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## Community Safety, Justice, & Reentry Committee

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### HB 1640

**Brief Description:** Concerning the governor's authority to grant pardons and commutations.

**Sponsors:** Representatives Street, Santos, Mena, Doglio, Senn, Reed, Berry, Farivar, Simmons, Cortes, Ryu, Lekanoff, Ramel, Gregerson, Bateman, Pollet, Morgan, Macri, Fosse and Kloba.

<p><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Modifies certain provisions related to the scope of the Governor's constitutional and statutory authority to grant pardons and commutations.</li></ul>
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**Hearing Date:** 2/6/23

**Staff:** Corey Patton (786-7388).

**Background:**

Article III, section 9 of the Washington Constitution provides the Governor with the authority to grant pardons, subject to such regulations and restrictions as may be prescribed by law. State law contains a number of statutory provisions related to the Governor's authority to grant pardons and commutations including, for example, the following:

- The Governor may pardon any offender serving a sentence in the custody of the Department of Corrections (DOC).
- The Governor, upon recommendation from the Clemency and Pardons Board (CPB), may grant a person serving a sentence in the custody of the DOC an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances.
- The Persistent Offender Accountability Act may not be interpreted or construed as to

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

reduce or eliminate the power of the Governor to grant a pardon or clemency to any offender on an individual case-by-case basis.

- When a prisoner has been sentenced to death, the Governor may commute such sentence to imprisonment for life, and in all cases in which the governor is authorized to grant pardons or commute sentence of death, the Governor may, upon the petition of the person convicted, commute a sentence or grant a pardon upon such conditions, restrictions, and limitations as the Governor may think proper.

The CPB receives petitions for pardons and commutations and makes recommendations on those petitions to the Governor. The CPB receives staff support from the Office of the Attorney General and conducts hearings on a quarterly basis, or as needed, to review petitions. The CPB generally only reviews and hears petitions in cases where judicial remedies have been exhausted. The Governor makes the final decision in all petitions heard by the CPB.

### **Summary of Bill:**

Statutory provisions related to the Governor's authority to grant pardons and commutations are modified as follows:

- The reference to the Clemency and Pardons Board's role in making recommendations to the Governor is eliminated from the provision related to granting extraordinary release to a person serving a sentence in the custody of the Department of Corrections (DOC). Instead, the Governor may grant a person serving a sentence in the custody of the DOC an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances.
- The reference to granting a pardon or clemency on an individual case-by-case basis is eliminated from the provision related to interpreting the Persistent Offender Accountability Act (POAA). Instead, the POAA may not be interpreted or construed as to reduce or eliminate the power of the Governor to grant a pardon or clemency to any offender.
- The provision related to pardons and commutations for death sentences may not be interpreted to limit the Governor's authority to grant a pardon or commutation for a sentence, other than a death sentence, regardless of whether the Governor receives a petition from the person convicted.

**Appropriation:** None.

**Fiscal Note:** Requested on January 31, 2023.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.