

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

50 (i) be released upon parole;

51 (ii) have a fine or forfeiture remitted;

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

54 (iv) have the offender's payment schedule modified in accordance with Section
 55 77-32b-103; or

56 (v) have the offender's sentence terminated.

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

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

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

- 63 (iii) The chair may participate on any panel and when doing so is chair of the panel.
 64 (iv) The chair of the board may designate the chair for any other panel.
- 65 (e)(i) Except after a hearing before the board, or the board's appointed examiner, in
 66 an open session, the board may not:
- 67 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts
 68 receivable;
 - 69 (B) release the offender on parole; or
 - 70 (C) commute, pardon, or terminate an offender's sentence.
- 71 (ii) An action taken under this Subsection (1) other than by a majority of the board
 72 shall be affirmed by a majority of the board.
- 73 (f) A commutation or pardon may be granted only after a full hearing before the board.
- 74 (2)(a) In the case of a hearing, timely prior notice of the time and location of the hearing
 75 shall be given to the offender.
- 76 (b) The county or district attorney's office responsible for prosecution of the case, the
 77 sentencing court, and law enforcement officials responsible for the defendant's arrest
 78 and conviction shall be notified of any board hearings through the board's website.
- 79 (c) Whenever possible, the victim or the victim's representative, if designated, shall be
 80 notified of original hearings and any hearing after that if notification is requested and
 81 current contact information has been provided to the board.
- 82 (d)(i) Notice to the victim or the victim's representative shall include information
 83 provided in Section 77-27-9.5, and any related rules made by the board under that
 84 section.
- 85 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are
 86 reasonable for the lay person to understand.
- 87 (3)(a) A decision by the board is final and not subject for judicial review if the decision
 88 is regarding:
- 89 (i) a pardon, parole, commutation, or termination of an offender's sentence;
 - 90 (ii) restitution, the modification of an offender's payment schedule for restitution, or
 91 an order for costs; or
 - 92 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.
- 93 (b) Deliberative processes are not public and the board is exempt from Title 52, Chapter
 94 4, Open and Public Meetings Act, when the board is engaged in the board's
 95 deliberative process.
- 96 (c) [Pursuant to] In accordance with Subsection 63G-2-103(25)(b)(xii), records of the

97 deliberative process are exempt from Title 63G, Chapter 2, Government Records
98 Access and Management Act.

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

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

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

105 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the
106 next session of the board.

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

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

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

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

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

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

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

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

124 (iii) consider information provided by the department regarding an offender's
125 individual case action plan; [~~and~~]

126 (iv) review an offender's status within 60 days after the day on which the board
127 receives notice from the department that the offender has completed all of the
128 offender's case action plan components that relate to activities that can be
129 accomplished while the offender is imprisoned[-] ; and

130 (v) if considering whether to parole an offender who has previously been paroled and

131 had the parole revoked due to the commission of a new criminal offense by the
 132 offender, consider the facts and circumstances of the new criminal offense when
 133 determining whether the offender should be paroled again.

134 (b) The board shall determine whether to remit an offender's criminal accounts
 135 receivable under this Subsection (5) in accordance with Section 77-32b-105 or
 136 77-32b-106.

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

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

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

140 (7) For an offender placed on parole after December 31, 2018, the board shall terminate
 141 parole in accordance with the adult sentencing and supervision length guidelines, as
 142 defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the
 143 requirements of the law.

144 (8) The board may not rely solely on an algorithm or a risk assessment tool score in
 145 determining whether parole should be granted or terminated for an offender.

146 (9) The board may intervene as a limited-purpose party in a judicial or administrative
 147 proceeding, including a criminal action, to seek:

148 (a) correction of an order that has or will impact the board's jurisdiction; or

149 (b) clarification regarding an order that may impact the board's jurisdiction.

150 (10) A motion to intervene brought under Subsection (9)(a) shall be raised within 60 days
 151 after the day on which a court enters the order that impacts the board's jurisdiction.

152 Section 2. Section **77-27-5.6** is enacted to read:

153 **77-27-5.6 . Pardon timelines for an offender on the Sex, Kidnap, and Child**

154 **Abuse Offender Registry.**

155 (1) As used in this section:

156 (a) "Division" means the Division of Juvenile Justice and Youth Services.

