



Ohio Legislative Service Commission

Bill Analysis

Dennis M. Papp

S.B. 92

128th General Assembly
(As Introduced)

Sens. R. Miller, Morano, Grendell, Seitz, Kearney, Strahorn, Smith

BILL SUMMARY

- Except for the member who has been a crime victim, who is a member of a crime victim's family, or who represents a crime victims' advocacy organization and except as described in the next dot point, limits members of the Parole Board to two six-year terms.
- Provides that, if a person is a member of the Parole Board on the bill's effective date, that person will continue in office until that member is reappointed, a successor member is appointed, or a period of 60 days has elapsed whichever occurs first, and the member cannot be reappointed to serve a term that is longer than six years, including the time served on the Board prior to its effective date.

CONTENT AND OPERATION

Existing law

Parole Board background

Existing law creates the Adult Parole Authority (the APA) within the Division of Parole and Community Services of the Department of Rehabilitation and Correction (DRC). The APA consists of its Chief, a Field Services Section, and a Parole Board. DRC's Director appoints the APA's Chief, one or more Superintendents of the Field Services Section, and the Parole Board's Chairperson, all of whom serve at the pleasure of the Director and are in the unclassified civil service. The APA is a regular administrative unit of DRC and operates under rules adopted by DRC's Director. The Chief of the Division of Parole and Community Services is authorized to adopt supplemental rules governing the APA's operation, assigning specific powers and duties to the APA's Chief, and assigning specific functions to sections within the APA. The Chief of the Division of Parole and Community Services is the principal appointing

authority of the APA, and the Chief has the duty to appoint all officers and employees of the APA except for those officers appointed by DRC's Director as described in this paragraph or in "**Appointment to Parole Board of victim, victim's family member, or victim's representative**," below. (R.C. 5149.02, and R.C. 5149.09, which is not in the bill.)

The Parole Board consists of up to 12 members, one of whom is designated as Chairperson by DRC's Director and who continues as Chairperson until a successor is designated, and any other personnel necessary for the orderly performance of the Board's duties. In addition to the rules authorized as described in the preceding paragraph, the APA's Chief, subject to the approval of the Chief of the Division of Parole and Community Services and subject to the provisions described in this paragraph and in "**Appointment to Parole Board of victim, victim's family member, or victim's representative**," below, must adopt rules governing the Board's proceedings. The rules must provide for the convening of full Board hearings, the procedures to be followed in full Board hearings, and general procedures to be followed in other Board hearings and by its hearing officers, and also must require agreement by a majority of all Board members to any recommendation of clemency transmitted to the Governor. When the Board members sit as a full Board, the Chairperson is required to preside. The Chairperson also must allocate the work of the Board among its members. The full Board must meet at least once each month. In the case of a tie vote on the full Board, the APA's Chief is required to cast the deciding vote. The Chairperson may designate a person to serve in his or her place. Except as otherwise described below in "**Appointment to Parole Board of victim, victim's family member, or victim's representative**," no person may be appointed a member of the Parole Board who is not qualified by education or experience in correctional work, including law enforcement, prosecution of offenses, advocating for the rights of victims of crime, probation, or parole, in law, in social work, or in a combination of the three categories. (R.C. 5149.10(A).)

Appointment to Parole Board of victim, victim's family member, or victim's representative

Under existing law, DRC's Director, in consultation with the Governor, is required to appoint one member of the Parole Board, who must be a person who has been a victim of crime, is a member of a crime victim's family, or represents an organization that advocates for the rights of victims of crime; after appointment, this member is an unclassified employee of DRC. The term of office of the member appointed under this provision is four years, with each term ending on the same day of the same month as did the term that it succeeds. The member holds office from the date of appointment until the end of the term for which he or she was appointed and may be reappointed. The law provides procedures for the filling of a vacancy in the office of,

and for compensation and reimbursement of, a member appointed under this provision. The member may vote on all cases heard by the full Board under the provisions governing full Board hearings (R.C. 5149.101, not in the bill), has such duties as are assigned by the Board's Chairperson, and must coordinate the member's activities with the Office of Victims' Services created under R.C. 5120.60, which is not in the bill. (R.C. 5149.10(B).)

Parole Board's duties

The Parole Board performs various duties assigned by statute to it or the APA, including making recommendations to the Governor for or against clemency (i.e., pardon, commutation of sentence, or reprieve), making determinations for or against the parole of a prisoner under a sentence for a felony who is eligible for parole, and making certain determinations relative to a person released from prison who is under a period of post-release control. The Board's Chairperson is required to submit all recommendations for or against clemency directly to the Governor, and to transmit to the APA's Chief all determinations for or against parole made by the Board. Parole determinations are final and are not subject to review or change by the Chief. The APA is authorized to grant a parole to any prisoner for whom parole is authorized if, in its judgment, there is reasonable ground to believe that paroling the prisoner would further the interests of justice and be consistent with the welfare and security of society. In addition to its duties pertaining to clemency and parole, if an offender is sentenced to an indefinite prison term under the Sexually Violent Predator Sentencing Law (R.C. Chapter 2971.), the Board has control over the offender's service of the prison term during the entire term unless it terminates its control in accordance with that Law. (R.C. 5149.10(C) to (E), and R.C. 2967.03, 2967.28, 2971.03, and 2971.04, which are not in the bill.)

Operation of the bill

The bill enacts a term of office for members of the Parole Board, other than the member who has been a victim of crime, who is a member of a crime victim's family, or who represents an organization that advocates for the rights of victims of crime, and limits them to two terms. It specifies that, except for the member who has been a victim, is a member of a victim's family, or represents a victims' advocacy organization and except as described in the next paragraph, *a member appointed to the Parole Board will be appointed to a six-year term, will hold office from the date of appointment until the end of the term for which he or she was appointed, and is eligible for reappointment for another six-year term that may or may not be consecutive to the first six-year term. A member is not eligible for reappointment after serving two six-year terms whether or not served consecutively.* Vacancies will be filled in the same manner provided for original appointments, and any member appointed to fill a vacancy occurring prior to the expiration date of the

term for which the member's predecessor was appointed will hold office as a member for the remainder of that term. A member appointed under this provision will continue in office subsequent to the expiration date of his or her term until his or her successor takes office or until 60 days has elapsed, whichever occurs first. This provision applies to the Board's Chairperson, as well as to the other members of the Board who are not the member who has been a victim, who is a member of a victim's family, or who represents a victims' advocacy organization. As under existing law, the Chairperson is appointed by DRC's Director and is in the unclassified civil service (but the bill does not retain the existing provision that explicitly states that the Chairperson serves at the pleasure of DRC's Director).

The bill provides that, if a person is a member of the Parole Board on the bill's effective date, that person will continue in office until that member is reappointed, a successor member is appointed, or a period of 60 days has elapsed, whichever occurs first. A member of the Board on the bill's effective date cannot be reappointed to serve a term that is longer than six years, including the time he or she served on the Board prior to the bill's effective date (note that the bill does not explicitly exempt a member who has been a victim, who is a member of a victim's family, or who represents a victims' advocacy organization from the operation of the provisions described in this paragraph). (R.C. 5149.02 and 5149.10(A)(3).)

HISTORY

ACTION	DATE
Introduced	04-02-09

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