



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5060

Introduced 1/25/2010, 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 16568 RLC 31841 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. One representative supporting
9 parole and one representative opposing parole will be
10 allowed to speak. Their comments shall be limited to making
11 corrections and filling in omissions to the Board's
12 presentation and discussion;

13 (3) hear by at least one member and through a panel of
14 at least 3 members decide, the conditions of mandatory
15 supervised release and the time of discharge from mandatory
16 supervised release, impose sanctions for violations of
17 mandatory supervised release, and revoke mandatory
18 supervised release for those sentenced under the law in
19 effect after the effective date of this amendatory Act of
20 1977;

21 (3.5) hear by at least one member and through a panel
22 of at least 3 members decide, the conditions of mandatory
23 supervised release and the time of discharge from mandatory
24 supervised release, to impose sanctions for violations of
25 mandatory supervised release and revoke mandatory
26 supervised release for those serving extended supervised

1 release terms pursuant to paragraph (4) of subsection (d)
2 of Section 5-8-1;

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

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

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

5 (7) comply with the requirements of the Open Parole
6 Hearings Act;

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

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

21 (a-5) The Prisoner Review Board, with the cooperation of
22 and in coordination with the Department of Corrections and the
23 Department of Central Management Services, shall implement a
24 pilot project in 3 correctional institutions providing for the
25 conduct of hearings under paragraphs (1) and (4) of subsection
26 (a) of this Section through interactive video conferences. The

1 project shall be implemented within 6 months after the
2 effective date of this amendatory Act of 1996. Within 6 months
3 after the implementation of the pilot project, the Prisoner
4 Review Board, with the cooperation of and in coordination with
5 the Department of Corrections and the Department of Central
6 Management Services, shall report to the Governor and the
7 General Assembly regarding the use, costs, effectiveness, and
8 future viability of interactive video conferences for Prisoner
9 Review Board hearings.

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

12 (c) The Board shall cooperate with the Department in
13 promoting an effective system of parole and mandatory
14 supervised release.

15 (d) The Board shall promulgate rules for the conduct of its
16 work, and the Chairman shall file a copy of such rules and any
17 amendments thereto with the Director and with the Secretary of
18 State.

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

22 (f) The Board or one who has allegedly violated the
23 conditions of his parole or mandatory supervised release may
24 require by subpoena the attendance and testimony of witnesses
25 and the production of documentary evidence, physical evidence,
26 electronic evidence, computer files, DVD's, audio or tape

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

20 In case of disobedience to a subpoena, the Board may
21 petition any circuit court of the State for an order requiring
22 the attendance and testimony of witnesses or the production of
23 documentary evidence, physical evidence, electronic evidence,
24 computer files, DVD's, audio or tape recordings, or any other
25 evidence ~~or both~~. A copy of such petition shall be served by
26 personal service or by registered or certified mail upon the

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

17 Each member of the Board and any hearing officer designated
18 by the Board shall have the power to administer oaths and to
19 take the testimony of persons under oath.

20 (g) Except under subsection (a) of this Section, a majority
21 of the members then appointed to the Prisoner Review Board
22 shall constitute a quorum for the transaction of all business
23 of the Board.

24 (h) The Prisoner Review Board shall annually transmit to
25 the Director a detailed report of its work for the preceding
26 calendar year. The annual report shall also be transmitted to

1 the Governor for submission to the Legislature.

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

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

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

5 (a) The Prisoner Review Board shall consider the parole of
6 each eligible person committed to the Adult Division at least
7 30 days prior to the date he shall first become eligible for
8 parole, and shall consider the parole of each person committed
9 to the Department of Juvenile Justice as a delinquent at least
10 30 days prior to the expiration of the first year of
11 confinement.

12 (b) A person eligible for parole shall, no less than 15
13 days in advance of his parole interview, prepare a parole plan
14 in accordance with the rules of the Prisoner Review Board. The
15 person shall be assisted in preparing his parole plan by
16 personnel of the Department of Corrections, or the Department
17 of Juvenile Justice in the case of a person committed to that
18 Department, and may, for this purpose, be released on furlough
19 under Article 11 or on authorized absence under Section 3-9-4.
20 The appropriate Department shall also provide assistance in
21 obtaining information and records helpful to the individual for
22 his parole hearing. If the person eligible for parole has a
23 petition or any written submissions prepared on his or her
24 behalf by an attorney or other representative, the attorney or
25 representative for the person eligible for parole must serve by

1 certified mail the State's Attorney of the county where he or
2 she was prosecuted with the petition or any written submissions
3 15 days after his or her parole interview. The State's Attorney
4 shall provide the attorney for the person eligible for parole
5 with a copy of his or her letter in opposition to parole via
6 certified mail within 5 business days of the en banc hearing.

7 (c) Any member of the Board shall have access at all
8 reasonable times to any committed person and to his master
9 record file within the Department, and the Department shall
10 furnish such a report to the Board concerning the conduct and
11 character of any such person prior to his or her parole
12 interview.

13 (d) In making its determination of parole, the Board shall
14 consider:

15 (1) material transmitted to the Department of Juvenile
16 Justice by the clerk of the committing court under Section
17 5-4-1 or Section 5-10 of the Juvenile Court Act or Section
18 5-750 of the Juvenile Court Act of 1987;

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

20 (3) a report by the Department and any report by the
21 chief administrative officer of the institution or
22 facility;

23 (4) a parole progress report;

24 (5) a medical and psychological report, if requested by
25 the Board;

26 (6) material in writing, or on film, video tape or

1 other electronic means in the form of a recording submitted
2 by the person whose parole is being considered; and

3 (7) material in writing, or on film, video tape or
4 other electronic means in the form of a recording or
5 testimony submitted by the State's Attorney and the victim
6 or a concerned citizen pursuant to the Rights of Crime
7 Victims and Witnesses Act.

8 (e) The prosecuting State's Attorney's office shall
9 receive from the Board reasonable written notice not less than
10 30 days prior to the parole interview and may submit relevant
11 information by oral argument or testimony of victims and
12 concerned citizens, or both, in writing, or on film, video tape
13 or other electronic means or in the form of a recording to the
14 Board for its consideration. Upon written request of the
15 State's Attorney's office, the Prisoner Review Board shall hear
16 protests to parole, except in counties of 1,500,000 or more
17 inhabitants where there shall be standing objections to all
18 such petitions. If a State's Attorney who represents a county
19 of less than 1,500,000 inhabitants requests a protest hearing,
20 the inmate's counsel or other representative shall also receive
21 notice of such request. This hearing shall take place the month
22 following the inmate's parole interview. If the inmate's parole
23 interview is rescheduled then the Prisoner Review Board shall
24 promptly notify the State's Attorney of the new date. The
25 person eligible for parole shall be heard at the next scheduled
26 en banc hearing date. If the case is to be continued, the

1 State's Attorney's office and the attorney or representative
2 for the person eligible for parole will be notified of any
3 continuance within 5 business days. The State's Attorney may
4 waive the written notice.

5 (f) The victim of the violent crime for which the prisoner
6 has been sentenced shall receive notice of a parole hearing as
7 provided in paragraph (4) of subsection (d) of Section 4.5 of
8 the Rights of Crime Victims and Witnesses Act.

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

23 (h) The Board shall not release any material to the inmate,
24 the inmate's attorney, any third party, or any other person
25 containing any information from the victim or from a person
26 related to the victim by blood, adoption, or marriage who has

1 written objections, testified at any hearing, or submitted
2 audio or visual objections to the inmate's parole, unless
3 provided with a waiver from that objecting party.

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

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.