

SENATE BILL REPORT

E2SHB 1131

As of March 18, 2025

Title: An act relating to clemency and pardons.

Brief Description: Concerning clemency and pardons.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Goodman, Hackney, Simmons, Wylie, Ormsby and Hill).

Brief History: Passed House: 3/7/25, 52-44.

Committee Activity: Human Services: 3/18/25.

Brief Summary of Bill

- Expands the membership of the Clemency and Pardons Board (Board).
- Increases compensation, and training requirements for members of the Board.
- Authorizes a person granted conditional commutation to be supervised by the Department of Corrections for a period of community custody.

SENATE COMMITTEE ON HUMAN SERVICES

Staff: Will Trondsen (786-7552)

Background: Clemency and Pardons Board. The Washington State Constitution grants the Governor the authority to pardon individuals convicted of a state criminal offense. In 1981, the Legislature established the Clemency and Pardons Board (Board) within the Office of the Governor. The Board consists of five members appointed by the Governor. Each member serves a four-year term or until their successor is appointed, and members do not receive compensation for their time while performing official duties but are reimbursed for travel expenses. The Board receives petitions from individuals, organizations, and the Department of Corrections (DOC) for commutation of sentences and pardons of offenders'

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convictions, and makes recommendations on those petitions to the Governor. This process of reviewing an application for a commutation or pardon is to gather facts necessary to assist the Governor in executing the power to pardon or commute a sentence.

The Board reviews and hears petitions for pardon or commutation only in cases in which judicial remedies for the conviction have been concluded to a final decision. The Board considers all written materials submitted in support or opposition to the petition. According to the policy of the Board, consideration of a commutation or pardon is on the existence or nonexistence of extraordinary circumstances pursuant to statute. The statute does not define extraordinary; petitioners are encouraged to provide examples of factors and circumstances warranting relief, such as:

- the seriousness of the offense;
- the impact on the victims;
- significant and documented need for clemency;
- acceptance of responsibility, remorse, and atonement;
- personal development and positive life changes since the offense occurred;
- the offender's criminal history and other relevant background;
- whether the individual has complied with all obligations imposed by the court;
- the amount of time elapsed since the offense occurred; or
- the risk or benefit to the community.

Notice of a hearing on the petition is provided to the prosecuting attorney of the county where the conviction was obtained at least 30 days prior to the hearing, and the prosecuting attorney in turn notifies the victims and survivors of the victims so they may participate in the hearing. After considering the petition, the Board votes on a recommendation, and the Governor is under no obligation to follow the recommendation. If the Governor grants a pardon, the individual's conviction will be removed from the the petitioner's criminal history. A pardon may be conditional, such as requiring a conviction-free record for a specified period of time. A commutation results in a reduction of criminal penalties and is often conditional.

Initiative 593. Approved by the citizens of Washington State, Initiative 593 contains a section that provides a recommendation that an individual subject to total confinement for life without the possibility of parole not be considered for release until they have reached the age of 60 years-old and are judged to be no longer a threat to society.

Community Custody. A portion of an individual's criminal sentence may be served in the community under the supervision of DOC following, or in lieu of, a term of confinement in a state correctional facility or local jail. A term of community custody is ordered by the court, and varies based on the crime of conviction. An individual on community custody is subject to conditions set by the court, DOC, or in some cases the indeterminate sentencing review board. If a person violates the conditions of community custody, a warrant can be issued, and they may be subject to a sanction.

Summary of Bill: The Clemency and Pardons Board. The Board is expanded from five members to ten members. Members may serve up to two terms, and terms are extended from four years to five years. Appointment of board members must be staggered so as not to include more than three members appointed in any given year. Compensation for members, which may be waived by the member, may not exceed \$100 per day during which the member attends an official meeting of the Board or performs their prescribed duties. Travel expenses incurred in discharge of official duties for lodging, mileage, and subsistence are paid pursuant to state law. Board members must attend training related to the principles of racial equity, racism, and restorative justice at least every two years. The attorney general is required to provide legal counsel to the board.

Members of the board must include:

- person with lived experience in a community of color;
- person with lived experience as an incarcerated individual or who has worked with the formerly incarcerated or successful community reentry;
- representative of a faith-based organization or church with interest or experience in successful community reentry;
- person with experience and interest in tribal affairs; and
- two representatives of crime victims.

Review of Petition. The recommendation is removed from Initiative 593 that an individual subject to total confinement be at least 60 years-old before being considered for release. Each petition for pardon or commutation must be reviewed by a panel of five Board members, randomly drawn by Board staff.

Notification of Petition. The local prosecutor must be notified at least 90 days prior to the scheduled hearing on the filed petition unless the board waives the requirement when waiver is necessary to permit timely action on the petition.

Conditional Commutation. DOC is required to supervise any individual granted conditional commutation if the Governor includes a term of community custody as a condition of commutation. It is recommended that (1) any incarcerated person subject to total confinement not be considered for release until the incarcerated individual has been judged to no longer be a threat to society, (2) incarcerated individuals who have been convicted of a sex offense be held to the upmost scrutiny regardless of age, and (3) release takes the form of a commutation that includes a period of law-abiding behavior in the community. A violation of the community custody condition of a commutation permits the individual to be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

Annual Report. The Board must transmit a report of its work annually to the Governor and the Legislature. Information in the report must include the names of any individuals granted commutation or a pardon from the previous calendar year, the crimes in which those

individuals were convicted, and any known acts of recidivism during the preceding calendar year of individuals listed in any previous report submitted by the Board.

Other. References to offender are changed to individuals throughout the bill.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available. New fiscal note requested on March 11, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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