



**TEXAS BOARD
OF
PARDONS AND PAROLES**

Number: BPP-DIR. 143.350

Date: February 6, 2020

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Supersedes: December 20, 2018

BOARD DIRECTIVE

SUBJECT: REPRIEVES – FAMILY AND EMERGENCY MEDICAL

PURPOSE: To provide guidance for Board Members and staff of the Texas Board of Pardons and Paroles to process a reprieve application where the offender’s family member or the offender has six months or less to live.

AUTHORITY: Texas Constitution Article 4, Section 11
Texas Code of Criminal Procedure Article 48.01
Texas Government Code Sections 508.035(d), 508.084, and 508.115
Texas Administrative Code Title 37, Part 5, Chapter 143, Sections 143.31, 143.32, and 143.34

DISCUSSION: The Texas Constitution authorizes the Governor to grant clemency upon the recommendation and advice of a majority of the Texas Board of Pardons and Paroles (Board). A family member who is critically ill or an offender who is terminally ill or totally disabled may request clemency from the Governor.

If the Governor grants the offender a reprieve for a family emergency, the reprieve is for a period specified by the Governor. The offender will be released from custody in order to visit the critically ill family member and must return to custody at the designated date, time, and location.

If the Governor grants the offender a reprieve for a medical emergency, the reprieve is indefinite. The offender will be released from custody to the care of family or to a medical facility that can provide specific care not available within the Texas Department of Criminal Justice Correctional Institutions Division (TDCJ CID) system.

DEFINITIONS: Critically Ill – A medical condition in which death is possible or imminent.

Offender – an offender incarcerated in the TDCJ CID other than an offender serving a sentence of death or life without parole.

Terminally Ill – A medical condition that is incurable and will inevitably result in death within six months regardless of life sustaining treatment.

Totally Disabled – A severe, chronic disability that is likely to continue indefinitely and results in substantial functional limitations.

PROCEDURE:

The Board's Clemency Section (BCS) receives applications for Reprieve for Family Emergency (FMR) or Emergency Medical Reprieve (EMR).

- I. Application – Upon receipt of an application from an offender, offender's attorney, or a person acting on an offender's behalf, the BCS staff will create a clemency file.
 - A. For an EMR, the BCS staff will immediately contact the unit attending physician to verify the health status of the offender. For an offender who is requesting a reprieve due to a terminal illness, the BCS staff will request that the unit attending physician or designated unit medical staff notify the BCS if the offender's health status changes.
 - B. For a FMR, the BCS staff will immediately contact the family member who submitted the application to verify the health status of the terminally ill family member. The BCS staff will request that the contact person notify the BCS if the ill family member's health status changes.
 - C. If an attorney is representing the offender or the offender's family, a fee affidavit and registration form must be submitted with the application.
 - D. Monitoring Health Status – The BCS staff will continually monitor the offender's or family member's health status throughout this process to ensure that the Board Members and the Governor are notified when the offender or family member is deceased.
 - E. Notices – The BCS staff will send letters to the trial officials and victims notifying them that the offender submitted an application requesting a reprieve and soliciting their input.
- II. Notebooks – Upon receipt of all the appropriate documents, the BCS staff will prepare a clemency notebook for each Board Member and deliver them by overnight courier.
 - A. For an EMR, the notebook must contain a medical summary from the TDCJ CID unit attending physician.
 - B. For a FMR, the notebook must contain the Physician's Medical Summary indicating a "life expectancy" of six months or less to live in the "Prognosis" header.

- III. Board Members' Vote – The Board Members shall vote the case the same day the notebook is received. The Board Members shall sign and date the voting sheet and submit their votes by facsimile or hand delivery to the BCS. If a Board Member is on leave and out of the country, the Board Member shall not be required to vote.
- A. Upon a majority vote to recommend a reprieve, the BCS staff shall prepare the Governor's notebook with the Board's recommendation. Prior to delivering the notebook to the Governor, the BCS staff will verify the health status of the offender or family member depending on the type of reprieve requested. The BCS staff will notify all trial officials as required by Texas Government Code Section 508.115 as well as the applicant and TDCJ Victim Services, if appropriate. The notice shall be delivered by email or other electronic communication.
- B. If the offender or family member passes away before the vote, if the Board votes not to recommend clemency, or if the Governor denies clemency, the BCS staff shall notify the applicant, if appropriate, trial officials who submitted a response to the notice, and TDCJ Victim Services, if appropriate.
- IV. Each Board Member shall return their clemency notebook to the BCS after they are notified of the Board's final decision.

SIGNED THIS, THE 6TH DAY OF FEBRUARY, 2020.

DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)

**Signature on file.*