

HOUSE BILL REPORT

HB 1068

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to clemency and pardons.

Brief Description: Providing for more participation by victims, prosecutors, and law enforcement in the clemency and pardons process.

Sponsors: Representatives Ballasiotes, O'Brien, Lambert, Mitchell, Kessler, Esser and Lovick.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/26/99, 2/17/99 [DPS].

Brief Summary of Substitute Bill

- Requires a hearing before recommendations are made to the Governor on clemency and pardon petitions.
- Requires that notice of the hearing be provided to the prosecuting attorney of the county where the prosecution was obtained, and that reasonable efforts be made to notify victims, survivors of victims, and witnesses.
- Requires the board to consider statements received from the individuals who receive notice of the hearing.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Jean Ann Quinn (786-7310).

Background:

Clemency and Pardons Board: The Clemency and Pardons Board receives petitions from individuals, organizations, and the Department of Corrections for the review and reduction of sentences and pardoning of offenders in extraordinary cases, and makes recommendations on these petitions to the Governor. The board also makes recommendations to the Governor on certain petitions received from individuals or organizations for the restoration of civil rights lost as a result of convictions for federal offenses or out-of-state felonies.

Indeterminate Sentence Review Board: When requested by the Governor, the Indeterminate Sentence Review Board is required to pass on representations made in support of applications for pardons and for the restoration of civil rights of convicted persons, and make recommendations to the Governor regarding these applications. The board can request the assistance of the Department of Corrections in performing this duty.

Victims' Rights: A reasonable effort is required to be made to ensure that victims of crimes and survivors of victims are given certain rights with respect to proceedings involving the crime, such as the right to be informed, upon request, of the date, time, and place of trial and of the sentencing hearing, the right to submit a victim impact statement to the court, and the right to present a statement at sentencing hearings.

Summary of Substitute Bill:

Clemency and Pardons Board/Indeterminate Sentence Review Board: The Clemency and Pardons Board may not recommend that the Governor grant clemency until a public hearing is held on the petition. Similarly, the Indeterminate Sentence Review Board cannot make any recommendations to the Governor in support of an application for pardon until a public hearing has been held, either by them or by the Clemency and Pardons Board. With respect to a hearing by either board, the prosecuting attorney of the county where the conviction was obtained must be notified 30 days prior to the scheduled hearing, and must be provided with a copy of the petition. But the board can waive the 30-day notice requirement when necessary to permit timely action on the petition. The prosecuting attorney must make reasonable efforts to notify victims, survivors of victims, witnesses, and the law enforcement agencies that conducted the investigation of the date and place of the hearing. Information on victims, survivors, and witnesses receiving this notice is confidential and not available to the offender. The board must consider written or oral statements they receive, personally or by representation, from the individuals who receive notice under this provision. No private right or benefit enforceable at law is created.

Victims' Rights: A reasonable effort is required to be made to ensure that victims and survivors of victims have the right to present a statement at any hearing regarding an application for pardon or commutation of sentence.

Substitute Bill Compared to Original Bill:

The substitute bill provides that a hearing is not required when the Clemency and Pardons Board makes recommendations regarding petitions for the restoration of civil rights. Similarly, a separate hearing does not have to be held before the Indeterminate Sentence Review Board makes a recommendation on the same petition or application that has been heard by the Clemency and Pardons Board. Thirty days notice of the hearing and a copy of the petition must be provided to the prosecuting attorney of the county where the conviction was obtained, and it is the prosecuting attorney, instead of the board, who is then responsible for making reasonable efforts to notify victims, survivors of victims, witnesses, and law enforcement agencies that conducted the original investigation. Other law enforcement agencies are not required to be notified. The board is given authority to waive the 30-day notice if necessary for timeliness purposes. It is clarified that a private cause of action is not being created.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Original bill) This bill is necessary to ensure that victims are able to participate in the clemency process. On one occasion, the victim and local agencies learned about the process and the hearing by reading about it in the newspaper on the day of the hearing. If the board is going to make recommendations to the Governor on clemency, it should be after full elucidation of the facts and the victims should be heard on the issue. The bill will not delay the board's ability to restore voting rights and does not, in any way, bind the Governor's clemency authority.

Testimony Against: None.

Testified: (In support) Tom McBride, Washington Association of Prosecuting Attorneys.