



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB1713

Introduced 2/9/2011, by Sen. William R. Haine

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-5  
730 ILCS 5/3-3-13

from Ch. 38, par. 1003-3-5  
from Ch. 38, par. 1003-3-13

Amends the Unified Code of Corrections relating to hearings before the Prisoner Review Board. Provides that within 10 days after notice of a cause has been received by a person in custody of the State, such person or the State may move the Chairman of the Prisoner Review Board in writing for a recusal of a member on the ground that such member is so prejudiced against the person that he or she cannot receive a fair hearing. Provides that upon the filing of such a motion the Chairman shall ensure that the member proceeds no further in the cause but shall transfer it to another member not named in the motion. Provides that the defendant or State may name only one member as prejudiced. Effective immediately.

LRB097 09467 RLC 49604 b

1 AN ACT concerning corrections.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by  
5 changing Sections 3-3-5 and 3-3-13 as follows:

6 (730 ILCS 5/3-3-5) (from Ch. 38, par. 1003-3-5)

7 Sec. 3-3-5. Hearing and Determination.

8 (a) The Prisoner Review Board shall meet as often as need  
9 requires to consider the cases of persons eligible for parole.  
10 Except as otherwise provided in paragraph (2) of subsection (a)  
11 of Section 3-3-2 of this Act, the Prisoner Review Board may  
12 meet and order its actions in panels of 3 or more members. The  
13 action of a majority of the panel shall be the action of the  
14 Board. In consideration of persons committed to the Department  
15 of Juvenile Justice, the panel shall have at least a majority  
16 of members experienced in juvenile matters.

17 (a-5) Within 10 days after notice of a cause has been  
18 received by a person in custody of the State, such person or  
19 the State may move the Chairman in writing for a recusal of a  
20 member on the ground that such member is so prejudiced against  
21 him or her that he or she cannot receive a fair hearing. Upon  
22 the filing of such a motion the Chairman shall ensure that the  
23 member proceeds no further in the cause but shall transfer it

1 to another member not named in the motion. The defendant or  
2 State may name only one member as prejudiced, pursuant to this  
3 subsection.

4 (b) If the person under consideration for parole is in the  
5 custody of the Department, at least one member of the Board  
6 shall interview him, and a report of that interview shall be  
7 available for the Board's consideration. However, in the  
8 discretion of the Board, the interview need not be conducted if  
9 a psychiatric examination determines that the person could not  
10 meaningfully contribute to the Board's consideration. The  
11 Board may in its discretion parole a person who is then outside  
12 the jurisdiction on his record without an interview. The Board  
13 need not hold a hearing or interview a person who is paroled  
14 under paragraphs (d) or (e) of this Section or released on  
15 Mandatory release under Section 3-3-10.

16 (c) The Board shall not parole a person eligible for parole  
17 if it determines that:

18 (1) there is a substantial risk that he will not  
19 conform to reasonable conditions of parole; or

20 (2) his release at that time would deprecate the  
21 seriousness of his offense or promote disrespect for the  
22 law; or

23 (3) his release would have a substantially adverse  
24 effect on institutional discipline.

25 (d) A person committed under the Juvenile Court Act or the  
26 Juvenile Court Act of 1987 who has not been sooner released

1 shall be paroled on or before his 20th birthday to begin  
2 serving a period of parole under Section 3-3-8.

3 (e) A person who has served the maximum term of  
4 imprisonment imposed at the time of sentencing less time credit  
5 for good behavior shall be released on parole to serve a period  
6 of parole under Section 5-8-1.

7 (f) The Board shall render its decision within a reasonable  
8 time after hearing and shall state the basis therefor both in  
9 the records of the Board and in written notice to the person on  
10 whose application it has acted. In its decision, the Board  
11 shall set the person's time for parole, or if it denies parole  
12 it shall provide for a rehearing not less frequently than once  
13 every year, except that the Board may, after denying parole,  
14 schedule a rehearing no later than 3 years from the date of the  
15 parole denial, if the Board finds that it is not reasonable to  
16 expect that parole would be granted at a hearing prior to the  
17 scheduled rehearing date. If the Board shall parole a person,  
18 and, if he is not released within 90 days from the effective  
19 date of the order granting parole, the matter shall be returned  
20 to the Board for review.

