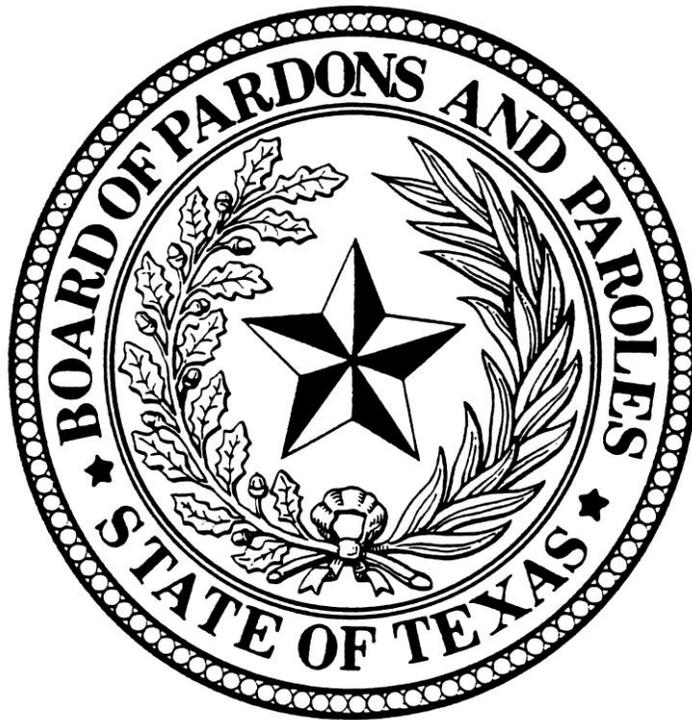


# TEXAS BOARD OF PARDONS AND PAROLES

## MINUTES

*Board Meeting No. 23-0427*



**April 27, 2023**

**Austin, Texas**



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# TEXAS BOARD OF PARDONS AND PAROLES

## Board Meeting

Thursday, April 27, 2023

Holiday Inn-Austin Midtown  
(Hill Country AB)  
6000 Middle Fiskville Road  
Austin, Texas

8:00 AM

## Order of Business

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1. Call to Order
2. Convene Texas Board of Pardons and Paroles Open Meeting
3. Recognitions
4. Consent Item – Minutes for the January 19, 2023, Board Meeting
5. Chairman’s Report – David Gutiérrez, Chairman
6. Discussion and Consideration of General Victim Assistance Grant Program Resolution – Kyle Britt, Budget Director
7. Discussion and Consideration of Domestic Violence and Human Trafficking Restorative Program Grant Resolution – Kyle Britt, Budget Director
8. Discussion and Consideration of Board Policy, BPP-POL. 146.251 Special Condition “SAFP” (Substance Abuse Felony Program)
9. Discussion and Consideration of Board Policy, BPP-POL. 145.258 Special Condition “R” (Restitution)
10. Discussion and Consideration of Board Policy, BPP-POL. 145.261 Special Condition “T” (Electronic Monitoring)
11. Discussion and Consideration of Board Policy, BPP-POL. 145.267 Special Condition “ISF” (Intermediate Sanction Facility)
12. Discussion and Consideration of Board Policy, BPP-POL. 141.203 Use of Technology
13. Discussion and Consideration of Board Policy, BPP-POL. 141.202 Public Comments and Public Presentations
14. Discussion and Consideration of Board Policy, BPP-POL. 143.200 Clemency
15. Discussion and Consideration of Board Policy, BPP-POL. 145.202 Discretionary Mandatory Supervision
16. Discussion and Consideration of Board Policy, BPP-POL. 145.203 Eligibility for Release; Consecutive (Cumulative) Felony Sentences
17. Discussion and Consideration of Board Policy, BPP-POL. 145.208 Initial Review
18. Final Readoption with Substantive Amendments in 37 TAC, Chapter 145, Subchapter A
  - A. §145.3 Policy Statements Relating to the Parole Release Decisions by the Board of Pardons and Paroles
  - B. §145.12 Action upon Review
  - C. §145.15 Action upon Review; Extraordinary Vote (SB 45)

