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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2788

03/09/2023 Authored by Agbaje, Frazier and Becker-Finn
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy
03/20/2023 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law
03/23/2023 Adoption of Report: Amended and re-referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to corrections; modifying Board of Pardons provisions; establishing
1.3 Clemency Review Commission; requiring a report; authorizing rulemaking;
1.4 appropriating money; amending Minnesota Statutes 2022, sections 13.871,
1.5 subdivision 8; 299C.11, subdivision 3; 638.01; proposing coding for new law in
1.6 Minnesota Statutes, chapter 638; repealing Minnesota Statutes 2022, sections
1.7 638.02; 638.03; 638.04; 638.05; 638.06; 638.07; 638.075; 638.08.

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

1.9 Section 1. Minnesota Statutes 2022, section 13.871, subdivision 8, is amended to read:

1.10 Subd. 8. ~~Board of Pardons~~ Clemency Review Commission records. Access to ~~Board~~
1.11 ~~of Pardons~~ records of the Clemency Review Commission is governed by section ~~638.07~~
1.12 638.20.

1.13 Sec. 2. Minnesota Statutes 2022, section 299C.11, subdivision 3, is amended to read:

1.14 Subd. 3. **Definitions.** For purposes of this section:

1.15 (1) "determination of all pending criminal actions or proceedings in favor of the arrested
1.16 person" does not include:

1.17 (i) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or
1.18 chapter 609A;

1.19 (ii) the arrested person's successful completion of a diversion program;

1.20 (iii) an order of discharge under section 609.165; or

1.21 (iv) a pardon granted under ~~section 638.02~~ chapter 638; and

1.22 (2) "targeted misdemeanor" has the meaning given in section 299C.10, subdivision 1.

2.1 Sec. 3. Minnesota Statutes 2022, section 638.01, is amended to read:

2.2 **638.01 BOARD OF PARDONS; ~~HOW CONSTITUTED; POWERS.~~**

2.3 The Board of Pardons ~~shall consist~~ consists of the governor, the chief justice of the
2.4 supreme court, and the attorney general. ~~The board~~ governor in conjunction with the board
2.5 ~~may grant pardons and reprieves and commute the sentence of any person convicted of any~~
2.6 ~~offense against the laws of the state, in the manner and under the conditions and rules~~
2.7 ~~hereinafter prescribed, but not otherwise~~ clemency according to this chapter.

2.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.9 Sec. 4. **[638.011] DEFINITIONS.**

2.10 Subdivision 1. **Scope.** For purposes of this chapter, the terms defined in this section have
2.11 the meanings given.

2.12 Subd. 2. **Board.** "Board" means the Board of Pardons under section 638.01.

2.13 Subd. 3. **Clemency.** Unless otherwise provided, "clemency" includes a pardon,
2.14 commutation, and reprieve after conviction for a crime against the state except in cases of
2.15 impeachment.

2.16 Subd. 4. **Commission.** "Commission" means the Clemency Review Commission under
2.17 section 638.09.

2.18 Subd. 5. **Department.** "Department" means the Department of Corrections.

2.19 Subd. 6. **Waiver request.** "Waiver request" means a request to waive a time restriction
2.20 under sections 638.12, subdivisions 2 and 3, and 638.19, subdivision 1.

2.21 **EFFECTIVE DATE.** This section is effective August 1, 2023.

2.22 Sec. 5. **[638.09] CLEMENCY REVIEW COMMISSION.**

2.23 Subdivision 1. **Establishment; duties.** (a) The Clemency Review Commission is
2.24 established to:

2.25 (1) review each eligible clemency application and waiver request that it receives;

2.26 (2) recommend to the board, in writing, whether to grant or deny the application or
2.27 waiver request, with each member's vote reported; and

2.28 (3) recommend to the board, in writing, whether the board should conduct a hearing on
2.29 a clemency application, with each member's vote reported.

3.1 (b) Unless otherwise provided:

3.2 (1) the commission's recommendations under this chapter are nonbinding on the governor
3.3 or the board; and

3.4 (2) chapter 15 applies unless otherwise inconsistent with this chapter.

3.5 Subd. 2. **Composition.** (a) The commission consists of nine members, each serving a
3.6 term coterminous with the governor.

