

1 HB169
2 126100-2
3 By Representative Ball
4 RFD: Judiciary
5 First Read: 08-MAR-11

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, the Board of Pardons and
9 Paroles may not approve or order any pardon,
10 parole, or remission of fine or forfeiture,
11 restoration of civil and political rights,
12 furlough, leave, or early release of a person
13 convicted of certain offenses, which is the board's
14 primary statutory function, unless the victim,
15 under certain conditions, has been given at least
16 30 days' written notice by certified United States
17 mail.

18 This bill would provide for changes in
19 notification of victims and these changes would be
20 adopted for all board hearings, including pardon
21 hearings.

22 This bill would provide the opportunity for
23 all victims, including those named in the
24 indictment and otherwise, as well as any victim
25 representative or other interested individual
26 desiring notice, to supply contact information, and
27 unless another specific mode of notification is

1 requested, the board would provide notice via email
2 under certain conditions.

3 This bill would also provide for
4 notification to the board of a victim's choice to
5 "opt out" of notification, which may be in writing
6 or through e-signature.

7 This bill would create the Implementation
8 Task Force to support the implementation of a
9 statewide automated victim notification system, and
10 would provide for members, meeting times, and
11 dissolution of the task force on a certain date.

12
13 A BILL

14 TO BE ENTITLED

15 AN ACT

16
17 To amend Sections 15-22-23 and 15-22-36 of the Code
18 of Alabama 1975, relating to the meetings and authority of the
19 Board of Pardons and Paroles; to provide for changes in
20 notification of victims; to provide for victims and other
21 persons to supply contact information for notification
22 purposes; to allow victims to opt-out of notification under
23 certain conditions; and to add Section 15-22-36.2 to the Code
24 of Alabama 1975, to create the Implementation Task Force to
25 support the implementation of a statewide automated victim
26 notification system.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 15-22-23 and 15-22-36 of the
2 Code of Alabama 1975, are amended to read as follows:

3 "§15-22-23.

4 "(a) Meetings of the Board of Pardons and Paroles
5 shall be held at the call of the chairman or as may be
6 determined by the board. Meetings set for the purpose of
7 conducting hearings and making determinations concerning
8 pardons, paroles, restorations of political and civil rights,
9 remission of fines and forfeitures, and revocations may be set
10 by the chairman, the board, or a panel of the board designated
11 for such purpose.

12 "(b) The Board of Pardons and Paroles shall have no
13 power or authority to tentatively approve, grant, or order any
14 pardon, parole or remission of fine or other forfeiture unless
15 and until all of the following conditions are met:

16 "(1) The action is taken in an open public meeting
17 of the board held after notice of the meeting has been given
18 to each member of the board in such manner as the board
19 directs; and

20 "(2) Due notice of the time, date, and place of the
21 meeting and the action to be considered has been given in
22 writing sent by U. S. mail, electronic transmission, or by
23 other commonly accepted method of delivery at least seven days
24 prior to the meeting to each of the following:

25 "a. The incumbent Attorney General.

26 "b. The district attorney who prosecuted and the
27 judge who presided over the case.

1 "c. The chief of police of the municipality wherein
2 the crime occurred, if the crime was committed in a
3 municipality with a police department.

4 "d. The sheriff of the county in which the crime was
5 committed.

6 "(3) If the district attorney who prosecuted the
7 case or the judge who presided over the case be not living or
8 serving, notice under subdivision (2) ~~a. and b.~~ shall be given
9 to their successors in office.

10 " (4) All persons who are required to be notified
11 under the provisions of this section have been allowed, at
12 their option, to either appear before the board or give their
13 views in writing.

14 "(c) "Due notice" as used in subdivision (b) (2) of
15 this section shall be defined to include all of the following:

16 "(1) The name of the prisoner or defendant involved.

17 "(2) The crime for which the prisoner or defendant
18 was convicted.

19 "(3) The date of the sentence.