- D. §145.18 Action upon Review; Extraordinary Vote (HB 1914)
- 19. Final Readoption without Amendments in 37 TAC, Chapter 145, Subchapter A, §145.19 Action upon Review; Early Release on Parole
- 20. Final Readoption without Amendments in 37 TAC, Chapter 145, Subchapter B
  - A. §145.21 Parole in Absentia (Parole Review and Mandatory Supervision for Offenders Not in Actual Physical Custody of the TDCJ CID)
  - B. §145.22 Conditions and Rules of Parole
  - C. §145.23 Texas Offenders Supervised in Other States
  - D. §145.24 Out-of-State Offenders Supervised in Texas
- 21. Final Repeal in 37 TAC, Chapter 145, Subchapter B, §145.27 Personal Identification Program
- 22. Final Readoption without Amendments in 37 TAC, Chapter 149, Subchapter A
  - A. §149.1 Conditions and Rules of Mandatory Supervision
  - B. §149.3 Texas Mandatory Supervision Offenders Supervised in Other States
- 23. Final Readoption without Amendments in 37 TAC, Chapter 149, Subchapter B, §149.16 Mandatory Release Certificate
- 24. Convene Texas Board of Pardons and Paroles Closed Meeting – Executive Session
  - A. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda (Closed in accordance with Section 551.071, Government Code).
  - B. Consultation with Legal Counsel on Matters Where the Texas Board of Pardons and Paroles Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).
- 25. Reconvene Texas Board of Pardons and Paroles Open Meeting
- 26. Adjourn



**MINUTES OF THE  
TEXAS BOARD OF PARDONS AND PAROLES  
BOARD MEETING  
THURSDAY, APRIL 27, 2023**

**REGULAR SESSION**

The Texas Board of Pardons and Paroles (Board) met in open session on Thursday, April 27, 2023 at 8:00 a.m., Holiday Inn Austin Midtown, 6000 Middle Fiskville Road, Austin, Texas.

**BOARD MEMBERS PRESENT**

David Gutiérrez  
Elodia Brito  
Carmella Jones  
Brian Long  
Marsha Moberley  
Linda Molina  
Ed Robertson

**PAROLE COMMISSIONERS PRESENT**

Michael Adams  
Richard Aiello  
Jacqueline Bishop  
Edward Davila  
Lee Ann Eck-Massingill  
Ira Evans  
Mary Farley  
Sandra Fletcher  
Troy Fox  
Raymond Gonzalez  
James Paul Kiel  
Jeffrey Marton  
Anthony Ramirez  
Alfredo Salcido

Roel Tejada

**BOARD STAFF PRESENT**

Bettie Wells, General Counsel  
Timothy McDonnell, Chief of Staff  
Jessica Dillard, Board Administrator  
Rachel Alderete, Director, Support Operations  
Kyle Britt, Budget Director  
Eugene Stroud, Deputy Director, Financial Operations  
Heather Penick, Manager, Financial Operations  
Wadella Murphy, Director, Hearing Operations  
Clinton Gunnels, Director, Institutional Parole Operations  
Erica Montalvan, Deputy Director, Institutional Parole Operations  
Jessica Guerrero, Manager of Administration  
Libby Hamilton, Manager, Victim Liaison  
Kimberly Harris, Manager, Staff Development  
Heather Parsley, Parole Officer, Staff Development  
Pamela Pacher, Program Specialist  
Terence Hall, Systems Analyst  
Estela DeHoyos, Program Supervisor  
Matthew Schlosser, Multimedia Technician  
Oliver Cui, Executive Assistant  
Alyssa McMahon, Administrative Assistant, Staff Development

**TDCJ STAFF PRESENT**

Chris Cirrito, Director, Internal Audit  
Amanda Lowe, Regional Supervisor, Parole Division  
Matt Jug, OIG

**OTHERS PRESENT**

Mark Morales, Attorney at Law

**CONVENED – TEXAS BOARD OF PARDONS AND PAROLES**

Presiding Officer (Chairman) David Gutiérrez convened the meeting of April 27, 2023 at 8:00 a.m. in accordance with Chapter 551, Texas Government Code, Open Meetings Act. After roll call, the Chairman stated a quorum was present and declared the meeting open.

**RECOGNITIONS**

Chairman Gutiérrez recognized the Board Members, Parole Commissioners and guests present.

***BOARD RETIREES (ATTACHMENT A)***

Chairman Gutiérrez recognized the employees that retired and stated the names of the retirees will be included as part of the official minutes of the meeting.

***NAMES OF SERVICE AWARD RECIPIENTS (ATTACHMENT B)***

Chairman Gutiérrez recognized the Board employees who have dedicated 10, 18, 20, and 21 years of service to the state of Texas. He expressed his deepest appreciation for their dedicated service. He stated the names of the service award recipients will be included as part of the official minutes of the meeting.

Chairman Gutiérrez recognized Ira Evans, Parole Commissioner for 20 years of state service. He highlighted his career and thanked him for his years of service.

Chairman Gutiérrez announced the agency departure of Barry Bertocki, Clemency Director and stated he will be missed.

