

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1068

Chapter 323, Laws of 1999

56th Legislature
1999 Regular Session

CLEMENCY AND PARDONS

EFFECTIVE DATE: 7/25/99

Passed by the House April 19, 1999
Yeas 97 Nays 0

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 7, 1999
Yeas 45 Nays 0

BRAD OWEN
President of the Senate

Approved May 14, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1068** as passed by the House of Representatives and the Senate on the dates hereon set forth.

DEAN R. FOSTER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 14, 1999 - 6:33 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1068

AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Ballasiotes, O'Brien, Lambert, Mitchell, Kessler, Esser and Lovick)

Read first time 02/19/1999.

1 AN ACT Relating to clemency and pardons; amending RCW 7.69.030,
2 9.94A.260, and 9.95.260; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The pardoning power is vested in the
5 governor under such regulations and restrictions as may be prescribed
6 by law. To assist the governor in gathering the facts necessary to the
7 wise exercise of this power, the legislature created the clemency and
8 pardons board.

9 In recognition of the severe and detrimental impact of crime on
10 victims, survivors of victims, and witnesses of crime, an intelligent
11 recommendation on an application for clemency is dependent upon input
12 from the victims and survivors of victims of crimes. It is the intent
13 of the legislature to ensure that all victims and survivors of victims
14 of crimes are afforded a meaningful role in the clemency process.

15 The impact of the crime on the community must also be assessed when
16 passing upon an application for clemency. The prosecuting attorney who
17 obtained the conviction and the law enforcement agency that conducted
18 the investigation are uniquely situated to provide an accurate account
19 of the offense and the impact felt by the community as a result of the

1 offense. It is the intent of the legislature to ensure that the
2 prosecuting attorney who obtained the conviction and the law
3 enforcement agency that conducted the investigation are afforded a
4 meaningful role in the clemency process.

5 **Sec. 2.** RCW 7.69.030 and 1997 c 343 s 1 are each amended to read
6 as follows:

7 There shall be a reasonable effort made to ensure that victims,
8 survivors of victims, and witnesses of crimes have the following
9 rights:

10 (1) With respect to victims of violent or sex crimes, to receive,
11 at the time of reporting the crime to law enforcement officials, a
12 written statement of the rights of crime victims as provided in this
13 chapter. The written statement shall include the name, address, and
14 telephone number of a county or local crime victim/witness program, if
15 such a crime victim/witness program exists in the county;

16 (2) To be informed by local law enforcement agencies or the
17 prosecuting attorney of the final disposition of the case in which the
18 victim, survivor, or witness is involved;

19 (3) To be notified by the party who issued the subpoena that a
20 court proceeding to which they have been subpoenaed will not occur as
21 scheduled, in order to save the person an unnecessary trip to court;

22 (4) To receive protection from harm and threats of harm arising out
23 of cooperation with law enforcement and prosecution efforts, and to be
24 provided with information as to the level of protection available;

25 (5) To be informed of the procedure to be followed to apply for and
26 receive any witness fees to which they are entitled;

27 (6) To be provided, whenever practical, a secure waiting area
28 during court proceedings that does not require them to be in close
29 proximity to defendants and families or friends of defendants;

30 (7) To have any stolen or other personal property expeditiously
31 returned by law enforcement agencies or the superior court when no
32 longer needed as evidence. When feasible, all such property, except
33 weapons, currency, contraband, property subject to evidentiary
34 analysis, and property of which ownership is disputed, shall be
35 photographed and returned to the owner within ten days of being taken;

36 (8) To be provided with appropriate employer intercession services
37 to ensure that employers of victims, survivors of victims, and
38 witnesses of crime will cooperate with the criminal justice process in

1 order to minimize an employee's loss of pay and other benefits
2 resulting from court appearance;

3 (9) To access to immediate medical assistance and not to be
4 detained for an unreasonable length of time by a law enforcement agency
5 before having such assistance administered. However, an employee of
6 the law enforcement agency may, if necessary, accompany the person to
7 a medical facility to question the person about the criminal incident
8 if the questioning does not hinder the administration of medical
9 assistance;

10 (10) With respect to victims of violent and sex crimes, to have a
11 crime victim advocate from a crime victim/witness program present at
12 any prosecutorial or defense interviews with the victim, and at any
13 judicial proceedings related to criminal acts committed against the
14 victim. This subsection applies if practical and if the presence of
15 the crime victim advocate does not cause any unnecessary delay in the
16 investigation or prosecution of the case. The role of the crime victim
17 advocate is to provide emotional support to the crime victim;

18 (11) With respect to victims and survivors of victims, to be
19 physically present in court during trial, or if subpoenaed to testify,
20 to be scheduled as early as practical in the proceedings in order to be
21 physically present during trial after testifying and not to be excluded
22 solely because they have testified;

23 (12) With respect to victims and survivors of victims, to be
24 informed by the prosecuting attorney of the date, time, and place of
25 the trial and of the sentencing hearing for felony convictions upon
26 request by a victim or survivor;

27 (13) To submit a victim impact statement or report to the court,
28 with the assistance of the prosecuting attorney if requested, which
29 shall be included in all presentence reports and permanently included
30 in the files and records accompanying the offender committed to the
31 custody of a state agency or institution;

32 (14) With respect to victims and survivors of victims, to present
33 a statement personally or by representation, at the sentencing hearing
34 for felony convictions; ((and))

35 (15) With respect to victims and survivors of victims, to entry of
36 an order of restitution by the court in all felony cases, even when the
37 offender is sentenced to confinement, unless extraordinary
38 circumstances exist which make restitution inappropriate in the court's
39 judgment; and

1 (16) With respect to victims and survivors of victims, to present
2 a statement in person, via audio or videotape, in writing or by
3 representation at any hearing conducted regarding an application for
4 pardon or commutation of sentence.