20 "(4) The court in which the conviction occurred.

21 "(5) The sentence imposed, and the prisoner's actual
22 time in confinement, ~~without regard to the operation of any~~
23 ~~incentive or other good time law~~ and the prisoner's
24 end-of-sentence date, as calculated by the Department of
25 Corrections.

26 "(6) The action to be considered by the board.

1 "(7) The date, time, and location of the board
2 meeting at which the action is to be considered.

3 "(8) The right of ~~any interested person~~ those
4 individuals to present his or her views to the board as
5 specified in ~~subdivision~~ subsection (b) (2), (3), and (4) of
6 this section or as otherwise permitted by the board's
7 operating rules.

8 "(d) All of the requirements set out in subsections
9 (b) and (c) ~~of this section~~ are express conditions to any
10 board action approving, granting, or ordering any pardon,
11 parole, remission of fine or other forfeiture, or restoration
12 of civil and political rights.

13 "§15-22-36.

14 "(a) In all cases, except treason and impeachment
15 and cases in which sentence of death is imposed and not
16 commuted, as is provided by law, the Board of Pardons and
17 Paroles shall have the authority and power, after conviction
18 and not otherwise, to grant pardons and paroles and to remit
19 fines and forfeitures.

20 "(b) Each member of the Board of Pardons and Paroles
21 favoring a pardon, parole, remission of a fine or forfeiture,
22 or restoration of civil and political rights shall enter in
23 the file his or her reasons in detail, which entry and the
24 order shall be public records, but all other portions of the
25 file shall be privileged.

26 "(c) No pardon shall relieve one from civil and
27 political disabilities unless specifically expressed in the

1 pardon. No pardon shall be granted unless the prisoner has
2 successfully completed at least three years of permanent
3 parole or until the expiration of his or her sentence if his
4 or her sentence was for less than three years. Notwithstanding
5 the foregoing, a pardon based on innocence may be granted upon
6 the unanimous affirmative vote of the board following receipt
7 and filing of clear proof of his or her innocence of the crime
8 for which he or she was convicted and the written approval of
9 the judge who tried his or her case or district attorney or
10 with the written approval of a circuit judge in the circuit
11 where he or she was convicted if the judge who tried his or
12 her case is dead or no longer serving.

13 "(d) The Board of Pardons and Paroles shall have no
14 power to grant a pardon, order a parole, remit a fine or
15 forfeiture, or restore civil and political rights until ~~30~~
16 seven days' notice that the prisoner is being considered
17 therefor has been given by the board to the Attorney General,
18 the judge who presided over the case, and the district
19 attorney who tried the subject's case, the chief of police in
20 the municipality in which the crime occurred, if the crime was
21 committed in an incorporated area with a police department,
22 and to the sheriff of the county where convicted, and to the
23 same officials of the county where the crime occurred if
24 different from the county of conviction; provided, however,
25 that if they are dead or not serving, the notice shall be
26 given to the district attorney, incumbent sheriff, and one of
27 the judges of the circuit in which the subject was convicted.

1 "(e) (1) Until and unless at least 30 days' written
2 notice of the board's action to be considered has been given
3 by the board to the victim named in the indictment, ~~or if the~~
4 ~~victim is deceased as a result of the offense, the victim's~~
5 ~~immediate family,~~ the victim's representative, or any other
6 interested individual, after the board has received a request
7 30 days or more in advance for notice from the victim,
8 victim's representative, or other interested individual,
9 including the preferred mode of notification, and the board
10 has been provided updated contact information for the victim,
11 victim's representative, or other interested individual, the
12 Board of Pardons and Paroles shall have no power or authority
13 to in any way approve or order any parole, pardon, remission
14 of fine or forfeiture, restoration of civil and political
15 rights, furlough, leave or early release of a person convicted
16 of the following offenses:

17 "a. A Class A felony.

