

Calendar No. 445

106TH CONGRESS
2D SESSION

S. 2042

[Report No. 106-231]

To reform the process by which the Office of the Pardon Attorney investigates and reviews potential exercises of executive clemency.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 2000

Mr. HATCH (for himself, Mr. NICKLES, Mr. LOTT, Mr. ABRAHAM, Mr. THURMOND, Mr. KYL, Mr. ASHCROFT, Mr. SESSIONS, Mr. SMITH of New Hampshire, Mr. COVERDELL, Mr. MURKOWSKI, Mr. HELMS, and Mr. GRAMM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MARCH 9, 2000

Reported by Mr. HATCH, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To reform the process by which the Office of the Pardon Attorney investigates and reviews potential exercises of executive clemency.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Pardon Attorney Re-
3 form and Integrity Act”.

4 **SEC. 2. REPRIEVES AND PARDONS.**

5 (a) DEFINITIONS.—In this section—

6 (1) the term “executive clemency” means any
7 exercise by the President of the power to grant re-
8 prieves and pardons under clause 1 of section 2 of
9 article II of the Constitution of the United States,
10 and includes any pardon, commutation, reprieve, or
11 remission of a fine; and

12 (2) the term “victim” has the meaning given
13 the term in section 503(e) of the Victims’ Rights
14 and Restitution Act of 1990 (42 U.S.C. 10607(e)).

15 (b) REPORTING REQUIREMENT.—If the President
16 delegates to the ~~Attorney General~~ *Pardon Attorney* the re-
17 sponsibility for investigating ~~or reviewing~~, in any par-
18 ticular matter or case, a potential grant of executive clem-
19 ency, the ~~Attorney General~~ *Pardon Attorney* shall prepare
20 and make available to the President a written report,
21 which shall include—

22 (1) a description of the efforts of the ~~Attorney~~
23 ~~General~~ *Pardon Attorney*—

24 (A) to make each determination required
25 under subsection (c); and

1 (B) to make the notifications required
 2 under subsection (d)(1); and
 3 (2) any written statement submitted by a victim
 4 under subsection (c).

5 (c) DETERMINATIONS REQUIRED.—In the prepara-
 6 tion of any report under subsection (b), the ~~Attorney Gen-~~
 7 ~~eral~~ *Pardon Attorney* shall make all reasonable efforts
 8 to—

9 (1) inform the victims of each offense that is
 10 the subject of the potential grant of executive clem-
 11 ency that they may submit written statements for
 12 inclusion in the report prepared by the ~~Attorney~~
 13 ~~General~~ *Pardon Attorney* under subsection (b), and
 14 determine the opinions of those victims regarding
 15 the potential grant of executive clemency;

16 (2) determine the opinions of law enforcement
 17 officials, investigators, prosecutors, probation offi-
 18 cers, judges, and prison officials involved in appre-
 19 hending, prosecuting, sentencing, incarcerating, or
 20 supervising the conditional release from imprison-
 21 ment of the person for whom a grant of executive
 22 clemency is petitioned or otherwise under consider-
 23 ation as to the propriety of granting executive clem-
 24 ency and particularly whether the person poses a
 25 danger to any person or society and has expressed

1 remorse and accepted responsibility for the criminal
 2 conduct to which a grant of executive clemency
 3 would apply;

4 (3) determine the opinions of Federal, State,
 5 and local law enforcement officials as to whether the
 6 person for whom a grant of executive clemency is pe-
 7 titioned or otherwise under consideration may have
 8 information relevant to any ongoing investigation or
 9 prosecution, or any effort to apprehend a fugitive;
 10 and

11 (4) determine the opinions of Federal, State,
 12 and local law enforcement or intelligence agencies
 13 regarding the effect that a grant of executive clem-
 14 ency would have on the threat of terrorism or other
 15 ongoing or future criminal activity.

16 (d) NOTIFICATION TO VICTIMS.—

17 (1) IN GENERAL.—The ~~Attorney General~~ *Pardon Attorney*
 18 shall make all reasonable efforts to no-
 19 tify the victims of each offense that is the subject of
 20 the potential grant of executive clemency of the fol-
 21 lowing events, as soon as practicable after their oc-
 22 currence:

23 (A) The undertaking by the ~~Attorney Gen-~~
 24 ~~eral~~ *Pardon Attorney* of any investigation or re-

1 ~~view~~ of a potential grant of executive clemency
 2 in a particular matter or case.

3 (B) The making available to the President
 4 of any report under subsection (b).

5 (C) The decision of the President to deny
 6 any petition or request for executive clemency.

7 (2) NOTIFICATION OF GRANT OF EXECUTIVE
 8 CLEMENCY.—If the President grants executive clem-
 9 ency, the ~~Attorney General~~ *Pardon Attorney* shall
 10 make all reasonable efforts to notify the victims of
 11 each offense that is the subject of the potential
 12 grant of executive clemency that such grant has
 13 been made as soon as practicable after that grant is
 14 made, and, if such grant will result in the release of
 15 any person from custody, such notice shall be prior
 16 to that release from custody, if practicable.

17 (e) NO EFFECT ON OTHER ACTIONS.—Nothing in
 18 this section shall be construed to—

19 (1) *limit the ability of the President to seek ad-*
 20 *vice directly from the Attorney General or any infor-*
 21 *mal advisor regarding any pardon matter;*

22 (1 2) prevent any officer or employee of the De-
 23 partment of Justice from contacting any victim,
 24 prosecutor, investigator, or other person in connec-

1 tion with any investigation ~~or review~~ of a potential
 2 grant of executive clemency;

3 (2 3) prohibit the inclusion of any other infor-
 4 mation or view in any report to the President; or

5 (3 4) affect the manner in which the ~~Attorney~~
 6 ~~General~~ *Pardon Attorney* determines which petitions
 7 for executive clemency lack sufficient merit to war-
 8 rant any investigation ~~or review~~.

9 (f) APPLICABILITY.—Notwithstanding any other pro-
 10 vision of this section, this section does not apply to any
 11 petition or other request for executive clemency that, in
 12 the judgment of the ~~Attorney General~~ *Pardon Attorney*,
 13 lacks sufficient merit to justify investigation ~~or review~~,
 14 such as the contacting of a United States Attorney.

15 (g) REGULATIONS.—Not later than 90 days after the
 16 date of enactment of this Act, the Attorney General shall
 17 promulgate regulations governing the procedures for com-
 18 plying with this section.

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