3.7 (b) The governor, the attorney general, and the chief justice of the supreme court must
3.8 each appoint three members to serve on the commission and replace members when the
3.9 members' terms expire. Members serve at the pleasure of their appointing authority.

3.10 Subd. 3. **Appointments to commission.** (a) An appointing authority is encouraged to
3.11 consider the following criteria when appointing a member:

3.12 (1) expertise in law, corrections, victims' services, correctional supervision, mental
3.13 health, and substance abuse treatment; and

3.14 (2) experience addressing systemic disparities, including but not limited to disparities
3.15 based on race, gender, and ability.

3.16 (b) An appointing authority must seek out and encourage qualified individuals to apply
3.17 to serve on the commission, including:

3.18 (1) members of Indigenous communities, Black communities, and other communities
3.19 of color;

3.20 (2) members diverse as to gender identity; and

3.21 (3) members diverse as to age and ability.

3.22 (c) If there is a vacancy, the appointing authority who selected the vacating member
3.23 must make an interim appointment to expire at the end of the vacating member's term.

3.24 (d) A member may continue to serve until the member's successor is appointed, but a
3.25 member may not serve more than eight years in total.

3.26 Subd. 4. **Commission; generally.** (a) The commission must biennially elect one of its
3.27 members as chair and one as vice-chair. The chair serves as the board's secretary.

3.28 (b) Each commission member must be:

3.29 (1) compensated at a rate of \$150 for each day or part of the day spent on commission
3.30 activities; and

4.1 (2) reimbursed for all reasonable expenses actually paid or incurred by the member while
4.2 performing official duties.

4.3 (c) Beginning January 1, 2025, and annually thereafter, the board may set a new per
4.4 diem rate for commission members, not to exceed an amount ten percent higher than the
4.5 previous year's rate.

4.6 Subd. 5. **Executive director.** (a) The board must appoint a commission executive director
4.7 knowledgeable about clemency and criminal justice. The executive director serves at the
4.8 pleasure of the board in the unclassified service as an executive branch employee.

4.9 (b) The executive director's salary is set in accordance with section 15A.0815, subdivision
4.10 3.

4.11 (c) The executive director may obtain office space and supplies and hire administrative
4.12 staff necessary to carry out the commission's official functions, including providing
4.13 administrative support to the board and attending board meetings. Any additional staff serve
4.14 in the unclassified service at the pleasure of the executive director.

4.15 **EFFECTIVE DATE.** This section is effective August 1, 2023.

4.16 Sec. 6. **[638.10] CLEMENCY APPLICATION.**

4.17 Subdivision 1. **Required contents.** A clemency application must:

4.18 (1) be in writing;

4.19 (2) be signed under oath by the applicant; and

4.20 (3) state the clemency sought, state why the clemency should be granted, and contain
4.21 the following information and any additional information that the commission or board
4.22 requires:

4.23 (i) the applicant's name, address, and date and place of birth, and every alias by which
4.24 the applicant is or has been known;

4.25 (ii) the applicant's demographic data, including race, ethnicity, gender, disability status,
4.26 and age, only if voluntarily reported;

4.27 (iii) the name of the crime for which clemency is requested, the date and county of
4.28 conviction, the sentence imposed, and the sentence's expiration or discharge date;

4.29 (iv) the names of the sentencing judge, the prosecuting attorney, and any victims of the
4.30 crime;

4.31 (v) a brief description of the crime and the applicant's age at the time of the crime;

5.1 (vi) the date and outcome of any prior clemency application, including any application
5.2 submitted before July 1, 2024;

5.3 (vii) to the best of an applicant's knowledge, a statement of any past criminal conviction
5.4 and any pending criminal charge or investigation;

5.5 (viii) for an applicant under the department's custody, a statement describing the
5.6 applicant's reentry plan should clemency be granted; and

5.7 (ix) an applicant statement acknowledging and consenting to the disclosure to the
5.8 commission, board, and public of any private data on the applicant in the application or in
5.9 any other record relating to the clemency being sought, including conviction and arrest
5.10 records.

5.11 Subd. 2. **Required form.** (a) An application must be made on a commission-approved
5.12 form or forms and filed with the commission by commission-prescribed deadlines. The
5.13 commission must consult with the board on the forms and deadlines.

