

SENATE BILL REPORT

SB 5103

As of January 14, 2025

Title: An act relating to petitions to the clemency and pardons board for persons subject to deportation proceedings.

Brief Description: Expediting review of sentences when there exists a pending deportation proceeding.

Sponsors: Senators Hasegawa, Frame, Orwall and Saldaña.

Brief History:

Committee Activity: Human Services: 1/14/25.

Brief Summary of Bill

- Provides an expedited process for petitions for pardons or clemency when the petitioner indicates there is an urgent need for a pardon or commutation including, but not limited to, a pending deportation order or deportation proceeding.
- Clarifies that an applicant is eligible for a pardon, commutation, or restoration of civil rights without regard to the applicant's immigration status.

SENATE COMMITTEE ON HUMAN SERVICES

Staff: Will Trondsen (786-7552)

Background: The Washington State Constitution, Article III, section 9, grants the Governor with 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.

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.

The Board receives petitions from individuals, organizations, and the Department of Corrections for commutation of sentences and pardons of offenders' convictions, and makes recommendations on those petitions to the Governor. This process of reviewing an application for a communication or pardon is to gather facts necessary to assist the Governor in executing the power to pardon or commute a sentence. The Board generally 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.

According to the policy of the Board, consideration of a commutation or pardon is on the existence or non-existence of extraordinary circumstances pursuant to statute. The statute does not define extraordinary, however, 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.

The Board considers all written materials submitted in support or opposition to the petition. Notice is provided to the prosecuting attorney of the county where the conviction was obtained, and the prosecuting attorney in turn notifies the victims and survivors of the victims so they may participate in the hearing. When appropriate, notice of the hearing will be provided to the Indeterminate Sentencing Review Board, Department of Corrections, and the Prosecuting Attorney. Hearings on the petition are open to the public at regularly scheduled quarterly hearings. According to the Board, once a petition has been determined to meet the requirements for a preliminary review by the Board, it is forwarded to a preliminary review committee made up of two or more Board members. If approved, the petition is generally heard in the order it is received. The Chair of the Board may allow expedited review. For example, the Board has expedited a hearing on a petition when the petitioner can show they are facing imminent removal.

Deportation. In 2003, the Homeland Security Act created the Bureau of Immigration and Customs Enforcement, now known as U.S. Immigration and Customs Enforcement, within the federal Department of Homeland Security. Immigration and Customs Enforcement has the authority to deport any noncitizens who participate in certain criminal acts, are a threat to public safety, or violate their visa. The start of a removal proceeding involves the Department of Homeland Security filing a Notice to Appear with an immigration court after it has served the notice on the respondent.

Summary of Bill: If a petitioner indicates in the petition for clemency or pardon there is an urgent need for the pardon or commutation due to a pending deportation order or deportation proceeding, the Board shall consider expedited review of the application.

An applicant is eligible for a pardon, commutation, or restoration of civil rights without regard to the applicant's immigration status.

Appropriation: None.

Fiscal Note: Requested on January 6, 2025.

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

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

Staff Summary of Public Testimony: PRO: This bill has the potential for saving a lot of families and lives. Washington has prided itself on being a welcoming state. Immigration law is such that regardless of immigration status you may be deported for just your criminal history. There are individuals who have paid their debt to society and are unfairly harmed by criminal convictions being a reason for a final order of deportation. Many individuals have to leave behind families and have no legal claims for relief. This is a question of equal justice under the law that our current state law helps enable due to their criminal conviction.

Persons Testifying: PRO: Senator Bob Hasegawa, Prime Sponsor; Stacy Taeuber, Washington Defender Association.

Persons Signed In To Testify But Not Testifying: No one.