18 "b. Any felony committed prior to the first day of
19 January, 1980, which if committed after the first day of
20 January, 1980, would be designated a Class A felony.

21 "c. Any felony involving violence, death, or any
22 physical injury to the person of another.

23 "d. Any felony involving unlawful sexual assault or
24 other unlawful sexual conduct on the person of another.

25 "e. Any felony involving sexual assault, or a lewd
26 or lascivious act upon a child under the age of 16 years or
27 attempt thereof.

1 "f. Sexual abuse or any other criminal conduct
2 committed prior to the first day of January, 1980, which if
3 committed after the first day of January, 1980, would be
4 defined as sexual abuse under the Alabama Criminal Code.

5 "g. Child abuse or any criminal conduct committed
6 prior to the first day of January, 1980, which if committed
7 after the first day of January, 1980, would be defined as
8 child abuse under the Alabama Criminal Code.

9 "h. Sodomy or any criminal conduct committed prior
10 to the first day of January, 1980, which if committed after
11 the first day of January, 1980, would be defined as sodomy
12 under the Alabama Criminal Code.

13 "i. Any violation of Section 13A-6-69, as amended.

14 "(2) If, however, the victim, victim's
15 representative, or other interested individual has not
16 requested notice, provided updated contact information to the
17 Board of Pardons and Paroles, or requested a particular mode
18 of notification at least 30 days or more in advance, the board
19 shall not be limited in power or authority in any way to
20 approve or order any parole, pardon, remission of fine or
21 forfeiture, restoration of civil and political rights,
22 furlough, leave, or early release of a person convicted of the
23 offenses named in subsection (e)(1)a. to i., inclusive.

24 "(2)(3) The notice shall be given by U.S. mail,
25 certified mail, ~~return receipt requested,~~ U.S. mail,
26 electronic transmission, or by other commonly accepted method

1 of delivery, upon a request made 30 days or more in advance,
2 and shall include:

3 "a. The name of the prisoner or defendant involved.

4 "b. The crime for which the prisoner or defendant
5 was convicted.

6 "c. The date of the sentence.

7 "d. The court in which the conviction occurred.

8 "e. The sentence imposed.

9 "f. The actual time the prisoner has been held in
10 confinement and the prisoner's end-of-sentence date, as
11 computed by the Department of Corrections, ~~without regard to~~
12 ~~the operation of any incentive good time, or other good time~~
13 ~~laws.~~

14 "g. The action to be considered by the board.

15 "h. The date, time, and location of the board
16 meeting at which the action is to be considered.

17 ~~"i. A statement that all persons required to be~~
18 ~~notified under the provisions of this section will be allowed,~~
19 ~~at their option, to either appear before the board or give~~
20 ~~their views in writing. The right of the victim named in the~~
21 ~~indictment, or if the victim is deceased as a result of the~~
22 ~~offense, the victim's immediate family, as defined by the~~
23 ~~board's operating rules, or, in the event there is no~~
24 ~~immediate family, a relative of a victim, if any, to present~~
25 ~~his or her views to the board in person or in writing.~~

26 ~~"Notice for robbery victims who were robbed while on~~
27 ~~duty as an employee of a business establishment shall be~~

1 sufficient if mailed to the last address provided by the
2 victim or as otherwise noted on the indictment or in the board
3 files.

4 ~~"(3) Provided however, if the victim is a child the~~
5 ~~notice shall be given to the parents of the victim, or in the~~
6 ~~event there is no parent, to the guardian of the victim. If~~
7 ~~the victim was a minor at the time of the offense, but has~~
8 ~~attained majority by the time the notice is sent, the notice~~
9 ~~shall be directed to the victim. Provided further, if the~~
10 ~~victim is deceased as a result of the offense, the notice~~
11 ~~shall be given to the surviving members of the victim's~~
12 ~~immediate family, as defined by the operating procedures of~~
13 ~~the Board of Pardons and Paroles, or in the event there is no~~
14 ~~immediate family, to a relative of the victim, if any.~~
15 ~~Provided further, such notice may be waived in writing by any~~
16 ~~person who is entitled to receive such notice.~~