5.14 (b) The application must include language informing the applicant that the board and
5.15 the commission will consider any and all past convictions and that the applicant may provide
5.16 information about the convictions.

5.17 Subd. 3. **Reviewing application for completeness.** The commission must review an
5.18 application for completeness. An incomplete application must be returned to the applicant,
5.19 who may then provide the missing information and resubmit the application within a
5.20 commission-prescribed period.

5.21 Subd. 4. **Notice to applicant.** After the commission's initial investigation of a clemency
5.22 application, the commission must notify the applicant of the scheduled date, time, and
5.23 location that the applicant must appear before the commission for a meeting under section
5.24 638.14.

5.25 Subd. 5. **Equal access to information.** Each board and commission member must have
5.26 equal access to information under this chapter that is used when making a clemency decision.

5.27 Sec. 7. **[638.11] THIRD-PARTY NOTIFICATIONS.**

5.28 Subdivision 1. **Notice to victim; victim rights.** (a) After receiving a clemency
5.29 application, the commission must make all reasonable efforts to locate any victim of the
5.30 applicant's crime.

5.31 (b) At least 30 calendar days before the commission meeting at which the application
5.32 will be heard, the commission must notify any located victim of:

- 6.1 (1) the application;
6.2 (2) the meeting's scheduled date, time, and location; and
6.3 (3) the victim's right to attend the meeting and submit an oral or written statement to the
6.4 commission.

6.5 (c) The commission must make all reasonable efforts to ensure that a victim can:

- 6.6 (1) submit an oral or written statement; and
6.7 (2) receive victim support services as necessary to help the victim submit a statement
6.8 and participate in the clemency process.

6.9 Subd. 2. **Notice to sentencing judge and prosecuting attorney.** At least 30 calendar
6.10 days before the commission meeting at which the application will be heard, the commission
6.11 must notify the sentencing judge and prosecuting attorney or their successors of the
6.12 application and solicit the judge's and attorney's written statements on whether to grant
6.13 clemency.

6.14 Subd. 3. **Notice to public.** At least 30 days before the commission meeting at which the
6.15 application will be heard, the commission must publish notice of an application in a local
6.16 newspaper of the county in which the applicant's crime occurred.

6.17 **Sec. 8. [638.12] TYPES OF CLEMENCY; ELIGIBILITY AND WAIVER.**

6.18 Subdivision 1. **Types of clemency; requirements.** (a) The board may:

- 6.19 (1) pardon a criminal conviction imposed under the laws of this state;
6.20 (2) commute a criminal sentence imposed by a court of this state to time served or a
6.21 lesser sentence; or
6.22 (3) grant a reprieve of a sentence imposed by a court of this state.

6.23 (b) A grant of clemency must be in writing and has no force or effect if the governor or
6.24 a board majority duly convened opposes the clemency. Every conditional grant of clemency
6.25 must state the terms and conditions upon which it was granted, and every commutation
6.26 must specify the terms of the commuted sentence.

6.27 (c) A granted pardon sets aside the conviction and purges the conviction from an
6.28 individual's criminal record. The individual is not required to disclose the conviction at any
6.29 time or place other than:

- 6.30 (1) in a judicial proceeding; or

7.1 (2) during the licensing process for peace officers.

7.2 Subd. 2. **Pardon eligibility; waiver.** (a) An individual convicted of a crime in a court
7.3 of this state may apply for a pardon of the individual's conviction on or after five years from
7.4 the sentence's expiration or discharge date.

7.5 (b) An individual may request the board to waive the waiting period if there is a showing
7.6 of unusual circumstances and special need.

7.7 (c) The commission must review a waiver request and recommend to the board whether
7.8 to grant the request. When considering a waiver request, the commission is exempt from
7.9 the meeting requirements under section 638.14 and chapter 13D.

7.10 (d) The board must grant a waiver request unless the governor or a board majority
7.11 opposes the waiver.

7.12 Subd. 3. **Commutation eligibility.** (a) An individual may apply for a commutation of
7.13 an unexpired criminal sentence imposed by a court of this state, including an individual
7.14 confined in a correctional facility or on probation, parole, supervised release, or conditional
7.15 release. An application for commutation may not be filed until the date that the individual
7.16 has served at least one-half of the sentence imposed or on or after five years from the
7.17 conviction date, whichever is earlier.

