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**SENATE BILL 5039**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senator O'Ban

AN ACT Relating to affirming the authority of the clemency and pardons board to make recommendations to the governor regarding petitions for reprieve to ensure that victims, law enforcement, prisoners, and others are heard; amending RCW 10.01.120; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  Article III, section 9 of the state Constitution provides that the "pardoning power shall be vested in the governor under such regulations and restrictions as may be prescribed by law." Moreover, Article I, section 35 of the state Constitution ensures that the voices of victims and their families are entitled to notice and an opportunity to be heard in the sentencing and clemency processes. The legislature finds that the clemency and pardons board plays an important role in advising the governor in his or her power to issue pardons, commute sentences, and grant reprieves and protecting the rights of victims to be heard during the exercise of that power.

The purposes for the establishment of the clemency and pardons board as provided in section 1, chapter 323, Laws of 1999 are to "assist the governor in gathering the facts necessary to the wise exercise of this [pardoning] power" and "ensure that all victims and survivors of victims of crimes are afforded a meaningful role in the clemency process." Under RCW 9.94A.885, prosecutors are notified thirty days before a hearing and are required to "make reasonable efforts to notify victims, survivors of victims, witnesses, and the law enforcement agency or agencies that conducted the investigation, of the date and place of the hearing." The hearings are also required to be open to the public. The legislature reaffirms the board's indispensable role in ensuring that the pardoning and reprieve power is exercised with deliberation and after victims, law enforcement, and the prisoner have had the opportunity to be heard.

**Sec.**  RCW 10.01.120 and 2010 c 8 s 1003 are each amended to read as follows:

Whenever a prisoner has been sentenced to death, the governor shall have power to commute such sentence to imprisonment for life at hard labor; and in all cases in which the governor is authorized to grant pardons or commute sentence of death, he or she may, upon the petition of the person convicted, commute a sentence or grant a pardon, upon such conditions, and with such restrictions, and under such limitations as he or she may think proper; and he or she may issue his or her warrant to all proper officers to carry into effect such pardon or commutation, which warrant shall be obeyed and executed, instead of the sentence, if any, which was originally given. The governor may also, on good cause shown, grant respites or reprieves from time to time as he or she may think proper. Good cause, for the purposes of this section, means that the governor has undergone an individualized consideration of the facts of a specific conviction after he or she has received a recommendation from the clemency and pardons board as provided in RCW 9.94A.885.

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