5 **Sec. 3.** RCW 9.94A.260 and 1989 c 214 s 2 are each amended to read
6 as follows:

7 (1) The clemency and pardons board shall receive petitions from
8 individuals, organizations, and the department for review and
9 commutation of sentences and pardoning of offenders in extraordinary
10 cases, and shall make recommendations thereon to the governor.

11 (2) The board shall receive petitions from individuals or
12 organizations for the restoration of civil rights lost by operation of
13 state law as a result of convictions for federal offenses or out-of-
14 state felonies. The board may issue certificates of restoration
15 limited to the elective rights to vote and to engage in political
16 office. Any certifications granted by the board must be filed with the
17 secretary of state to be effective. In all other cases, the board
18 shall make recommendations to the governor.

19 (3) The board shall not recommend that the governor grant clemency
20 under subsection (1) of this section until a public hearing has been
21 held on the petition. The prosecuting attorney of the county where the
22 conviction was obtained shall be notified at least thirty days prior to
23 the scheduled hearing that a petition has been filed and the date and
24 place at which the hearing on the petition will be held. The board may
25 waive the thirty-day notice requirement in cases where it determines
26 that waiver is necessary to permit timely action on the petition. A
27 copy of the petition shall be sent to the prosecuting attorney. The
28 prosecuting attorney shall make reasonable efforts to notify victims,
29 survivors of victims, witnesses, and the law enforcement agency or
30 agencies that conducted the investigation, of the date and place of the
31 hearing. Information regarding victims, survivors of victims, or
32 witnesses receiving this notice are confidential and shall not be
33 available to the offender. The board shall consider written, oral,
34 audio, or videotaped statements regarding the petition received,
35 personally or by representation, from the individuals who receive
36 notice pursuant to this section. This subsection is intended solely
37 for the guidance of the board. Nothing in this section is intended or

1 may be relied upon to create a right or benefit, substantive or
2 procedural, enforceable at law by any person.

3 **Sec. 4.** RCW 9.95.260 and 1981 c 136 s 44 are each amended to read
4 as follows:

5 (1) It shall be the duty of the indeterminate sentence review board
6 ((of prison terms and paroles)), when requested by the governor, to
7 pass on the representations made in support of applications for pardons
8 for convicted persons and to make recommendations thereon to the
9 governor.

10 (2) It will be the duty of the secretary of corrections to exercise
11 supervision over such convicted persons as have been conditionally
12 pardoned by the governor, to the end that such persons shall faithfully
13 comply with the conditions of such pardons. The indeterminate sentence
14 review board ((of prison terms and paroles)) shall also pass on any
15 representations made in support of applications for restoration of
16 civil rights of convicted persons, and make recommendations to the
17 governor. The department of corrections shall prepare materials and
18 make investigations requested by the indeterminate sentence review
19 board ((of prison terms and paroles)) in order to assist the board in
20 passing on the representations made in support of applications for
21 pardon or for the restoration of civil rights.

22 (3) The board shall make no recommendations to the governor in
23 support of an application for pardon until a public hearing has been
24 held under this section or RCW 9.94A.260(3) upon the application. The
25 prosecuting attorney of the county where the conviction was obtained
26 shall be notified at least thirty days prior to the scheduled hearing
27 that an application for pardon has been filed and the date and place at
28 which the hearing on the application for pardon will be held. The
29 board may waive the thirty-day notice requirement in cases where it
30 determines that waiver is necessary to permit timely action on the
31 petition. A copy of the application for pardon shall be sent to the
32 prosecuting attorney. The prosecuting attorney shall make reasonable
33 efforts to notify victims, survivors of victims, witnesses, and the law
34 enforcement agency or agencies that conducted the investigation of the
35 date and place of the hearing. Information regarding victims,
36 survivors of victims, or witnesses receiving this notice are
37 confidential and shall not be available to the offender. The board
38 shall consider written, oral, audio, or videotaped statements regarding

1 the application for pardon received, personally or by representation,
2 from the individuals who receive notice pursuant to this section. This
3 subsection is intended solely for the guidance of the board. Nothing
4 in this section is intended or may be relied upon to create a right or
5 benefit, substantive or procedural, enforceable at law by any person.

Passed the House April 19, 1999.

Passed the Senate April 7, 1999.

Approved by the Governor May 14, 1999.

Filed in Office of Secretary of State May 14, 1999.