

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 2761

(SENATE AUTHORS: LATZ)

DATE
04/01/2019

D-PG

OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act
 1.2 relating to corrections; establishing a Clemency Review Commission; modifying
 1.3 Board of Pardons procedures; making clarifying changes; amending Minnesota
 1.4 Statutes 2018, sections 638.01; 638.02, subdivisions 1, 2; 638.04; 638.06; 638.07;
 1.5 638.075; 638.08.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2018, section 638.01, is amended to read:

1.8 **638.01 BOARD OF PARDONS; HOW CONSTITUTED; POWERS.**

1.9 Subdivision 1. Board of Pardons. The Board of Pardons shall consist of the governor,
 1.10 the chief justice of the supreme court, and the attorney general. ~~The board~~ governor, in
 1.11 conjunction with the Board of Pardons, may grant pardons and reprieves and commute the
 1.12 sentence of any person convicted of any offense against the laws of the state, in the manner
 1.13 and under the conditions and rules hereinafter prescribed, but not otherwise.

1.14 Subd. 2. Clemency Review Commission. (a) The Clemency Review Commission shall
 1.15 consist of nine members, each serving a four-year term. The commission shall review
 1.16 applications for pardons, pardons extraordinary, reprieves, and commutations before the
 1.17 applications are considered by the Board of Pardons.

1.18 (b) The governor, the attorney general, and the chief justice of the supreme court shall
 1.19 each appoint three members and thereafter replace members upon expiration of their terms.
 1.20 A person may serve no more than two terms on the commission.

1.21 (c) The commission shall make a positive or negative recommendation by majority vote
 1.22 as to each petition submitted, with the vote of each commission member reported to the
 1.23 Board of Pardons.

2.1 (d) The commission shall biannually elect one of its members as chair and one as
2.2 vice-chair. The chair of the commission shall serve as the secretary of the Board of Pardons.

2.3 Sec. 2. Minnesota Statutes 2018, section 638.02, subdivision 1, is amended to read:

2.4 Subdivision 1. **Absolute or conditional pardons; commutation of sentences.** The
2.5 Board of Pardons may grant an absolute or a conditional pardon, but every conditional
2.6 pardon shall state the terms and conditions on which it was granted. Every pardon or
2.7 commutation of sentence shall be in writing and shall have no force or effect unless granted
2.8 by a ~~unanimous~~ majority vote of the board duly convened, with the governor in that majority.

2.9 Sec. 3. Minnesota Statutes 2018, section 638.02, subdivision 2, is amended to read:

2.10 Subd. 2. **Petition; pardon extraordinary.** Any person, convicted of a crime in any
2.11 court of this state, who has served the sentence imposed by the court and has been discharged
2.12 of the sentence either by order of court or by operation of law, may petition the Board of
2.13 Pardons for the granting of a pardon extraordinary. Unless the Board of Pardons expressly
2.14 provides otherwise in writing by ~~unanimous~~ majority vote, with the governor in that majority,
2.15 the application for a pardon extraordinary may not be filed until the applicable time period
2.16 in clause (1) or (2) has elapsed:

2.17 (1) if the person was convicted of a crime of violence as defined in section 624.712,
2.18 subdivision 5, ten years must have elapsed since the sentence was discharged and during
2.19 that time the person must not have been convicted of any other crime; and

2.20 (2) if the person was convicted of any crime not included within the definition of crime
2.21 of violence under section 624.712, subdivision 5, five years must have elapsed since the
2.22 sentence was discharged and during that time the person must not have been convicted of
2.23 any other crime.

2.24 If the Board of Pardons, by majority vote with the governor in that majority, determines
2.25 that the person is of good character and reputation, the board may, in its discretion, grant
2.26 the person a pardon extraordinary. The pardon extraordinary, when granted, has the effect
2.27 of setting aside and nullifying the conviction and of purging the person of it, and the person
2.28 shall never after that be required to disclose the conviction at any time or place other than
2.29 in a judicial proceeding or as part of the licensing process for peace officers.

2.30 The application for a pardon extraordinary, the proceedings to review an application,
2.31 and the notice requirements are governed by the statutes and the rules of the board and the
2.32 Clemency Review Commission in respect to other proceedings before the board and the

3.1 commission, respectively. The application shall contain any further information that the
3.2 board may require.

3.3 Sec. 4. Minnesota Statutes 2018, section 638.04, is amended to read:

3.4 **638.04 MEETINGS.**

3.5 The Board of Pardons shall hold meetings at least twice each year and shall hold a
3.6 meeting whenever it takes formal action on an application for a pardon or commutation of
3.7 sentence. All board meetings shall be open to the public as provided in chapter 13D.

3.8 The Clemency Review Commission shall hold meetings at least four times each year to
3.9 review petitions for clemency, hold public hearings for petitioners, and make
3.10 recommendations to the board on each petition seeking pardon, commutation, or pardon
3.11 extraordinary. All commission meetings shall be open to the public as provided in chapter
3.12 13D.

