

116TH CONGRESS
2D SESSION

S. 4933

To provide increased oversight of certain pardons, to clarify the applicability of bribery prohibitions to pardons and commutations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 1, 2020

Ms. CORTEZ MASTO (for herself, Ms. HIRONO, Mr. BLUMENTHAL, Mr. WYDEN, Mr. MURPHY, Mr. MARKEY, Mr. CASEY, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide increased oversight of certain pardons, to clarify the applicability of bribery prohibitions to pardons and commutations, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Abuse of the Pardon
5 Prevention Act of 2020”.

6 **SEC. 2. DEPARTMENT OF JUSTICE OVERSIGHT RELATING**
7 **TO CERTAIN PARDONS.**

8 (a) DEFINITIONS.—In this section:

1 (1) COVERED OFFENSE.—The term “covered
2 offense” means—

3 (A) an offense against the United States
4 that arises from an investigation in which the
5 President, or a relative of the President, is a
6 target, subject, or witness;

7 (B) an offense under section 192 of title 2,
8 United States Code; or

9 (C) an offense under section 1001, 1505,
10 1512, or 1621 of title 18, United States Code,
11 provided that the offense occurred in relation to
12 a Congressional proceeding or investigation.

13 (2) INSPECTOR GENERAL.—The term “Inspec-
14 tor General” means the Inspector General of the De-
15 partment of Justice.

16 (3) PARDON.—The term “pardon” includes a
17 commutation of sentence.

18 (4) RELATIVE.—The term “relative” has the
19 meaning given that term in section 3110(a) of title
20 5, United States Code.

21 (b) REQUIRED INVESTIGATION.—In the event that
22 the President grants an individual a pardon for a covered
23 offense, as soon as practicable after the date of such par-
24 don, the Inspector General of the Department of Justice
25 shall begin an investigation of the pardon.

1 (c) REQUIRED INFORMATION.—

2 (1) IN GENERAL.—Not later than 30 days after
3 the date on which the President grants an individual
4 a pardon for a covered offense, for purposes of an
5 investigation under subsection (b)—

6 (A) the Attorney General shall submit to
7 the Inspector General—

8 (i) all materials obtained or prepared
9 by the prosecution team, including the At-
10 torney General and any United States At-
11 torney, and all materials obtained or pre-
12 pared by any investigative agency of the
13 United States government, relating to the
14 offense for which the individual was so
15 pardoned; and

16 (ii) all materials obtained or produced
17 by the Department of Justice in relation to
18 the pardon; and

19 (B) the President shall submit to the In-
20 spector General all materials obtained or pro-
21 duced within the Executive Office of the Presi-
22 dent in relation to the pardon.

23 (2) REPORT ON NONCOMPLIANCE.—Not later
24 than 10 days after the date on which the Attorney
25 General or President fails or refuses to comply with

1 the requirement under paragraph (1), the Inspector
 2 General shall submit a report to Congress on the
 3 failure or refusal, which shall include a list of the
 4 documents or information that has not been sub-
 5 mitted as required under paragraph (1).

6 (d) TREATMENT OF INFORMATION.—Rule 6(e) of the
 7 Federal Rules of Criminal Procedure may not be con-
 8 strued to prohibit the disclosure of information required
 9 by subsection (c) of this section.

10 (e) REPORT.—

11 (1) IN GENERAL.—The Inspector General shall
 12 submit to Congress and publish a report of the find-
 13 ings of each investigation conducted under this sec-
 14 tion.

15 (2) FORM OF REPORT.—Each report submitted
 16 to Congress under this subsection shall be in unclas-
 17 sified form, but may, if necessary, contain a classi-
 18 fied annex.

19 **SEC. 3. CONGRESSIONAL OVERSIGHT RELATING TO CER-**
 20 **TAIN PARDONS.**

21 (a) SUBMISSION OF INFORMATION.—In the event
 22 that the President grants an individual a pardon for a cov-
 23 ered offense, not later than 30 days after the date of such
 24 pardon—

1 (1) the Attorney General shall submit to the
2 chairmen and ranking members of the appropriate
3 congressional committees—

4 (A) all materials obtained or prepared by
5 the prosecution team, including the Attorney
6 General and any United States Attorney, and
7 all materials obtained or prepared by any inves-
8 tigative agency of the United States govern-
9 ment, relating to the offense for which the indi-
10 vidual was so pardoned; and

11 (B) all materials obtained or produced by
12 the Department of Justice in relation to the
13 pardon; and

14 (2) the President shall submit to the chairmen
15 and ranking members of the appropriate congres-
16 sional committees all materials obtained or produced
17 within the Executive Office of the President in rela-
18 tion to the pardon.

19 (b) TREATMENT OF INFORMATION.—Rule 6(e) of the
20 Federal Rules of Criminal Procedure may not be con-
21 strued to prohibit the disclosure of information required
22 by subsection (a) of this section.

23 (c) DEFINITIONS.—In this section:

24 (1) The term “appropriate congressional com-
25 mittees” means—

1 (A) the Committee on the Judiciary of the
2 House of Representatives and the Committee
3 on the Judiciary of the Senate; and

4 (B) if an investigation relates to intel-
5 ligence or counterintelligence matters, the Per-
6 manent Select Committee on Intelligence of the
7 House of Representatives and the Select Com-
8 mittee on Intelligence of the Senate.

9 (2) The term “covered offense” means—

10 (A) an offense against the United States
11 that arises from an investigation in which the
12 President, or a relative of the President, is a
13 target, subject, or witness;

14 (B) an offense under section 192 of title 2,
15 United States Code; or

16 (C) an offense under section 1001, 1505,
17 1512, or 1621 of title 18, United States Code,
18 provided that the offense occurred in relation to
19 a Congressional proceeding or investigation.

20 (3) The term “pardon” includes a commutation
21 of sentence.

22 (4) The term “relative” has the meaning given
23 that term in section 3110(a) of title 5, United
24 States Code.

1 **SEC. 4. BRIBERY IN CONNECTION WITH PARDONS AND**
2 **COMMUTATIONS.**

3 Section 201 of title 18, United States Code, is
4 amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1), by inserting “, in-
7 cluding the President and the Vice President of
8 the United States,” after “or an officer or em-
9 ployee or person”; and

10 (B) in paragraph (3), by inserting before
11 the period at the end the following: “, including
12 any pardon, commutation, or reprieve, or offer
13 any such pardon, commutation, or reprieve”;
14 and

15 (2) in subsection (b)(3), by inserting “(includ-
16 ing, for purposes of this paragraph, any pardon,
17 commutation, or reprieve, or offer any such pardon,
18 commutation, or reprieve)” after “corruptly gives,
19 offers, or promises anything of value”.

20 **SEC. 5. PROHIBITION ON PRESIDENTIAL SELF-PARDON.**

21 The President’s grant of a pardon to himself or her-
22 self is void and of no effect, and shall not deprive the
23 courts of jurisdiction, or operate to confer on the Presi-
24 dent any legal immunity from investigation or prosecution.

1 **SEC. 6. SEVERABILITY.**

2 If any provision of this Act, an amendment made by
3 this Act, or the application of such provision or amend-
4 ment to any person or circumstance is held to be unconsti-
5 tutional, the remainder of this Act, the amendments made
6 by this Act, and the application of such provision or
7 amendment to any person or circumstance shall not be af-
8 fected thereby.

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