



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4124

Introduced 2/27/2009, by Rep. Cynthia Soto

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-2
730 ILCS 5/3-3-4

from Ch. 38, par. 1003-3-2
from Ch. 38, par. 1003-3-4

Amends the Unified Code of Corrections. Provides that the Prisoner Review Board or one who has allegedly violated the conditions of his or her parole or mandatory supervised release may require by subpoena the production of physical evidence, electronic evidence, computer files, DVD's, audio or tape recordings, or any other evidence relating to any matter under investigation or hearing. Provides that the Prisoner Review Board shall not release any material to the inmate, the inmate's attorney, any third party, or any other person containing any information from the victim or from a person related to the victim by blood, adoption, or marriage who has written objections, testified at any hearing, or submitted audio or visual objections to the inmate's parole, unless provided with a waiver from that objecting party. Effective immediately.

LRB096 09964 RLC 22534 b

1 AN ACT concerning criminal law.

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 3-3-2 and 3-3-4 as follows:

6 (730 ILCS 5/3-3-2) (from Ch. 38, par. 1003-3-2)
7 Sec. 3-3-2. Powers and Duties.

8 (a) The Parole and Pardon Board is abolished and the term
9 "Parole and Pardon Board" as used in any law of Illinois, shall
10 read "Prisoner Review Board." After the effective date of this
11 amendatory Act of 1977, the Prisoner Review Board shall provide
12 by rule for the orderly transition of all files, records, and
13 documents of the Parole and Pardon Board and for such other
14 steps as may be necessary to effect an orderly transition and
15 shall:

16 (1) hear by at least one member and through a panel of
17 at least 3 members decide, cases of prisoners who were
18 sentenced under the law in effect prior to the effective
19 date of this amendatory Act of 1977, and who are eligible
20 for parole;

21 (2) hear by at least one member and through a panel of
22 at least 3 members decide, the conditions of parole and the
23 time of discharge from parole, impose sanctions for

1 violations of parole, and revoke parole for those sentenced
2 under the law in effect prior to this amendatory Act of
3 1977; provided that the decision to parole and the
4 conditions of parole for all prisoners who were sentenced
5 for first degree murder or who received a minimum sentence
6 of 20 years or more under the law in effect prior to
7 February 1, 1978 shall be determined by a majority vote of
8 the Prisoner Review Board;

9 (3) hear by at least one member and through a panel of
10 at least 3 members decide, the conditions of mandatory
11 supervised release and the time of discharge from mandatory
12 supervised release, impose sanctions for violations of
13 mandatory supervised release, and revoke mandatory
14 supervised release for those sentenced under the law in
15 effect after the effective date of this amendatory Act of
16 1977;

17 (3.5) hear by at least one member and through a panel
18 of at least 3 members decide, the conditions of mandatory
19 supervised release and the time of discharge from mandatory
20 supervised release, to impose sanctions for violations of
21 mandatory supervised release and revoke mandatory
22 supervised release for those serving extended supervised
23 release terms pursuant to paragraph (4) of subsection (d)
24 of Section 5-8-1;

25 (4) hear by at least 1 member and through a panel of at
26 least 3 members, decide cases brought by the Department of

1 Corrections against a prisoner in the custody of the
2 Department for alleged violation of Department rules with
3 respect to good conduct credits pursuant to Section 3-6-3
4 of this Code in which the Department seeks to revoke good
5 conduct credits, if the amount of time at issue exceeds 30
6 days or when, during any 12 month period, the cumulative
7 amount of credit revoked exceeds 30 days except where the
8 infraction is committed or discovered within 60 days of
9 scheduled release. In such cases, the Department of
10 Corrections may revoke up to 30 days of good conduct
11 credit. The Board may subsequently approve the revocation
12 of additional good conduct credit, if the Department seeks
13 to revoke good conduct credit in excess of thirty days.
14 However, the Board shall not be empowered to review the
15 Department's decision with respect to the loss of 30 days
16 of good conduct credit for any prisoner or to increase any
17 penalty beyond the length requested by the Department;

18 (5) hear by at least one member and through a panel of
19 at least 3 members decide, the release dates for certain
20 prisoners sentenced under the law in existence prior to the
21 effective date of this amendatory Act of 1977, in
22 accordance with Section 3-3-2.1 of this Code;

23 (6) hear by at least one member and through a panel of
24 at least 3 members decide, all requests for pardon,
25 reprieve or commutation, and make confidential
26 recommendations to the Governor;