7.18 (b) An individual may request the board to waive the waiting period if there is a showing
7.19 of unusual circumstances and special need.

7.20 (c) The commission must review a waiver request and recommend to the board whether
7.21 to grant the request. When considering a waiver request, the commission is exempt from
7.22 the meeting requirements under section 638.14 and chapter 13D.

7.23 (d) The board must grant a waiver request unless the governor or a board majority
7.24 opposes the waiver.

7.25 Sec. 9. **[638.13] ACCESS TO RECORDS; ISSUING SUBPOENA.**

7.26 Subdivision 1. **Access to records.** (a) Notwithstanding chapter 13 or any other law to
7.27 the contrary, upon receiving a clemency application, the board or commission may request
7.28 and obtain any relevant reports, data, and other information from state courts, law
7.29 enforcement agencies, or state agencies. The board and the commission must have access
7.30 to all relevant sealed or otherwise inaccessible court records, presentence investigation
7.31 reports, police reports, criminal history reports, prison records, and any other relevant
7.32 information.

8.1 (b) State courts, law enforcement agencies, the sentencing judge or successor, the
8.2 prosecuting attorney or successor, and state agencies must promptly respond to record
8.3 requests from the board or the commission.

8.4 Subd. 2. **Issuing subpoena.** The board and the commission may issue a subpoena
8.5 requiring the presence of any person before the commission or board and the production of
8.6 papers, records, and exhibits in any pending matter. When a person is summoned before
8.7 the commission or the board, the person may be allowed compensation for travel and
8.8 attendance as the commission or the board considers reasonable.

8.9 **Sec. 10. [638.14] COMMISSION MEETINGS.**

8.10 Subdivision 1. **Frequency; when open to public.** (a) The commission must meet at
8.11 least four times each year for one or more days at each meeting to hear eligible clemency
8.12 applications and recommend appropriate action to the board on each application. One or
8.13 more of the meetings may be held at a department-operated correctional facility.

8.14 (b) All commission meetings are open to the public as provided under chapter 13D, but
8.15 the commission may hold closed meetings as provided under chapter 13D or as necessary
8.16 to protect sensitive or confidential information, including (1) a victim's identity, and (2)
8.17 sensitive or confidential victim testimony.

8.18 (c) When possible, the commission must record its meetings by audio or audiovisual
8.19 means.

8.20 (d) The governor, attorney general, and chief justice, or their designees, may attend
8.21 commission meetings as ex officio nonvoting members, but their attendance does not affect
8.22 whether the commission has a quorum.

8.23 Subd. 2. **Meeting conduct.** (a) An applicant for clemency must appear before the
8.24 commission either in person or through available forms of telecommunication.

8.25 (b) The victim of an applicant's crime may appear and speak at the meeting or submit a
8.26 written statement to the commission. The commission may treat a victim's written statement
8.27 as confidential and not disclose the statement to the applicant or the public if there is or has
8.28 been an order for protection, restraining order, or other no-contact order prohibiting the
8.29 applicant from contacting the victim.

8.30 (c) A law enforcement agency's representative may provide the agency's position on
8.31 whether the commission should recommend clemency by:

8.32 (1) appearing and speaking at the meeting; or

9.1 (2) submitting a written statement to the commission.

9.2 (d) The sentencing judge and the prosecuting attorney, or their successors, may provide
9.3 their positions on whether the commission should recommend clemency by:

9.4 (1) appearing and speaking at the meeting; or

9.5 (2) submitting their statements under section 638.11, subdivision 2.

9.6 Sec. 11. [638.15] COMMISSION RECOMMENDATION.

9.7 Subdivision 1. Grounds for recommending clemency. (a) When recommending whether
9.8 to grant clemency, the commission must consider any factors that the commission deems
9.9 appropriate, including but not limited to:

9.10 (1) the nature, seriousness, and circumstances of the applicant's crime; the applicant's
9.11 age at the time of the crime; and the time that has elapsed between the crime and the
9.12 application;

9.13 (2) the successful completion or revocation of previous probation, parole, supervised
9.14 release, or conditional release;

9.15 (3) the number, nature, and circumstances of the applicant's other criminal convictions;

9.16 (4) the extent to which the applicant has demonstrated rehabilitation through
9.17 postconviction conduct, character, and reputation;

