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SENATE BILL 5039

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State of Washington

64th Legislature

2015 Regular Session

By Senator O'Ban

Prefiled 01/05/15. Read first time 01/12/15. Referred to Committee on Law & Justice.

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

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

7 NEW SECTION. **Sec. 1.** Article III, section 9 of the state  
8 Constitution provides that the "pardoning power shall be vested in  
9 the governor under such regulations and restrictions as may be  
10 prescribed by law." Moreover, Article I, section 35 of the state  
11 Constitution ensures that the voices of victims and their families  
12 are entitled to notice and an opportunity to be heard in the  
13 sentencing and clemency processes. The legislature finds that the  
14 clemency and pardons board plays an important role in advising the  
15 governor in his or her power to issue pardons, commute sentences, and  
16 grant reprieves and protecting the rights of victims to be heard  
17 during the exercise of that power.

18 The purposes for the establishment of the clemency and pardons  
19 board as provided in section 1, chapter 323, Laws of 1999 are to  
20 "assist the governor in gathering the facts necessary to the wise  
21 exercise of this [pardoning] power" and "ensure that all victims and

1 survivors of victims of crimes are afforded a meaningful role in the  
2 clemency process." Under RCW 9.94A.885, prosecutors are notified  
3 thirty days before a hearing and are required to "make reasonable  
4 efforts to notify victims, survivors of victims, witnesses, and the  
5 law enforcement agency or agencies that conducted the investigation,  
6 of the date and place of the hearing." The hearings are also required  
7 to be open to the public. The legislature reaffirms the board's  
8 indispensable role in ensuring that the pardoning and reprieve power  
9 is exercised with deliberation and after victims, law enforcement,  
10 and the prisoner have had the opportunity to be heard.

11 **Sec. 2.** RCW 10.01.120 and 2010 c 8 s 1003 are each amended to  
12 read as follows:

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

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