**CONSENT ITEMS**

Chairman Gutiérrez stated the Board had an opportunity to review the Consent Item listed on the agenda prior to the meeting and asked if there were any objections. Hearing no objections, the Board approved the minutes for the January 19, 2023 Board Meeting.

**CHAIRMAN’S REPORT**

Chairman Gutiérrez presented agenda item #5, reporting on several activities of the Board, including:

- **Gubernatorial Appointments** – The Chairman acknowledged and congratulated Board Members Brian Long, Elodia Brito and Marsha Moberley for their recent senate confirmations.
- **88 Legislative Session** – Staff is working tirelessly to address bills that affect the agency. The Chairman stated he is optimistic about the outcomes. The focus is promoting action items that are in the best interest of advancing the organizations’ mission to build positive results for the agency.
- **Audit Update** – The electronic monitoring audit conducted by the State Auditor’s Office was completed. The Chairman expressed his appreciation to the Board Members, Commissioners, and staff for their cooperation with the audit and stated their contributions, commitment, transparency, and accountability were instrumental in the audit’s success.
- **Agency’s Mission Statement** – To better reflect the agency’s values and direction, the Chairman stated he asked the Chief of Staff to bring a new mission statement for the Board’s review.
- **Staff Development** – Staff continue to be sent to relevant conferences and trainings. Additionally, the planning committee is underway and developing the 2023 Hearing and Institutional Parole Summit (HIPS) Conference, scheduled for August in San Antonio, Texas.

The Chairman thanked staff for their service, expertise, dedication, and contributions to the Board, noting everyone’s hard work has been instrumental to the agency’s success.

**DISCUSSION AND CONSIDERATION OF GENERAL VICTIM ASSISTANCE GRANT PROGRAM RESOLUTION (ATTACHMENT C)**

Chairman Gutiérrez introduced Kyle Britt, Budget Director to present agenda item #6 General Assistance Grant Resolution.

Mr. Britt discussed the General Victim Assistance Grant Resolution, stating grant funds support the Victim Liaison activities. He requested approval of the resolution to apply for grant funding.

***Motion***

***Mr. Long moved to adopt the General Victim Assistance Grant Resolution, BPP-RES. 23-04.01, as presented.***

***Ms. Jones seconded the motion, which prevailed when called for a voice vote.***

**DISCUSSION AND CONSIDERATION OF DOMESTIC VIOLENCE AND HUMAN TRAFFICKING RESTORATIVE PROGRAM GRANT RESOLUTION (ATTACHMENT D)**

Chairman Gutiérrez introduced Kyle Britt, to present agenda item #7 Domestic Violence and Human Trafficking Restorative Program Grant Resolution.

Mr. Britt discussed the Domestic Violence and Human Trafficking Restorative Program Grant Resolution. The grant, through the General Counsel’s Office, supports victims via this effort. He requested approval of the resolution to apply for grant funding.

***Motion***

***Ms. Jones moved to adopt the Domestic Violence and Human Trafficking Restorative Program Grant Resolution-RES. 23-04.02, as presented.***

***Mr. Long seconded the motion, which prevailed when called for a voice vote.***

**BOARD POLICIES (ATTACHMENT E)**

Chairman Gutiérrez yielded the floor to Ed Robertson, Board Member and Chair of the Special Conditions Workgroup to present agenda items #8 - #11 and Bettie Wells, General Counsel to present agenda items #12 - #17 for discussion and consideration.

**DISCUSSION AND CONSIDERATION OF BOARD POLICY BPP-POL. 146.251 SPECIAL CONDITION “SAFP” (SUBSTANCE ABUSE FELONY PROGRAM)**

Mr. Robertson stated Board Policy 146.251 was reviewed by the Special Condition Workgroup, and in reviewing the policy, the Workgroup determined that non-substantive protocol revisions were appropriate. He recommended the Board approve the revisions to Special Condition “SAFP.”

***Motion***

***Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 146.251 Special Condition “SAFP” (Substance Abuse Felony Program), as presented.***

***Ms. Brito seconded the motion, which prevailed when called for a voice vote.***

**DISCUSSION AND CONSIDERATION OF BOARD POLICY BPP-POL. 145.258 SPECIAL CONDITION “R” (RESTITUTION)**

The recommended amendments to Board Policy 145.258 include non-substantive protocol revisions.

***Motion***

***Ms. Moberley moved to adopt the revisions to Board Policy, BPP-POL. 145.258 Special Condition “R” (Restitution), as presented.***

***Ms. Brito seconded the motion, which prevailed when called for a voice vote.***

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL.145.261 SPECIAL CONDITION “T” (ELECTRONIC MONITORING)**

The recommended amendments to Board Policy 145.261 include non-substantive protocol revisions.