157 (b) "Minor" means the same as that term is defined in Section 80-1-102.

158 (c) "Registry" means the Sex, Kidnap, and Child Abuse Offender Registry created in
 159 Section 53-29-102.

160 (d) "Sex offender" means the same as that term is defined in Section 53-29-101.

161 (2) The board may only consider issuing a pardon to an offender for an offense that requires
 162 the offender to register as a sex offender on the registry if:

163 (a) for an offender who is required to register for 10 years under Subsection

164 53-29-203(1)(a), 10 years have passed after the later of:

- 165 (i) the day on which the offender was placed on probation;
 166 (ii) the day on which the offender was released from incarceration to parole;
 167 (iii) the day on which the offender's sentence was terminated without parole;
 168 (iv) the day on which the offender entered a community-based residential program; or
 169 (v) for a minor, the day on which the division's custody of the offender was
 170 terminated; or
- 171 (b) for an offender who is required to register for the offender's lifetime under
 172 Subsection 53-29-203(1)(b), 20 years have passed after the later of:
- 173 (i) the day on which the offender was placed on probation;
 174 (ii) the day on which the offender was released from incarceration to parole;
 175 (iii) the day on which the offender's sentence was terminated without parole;
 176 (iv) the day on which the offender entered a community-based residential program; or
 177 (v) for a minor, the day on which the division's custody of the offender was
 178 terminated.
- 179 (3) The timelines described in Subsection (2) do not apply to:
- 180 (a) an individual whose conviction was vacated, reversed, or otherwise set aside; or
 181 (b) an individual who was found to be factually innocent by a court after filing a petition
 182 for:
- 183 (i) postconviction relief under Title 78B, Chapter 9, Postconviction Remedies Act; or
 184 (ii) a writ of habeas corpus under 28 U.S.C. Sec. 2254.

185 Section 3. Section **77-27-9** is amended to read:

186 **77-27-9 . Parole proceedings.**

- 187 (1)(a) The Board of Pardons and Parole may parole any offender or terminate the
 188 sentence of any offender committed to a penal or correctional facility under the
 189 jurisdiction of the Department of Corrections except as provided in Subsection (2).
- 190 (b) The board may not release any offender before the minimum term has been served
 191 unless the board:
- 192 (i) finds mitigating circumstances which justify the release;
 193 (ii) finds by clear and convincing evidence that the offender is no longer a threat to
 194 public safety; and
 195 (iii) [unless the board has granted] holds a full hearing, in open session, after
 196 previous notice of the time and location of the hearing, and recorded the
 197 proceedings and decisions of the board.
- 198 (c) The board may not parole any offender or terminate the sentence of any offender

- 199 unless the board has granted a full hearing, in open session, after previous notice of
200 the time and location of the hearing, and recorded the proceedings and decisions of
201 the board.
- 202 (d) The release of an offender shall be at the initiative of the board, which shall consider
203 each case as the offender becomes eligible. However, a prisoner may submit the
204 prisoner's own application, subject to the rules of the board promulgated in
205 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 206 (2)(a) An individual sentenced to prison [~~prior to~~] before April 29, 1996, for a first
207 degree felony involving child kidnapping, a violation of Section 76-5-301.1;
208 aggravated kidnapping, a violation of Section 76-5-302; rape of a child, a violation of
209 Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy
210 upon a child, a violation of Section 76-5-403.1; aggravated sexual abuse of a child, a
211 violation of Section 76-5-404.3; aggravated sexual assault, a violation of Section
212 76-5-405; or a prior offense as described in Section 76-3-407, may not be eligible for
213 release on parole by the Board of Pardons and Parole until the offender has fully
214 completed serving the minimum mandatory sentence imposed by the court. [-]This
215 Subsection (2)(a) supersedes any other provision of law.
- 216 (b) The board may not parole any offender or commute or terminate the sentence of any
217 offender before the offender has served the minimum term for the offense, if the
218 offender was sentenced [~~prior to~~] before April 29, 1996, and if:
- 219 (i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape,
220 aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual
221 assault as defined in Title 76, Chapter 5, Offenses Against the Individual; and
222 (ii) the victim of the offense was under 18 years old at the time the offense was
223 committed.
- 224 (c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the
225 board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole
226 as provided in this section.
- 227 (d) The board may not pardon or parole any offender or commute or terminate the
228 sentence of any offender who is sentenced to life in prison without parole except as
229 provided in Subsection (7).
- 230 (e) [~~On or after April 27, 1992, the~~] The board may commute a sentence of death only to
231 a sentence of life in prison without parole.
- 232 (f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come

