

## SENATE BILL No. 335

By Committee on Ways and Means

2-19

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AN ACT concerning criminal procedure; relating to parole and the Kansas parole board; amending K.S.A. 2000 Supp. 22-3707, 22-3709 and 22-3713 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2000 Supp. 22-3707 is hereby amended to read as follows: 22-3707. (a) ~~On and after July 1, 1997, (1) Except as otherwise provided by this section, the Kansas parole board shall consist of four~~ *three* members appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto.

(2) Except as provided by K.S.A. 46-2601, and amendments thereto, no person shall exercise any power, duty or function as a member of the board until confirmed by the senate.

(3) *As determined by the governor, no successor shall be appointed as provided in this section for any member the office of one of the members of the Kansas parole board whose term expires on June 30, 1997. On and after July 1, 1997, term expires on January 15, 2001.*

(4) No appointment shall be made that would result in more than two members of the board being members of the same political party. Except as provided by subsection (b), the term of office of the members of the board shall be four years and until their successors are appointed and confirmed. If a vacancy occurs in the membership of the board before the expiration of the term of office, a successor shall be appointed for the remainder of the unexpired term in the same manner that original appointments are made.

(5) *On and after the effective date of this act, as the terms of office of members of the Kansas parole board expire or vacancies occur in the membership of the board, the governor shall appoint successors so that all members have a baccalaureate or higher degree from an accredited college or university.*

(6) Each member of the board shall devote the member's full time to the duties of membership on the board.

(b) The terms of members who are serving on the board on the effective date of this act shall expire on January 15, of the year in which such member's term would have expired under the provisions of this

1 section prior to amendment by this act. Thereafter, members shall be  
2 appointed for terms of four years and until their successors are appointed  
3 and confirmed. *Each such term of office shall be deemed to commence on*  
4 *January 15 of the year in which the member is appointed.*

5 (c) The governor may not remove any member of the Kansas parole  
6 board except for disability, inefficiency, neglect of duty or malfeasance in  
7 office. Before removal, the governor shall give the member a written copy  
8 of the charges against the member and shall fix the time when the mem-  
9 ber can be heard at a public hearing, which shall not be less than 10 days  
10 thereafter. Upon removal, the governor shall file in the office of the sec-  
11 retary of state a complete statement of all charges made against the mem-  
12 ber and the findings thereupon, with a complete record of the  
13 proceedings.

14 (d) *Upon the application by the chairperson of the parole board, the*  
15 *governor may appoint a qualified person as a member pro tem of the*  
16 *Kansas parole board to act in the place of a member of the Kansas parole*  
17 *board with respect to specified matters and proceedings before the parole*  
18 *board for good cause shown or in any case of a conflict of interest or of*  
19 *the absence, sickness or disability of such member of the parole board.*  
20 *The application for appointment of a member pro tem under this subsec-*  
21 *tion may be made by the vice-chairperson of the parole board in case of*  
22 *the absence, sickness or disability of the chairperson of the parole board.*  
23 *Each person appointed to serve as a member pro tem of the Kansas parole*  
24 *board shall be a person who is qualified to fill the position of the member*  
25 *of the parole board for whom such person is being appointed if such*  
26 *position is vacant. Upon taking the oath of office, any such member pro*  
27 *tem of the parole board shall have the full power and authority of a*  
28 *member of the parole board with respect to those matters and proceedings*  
29 *before such member pro tem. The appointment of a member pro tem of*  
30 *the Kansas parole board shall be temporary and shall be effective only for*  
31 *the matters and proceedings specified by the governor in making such*  
32 *appointment. The appointment of a member pro tem of the Kansas parole*  
33 *board shall not be subject to confirmation by the senate. Each member*  
34 *pro tem shall be in the unclassified service under the Kansas civil service*  
35 *act, shall receive per diem compensation in an amount prescribed by the*  
36 *governor, subject to the budget limitations of the Kansas parole board,*  
37 *and shall receive subsistence allowances, mileage and other expenses as*  
38 *provided in K.S.A. 75-3223 and amendments thereto.*

39 Sec. 2. K.S.A. 2000 Supp. 22-3709 is hereby amended to read as  
40 follows: 22-3709. (a)(1) The chairperson and vice-chairperson of the Kan-  
41 sas parole board shall be designated by the governor. The chairperson of  
42 the board shall have the authority to organize and administer the activities  
43 of the board.