3.13 The victim of an applicant's crime has a right to submit an oral or written statement at
3.14 the meeting or hearing of the commission regarding that applicant. The statement may
3.15 summarize the harm suffered by the victim as a result of the crime and give the victim's
3.16 recommendation on whether the application for a pardon or commutation should be granted
3.17 or denied. In addition, any law enforcement agency may submit an oral or written statement
3.18 at the meeting, giving its recommendation on whether the application should be granted or
3.19 denied. The board commission must consider the victim's and the law enforcement agency's
3.20 statement when making its decision recommendation on the application. The commission
3.21 shall provide to the board, with the commission's recommendations, any statement made
3.22 by the victim of the crime or the law enforcement agency.

3.23 Sec. 5. Minnesota Statutes 2018, section 638.06, is amended to read:

3.24 **638.06 ACTION ON APPLICATION.**

3.25 Every application for relief by the Pardon Board shall be filed with the ~~secretary of the~~
3.26 ~~Board of Pardons~~ Clemency Review Commission not less than 60 days before the meeting
3.27 of the ~~board~~ commission at which consideration of the application is desired. If an application
3.28 for a pardon or commutation has been once heard and denied on the merits, no subsequent
3.29 application shall be filed without the consent of two members of the board endorsed on the
3.30 application. Immediately on receipt of any application, the secretary to the board shall mail
3.31 notice of the application, and of the time and place of hearing on it, to the judge of the court
3.32 where the applicant was tried and sentenced, and to the prosecuting attorney who prosecuted
3.33 the applicant, or a successor in office. Additionally, the ~~secretary~~ commission shall publish

4.1 notice of an application for a pardon extraordinary in the local newspaper of the county
 4.2 where the crime occurred. The ~~secretary~~ commission shall also make all reasonable efforts
 4.3 to locate any victim of the applicant's crime. The ~~secretary~~ commission shall mail notice of
 4.4 the application and the time and place of the hearing to any victim who is located. This
 4.5 notice shall specifically inform the victim of the victim's right to be present at the hearing
 4.6 and to submit an oral or written statement to the board as provided in section 638.04.

4.7 Sec. 6. Minnesota Statutes 2018, section 638.07, is amended to read:

4.8 **638.07 RECORDS; SECRETARY.**

4.9 The ~~Board of Pardons~~ Clemency Review Commission shall keep a record of every
 4.10 petition received, and of every pardon, reprieve, or commutation of sentence granted or
 4.11 refused, and the reasons assigned therefor, and shall have a seal, with which every pardon,
 4.12 reprieve, or commutation of sentence shall be attested. It may adopt such additional necessary
 4.13 and proper rules as are not inconsistent herewith. ~~The commissioner of corrections or a~~
 4.14 ~~designee shall be the secretary of the board. The commissioner shall have charge of and~~
 4.15 ~~keep its records and perform such other duties as the board may from time to time direct.~~
 4.16 ~~The commissioner~~ The commission is hereby authorized and empowered to serve subpoenas
 4.17 and other writs or processes necessary ~~to return parole violators to prison, and to bring~~
 4.18 before the board witnesses to be heard in matters pending before it. The records and all the
 4.19 files shall be kept and preserved by the ~~secretary~~ commission, and shall be open to public
 4.20 inspection at all reasonable times.

4.21 Sec. 7. Minnesota Statutes 2018, section 638.075, is amended to read:

4.22 **638.075 ANNUAL REPORTS TO LEGISLATURE.**

4.23 By February 15 of each year, the ~~Board of Pardons~~ Clemency Review Commission shall
 4.24 file a written report with the legislature containing the following information:

4.25 (1) the number of applications received by the ~~board~~ commission during the preceding
 4.26 calendar year for pardons, pardons extraordinary, and commutations of sentence, and the
 4.27 recommendations made by the commission for each category, along with the crimes for
 4.28 which each petition applied, the year of each conviction, and the age of the offender at the
 4.29 time of the offense;

4.30 (2) the number of applications granted and denied by the Board of Pardons for each
 4.31 category; and

5.1 (3) the crimes for which the applications were granted or denied by the Board of Pardons,
5.2 the year of each conviction, and the age of the offender at the time of the offense.

5.3 Sec. 8. Minnesota Statutes 2018, section 638.08, is amended to read:

5.4 **638.08 ISSUANCE OF PROCESS; WITNESSES; STANDING APPROPRIATION.**

5.5 The Clemency Review Commission and the Board of Pardons may issue process requiring
5.6 the presence of any person or officer before it, with or without books and papers, in any
5.7 matter pending, and may take such reasonable steps in the matter as it may deem necessary
5.8 to a proper determination thereof. When any person is summoned before the board by its
5.9 authority, the person may be allowed such compensation for travel and attendance as it may
5.10 deem reasonable.