- 233 before the Board of Pardons and Parole on or after April 27, 1992.
- 234 (g) The board may not parole any offender convicted of a homicide unless:
- 235 (i) the remains of the victim have been recovered; or
- 236 (ii) the offender can demonstrate by a preponderance of the evidence that the
- 237 offender has cooperated in good faith in efforts to locate the remains.
- 238 (h) Subsection (2)(g) applies to any offender convicted of a homicide after February 25,
- 239 2021, or any offender who was incarcerated in a correctional facility on or after
- 240 February 25, 2021, for a homicide offense.
- 241 (3) The board may rescind:
- 242 (a) an inmate's prison release date [~~prior to~~] before the inmate being released from
- 243 custody; or
- 244 (b) an offender's termination date from parole [~~prior to~~] before the offender being
- 245 terminated from parole.
- 246 (4)(a) The board may issue subpoenas to compel the attendance of witnesses and the
- 247 production of evidence, to administer oaths, and to take testimony for the purpose of
- 248 any investigation by the board or any of the board's members or by a designated
- 249 hearing examiner in the performance of the board's duties.
- 250 (b) A person who willfully disobeys a properly served subpoena issued by the board is
- 251 guilty of a class B misdemeanor.
- 252 (5)(a) The board may adopt rules consistent with law for the board's government,
- 253 meetings and hearings, the conduct of proceedings before the board, the parole and
- 254 pardon of offenders, the commutation and termination of sentences, and the general
- 255 conditions under which parole may be granted and revoked.
- 256 (b) The rules shall ensure an adequate opportunity for victims to participate at hearings
- 257 held under this chapter, as provided in Section 77-27-9.5.
- 258 (c) The rules may allow the board to establish reasonable and equitable time limits on
- 259 the presentations by all participants in hearings held under this chapter.
- 260 (6) The board does not provide counseling or therapy for victims as a part of their
- 261 participation in any hearing under this chapter.
- 262 (7) The board may parole a person sentenced to life in prison without parole if the board
- 263 finds by clear and convincing evidence that the person is permanently incapable of being
- 264 a threat to the safety of society.

265 Section 4. Section **77-40a-303** is amended to read:

266 **77-40a-303 . Requirements for a certificate of eligibility to expunge records of a**

267 **conviction.**

- 268 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a
269 certificate of eligibility from the bureau to expunge the records of a conviction if:
270 (a) the petitioner has paid in full all fines and interest ordered by the court related to the
271 conviction for which expungement is sought;
272 (b) the petitioner has paid in full all restitution ordered by the court under Section
273 77-38b-205; and
274 (c) the following time periods have passed after the day on which the petitioner was
275 convicted or released from incarceration, parole, or probation, whichever occurred
276 last, for the conviction that the petitioner seeks to expunge:
277 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);
278 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a
279 controlled substance in an individual's body and causing serious bodily injury or death, as
280 codified before May 4, 2022, Laws of Utah 2021,
281 Chapter 236, Section 1, Subsection 58-37-8(2)(g);
282 (iii) seven years for the conviction of a felony;
283 (iv) five years for the conviction of a drug possession offense that is a felony;
284 (v) five years for the conviction of a class A misdemeanor;
285 (vi) four years for the conviction of a class B misdemeanor; or
286 (vii) three years for the conviction of a class C misdemeanor or infraction.
- 287 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to
288 expunge the records of a conviction under Subsection (1) if:
289 (a) except as provided in Subsection (3), the conviction for which expungement is
290 sought is:
291 (i) a capital felony;
292 (ii) a first degree felony;
293 (iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5
294 (1)(c)(i);
295 (iv) a felony conviction described in Subsection 41-6a-501(2); or
296 (v) an offense, or a combination of offenses, that require registration as a sex
297 offender, kidnap offender, or child abuse offender under Title 53, Chapter 29, Sex,
298 Kidnap, and Child Abuse Registry, at the time of sentencing or at the time of the
299 application for the certificate of eligibility;
300 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against