21 (g) The Board shall maintain a registry of decisions in  
22 which parole has been granted, which shall include the name and  
23 case number of the prisoner, the highest charge for which the  
24 prisoner was sentenced, the length of sentence imposed, the  
25 date of the sentence, the date of the parole, and the basis for  
26 the decision of the Board to grant parole and the vote of the

1 Board on any such decisions. The registry shall be made  
2 available for public inspection and copying during business  
3 hours and shall be a public record pursuant to the provisions  
4 of the Freedom of Information Act.

5 (h) The Board shall promulgate rules regarding the exercise  
6 of its discretion under this Section.

7 (Source: P.A. 96-875, eff. 1-22-10.)

8 (730 ILCS 5/3-3-13) (from Ch. 38, par. 1003-3-13)

9 Sec. 3-3-13. Procedure for Executive Clemency.

10 (a) Petitions seeking pardon, commutation, or reprieve  
11 shall be addressed to the Governor and filed with the Prisoner  
12 Review Board. The petition shall be in writing and signed by  
13 the person under conviction or by a person on his behalf. It  
14 shall contain a brief history of the case, the reasons for  
15 seeking executive clemency, and other relevant information the  
16 Board may require.

17 (a-5) After a petition has been denied by the Governor, the  
18 Board may not accept a repeat petition for executive clemency  
19 for the same person until one full year has elapsed from the  
20 date of the denial. The Chairman of the Board may waive the  
21 one-year requirement if the petitioner offers in writing new  
22 information that was unavailable to the petitioner at the time  
23 of the filing of the prior petition and which the Chairman  
24 determines to be significant. The Chairman also may waive the  
25 one-year waiting period if the petitioner can show that a

1 change in circumstances of a compelling humanitarian nature has  
2 arisen since the denial of the prior petition.

3 (b) Notice of the proposed application shall be given by  
4 the Board to the committing court and the state's attorney of  
5 the county where the conviction was had.

6 (c) The Board shall, if requested and upon due notice, give  
7 a hearing to each application, allowing representation by  
8 counsel, if desired, after which it shall confidentially advise  
9 the Governor by a written report of its recommendations which  
10 shall be determined by majority vote. The Board shall meet to  
11 consider such petitions no less than 4 times each year.

12 Application for executive clemency under this Section may  
13 not be commenced on behalf of a person who has been sentenced  
14 to death without the written consent of the defendant, unless  
15 the defendant, because of a mental or physical condition, is  
16 incapable of asserting his or her own claim.

17 (c-5) Within 10 days after notice of a cause has been  
18 received by a petitioner or the State, such person or the State  
19 may move the Chairman in writing for a recusal of a member on  
20 the ground that such member is so prejudiced against him or her  
21 that he or she cannot receive a fair hearing. Upon the filing  
22 of such a motion the Chairman shall ensure that the member  
23 proceeds no further in the cause but shall transfer it to  
24 another member not named in the motion. The defendant or State  
25 may name only one member as prejudiced, pursuant to this  
26 subsection.

1           (d) The Governor shall decide each application and  
2 communicate his decision to the Board which shall notify the  
3 petitioner.

4           In the event a petitioner who has been convicted of a Class  
5 X felony is granted a release, after the Governor has  
6 communicated such decision to the Board, the Board shall give  
7 written notice to the Sheriff of the county from which the  
8 offender was sentenced if such sheriff has requested that such  
9 notice be given on a continuing basis. In cases where arrest of  
10 the offender or the commission of the offense took place in any  
11 municipality with a population of more than 10,000 persons, the  
12 Board shall also give written notice to the proper law  
13 enforcement agency for said municipality which has requested  
14 notice on a continuing basis.

15           (e) Nothing in this Section shall be construed to limit the  
16 power of the Governor under the constitution to grant a  
17 reprieve, commutation of sentence, or pardon.

18           (Source: P.A. 89-112, eff. 7-7-95; 89-684, eff. 6-1-97.)

19           Section 99. Effective date. This Act takes effect upon  
20 becoming law.