

2 **SHB 1068** - S COMM AMD

3 By Committee on Human Services & Corrections

4 ADOPTED 4/7/99

5 Strike everything after the enacting clause and insert the  
6 following:

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

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

18 The impact of the crime on the community must also be assessed when  
19 passing upon an application for clemency. The prosecuting attorney who  
20 obtained the conviction and the law enforcement agency that conducted  
21 the investigation are uniquely situated to provide an accurate account  
22 of the offense and the impact felt by the community as a result of the  
23 offense. It is the intent of the legislature to ensure that the  
24 prosecuting attorney who obtained the conviction and the law  
25 enforcement agency that conducted the investigation are afforded a  
26 meaningful role in the clemency process.

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

29 There shall be a reasonable effort made to ensure that victims,  
30 survivors of victims, and witnesses of crimes have the following  
31 rights:

32 (1) With respect to victims of violent or sex crimes, to receive,  
33 at the time of reporting the crime to law enforcement officials, a  
34 written statement of the rights of crime victims as provided in this  
35 chapter. The written statement shall include the name, address, and

1 telephone number of a county or local crime victim/witness program, if  
2 such a crime victim/witness program exists in the county;

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

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

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

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

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

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

23 (8) To be provided with appropriate employer intercession services  
24 to ensure that employers of victims, survivors of victims, and  
25 witnesses of crime will cooperate with the criminal justice process in  
26 order to minimize an employee's loss of pay and other benefits  
27 resulting from court appearance;

28 (9) To access to immediate medical assistance and not to be  
29 detained for an unreasonable length of time by a law enforcement agency  
30 before having such assistance administered. However, an employee of  
31 the law enforcement agency may, if necessary, accompany the person to  
32 a medical facility to question the person about the criminal incident  
33 if the questioning does not hinder the administration of medical  
34 assistance;

35 (10) With respect to victims of violent and sex crimes, to have a  
36 crime victim advocate from a crime victim/witness program present at  
37 any prosecutorial or defense interviews with the victim, and at any  
38 judicial proceedings related to criminal acts committed against the  
39 victim. This subsection applies if practical and if the presence of

1 the crime victim advocate does not cause any unnecessary delay in the  
2 investigation or prosecution of the case. The role of the crime victim  
3 advocate is to provide emotional support to the crime victim;

4 (11) With respect to victims and survivors of victims, to be  
5 physically present in court during trial, or if subpoenaed to testify,  
6 to be scheduled as early as practical in the proceedings in order to be  
7 physically present during trial after testifying and not to be excluded  
8 solely because they have testified;

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

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

18 (14) With respect to victims and survivors of victims, to present  
19 a statement personally or by representation, at the sentencing hearing  
20 for felony convictions; (~~and~~)

21 (15) With respect to victims and survivors of victims, to entry of  
22 an order of restitution by the court in all felony cases, even when the  
23 offender is sentenced to confinement, unless extraordinary  
24 circumstances exist which make restitution inappropriate in the court's  
25 judgment; and

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

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

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

36 (2) The board shall receive petitions from individuals or  
37 organizations for the restoration of civil rights lost by operation of  
38 state law as a result of convictions for federal offenses or out-of-

1 state felonies. The board may issue certificates of restoration  
2 limited to the elective rights to vote and to engage in political  
3 office. Any certifications granted by the board must be filed with the  
4 secretary of state to be effective. In all other cases, the board  
5 shall make recommendations to the governor.

6 (3) The board shall not recommend that the governor grant clemency  
7 under subsection (1) of this section until a public hearing has been  
8 held on the petition. The prosecuting attorney of the county where the  
9 conviction was obtained shall be notified at least thirty days prior to  
10 the scheduled hearing that a petition has been filed and the date and  
11 place at which the hearing on the petition will be held. The board may  
12 waive the thirty-day notice requirement in cases where it determines  
13 that waiver is necessary to permit timely action on the petition. A  
14 copy of the petition shall be sent to the prosecuting attorney. The  
15 prosecuting attorney shall make reasonable efforts to notify victims,  
16 survivors of victims, witnesses, and the law enforcement agency or  
17 agencies that conducted the investigation, of the date and place of the  
18 hearing. Information regarding victims, survivors of victims, or  
19 witnesses receiving this notice are confidential and shall not be  
20 available to the offender. The board shall consider written, oral,  
21 audio, or videotaped statements regarding the petition received,  
22 personally or by representation, from the individuals who receive  
23 notice pursuant to this section. This subsection is intended solely  
24 for the guidance of the board. Nothing in this section is intended or  
25 may be relied upon to create a right or benefit, substantive or  
26 procedural, enforceable at law by any person.

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

29 (1) It shall be the duty of the indeterminate sentence review board  
30 ((of prison terms and paroles)), when requested by the governor, to  
31 pass on the representations made in support of applications for pardons  
32 for convicted persons and to make recommendations thereon to the  
33 governor.

34 (2) It will be the duty of the secretary of corrections to exercise  
35 supervision over such convicted persons as have been conditionally  
36 pardoned by the governor, to the end that such persons shall faithfully  
37 comply with the conditions of such pardons. The indeterminate sentence  
38 review board ((of prison terms and paroles)) shall also pass on any

1 representations made in support of applications for restoration of  
2 civil rights of convicted persons, and make recommendations to the  
3 governor. The department of corrections shall prepare materials and  
4 make investigations requested by the indeterminate sentence review  
5 board ((of prison terms and paroles)) in order to assist the board in  
6 passing on the representations made in support of applications for  
7 pardon or for the restoration of civil rights.

8 (3) The board shall make no recommendations to the governor in  
9 support of an application for pardon until a public hearing has been  
10 held under this section or RCW 9.94A.260(3) upon the application. The  
11 prosecuting attorney of the county where the conviction was obtained  
12 shall be notified at least thirty days prior to the scheduled hearing  
13 that an application for pardon has been filed and the date and place at  
14 which the hearing on the application for pardon will be held. The  
15 board may waive the thirty-day notice requirement in cases where it  
16 determines that waiver is necessary to permit timely action on the  
17 petition. A copy of the application for pardon shall be sent to the  
18 prosecuting attorney. The prosecuting attorney shall make reasonable  
19 efforts to notify victims, survivors of victims, witnesses, and the law  
20 enforcement agency or agencies that conducted the investigation of the  
21 date and place of the hearing. Information regarding victims,  
22 survivors of victims, or witnesses receiving this notice are  
23 confidential and shall not be available to the offender. The board  
24 shall consider written, oral, audio, or videotaped statements regarding  
25 the application for pardon received, personally or by representation,  
26 from the individuals who receive notice pursuant to this section. This  
27 subsection is intended solely for the guidance of the board. Nothing  
28 in this section is intended or may be relied upon to create a right or  
29 benefit, substantive or procedural, enforceable at law by any person."

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33 On page 1, line 1 of the title, after "pardons;" strike the  
34 remainder of the title and insert "amending RCW 7.69.030, 9.94A.260,  
35 and 9.95.260; and creating a new section."

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