

---

---

## A BILL FOR AN ACT

RELATING TO EXECUTIVE PARDONS.

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

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

4           "§28-       Pardons; reference to attorney general. The  
5 attorney general shall consider and, if requested, investigate  
6 every application for pardon referred by the governor to the  
7 attorney general. The attorney general, as soon as practicable  
8 after the reference, shall furnish the governor a recommendation  
9 regarding whether to grant or refuse the pardon."

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

13          "§801-       Pardons; application process. (a) An  
14 application for pardon shall be addressed to the governor and  
15 submitted to the Hawaii paroling authority. Each application  
16 for pardon shall contain:



# H.B. NO. 173

- 1        (1) The first, middle, and last name, and all aliases used  
2            by the applicant;
- 3        (2) The applicant's date of birth;
- 4        (3) The applicant's state identification number;
- 5        (4) A brief history of the case or cases for which pardon  
6            is being sought;
- 7        (5) The reason or reasons for seeking pardon; and
- 8        (6) Any other relevant information that the Hawaii  
9            paroling authority may require.
- 10       (b) For each offense for which an applicant is seeking  
11 pardon, the Hawaii paroling authority, within forty-five days of  
12 receiving the applicant's notarized application and notarized  
13 character affidavits, shall provide the prosecuting attorney of  
14 the county in which each offense occurred with the following:
- 15       (1) The first, middle, and last name, and all aliases used  
16            by the applicant;
- 17       (2) The applicant's date of birth;
- 18       (3) The applicant's state identification number;
- 19       (4) A list of convictions for which the applicant is  
20            applying for pardon, including the criminal number,



1 offense or offenses committed, date of arrest and  
2 disposition of each offense; and

3 (5) The reason or reasons for seeking pardon.

4 (c) Within thirty days of receiving the information  
5 required by subsection (b), the prosecuting attorney of the  
6 county in which each offense occurred may submit to the Hawaii  
7 paroling authority any relevant information or materials to be  
8 added to the application.

9 (d) Within thirty days of receiving the information  
10 required by subsection (b), the relevant prosecuting attorney  
11 shall also contact, or make reasonable efforts to contact, any  
12 victim, or surviving immediate family members of the victim,  
13 involved in each offense for which pardon is being sought.

14 Should any victim or surviving immediate family members choose  
15 to provide additional information for consideration, the:

16 (1) Victim or surviving immediate family members shall be  
17 afforded thirty days, from the date of initial contact  
18 from the prosecuting attorney, to submit the  
19 information; and



# H.B. NO. 173

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

4       (e) The governor may refer applications for pardon,  
5       including any information or materials provided by the relevant  
6       prosecuting attorney, victim, or surviving immediate family  
7       members, to the attorney general and the Hawaii paroling  
8       authority for consideration, investigation, and recommendation.

9       (f) Forty-five days after all application materials and  
10       supporting documents are received by the Hawaii paroling  
11       authority, the application for pardon shall be considered  
12       complete and eligible for consideration or recommendation by the  
13       governor, attorney general, and Hawaii paroling authority, as  
14       applicable.

15       Investigation may commence any time after the applicant  
16       first submits relevant documents to the Hawaii paroling  
17       authority.

18       (g) If an application for pardon is denied by the governor,  
19       the Hawaii paroling authority may not accept a repeat  
20       application for pardon for the same person until two years have  
21       elapsed from the date of the denial. The governor may waive



1 this two-year requirement at any time. The chairperson of the  
2 Hawaii paroling authority, if so delegated in writing by the  
3 governor, may waive the two-year requirement if the applicant  
4 offers in writing new information that:

5 (1) Was unavailable to the applicant at the time of  
6 submitting the prior application; or

7 (2) The chairman determines the new information to be  
8 significant.

9 (h) Nothing in this section shall be construed to limit  
10 the power of the governor to grant or refuse a pardon pursuant  
11 to the state constitution.

12 (i) For purposes of this section:

13 "Surviving immediate family members of the victim" or  
14 "surviving immediate family members" means surviving  
15 grandparents, parents, siblings, spouse, reciprocal beneficiary,  
16 children, and any legal guardian of a deceased victim.

17 "Victim" means a person against whom a crime has been  
18 committed by an adult or a minor waived by family court, who was  
19 subsequently tried and found guilty of the offense as a young  
20 adult or adult."



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

3 "§353-72 Pardons; reference to paroling authority. The  
4 director of public safety and the Hawaii paroling authority  
5 shall consider and, if requested, investigate every application  
6 for pardon [~~which~~] that may be referred to them by the governor  
7 and shall furnish the governor, as soon as may be after [~~such~~]  
8 the reference, all information possible concerning the prisoner,  
9 together with a recommendation as to the granting or refusing of  
10 the pardon."

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

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


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



# H.B. NO. 173

1 SECTION 7. This Act shall take effect upon its approval.

2

INTRODUCED BY:   
By Request

JAN 21 2021



# H.B. NO. 173

**Report Title:**

Honolulu Prosecuting Attorney Package; Executive Pardon;  
Criminal Procedure

**Description:**

Establishes a comprehensive application process for executive pardons.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