9.18 (5) the extent to which the applicant has accepted responsibility, demonstrated remorse,
9.19 and made restitution to victims;

9.20 (6) whether the sentence is clearly excessive in light of the applicant's crime and criminal
9.21 history and any sentence received by an accomplice and with due regard given to:

9.22 (i) any plea agreement;

9.23 (ii) the sentencing judge's views; and

9.24 (iii) the sentencing ranges established by law;

9.25 (7) whether the applicant's age or medical status indicates that it is in the best interest
9.26 of society that the applicant receive clemency;

9.27 (8) the applicant's asserted need for clemency, including family needs and barriers to
9.28 housing or employment created by the conviction;

9.29 (9) for an applicant under the department's custody, the adequacy of the applicant's
9.30 reentry plan;

10.1 (10) the amount of time already served by the applicant and the availability of other
10.2 forms of judicial or administrative relief;

10.3 (11) the extent to which there is credible evidence indicating that the applicant is or may
10.4 be innocent of the crime for which they were convicted; and

10.5 (12) if provided by the applicant, the applicant's demographic data, including race,
10.6 ethnicity, gender, disability status, and age.

10.7 (b) Unless an applicant knowingly omitted past criminal convictions on the application,
10.8 the commission or the board must not prejudice an applicant for failing to identify past
10.9 criminal convictions.

10.10 Subd. 2. **Recommending denial of commutation without hearing.** (a) At a meeting
10.11 under section 638.14, the commission may recommend denying a commutation application
10.12 without a board hearing if:

10.13 (1) the applicant is challenging the conviction or sentence through court proceedings;

10.14 (2) the applicant has failed to exhaust all available state court remedies for challenging
10.15 the sentence; or

10.16 (3) the commission determines that the matter should first be considered by the parole
10.17 authority.

10.18 (b) A commission recommendation to deny an application under paragraph (a) must be
10.19 sent to the board along with the application.

10.20 Subd. 3. **Considering public statements.** When making its recommendation on an
10.21 application, the commission must consider any statement provided by a victim, sentencing
10.22 judge or successor, prosecuting attorney or successor, or law enforcement agency.

10.23 Subd. 4. **Commission recommendation; notifying applicant.** (a) Before the board's
10.24 next meeting at which the clemency application may be considered, the commission must
10.25 send to the board:

10.26 (1) the application;

10.27 (2) the commission's recommendation;

10.28 (3) any recording of the commission's meeting related to the application; and

10.29 (4) all statements from victims, the sentencing judge or successor, the prosecuting
10.30 attorney or successor, and law enforcement agencies.

11.1 (b) No later than 14 calendar days after its dated recommendation, the commission must
11.2 notify the applicant in writing of its recommendation.

11.3 **Sec. 12. [638.16] BOARD MEETINGS.**

11.4 Subdivision 1. **Frequency; when open to public.** (a) The board must meet at least two
11.5 times each year to consider clemency applications that have received favorable
11.6 recommendations under section 638.09, subdivision 1, paragraph (a), clauses (2) and (3),
11.7 from the commission and any other applications for which at least one board member seeks
11.8 consideration. Any board member may request a hearing on any application.

11.9 (b) All board meetings are open to the public as provided under chapter 13D, but the
11.10 board may hold closed meetings as provided under chapter 13D or as necessary to protect
11.11 sensitive or confidential information, including (1) a victim's identity, and (2) sensitive or
11.12 confidential victim testimony.

11.13 (c) Unless excused by the board, the executive director and the commission's chair or
11.14 vice-chair must attend all board meetings.

11.15 Subd. 2. **Considering statements.** (a) Applicants, victims, the sentencing judge or
11.16 successor, the prosecuting attorney or successor, and law enforcement agencies may not
11.17 submit oral or written statements at a board meeting unless:

11.18 (1) a board member requests a hearing on an application; or

11.19 (2) the commission has recommended a hearing on an application.

11.20 (b) The board must consider any statements provided to the commission when
11.21 determining whether to consider a clemency application.

11.22 **Sec. 13. [638.17] BOARD DECISION; NOTIFYING APPLICANT.**

11.23 Subdivision 1. **Board decision.** (a) At each meeting, the board must render a decision
11.24 on each clemency application considered at the meeting or continue the matter to a future
11.25 board meeting. If the board continues consideration of an application, the board must notify
11.26 the applicant in writing and explain why the matter was continued.

