



Ohio Revised Code

Section 2967.12 Notice of pendency of pardon, commutation, or parole sent to prosecutor and court.

Effective: March 22, 2013

Legislation: Senate Bill 160 - 129th General Assembly

(A) Except as provided in division (G) of this section, at least sixty days before the adult parole authority recommends any pardon or commutation of sentence, or grants any parole, the authority shall provide a notice of the pendency of the pardon, commutation, or parole, setting forth the name of the person on whose behalf it is made, the offense of which the person was convicted or to which the person pleaded guilty, the time of conviction or the guilty plea, and the term of the person's sentence, to the prosecuting attorney and the judge of the court of common pleas of the county in which the indictment against the person was found. If there is more than one judge of that court of common pleas, the authority shall provide the notice to the presiding judge. Upon the request of the prosecuting attorney or of any law enforcement agency, the authority shall provide to the requesting prosecuting attorney and law enforcement agencies an institutional summary report that covers the subject person's participation while confined in a state correctional institution in training, work, and other rehabilitative activities and any disciplinary action taken against the person while so confined. The department of rehabilitation and correction may utilize electronic means to provide this notice. The department of rehabilitation and correction, at the same time that it provides the notice to the prosecuting attorney and judge under this division, also shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the offender's name and all of the information specified in division (A)(1)(c)(iii) of that section.

(B) If a request for notification has been made pursuant to section 2930.16 of the Revised Code or if division (H) of this section applies, the office of victim services or the adult parole authority also shall provide notice to the victim or the victim's representative at least sixty days prior to recommending any pardon or commutation of sentence for, or granting any parole to, the person. The notice shall include the information required by division (A) of this section and may be provided by telephone or through electronic means. The notice also shall inform the victim or the victim's representative that the victim or representative may send a written statement relative to the victimization and the pending action to the adult parole authority and that, if the authority receives any written statement prior to recommending a pardon or commutation or granting a parole for a



person, the authority will consider the statement before it recommends a pardon or commutation or grants a parole. If the person is being considered for parole, the notice shall inform the victim or the victim's representative that a full board hearing of the parole board may be held and that the victim or victim's representative may contact the office of victims' services for further information. If the person being considered for parole was convicted of or pleaded guilty to a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment, the notice shall inform the victim of that offense, the victim's representative, or a member of the victim's immediate family that the victim, the victim's representative, and the victim's immediate family have the right to give testimony at a full board hearing of the parole board and that the victim or victim's representative may contact the office of victims' services for further information.

(C) When notice of the pendency of any pardon, commutation of sentence, or parole has been provided to a judge or prosecutor or posted on the database as required in division (A) of this section and a hearing on the pardon, commutation, or parole is continued to a date certain, the authority shall provide notice of the further consideration of the pardon, commutation, or parole at least sixty days before the further consideration. The notice of the further consideration shall be provided to the proper judge and prosecuting attorney at least sixty days before the further consideration, and may be provided using electronic means, and, if the initial notice was posted on the database as provided in division (A) of this section, the notice of the further consideration shall be posted on the database at least sixty days before the further consideration. If the prosecuting attorney or a law enforcement agency was provided a copy of the institutional summary report relative to the subject person under division (A) of this section, the authority shall include with the notice of the further consideration sent to the prosecuting attorney any new information with respect to the person that relates to activities and actions of the person that are of a type covered by the report and shall send to the law enforcement agency a report that provides notice of the further consideration and includes any such new information with respect to the person. When notice of the pendency of any pardon, commutation, or parole has been given as provided in division (B) of this section and the hearing on it is continued to a date certain, the authority shall give notice of the further consideration to the victim or the victim's representative in accordance with section 2930.03 of the Revised Code.

(D) In case of an application for the pardon or commutation of sentence of a person sentenced to capital punishment, the governor may modify the requirements of notification and publication if



there is not sufficient time for compliance with the requirements before the date fixed for the execution of sentence.

(E) If an offender is serving a prison term imposed under division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code and if the parole board terminates its control over the offender's service of that term pursuant to section 2971.04 of the Revised Code, the parole board immediately shall provide written notice of its termination of control or the transfer of control to the entities and persons specified in section 2971.04 of the Revised Code.

(F) The failure of the adult parole authority to comply with the notice or posting provisions of division (A), (B), or (C) of this section or the failure of the parole board to comply with the notice provisions of division (E) of this section do not give any rights or any grounds for appeal or post-conviction relief to the person serving the sentence.

(G) Divisions (A), (B), and (C) of this section do not apply to any release of a person that is of the type described in division (B)(2)(b) of section 5120.031 of the Revised Code.

(H) If a defendant is incarcerated for the commission of aggravated murder, murder, or an offense of violence that is a felony of the first, second, or third degree or is under a sentence of life imprisonment, except as otherwise provided in this division, the notice described in division (B) of this section shall be given to the victim or victim's representative regardless of whether the victim or victim's representative has made a request for notification. The notice described in division (B) of this section shall not be given under this division to a victim or victim's representative if the victim or victim's representative has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the victim or the victim's representative not be provided the notice. The notice described in division (B) of this section does not have to be given under this division to a victim or victim's representative if notice was given to the victim or victim's representative with respect to at least two prior considerations of pardon, commutation, or parole of a person and the victim or victim's representative did not provide any written statement relative to the victimization and the pending action, did not attend any hearing conducted relative to the pending action, and did not otherwise respond to the office with respect to the pending action. Regardless of whether the victim or victim's representative has requested that the notice described in division (B) of this section be



provided or not be provided, the office of victim services or adult parole authority shall give similar notice to the law enforcement agency that arrested the defendant if any officer of that agency was a victim of the offense and to any member of the victim's immediate family who requests notification. If notice is to be given under this division, the office or authority may give the notice by any reasonable means, including regular mail, telephone, and electronic mail, in accordance with division (D)(1) of section 2930.16 of the Revised Code. If the notice is based on an offense committed prior to the effective date of this amendment, the notice to the victim or victim's representative also shall include the opt-out information described in division (D)(1) of section 2930.16 of the Revised Code. The office or authority, in accordance with division (D)(2) of section 2930.16 of the Revised Code, shall keep a record of all attempts to provide the notice, and of all notices provided, under this division.

Division (H) of this section, and the notice-related provisions of divisions (E)(2) and (K) of section 2929.20, division (D)(1) of section 2930.16, division (E)(1)(b) of section 2967.19, division (A)(3)(b) of section 2967.26, division (D)(1) of section 2967.28, and division (A)(2) of section 5149.101 of the Revised Code enacted in the act in which division (H) of this section was enacted, shall be known as "Roberta's Law."

(I) In addition to and independent of the right of a victim to make a statement as described in division (A) of this section or pursuant to section 2930.17 of the Revised Code or to otherwise make a statement, the authority for a judge or prosecuting attorney to furnish statements and information, make recommendations, and give testimony as described in division (A) of this section, the right of a prosecuting attorney, judge, or victim to give testimony or submit a statement at a full parole board hearing pursuant to section 5149.101 of the Revised Code, and any other right or duty of a person to present information or make a statement, any person may send to the adult parole authority at any time prior to the authority's recommending a pardon or commutation or granting a parole for the offender a written statement relative to the offense and the pending action.

(J) As used in this section, "victim's immediate family" means the mother, father, spouse, sibling, or child of the victim, provided that in no case does "victim's immediate family" include the offender with respect to whom the notice in question applies.