***Motion***

***Ms. Brito moved to adopt the revisions to Board Policy, BPP-POL.145.261 Special Condition “T” (Electronic Monitoring), as presented.***

***Ms. Moberley seconded the motion, which prevailed when called for a voice vote.***

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.267 SPECIAL CONDITION “ISF” (INTERMEDIATE SANCTION FACILITY)**

The recommended amendments to Board Policy 145.267 include non-substantive protocol revisions.

***Motion***

***Ms. Molina moved to adopt the revisions to Board Policy, BPP-POL. 145.267 Special Condition “ISF” (Intermediate Sanction Facility), as presented.***

***Mr. Long seconded the motion, which prevailed when called for a voice vote.***

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 141.203 USE OF TECHNOLOGY**

Ms. Wells presented Board Policy 141.203, stating the policy includes non-substantive protocol and sentence structure revisions.

***Motion***

***Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 141.203 Use of Technology, as presented.***

***Mr. Robertson seconded the motion, which prevailed when called for a voice vote.***

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 141.202 PUBLIC COMMENTS AND PUBLIC PRESENTATIONS**

The recommended amendments to Board Policy 141.202, include non-substantive protocol and sentence structure revisions.

***Motion***

***Ms. Brito moved to adopt the revisions to Board Policy, BPP-POL. 141.202 Public Comments and Public Presentations, as presented.***

***Ms. Moberley seconded the motion, which prevailed when called for a voice vote.***

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 143.200 CLEMENCY**

Ms. Wells stated Board Policy 143.200 was being presented with no recommended revisions. She recommended the Board readopt the policy without revisions.

***Motion***

***Ms. Molina moved to adopt Board Policy, BPP-POL. 143.200 Clemency, as presented.***

***Mr. Long seconded the motion, which prevailed when called for a voice vote.***

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.202 DISCRETIONARY MANDATORY SUPERVISION**

The recommended amendments to Board Policy 145.202 include non-substantive protocol and sentence structure revisions.

***Motion***

***Ms. Moberley moved to adopt the revisions to Board Policy, BPP-POL. 145.202 Discretionary Mandatory Supervision, as presented.***

***Ms. Brito seconded the motion, which prevailed when called for a voice vote.***

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.203 ELIGIBILITY FOR RELEASE; CONSECUTIVE (CUMULATIVE) FELONY SENTENCES**

The recommended amendments to Board Policy 145.203 include non-substantive protocol revisions.

***Motion***

***Ms. Jones moved to adopt the revisions to Board Policy, BPP-POL. 145.203 Eligibility for Release; Consecutive (Cumulative) Felony Sentences, as presented.***

***Ms. Molina seconded the motion, which prevailed when called for a voice vote.***

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.208 INITIAL REVIEW**

The recommended amendments to Board Policy 145.208 include non-substantive protocol revisions.

***Motion***

*Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 145.208 Initial Review, as presented.*

*Ms. Jones seconded the motion, which prevailed when called for a voice vote.*

**BOARD RULES (ATTACHMENT F)**

Chairman Gutiérrez yielded the floor to Linda Molina, Chair of the Rules Committee to present the rules listed in agenda items #18 - #25.

**FINAL READOPTION WITH SUBSTANTIVE AMENDMENTS IN 37 TAC, CHAPTER 145, SUBCHAPTER A**

Ms. Molina presented the rules in agenda item #18, stating the Board previously approved the initial readoption of the rules and it has been more than 30 days since they were posted to the Texas Register. The General Counsel reports that no comments were received. Therefore, the Rules Committee is recommending final readoption with substantive amendments to the rules listed in agenda item #18.

***Motion***

*Ms. Moberley moved for the Final Readoption with Amendments of Chapter 145 Parole, Subchapter A Parole Process, §145.3 Policy Statements Relating to the Parole Release Decisions by the Board of Pardons and Paroles.*

*Mr. Long seconded the motion, which prevailed when called for a voice vote.*

***Motion***

*Ms. Moberley moved for the Final Readoption with Amendments of Chapter 145 Parole, Subchapter A Parole Process, §145.12 Action upon Review.*

*Ms. Brito seconded the motion, which prevailed when called for a voice vote.*

***Motion***

*Ms. Moberley moved for the Final Readoption with Amendments of Chapter 145 Parole, Subchapter A Parole Process, §145.15 Action upon Review; Extraordinary Vote (SB 45).*

*Mr. Long seconded the motion, which prevailed when called for a voice vote.*

***Motion***

*Ms. Moberley moved for the Final Readoption with Amendments of Chapter 145 Parole, Subchapter A Parole Process, §145.18 Action upon Review; Extraordinary Vote (HB 1914).*

*Mr. Long seconded the motion, which prevailed when called for a voice vote.*

**FINAL READOPTION WITHOUT AMENDMENTS IN 37 TAC, CHAPTER 145, SUBCHAPTER A, §145.19 ACTION UPON REVIEW; EARLY RELEASE ON PAROLE**

Ms. Molina presented the rule in agenda item #19, stating the Board previously approved the initial readoption without amendments to the rule. The Rules Committee is recommending final readoption without amendments to the rule listed in agenda item #19.

