

# State of South Dakota

EIGHTIETH  
LEGISLATIVE ASSEMBLY, 2005

400L0302

## HOUSE BILL NO. 1020

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to clemency hearings  
2 and other hearings of the Board of Pardons and Paroles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 24-13-4.2 be repealed.

5 ~~— 24-13-4.2. The chair of the board may designate individual parole board members as hearing~~  
6 ~~officers who may conduct hearings, hear applications, take testimony, and make~~  
7 ~~recommendations to the board regarding the granting, denial, revocation, rescission, or an~~  
8 ~~administrative continuance of a parole. The recommendation shall be in writing and reviewed~~  
9 ~~by the board or a panel of the board who may adopt, modify, or reject the recommendations.~~

10 Section 2. That § 24-13-4.3 be repealed.

11 ~~— 24-13-4.3. The chair of the board may designate panels of two or more board members to~~  
12 ~~conduct hearings, hear applications, take testimony, and take final action regarding the granting,~~  
13 ~~denial, revocation, rescission, or an administrative continuance of a parole.~~

14 Section 3. That § 24-13-4.4 be repealed.

15 ~~— 24-13-4.4. The decisions made by a panel of two or more board members are not appealable~~  
16 ~~to the Board of Pardons and Paroles. Panels as designated by the chair shall exercise the same~~



1 authority and assume the same responsibilities as the full Board of Pardons and Paroles in those  
2 actions that panels are authorized to take pursuant to § 24-13-4.3.

3 Section 4. That § 24-13-4.5 be repealed.

4 ~~24-13-4.5. No person may be paroled, denied parole, or administratively continued nor may~~  
5 ~~a person's parole be revoked or rescinded without the concurrence of two board members.~~

6 Section 5. That § 24-14-3 be amended to read as follows:

7 24-14-3. The ~~applicant~~ executive director shall, ~~upon notice of hearing from the board for~~  
8 ~~clemency consideration, serve~~ notify the attorney who prosecuted the person applying for  
9 clemency, or the attorney's successor in office, ~~a notice of the hearing~~ the sentencing judge, the  
10 attorney general, and the sheriff or local law enforcement agency where the offense was  
11 committed, at least ~~fifteen~~ thirty days ~~before it considers the application~~ prior to a hearing by  
12 the board.

13 Section 6. That § 24-14-4 be amended to read as follows:

14 24-14-4. Any applicant shall, upon notice of hearing from the board for clemency  
15 consideration, publish once each week for three consecutive weeks in one of the official  
16 newspapers designated by the county where the offense was committed, the name of the person  
17 on whose behalf the application is made, the public offense for which the person was convicted,  
18 the time of the person's conviction, and the term of imprisonment. The last publication shall be  
19 published at least twenty days before the hearing. The affidavit of the publisher of the paper  
20 showing that notice has been published shall accompany the application. This notice  
21 requirement does not apply to an ~~inmate who has been released from the state penitentiary for~~  
22 ~~at least five years and who was convicted of not more than one felony, if the felony for which~~  
23 ~~the inmate was convicted is not punishable by life imprisonment~~ applicant requesting an  
24 exceptional pardon.

1 Section 7. That § 24-14-8 be amended to read as follows:

2 24-14-8. Upon the expiration of five years following the release of an inmate applicant from  
3 ~~the state penitentiary~~ a Department of Corrections facility who was convicted of not more than  
4 one felony, which was not an offense punishable by life imprisonment, ~~he~~ the applicant may  
5 apply to the Board of Pardons and Paroles for an exceptional pardon. If the crime did not result  
6 in a prison sentence, an applicant may apply for an exceptional pardon if at least five years have  
7 passed from the date of the applicant's offense, if the applicant was not convicted of more than  
8 one felony, and if the offense was not punishable by life imprisonment.

9 Section 8. That § 24-15A-1 be amended to read as follows:

10 24-15A-1. The provisions of this chapter do not apply to persons sentenced to prison for  
11 crimes committed prior to July 1, 1996, except the provisions in §§ 24-15A-18 and 24-15A-19  
12 involving multiple sentences occurring both prior and subsequent to the enactment of this  
13 chapter and the provisions of §§ 24-15A-9, 24-15A-10, 24-15A-11, 24-15A-31, 24-15A-37, and  
14 24-15A-40, and the provisions in section 12 of this Act.

15 Section 9. That § 24-15A-9 be amended to read as follows:

16 24-15A-9. The chair of the board may designate individual parole board members as hearing  
17 officers who may conduct hearings pursuant to this chapter and chapters 24-13, 24-14, and 24-  
18 15, take testimony, and make recommendations to the board ~~regarding the granting, denial,~~  
19 ~~revocation, or rescission of a parole.~~ The recommendation shall be in writing and reviewed by  
20 the board or a panel of the board who may adopt, modify, or reject the recommendations.

21 Section 10. That § 24-15A-10 be amended to read as follows:

22 24-15A-10. The chair of the board may designate panels of two or more board members to  
23 conduct hearings pursuant to this chapter and chapters 24-13, 24-14, and 24-15, take testimony,  
24 and take final action ~~regarding the granting, denial, revocation, or rescission of a parole,~~

1 exclusive of a clemency recommendation to the Governor in accordance with § 24-13-4.6.

2 Section 11. That § 24-15A-11 be amended to read as follows:

3 24-15A-11. No person may be paroled pursuant to §§ ~~24-15A-39 and 24-15A-41~~ or denied  
4 parole nor may a person's parole be revoked or rescinded without the concurrence of two board  
5 members.

6 Section 12. That chapter 24-15A be amended by adding thereto a NEW SECTION to read  
7 as follows:

8 No decision made by a panel of two or more board members may be appealed to the Board  
9 of Pardons and Paroles. Any panel designated by the chair shall exercise the same authority and  
10 assume the same responsibilities as the full Board of Pardons and Paroles in those actions that  
11 the panel is authorized to take.