THE SENATE
THIRTIETH LEGISLATURE, 2020
STATE OF HAWAII

S.B. NO. 2180
S.D. 1

A BILL FOR AN ACT

RELATING TO EXECUTIVE PARDONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 28, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§28- Pardons; reference to attorney general. The attorney general shall consider and, if requested, investigate every application for pardon referred by the governor to the attorney general and shall furnish the governor, as soon as may be after the reference, a recommendation regarding whether to grant or refuse the pardon."

SECTION 2. Chapter 801, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§801- Pardons; application process. (a) An application for pardon shall be addressed to the governor and filed with the Hawaii paroling authority. Each application for pardon shall contain:

(1) The first and last name of the applicant;
(2) A brief history of the case or cases for which pardon is being sought;

(3) Any reason for seeking pardon; and

(4) Any other relevant information that the Hawaii paroling authority may require.

(b) For each offense for which an applicant is seeking pardon, the applicant shall provide satisfactory proof to the Hawaii paroling authority that a copy of each portion of the application that contains the first and last name of the applicant, a brief history of the case or cases for which pardon is being sought, and any reason for seeking pardon, was provided to the:

(1) Prosecuting attorney of the county where each offense occurred; and

(2) Court that entered judgment in each case.

(c) Within thirty days of receiving a copy of the portions of the application required by this section, the prosecuting attorney of the county in which each offense occurred and the court that entered judgment in each offense may submit to the Hawaii paroling authority any relevant information or materials to be added to the application.
(d) Upon receiving a copy of the portions of the application required by this section, the prosecuting attorney of the county in which the offense occurred shall make reasonable efforts to contact any victim involved in each offense for which pardon is being sought. Should any victim choose to provide additional information for consideration, the:

(1) Victim shall be afforded a reasonable length of time to submit the information; and

(2) Prosecuting attorney shall promptly inform the Hawaii paroling authority that additional materials are forthcoming from the victim.

(e) The governor may refer applications for pardon, including materials or documents provided by any relevant prosecuting attorney, court, or victim, to the attorney general and Hawaii paroling authority for consideration, investigation, and recommendation.

(f) Thirty days after all application materials and supporting documents are received by the Hawaii paroling authority, the application shall be considered complete and eligible for consideration or recommendation by the governor, attorney general, and Hawaii paroling authority, as applicable.
Investigation may commence any time after the person applying for pardon first submits relevant documents to the Hawaii paroling authority.

(q) If an application for pardon is denied by the governor, the Hawaii paroling authority shall not accept a repeat application for pardon for the same person until two years have elapsed from the date of the denial. The chairman of the Hawaii paroling authority may waive the two-year requirement if the applicant offers in writing new information that:

(1) Was unavailable to the applicant at the time of the filing of the prior application; and

(2) The chairman determines to be significant.

(h) Nothing in this section shall be construed to limit the power of the governor to grant a pardon pursuant to the state constitution."

SECTION 3. Section 353-72, Hawaii Revised Statutes, is amended to read as follows:

"§353-72 Pardons; reference to paroling authority. The director of public safety and the Hawaii paroling authority shall consider and, if requested, investigate every application for pardon [which] that may be referred to them by the governor"
and shall furnish the governor, as soon as may be after [such] the reference, all information possible concerning the prisoner, together with a recommendation as to the granting or refusing of the pardon."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon the approval of a constitutional amendment that authorizes the legislature to enact legislation to establish a process by which executive reprieves, commutations, and pardons are submitted to and considered by the governor.
Report Title:
Honolulu Prosecuting Attorney Package; Executive Pardon; Criminal Procedure

Description:
Establishes a comprehensive process for the consideration of executive pardons. (SD1)

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