11.27 (b) If the commission recommends denying an application and no board member seeks
11.28 consideration of the recommendation, it is presumed that the board concurs with the adverse
11.29 recommendation and that the application has been considered and denied on the merits.

12.1 Subd. 2. **Notifying applicant.** The commission must notify the applicant in writing of
12.2 the board's decision to grant or deny clemency no later than 14 calendar days from the date
12.3 of the board's decision.

12.4 **Sec. 14. [638.18] FILING COPY OF CLEMENCY; COURT ACTION.**

12.5 Subdivision 1. **Filing with district court.** After granting clemency, the board must file
12.6 a copy of the pardon, commutation, or reprieve with the district court of the county in which
12.7 the conviction and sentence were imposed.

12.8 Subd. 2. **Court action; pardon.** For a pardon, the court must:

12.9 (1) order the conviction set aside;

12.10 (2) include a copy of the pardon in the court file; and

12.11 (3) send a copy of the order and the pardon to the Bureau of Criminal Apprehension.

12.12 Subd. 3. **Court action; commutation.** For a commutation, the court must:

12.13 (1) amend the sentence to reflect the specific relief granted by the board;

12.14 (2) include a copy of the commutation in the court file; and

12.15 (3) send a copy of the amended sentencing order and commutation to the commissioner
12.16 of corrections and the Bureau of Criminal Apprehension.

12.17 **Sec. 15. [638.19] REAPPLYING FOR CLEMENCY.**

12.18 Subdivision 1. **Time-barred from reapplying; exception.** (a) After the board has
12.19 considered and denied a clemency application on the merits, an applicant may not file a
12.20 subsequent application for five years after the date of the most recent denial.

12.21 (b) An individual may request permission to reapply before the five-year period expires
12.22 based only on new and substantial information that was not and could not have been
12.23 previously considered by the board or commission.

12.24 (c) If a waiver request contains new and substantial information, the commission must
12.25 review the request and recommend to the board whether to waive the time restriction. When
12.26 considering a waiver request, the commission is exempt from the meeting requirements
12.27 under section 638.14 and chapter 13D.

12.28 (d) The board must grant a waiver request unless the governor or a board majority
12.29 opposes the waiver.

13.1 Subd. 2. **Applying for pardon not precluded.** If an individual is denied or granted a
13.2 commutation, the individual is not precluded from later seeking a pardon of the criminal
13.3 conviction once the eligibility requirements of this chapter have been satisfied.

13.4 Sec. 16. **[638.20] COMMISSION RECORD KEEPING.**

13.5 Subdivision 1. **Record keeping.** The commission must keep a record of every application
13.6 received, its recommendation on each application, and the final disposition of each
13.7 application.

13.8 Subd. 2. **When open to public.** The commission's records and files are open to public
13.9 inspection at all reasonable times, except for:

13.10 (1) sealed court records;

13.11 (2) presentence investigation reports;

13.12 (3) Social Security numbers;

13.13 (4) financial account numbers;

13.14 (5) driver's license information;

13.15 (6) medical records;

13.16 (7) confidential Bureau of Criminal Apprehension records;

13.17 (8) the identities of victims who wish to remain anonymous and confidential victim
13.18 statements; and

13.19 (9) any other confidential data on individuals, private data on individuals, not public
13.20 data, or nonpublic data under chapter 13.

13.21 Sec. 17. **[638.21] LANGUAGE ACCESS AND VICTIM SUPPORT.**

13.22 Subdivision 1. **Language access.** The commission and the board must take reasonable
13.23 steps to provide meaningful language access to applicants and victims. Applicants and
13.24 victims must have language access to information, documents, and services under this
13.25 chapter, with each communicated in a language or manner that the applicant or victim can
13.26 understand.

13.27 Subd. 2. **Interpreters.** (a) Applicants and victims are entitled to interpreters as necessary
13.28 to fulfill the purposes of this chapter, including oral or written communication. Sections
13.29 546.42 to 546.44 apply, to the extent consistent with this section.

14.1 (b) The commission or the board may not discriminate against an applicant or victim
14.2 who requests or receives interpretation services.