1       (2) *On and after July 1, 2001, the chairperson of the board may des-*  
2 *ignate panels, consisting of ~~three~~ two members of the board, which shall*  
3 *have the full authority and power of the board to order the denial, grant*  
4 *or revocation of an inmate's parole or conditional release, or for crimes*  
5 *committed on or after July 1, 1993, grant parole for off-grid crimes or*  
6 *revocation of postrelease supervision or to order the revocation of an*  
7 *inmate's conditional release, upon hearing by one ~~or more members~~*  
8 *member of the panel.*

9       (b) Any decision of the Kansas parole board granting original parole  
10 to an inmate sentenced for a class A or class B felony or for off-grid crimes  
11 committed on or after July 1, 1993, shall be by ~~unanimous vote of all~~  
12 ~~members of the three member panel acting on such parole except that,~~  
13 ~~if two members of such panel vote to parole the inmate, the full mem-~~  
14 ~~bership of the board shall review the decision of the panel and may parole~~  
15 ~~such inmate upon the vote of three members of the board~~ *action of the*  
16 *Kansas parole board upon a majority vote of all members of the board*  
17 *acting on such parole or in the case of a panel as provided in subsection*  
18 *(a)(2) upon an affirmative vote of both members of the panel.*

19       Sec. 3. K.S.A. 2000 Supp. 22-3713 is hereby amended to read as  
20 follows: 22-3713. (a) The Kansas parole board may authorize one or  
21 more of its members to conduct hearings on behalf of the parole board.

22       (b)(1) *For any hearing or hearings which the Kansas parole board is*  
23 *required or authorized to conduct under K.S.A. 22-3717 through 22-3727*  
24 *and amendments thereto, the parole board may refer such hearing or*  
25 *hearings to an employee of the department of corrections, subject to ap-*  
26 *proval by the secretary of corrections, who shall be designated by the*  
27 *chairperson of the parole board in accordance with procedures prescribed*  
28 *by rules and regulations adopted by the parole board, to conduct such*  
29 *hearing or hearings without the presence of the parole board or any mem-*  
30 *ber thereof. Each such hearing shall be conducted by the hearing officer*  
31 *in accordance with procedures prescribed by rules and regulations*  
32 *adopted by the parole board. After each such hearing, the hearing officer*  
33 *shall prepare a written report setting forth information about the offender*  
34 *who is the subject of the hearing and shall make a recommendation to the*  
35 *parole board.*

36       (2) *After each such hearing, a parole board panel established under*  
37 *K.S.A. 22-3709 and amendments thereto shall review the information and*  
38 *recommendation provided by the hearing officer. The panel shall affirm,*  
39 *modify or reject the recommendation. If the recommendation is affirmed,*  
40 *then that recommendation shall constitute an order of the parole board*  
41 *and no further action shall be required by the parole board. If the rec-*  
42 *ommendation is rejected, then a parole board panel established under*  
43 *K.S.A. 22-3709 and amendments thereto shall conduct a new hearing. If*

1 *the recommendation is modified, then a parole board panel established*  
2 *under K.S.A. 22-3709 and amendments thereto shall determine whether*  
3 *the modification is of a substantive nature requiring a new hearing. If it*  
4 *is determined that the modification of the recommendation is of a sub-*  
5 *stantive nature requiring a new hearing on the matter, then a parole board*  
6 *panel established under K.S.A. 22-3709 and amendments thereto shall*  
7 *conduct the new hearing. If it is determined that the modification of the*  
8 *recommendation is not of a substantive nature, then that recommendation*  
9 *as modified by the parole board panel shall constitute an order of the*  
10 *parole board and no further action shall be required by the parole board.*

11 (3) *As used in this section and in K.S.A. 22-3717 and amendments*  
12 *thereto, "hearing officer" means any hearing officer of the department of*  
13 *corrections or any other qualified employee of the department of correc-*  
14 *tions designated by the Kansas parole board for the purposes acting as a*  
15 *hearing officer for the Kansas parole board for purposes of conducting*  
16 *hearings under K.S.A. 22-3717 through 22-3727 and amendments thereto.*

17 (c) *The secretary of corrections shall provide the Kansas parole board*  
18 *with necessary personnel and accounting services.*

19 Sec. 4. *K.S.A. 2000 Supp. 22-3707, 22-3709 and 22-3713 are hereby*  
20 *repealed.*

21 Sec. 5. *This act shall take effect and be in force from and after its*  
22 *publication in the statute book.*

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