

SENATE BILL REPORT

SB 5039

As of January 14, 2015

Title: An act relating to affirming the authority of the clemency and pardons board to make recommendations to the governor regarding petitions for reprieve to ensure that victims, law enforcement, prisoners, and others are heard.

Brief Description: Affirming the authority of the clemency and pardons board to make recommendations to the governor regarding petitions for reprieve to ensure that victims, law enforcement, prisoners, and others are heard.

Sponsors: Senator O'Ban.

Brief History:

Committee Activity: Law & Justice: 1/19/15.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Aldo Melchiori (786-7439)

Background: The Washington State Constitution and several state statutes give the Governor certain powers over persons sentenced to death in the state. Article III, section 9 provides: "The pardoning power shall be vested in the governor under such regulations and restrictions as may be prescribed by law." Article III, section 11 provides: "The governor shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law, and shall report to the legislature at its next meeting each case of reprieve, commutation or pardon granted, and the reasons for granting the same, and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted and the reasons for the remission."

The Governor has the authority to commute a death sentence to life in prison at hard labor or, upon a petition from the offender, to pardon the offender. A commutation is generally defined as a lessening of the criminal penalty, whereas a pardon is often defined as the termination of the criminal penalty. The Governor may also, on good cause shown, grant respites or reprieves from time to time as the Governor may think proper to temporarily delay the imposition of a death sentence.

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

In addition to the Governor's constitutional and statutory authority to issue pardons and commute death sentences, the Legislature created a Clemency and Pardons Board (Board) to make recommendations to the Governor concerning petitions for pardon or clemency.

The Board consists of five members appointed by the Governor and subject to confirmation by the state Senate. The Board holds regular quarterly meetings, but can call special meetings at other times when appropriate.

The Board is charged with receiving petitions "from individuals, organizations, and the department (of corrections) for review and commutation of sentences and pardoning of offenders in extraordinary cases...." After receiving a petition, the Board evaluates whether the petitioner's request merits a hearing. If a hearing is determined to be appropriate, the Board schedules the hearing, at which time it may take testimony from a variety of witnesses, including the petitioner, an attorney for the offender, the prosecuting attorney, and family members of the victim and the offender.

After the hearing, the Board votes on a recommendation, which is then forwarded to the Governor. The Governor is under no legal obligation to follow the recommendation.

Summary of Bill: Good cause, in the context of the Governor's ability to grant a respite or reprieve, means that the Governor has undergone an individualized consideration of the facts of a specific conviction after receiving a recommendation from the Board.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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