14.3 Subd. 3. **Victim services.** The commission and the board must provide or contract for
14.4 victim support services as necessary to support victims under this chapter.

14.5 Sec. 18. **[638.22] LEGISLATIVE REPORT.**

14.6 Beginning February 15, 2025, and every February 15 thereafter, the commission must
14.7 submit a written report to the chairs and ranking minority members of the house of
14.8 representatives and senate committees with jurisdiction over public safety, corrections, and
14.9 judiciary that contains at least the following information:

14.10 (1) the number of clemency applications received by the commission during the preceding
14.11 calendar year;

14.12 (2) the number of favorable and adverse recommendations made by the commission for
14.13 each type of clemency;

14.14 (3) the number of applications granted and denied by the board for each type of clemency;

14.15 (4) the crimes for which the applications were granted by the board, the year of each
14.16 conviction, and the individual's age at the time of the crime; and

14.17 (5) aggregate demographic data voluntarily reported by applicants, including race,
14.18 ethnicity, gender, disability status, and age, of applicants recommended or not recommended
14.19 for clemency by the commission.

14.20 Sec. 19. **[638.23] RULEMAKING.**

14.21 (a) The board and commission may jointly adopt rules, including amending Minnesota
14.22 Rules, chapter 6600, to:

14.23 (1) enforce their powers and duties under this chapter and ensure the efficient processing
14.24 of applications; and

14.25 (2) allow for expedited review of applications if there is unanimous support from the
14.26 sentencing judge or successor, the prosecuting attorney or successor, and any victims of the
14.27 crime.

14.28 (b) The time limit to adopt rules under section 14.125 does not apply.

15.1 Sec. 20. **TRANSITION PERIOD.**

15.2 (a) Beginning August 1, 2023, through March 1, 2024, the Department of Corrections
15.3 must provide the Clemency Review Commission with administrative assistance, technical
15.4 assistance, office space, and other assistance necessary for the commission to carry out its
15.5 duties under sections 4 to 21.

15.6 (b) Beginning July 1, 2024, the Clemency Review Commission must begin reviewing
15.7 applications for pardons, commutations, and reprieves. Applications received after the
15.8 effective date of this section but before July 1, 2024, must be considered according to
15.9 Minnesota Statutes 2022, sections 638.02, subdivisions 2 to 5, and 638.03 to 638.08.

15.10 (c) A pardon, commutation, or reprieve that is granted during the transition period has
15.11 no force or effect if the governor or a board majority duly convened opposes the clemency.

15.12 (d) By July 1, 2024, the Clemency Review Commission must develop application forms
15.13 in consultation with the Board of Pardons.

15.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.

15.15 Sec. 21. **APPROPRIATION.**

15.16 (a) \$..... in fiscal year 2024 and \$..... in fiscal year 2025 are appropriated from the
15.17 general fund to the Clemency Review Commission for its establishment and operation. \$.....
15.18 is the base for fiscal year 2026 and thereafter.

15.19 (b) \$..... in fiscal year 2024 and \$..... in fiscal year 2025 are appropriated from the
15.20 general fund to the Office of Justice Programs to administer grants for outreach and
15.21 engagement on the clemency process and to help prepare applicants for hearings before the
15.22 Clemency Review Commission and the Board of Pardons.

15.23 **EFFECTIVE DATE.** This section is effective July 1, 2023.

15.24 Sec. 22. **REPEALER.**

15.25 Minnesota Statutes 2022, sections 638.02; 638.03; 638.04; 638.05; 638.06; 638.07;
15.26 638.075; and 638.08, are repealed.

15.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.

15.28 Sec. 23. **EFFECTIVE DATE.**

15.29 Sections 1, 2, and 6 to 19 are effective July 1, 2024.

638.02 PARDONS.

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

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

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

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

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

The application for a pardon extraordinary, the proceedings to review an application, and the notice requirements are governed by the statutes and the rules of the board in respect to other proceedings before the board. The application shall contain any further information that the board may require.

Subd. 3. **Pardon extraordinary; filing; copies sent.** Upon granting a pardon extraordinary the Board of Pardons shall file a copy of it with the district court of the county in which the conviction occurred, and the court shall order the conviction set aside and include a copy of the pardon in the court file. The court shall send a copy of its order and the pardon to the Bureau of Criminal Apprehension.