1 (7) comply with the requirements of the Open Parole
2 Hearings Act;

3 (8) hear by at least one member and, through a panel of
4 at least 3 members, decide cases brought by the Department
5 of Corrections against a prisoner in the custody of the
6 Department for court dismissal of a frivolous lawsuit
7 pursuant to Section 3-6-3(d) of this Code in which the
8 Department seeks to revoke up to 180 days of good conduct
9 credit, and if the prisoner has not accumulated 180 days of
10 good conduct credit at the time of the dismissal, then all
11 good conduct credit accumulated by the prisoner shall be
12 revoked; and

13 (9) hear by at least 3 members, and, through a panel of
14 at least 3 members, decide whether to grant certificates of
15 relief from disabilities or certificates of good conduct as
16 provided in Article 5.5 of Chapter V.

17 (a-5) The Prisoner Review Board, with the cooperation of
18 and in coordination with the Department of Corrections and the
19 Department of Central Management Services, shall implement a
20 pilot project in 3 correctional institutions providing for the
21 conduct of hearings under paragraphs (1) and (4) of subsection
22 (a) of this Section through interactive video conferences. The
23 project shall be implemented within 6 months after the
24 effective date of this amendatory Act of 1996. Within 6 months
25 after the implementation of the pilot project, the Prisoner
26 Review Board, with the cooperation of and in coordination with

1 the Department of Corrections and the Department of Central
2 Management Services, shall report to the Governor and the
3 General Assembly regarding the use, costs, effectiveness, and
4 future viability of interactive video conferences for Prisoner
5 Review Board hearings.

6 (b) Upon recommendation of the Department the Board may
7 restore good conduct credit previously revoked.

8 (c) The Board shall cooperate with the Department in
9 promoting an effective system of parole and mandatory
10 supervised release.

11 (d) The Board shall promulgate rules for the conduct of its
12 work, and the Chairman shall file a copy of such rules and any
13 amendments thereto with the Director and with the Secretary of
14 State.

15 (e) The Board shall keep records of all of its official
16 actions and shall make them accessible in accordance with law
17 and the rules of the Board.

18 (f) The Board or one who has allegedly violated the
19 conditions of his parole or mandatory supervised release may
20 require by subpoena the attendance and testimony of witnesses
21 and the production of documentary evidence, physical evidence,
22 electronic evidence, computer files, DVD's, audio or tape
23 recordings, or any other evidence relating to any matter under
24 investigation or hearing. The Chairman of the Board may sign
25 subpoenas which shall be served by any agent or public official
26 authorized by the Chairman of the Board, or by any person

1 lawfully authorized to serve a subpoena under the laws of the
2 State of Illinois. The attendance of witnesses, and the
3 production of documentary evidence, physical evidence,
4 electronic evidence, computer files, DVD's, audio or tape
5 recordings, or any other evidence may be required from any
6 place in the State to a hearing location in the State before
7 the Chairman of the Board or his designated agent or agents or
8 any duly constituted Committee or Subcommittee of the Board.
9 Witnesses so summoned shall be paid the same fees and mileage
10 that are paid witnesses in the circuit courts of the State, and
11 witnesses whose depositions are taken and the persons taking
12 those depositions are each entitled to the same fees as are
13 paid for like services in actions in the circuit courts of the
14 State. Fees and mileage shall be vouchered for payment when the
15 witness is discharged from further attendance.

16 In case of disobedience to a subpoena, the Board may
17 petition any circuit court of the State for an order requiring
18 the attendance and testimony of witnesses or the production of
19 documentary evidence, physical evidence, electronic evidence,
20 computer files, DVD's, audio or tape recordings, or any other
21 evidence ~~or both~~. A copy of such petition shall be served by
22 personal service or by registered or certified mail upon the
23 person who has failed to obey the subpoena, and such person
24 shall be advised in writing that a hearing upon the petition
25 will be requested in a court room to be designated in such
26 notice before the judge hearing motions or extraordinary

1 remedies at a specified time, on a specified date, not less
2 than 10 nor more than 15 days after the deposit of the copy of
3 the written notice and petition in the U.S. mails addressed to
4 the person at his last known address or after the personal
5 service of the copy of the notice and petition upon such
6 person. The court upon the filing of such a petition, may order
7 the person refusing to obey the subpoena to appear at an
8 investigation or hearing, or to there produce documentary
9 evidence, or any evidence requested if so ordered, or to give
10 evidence relative to the subject matter of that investigation
11 or hearing. Any failure to obey such order of the circuit court
12 may be punished by that court as a contempt of court.

