

SUBJECT: Creating a review panel for certain clemency applications

COMMITTEE: Corrections — favorable, without amendment

VOTE: 9 ayes — White, Allen, Bailes, Bowers, Dean, Morales, Neave, Sherman, Stephenson

0 nays

WITNESSES: For —Torey Tipton, Allies Against Slavery; Catherine Marston, Free Battered Texas Women; Gabriella Fuentes, Lone Star Justice Alliance; Lindsey Linder, Texas Criminal Justice Coalition; Marc Levin, Texas Public Policy Foundation; Cheryl Cammack; Katrina Taylor; (*Registered, but did not testify*: Nick Hudson, American Civil Liberties Union of Texas; Traci Berry, Goodwill Central Texas; Elizabeth Henneke, Lone Star Justice Alliance; Greg Hansch, National Alliance on Mental Illness-Texas; Josh Cogan, Outlast Youth; Lori Henning, Texas Association of Goodwills; Michael Barba, Texas Catholic Conference of Bishops; Linda Phan, Texas Council on Family Violence; Jennifer Erschabek, Texas Inmate Families Association; Kyle Ward, Texas PTA; Mary Cheaney)

Against — None

On — David Gutierrez, Texas Board of Pardons and Paroles; (*Registered, but did not testify*: Mallory Vincent, Office of the Attorney General; Bettie Wells, Texas Board of Pardons and Parole)

BACKGROUND: Texas Constitution Art. 4, sec. 11(b) and Code of Criminal Procedure, art. 48.01 authorize the governor to grant reprieves, commutations, and pardons in criminal cases upon the recommendation of a majority of the Board of Pardons and Paroles. The governor also has the power to grant one reprieve of up to 30 days in a capital case, without the recommendation of the board.

Concerns have been raised that some individuals with criminal records also were human trafficking and family violence victims. Some have

noted that the Board of Pardons and Paroles and the governor would have greater information if applications for clemency from these individuals were reviewed by a panel of experts who could make recommendations on the applications.

DIGEST:

HB 3078 would require the Board of Pardons and Paroles (BPP) to appoint a panel of experts to review clemency applications from individuals convicted of an offense committed while under duress or coercion as a result of being a victim of human trafficking or certain offenses that involve family or dating violence.

The bill would establish a 12-member panel with members from various fields and with certain experience relating to human trafficking or family violence, including a survivor of an offense, a behavioral health care specialist, a licensed social worker, a current or former prosecutor, a current or former defense attorney, and a member of BPP. The panel also would include members who were representatives of the Department of State Health Services, the Department of Family and Protective Services, the human trafficking prevention task force, the Texas Juvenile Justice Department, a local law enforcement agency, and an advocacy organization.

BPP, in consultation with the panel, would be required to develop an application process and form for these clemency applications. An application could include written recommendations from a majority of trial officials currently serving in the county in which the person was convicted.

On receipt of an application for clemency described by the bill, the board would have to immediately submit it to the panel for review. The panel would have to review the application and, within six months of receiving it, advise the board on making a recommendation to the governor about whether to grant clemency to the applicant.

BPP, in consultation with the governor, would have to appoint the panel by December 1, 2019.

The bill would take effect September 1, 2019.