Subd. 4. **Grandfather provision.** Any person granted a pardon extraordinary by the Board of Pardons prior to April 12, 1974 may apply to the district court of the county in which the conviction occurred for an order setting aside the conviction as set forth in subdivision 3.

Subd. 5. **Records.** The term "records" shall include but is not limited to all matters, files, documents and papers incident to the arrest, indictment, information, trial, appeal, dismissal and discharge, which relate to the conviction for which the pardon extraordinary has been granted.

638.03 WARRANT; RETURN.

The Board of Pardons may issue its warrant, under its seal, to any proper officers to carry into effect any pardon, commutation, or reprieve. As soon as may be after the execution of the warrant, the officer to whom it is directed shall make return thereof, under hand, with the doings thereon, to the governor. Such officer shall also file with the court administrator in which the offender was convicted an attested copy of the warrant and return, a brief abstract of which such court administrator shall subjoin to the record of the conviction.

638.04 MEETINGS.

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

The victim of an applicant's crime has a right to submit an oral or written statement at the meeting. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the application for a pardon or commutation should be granted or denied. In addition, any law enforcement agency may submit an oral or written statement at the meeting, giving its recommendation on whether the application should be granted

or denied. The board must consider the victim's and the law enforcement agency's statement when making its decision on the application.

638.05 APPLICATION FOR PARDON.

Every application for relief by the Pardon Board shall be in writing, addressed to the Board of Pardons, signed under oath by the convict or someone in the convict's behalf, shall state concisely the grounds upon which the relief is sought, and in addition shall contain the following facts:

- (1) the name under which the convict was indicted, and every alias by which the convict is or was known;
- (2) the date and terms of sentence, and the names of the offense for which it was imposed;
- (3) the name of the trial judge and the county attorney who participated in the trial of the convict, together with that of the county of trial;
- (4) a succinct statement of the evidence adduced at the trial, with the endorsement of the judge or county attorney who tried the case that the statement is substantially correct. If this statement and endorsement are not furnished, the reason for failing to furnish them shall be stated;
- (5) the age, birthplace, and occupation and residence of the convict during five years immediately preceding conviction;
- (6) a statement of other arrests, indictments, and convictions, if any, of the convict.

Every application for relief by the pardon board shall contain a statement by the applicant consenting to the disclosure to the board of any private data concerning the applicant contained in the application or in any other record relating to the grounds on which the relief is sought. In addition, if the applicant resided in another state after the sentence was discharged, the application for relief by the pardon board shall contain a statement by the applicant consenting to the disclosure to the board of any data concerning the applicant that was collected or maintained by the foreign state relating to the grounds on which the relief is sought, including disclosure of criminal arrest and conviction records.

638.06 ACTION ON APPLICATION.

Every application for relief by the Pardon Board shall be filed with the secretary of the Board of Pardons not less than 60 days before the meeting of the board at which consideration of the application is desired. If an application for a pardon or commutation has been once heard and denied on the merits, no subsequent application shall be filed without the consent of two members of the board endorsed on the application. Immediately on receipt of any application, the secretary to the board shall mail notice of the application, and of the time and place of hearing on it, to the judge of the court where the applicant was tried and sentenced, and to the prosecuting attorney who prosecuted the applicant, or a successor in office. Additionally, the secretary shall publish notice of an application for a pardon extraordinary in the local newspaper of the county where the crime occurred. The secretary shall also make all reasonable efforts to locate any victim of the applicant's crime. The secretary shall mail notice of the application and the time and place of the hearing to any victim who is located. This notice shall specifically inform the victim of the victim's right to be present at the hearing and to submit an oral or written statement to the board as provided in section 638.04.

638.07 RECORDS; SECRETARY.

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

638.075 ANNUAL REPORTS TO LEGISLATURE.

By February 15 of each year, the Board of Pardons shall file a written report with the legislature containing the following information:

APPENDIX
Repealed Minnesota Statutes: H2788-2

(1) the number of applications received by the board during the preceding calendar year for pardons, pardons extraordinary, and commutations of sentence;

(2) the number of applications granted by the board for each category; and

(3) the crimes for which the applications were granted by the board, the year of each conviction, and the age of the offender at the time of the offense.

638.08 ISSUANCE OF PROCESS; WITNESSES; STANDING APPROPRIATION.

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