13 Each member of the Board and any hearing officer designated
14 by the Board shall have the power to administer oaths and to
15 take the testimony of persons under oath.

16 (g) Except under subsection (a) of this Section, a majority
17 of the members then appointed to the Prisoner Review Board
18 shall constitute a quorum for the transaction of all business
19 of the Board.

20 (h) The Prisoner Review Board shall annually transmit to
21 the Director a detailed report of its work for the preceding
22 calendar year. The annual report shall also be transmitted to
23 the Governor for submission to the Legislature.

24 (Source: P.A. 93-207, eff. 1-1-04; 94-165, eff. 7-11-05.)

25 (730 ILCS 5/3-3-4) (from Ch. 38, par. 1003-3-4)

1 Sec. 3-3-4. Preparation for Parole Hearing.

2 (a) The Prisoner Review Board shall consider the parole of
3 each eligible person committed to the Adult Division at least
4 30 days prior to the date he shall first become eligible for
5 parole, and shall consider the parole of each person committed
6 to the Department of Juvenile Justice as a delinquent at least
7 30 days prior to the expiration of the first year of
8 confinement.

9 (b) A person eligible for parole shall, in advance of his
10 parole hearing, prepare a parole plan in accordance with the
11 rules of the Prisoner Review Board. The person shall be
12 assisted in preparing his parole plan by personnel of the
13 Department of Corrections, or the Department of Juvenile
14 Justice in the case of a person committed to that Department,
15 and may, for this purpose, be released on furlough under
16 Article 11 or on authorized absence under Section 3-9-4. The
17 appropriate Department shall also provide assistance in
18 obtaining information and records helpful to the individual for
19 his parole hearing.

20 (c) The members of the Board shall have access at all
21 reasonable times to any committed person and to his master
22 record file within the Department, and the Department shall
23 furnish such reports to the Board as the Board may require
24 concerning the conduct and character of any such person.

25 (d) In making its determination of parole, the Board shall
26 consider:

1 (1) material transmitted to the Department of Juvenile
2 Justice by the clerk of the committing court under Section
3 5-4-1 or Section 5-10 of the Juvenile Court Act or Section
4 5-750 of the Juvenile Court Act of 1987;

5 (2) the report under Section 3-8-2 or 3-10-2;

6 (3) a report by the Department and any report by the
7 chief administrative officer of the institution or
8 facility;

9 (4) a parole progress report;

10 (5) a medical and psychological report, if requested by
11 the Board;

12 (6) material in writing, or on film, video tape or
13 other electronic means in the form of a recording submitted
14 by the person whose parole is being considered; and

15 (7) material in writing, or on film, video tape or
16 other electronic means in the form of a recording or
17 testimony submitted by the State's Attorney and the victim
18 pursuant to the Rights of Crime Victims and Witnesses Act.

19 (e) The prosecuting State's Attorney's office shall
20 receive reasonable written notice not less than 15 days prior
21 to the parole hearing and may submit relevant information in
22 writing, or on film, video tape or other electronic means or in
23 the form of a recording to the Board for its consideration. The
24 State's Attorney may waive the written notice.

25 (f) The victim of the violent crime for which the prisoner
26 has been sentenced shall receive notice of a parole hearing as

1 provided in paragraph (4) of subsection (d) of Section 4.5 of
2 the Rights of Crime Victims and Witnesses Act.

3 (g) Any recording considered under the provisions of
4 subsection (d)(6), (d)(7) or (e) of this Section shall be in
5 the form designated by the Board. Such recording shall be both
6 visual and aural. Every voice on the recording and person
7 present shall be identified and the recording shall contain
8 either a visual or aural statement of the person submitting
9 such recording, the date of the recording and the name of the
10 person whose parole eligibility is being considered. Such
11 recordings, if retained by the Board shall be deemed to be
12 submitted at any subsequent parole hearing if the victim or
13 State's Attorney submits in writing a declaration clearly
14 identifying such recording as representing the present
15 position of the victim or State's Attorney regarding the issues
16 to be considered at the parole hearing.

17 (h) The Board shall not release any material to the inmate,
18 the inmate's attorney, any third party, or any other person
19 containing any information from the victim or from a person
20 related to the victim by blood, adoption, or marriage who has
21 written objections, testified at any hearing, or submitted
22 audio or visual objections to the inmate's parole, unless
23 provided with a waiver from that objecting party.

24 (Source: P.A. 94-696, eff. 6-1-06.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.