*Motion*

*Ms. Moberley moved for the Final Readoption without Amendments of Chapter 145 Parole, Subchapter A Parole Process, §145.19 Action upon Review; Early Release on Parole.*

*Ms. Brito seconded the motion, which prevailed when called for a voice vote.*

**FINAL READOPTION WITHOUT AMENDMENTS IN 37 TAC, CHAPTER 145, SUBCHAPTER B**

Ms. Molina presented the rules in agenda item #20, stating the Board previously approved the initial readoption without amendments to the rules. The rules Committee is recommending final readoption without amendments to the rules listed in agenda item #20.

*Motion*

*Ms. Moberley moved for the Final Readoption without Amendments of Chapter 145 Parole, Subchapter B Terms and Conditions of Parole, §145.21 Parole in Absentia (Parole Review and Mandatory Supervision for Offenders Not in Actual Custody of the TDCJ CID); §145.22 Conditions and Rules of Parole; §145.23 Texas Offenders Supervised in Other States; and §145.24 Out-of-State Offenders Supervised in Texas.*

*Mr. Long seconded the motion, which prevailed when called for a voice vote.*

**FINAL REPEAL IN 37 TAC, CHAPTER 145, SUBCHAPTER B, §145.27 PERSONAL IDENTIFICATION PROGRAM**

Ms. Molina presented the rule in agenda item #21, stating the Board previously approved the initial repeal of the rule and it has been more than 30 days since it was posted to the Texas Register. The General Counsel reports no comments were received. The rules Committee is recommending final repeal of the rule listed in agenda item #21.

*Motion*

*Ms. Moberley moved for moved for the Final Repeal of Chapter 145 General Provisions, Subchapter B Terms and Conditions of Parole, §145.27 Personal Identification Program, as presented.*

*Ms. Jones seconded the motion, which prevailed when called for a voice vote.*

**FINAL READOPTION WITHOUT AMENDMENTS IN 37 TAC, CHAPTER 149, SUBCHAPTER A**

Ms. Molina stated the Board previously approved the initial readoption of rules listed in agenda item #22. The Rules Committee is recommending final readoption without amendments to the rules listed in agenda item #22.

***Motion***

***Ms. Moberley moved for the Final Readoption without Amendments of Chapter 149 Mandatory Supervision, Subchapter A Rules and Conditions of Mandatory Supervision, §149.1 Conditions and Rules of Mandatory Supervision, §149.3 Texas Mandatory Supervision Offenders Supervised in Other States.***

***Ms. Brito seconded the motion, which prevailed when called for a voice vote.***

**FINAL READOPTION WITHOUT AMENDMENTS IN 37 TAC, CHAPTER 149, SUBCHAPTER B, §149.16 MANDATORY RELEASE CERTIFICATE**

Ms. Molina stated the Rules Committee previously approved initial readoption of the rule listed in agenda item #23. The Rules Committee recommends final readoption without amendments to the rule listed in agenda item #23.

***Motion***

***Ms. Moberley moved for the Final Readoption without Amendments of Chapter 149 Mandatory Supervision, Subchapter B Selection for Mandatory Supervision, §149.16 Mandatory Release Certificate, as presented.***

***Mr. Long seconded the motion, which prevailed when called for a voice vote.***

**EXECUTIVE SESSION**

Chairman Gutiérrez recessed the Regular Session at 8:44 a.m. and convened the Board into Executive Session (closed under Section 551.071, Government Code).

**RECONVENE TEXAS BOARD OF PARDONS AND PAROLES**

Chairman Gutiérrez convened the Board back into Regular Session at 9:47 a.m. and proceeded with the order of business.

**ADJOURNMENT**

Having completed all posted items on the agenda, Chairman Gutiérrez adjourned the Board Meeting at 9:47 a.m.

**ADOPTED BY UNANIMOUS CONSENT OF THE BOARD ON THE 27<sup>th</sup> DAY OF JULY 2023.**

  
**DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)**