17 ~~"(4) If the victim requests not to be notified, a~~
18 ~~certified notice shall be sent to the victim confirming that~~
19 ~~request and advising him or her that no further notices of~~
20 ~~board hearings shall be sent unless he or she subsequently~~
21 ~~contacts the board and submits a written request to be~~
22 ~~notified of hearings in the future. Mailing of the certified~~
23 ~~notice shall constitute confirmation unless the certification~~
24 ~~is returned due to an incorrect address. If a victim, victim's~~
25 ~~representative, or otherwise interested individual requests~~
26 ~~not to be notified, such request shall be made to the Board of~~
27 ~~Pardons and Paroles in writing or by electronic signature.~~

1 Once such a request is received, the board will provide no
2 further notifications, unless and until the victim, victim's
3 representative, or otherwise interested individual
4 subsequently requests future notifications, at least 30 days
5 in advance through the automated notification system
6 designated by the board or by contacting the board or other
7 authorized individual in writing, in person, or by telephone.

8 ~~"(5) The board shall exercise due diligence to~~
9 ~~locate victims to notify them of hearings. If all attempts to~~
10 ~~locate a victim have failed and the agent of the board has~~
11 ~~certified that due diligence has been exercised, no future~~
12 ~~attempts shall be required to locate that victim. At any time~~
13 ~~the victim may contact the board and request that the board~~
14 ~~notify the victim of all future hearings. Should a victim,~~
15 ~~victim's representative, or otherwise interested person wish~~
16 ~~to receive notice of any specific board hearing and action~~
17 ~~taken by the board, if any, in a specific case, the individual~~
18 ~~may register to receive notice at least 30 days in advance,~~
19 ~~designating the preferred mode of communication, and provide~~
20 ~~updated contact information through the automated notification~~
21 ~~system designated by the board or by contacting the board or~~
22 ~~other authorized individual in writing, in person, or by~~
23 ~~telephone.~~

24 "(f) After any board action is taken granting any
25 pardon or parole, the board shall promptly notify all persons
26 who ~~are entitled to~~ timely requested notice, pursuant to ~~any~~
27 ~~provision of~~ this section as to the action taken by the board

1 and the conditions, if any, of any such parole or pardon via
2 the same mode of communication that notice of the hearing was
3 made."

4 Section 2. Section 15-22-36.2 is added to the Code
5 of Alabama 1975, to read as follows:

6 §15-22-36.2. Implementation Task Force.

7 There is hereby created the Implementation Task
8 Force to guide and support the implementation of a statewide
9 automated victim notification system in Alabama. The task
10 force shall be composed of at least one designee from each of
11 the following: The Board of Pardons and Paroles, the
12 Department of Corrections, the Alabama Criminal Justice
13 Information Center, the Alabama Crime Victims Compensation
14 Commission, an Alabama victims' rights organization, the
15 District Attorneys Association, or a district attorney
16 representative, and any other entity or organization as deemed
17 appropriate by a majority vote of the current representatives
18 composing the task force. The task force shall elect a chair
19 to function as the administrative head. The task force shall
20 meet not less than once a month prior to January 1, 2012,
21 quarterly after January 1, 2012, until December 31, 2015, and
22 otherwise at the call of the chair or a majority vote of the
23 current task force representatives. Approval from the task
24 force shall not be required for the validity of any action
25 taken by any entity represented on the task force in the
26 exercise of any of the power or authority granted to it by the

1 Legislature. The task force shall be dissolved effective
2 December 31, 2015.

3 Section 3. The Board of Pardons and Paroles shall
4 have authority to carry out the enforcement of this act.

5 Section 4. This act shall become effective on
6 January 1, 2012, following its passage and approval by the
7 Governor, or its otherwise becoming law.