- 301 the petitioner, unless the criminal proceeding is for a traffic offense;
- 302 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the
303 petitioner, unless the plea in abeyance is for a traffic offense;
- 304 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
305 petitioner is on probation or parole for an infraction, a traffic offense, or a minor
306 regulatory offense;
- 307 (e) the petitioner intentionally or knowingly provides false or misleading information on
308 the application for a certificate of eligibility;
- 309 (f) there is a civil protective order, a criminal protective order, or a criminal stalking
310 injunction against the petitioner that is in effect; or
- 311 (g) the bureau determines that the petitioner's criminal history makes the petitioner
312 ineligible for a certificate of eligibility under Subsection (4) or (5).
- 313 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as
314 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed
315 the offense was at least 14 years old but under 18 years old, unless the petitioner was
316 convicted by a district court as an adult in accordance with Title 80, Chapter 6, Part 5,
317 Minor Tried as an Adult.
- 318 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate
319 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
320 determines that the petitioner's criminal history, including previously expunged
321 convictions, contains any of the following:
- 322 (a) two or more felony convictions other than for drug possession offenses, each of
323 which is contained in a separate criminal episode;
- 324 (b) any combination of three or more convictions other than for drug possession offenses
325 that include two class A misdemeanor convictions, each of which is contained in a
326 separate criminal episode;
- 327 (c) any combination of four or more convictions other than for drug possession offenses
328 that include three class B misdemeanor convictions, each of which is contained in a
329 separate criminal episode; or
- 330 (d) five or more convictions other than for drug possession offenses of any degree
331 whether misdemeanor or felony, each of which is contained in a separate criminal
332 episode.
- 333 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of
334 eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau

- 335 determines that the petitioner's criminal history, including previously expunged
336 convictions, contains any of the following:
- 337 (a) three or more felony convictions for drug possession offenses, each of which is
338 contained in a separate criminal episode; or
- 339 (b) any combination of five or more convictions for drug possession offenses, each of
340 which is contained in a separate criminal episode.
- 341 (6) If the petitioner's criminal history contains convictions for both a drug possession
342 offense and a non-drug possession offense arising from the same criminal episode, the
343 bureau shall count that criminal episode as a conviction under Subsection (4) if any
344 non-drug possession offense in that episode:
- 345 (a) is a felony or class A misdemeanor; or
- 346 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug
347 possession offense in that episode.
- 348 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day on
349 which the petitioner was convicted or released from incarceration, parole, or probation,
350 whichever occurred last, for all convictions:
- 351 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by
352 one; and
- 353 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if
354 the highest level of convicted offense in the criminal episode is:
- 355 (i) a class B misdemeanor;
- 356 (ii) a class C misdemeanor;
- 357 (iii) a drug possession offense if none of the non-drug possession offenses in the
358 criminal episode are a felony or a class A misdemeanor; or
- 359 (iv) an infraction.
- 360 (8) When determining whether a petitioner is eligible for a certificate of eligibility under
361 Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
362 prior conviction for:
- 363 (a) an infraction;
- 364 (b) a traffic offense;
- 365 (c) a minor regulatory offense; or
- 366 (d) a clean slate eligible case that was automatically expunged.
- 367 (9) If the petitioner received a pardon before May 14, 2013, from the Board of Pardons and
368 Parole, the petitioner is entitled to an expungement order for all pardoned crimes in

369 accordance with Section 77-27-5.1.

370 Section 5. **Repealer.**

371 This bill repeals:

372 Section **77-27-31, Short title.**

373 Section 6. **Effective Date.**

374 This bill takes effect on May 6, 2026.