

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on the 21st day of January, 2020, and filed with the agency secretary on the 21st day of January, 2020.

AGENCY NAME: Alabama Bureau of Pardons and Paroles

Amendment New Repeal (Mark appropriate space)

Rule No. Chapter 640-X-4
(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

Rule Title: Notification

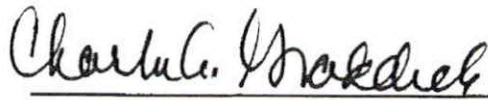
ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

Adopted with written or oral comments

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XXXVIII,
ISSUE NO. 2, AAM, DATED November 29, 2019.

Statutory Rulemaking Authority: Code of Ala. 1975 §§ 15-22-21, 37, 41-22-3

(Date Filed)
(For LRS Use Only)



Certifying Officer or his or her
Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.

**ALABAMA BUREAU OF PARDONS AND PAROLES
ADMINISTRATIVE CODE**

**CHAPTER 640-X-4
NOTIFICATION**

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640-X-4-.01 Notification of Board Hearings.

(1) Notification of all Board hearings to determine whether a convicted offender may be granted pardon, with or without restoration of civil and political rights, parole, and/or remission of fines or forfeitures, shall be provided as required by law.

(2) A “victim case” for purposed of notification shall be considered any of the following offenses for which any offender was convicted and which involved an actual victim or multiple actual victims:

(a) Class A felony pursuant to Alabama Code Section 13A-5-3 or any offense that would be considered a Class A felony under prior Alabama law or the laws of any other state, the District of Columbia, the United States, or any territories of the United States if such offense was committed and prosecuted to convictions;

(b) Any felonies involving death, deadly physical force, the use of a deadly weapon, physical injury, or serious physical injury to the person of another as defined by Alabama Code Section 13A-1-2;

(c) Any sex offense as defined by the Alabama Sex Offender Registration and Community Notification Act, specifically Alabama Code Section 15-20A-5, as amended; and

(d) Any violent offenses as defined by Alabama Code Section 12-25-32(15).

(3) Where required by law, the agency shall exercise due diligence to locate victim(s) and/or immediate family of a victim who is deceased as a result of the criminal offense. “Immediate family” shall be defined as follows:

(a) If the victim is a minor at the time of death, his/her custodial parent(s) or legal guardian and any siblings are his/her immediate family.

(b) If the victim is married at the time of death, the surviving spouse is his/her immediate family, to the exclusion of his/her parents and any siblings. If minor children of the victim survive the victim, they are his/her immediate family.

(c) If the victim is a single adult at the time of his/her death, and is survived by his/her parents, the parents are his/her immediate family; if no parents, his/her siblings are the immediate family. If minor children of the victim survive the victim, they are his/her immediate family.

(d) If none of the above are applicable, any relative of the victim will be considered the victim's immediate family.

(4) If the agency is required to locate a victim who is a minor, unless some other person or entity (including a State or public agency), is the legal guardian, the custodial parent(s) or legal guardian(s) of the minor will be located and provided with notice. If, however, the victim was a minor at the time of the offense but has reached the age of majority, the victim will be located and provided with notice.

Authors: Meridith H. Barnes, Laura B. Mest, Greg Locklier.

Statutory Authority: Code of Ala. 1975, §§ 15-22-21, 36, 37.

History: Filed April 9, 2002; effective May 14, 2002; **Repealed and New**

Rule: Filed January 21, 2020; **Effective:** March 16, 2020.

640-X-4-.02 Due Diligence Certification.

(1) When required by statute, the agency will exercise due diligence to locate a victim or a victim's immediate family member(s) in an effort to provide them with notification of hearing(s) to which they are entitled to receive notice.

(2) If the victim or the immediate family of a victim is unable to be located or is located but refuses to provide contact information, a Certificate of Due Diligence shall be completed by an agency employee certifying by their signature that the victim or the immediate family of a victim cannot be located and detailing the steps taken by them to locate the victim or the immediate family. Once a Certificate of Due Diligence has been completed and signed, the Board shall not be limited in power or authority in any way to approve or order any parole, pardon, restoration or civil and political rights, or remission of fine or forfeiture.

(3) In the event statutorily required records or information cannot be obtained and provided to the Board because of loss, destruction, or for any other permanently unattainable cause outside of the agency's control, a Certificate of Due Diligence shall be completed by the agency employee detailing the steps taken to retrieve such records and information.

Authors: Meridith H. Barnes, Laura B. Mest, Greg Locklier.

Statutory Authority: Code of Ala. 1975, §§ 15-22-21, 36, 37.

History: New Rule: Filed January 21, 2020; **Effective:** March 16, 2020.