

SENATE BILL 26-003

By Senator(s) Esparza, Velasco
also Representative(s) Wood, Peterson

AN ACT**CONCERNING THE ESTABLISHMENT OF A STANDARDIZED CLEMENCY APPLICATION AND REVIEW PROCESS IN THE STATE OF SAN ANDREAS.**

Be It Enacted by the General Assembly of the State of San Andreas:

SECTION 1. SHORT TITLE.

This Act shall be referred to as “Clemency Application & Review Act.”

SECTION 2. LEGISLATIVE DECLARATION.

The General Assembly finds and declares that:

- (a) The clemency power is a constitutional executive function intended to provide relief in cases where continued punishment no longer serves justice, proportionality, or public safety.
- (a.5) the General Assembly further finds that clear standards for commutation help ensure that incarceration continues only so long as necessary to achieve the goals of sentencing.
- (b) Clemency is not a substitute for appeal or post-conviction relief and shall not be used to relitigate guilt or innocence.
- (c) Individuals should have meaningful and equitable access to the clemency process regardless of education, legal sophistication, or financial resources.
- (d) A structured and transparent clemency review process promotes fairness, consistency, and public confidence in executive decision-making.
- (e) The purpose of this Act is to establish a uniform, accessible, and constitutionally sound process for clemency applications while preserving the separation of powers between the judiciary and the executive.

SECTION 3. DEFINITIONS.

For purposes of this Act, unless the context otherwise requires:

- (a) “Clemency” means executive relief in the form of a pardon, commutation of sentence, or reprieve.
- (b) Pardon. ‘pardon’ means the full and unconditional forgiveness of a conviction that vacates the judgment, nullifies the underlying conviction for all legal purposes, and restores all civil rights.
- (c) “Commutation” means a reduction in the severity or duration of a sentence.
- (d) “Reprieve” means a temporary delay in the execution or enforcement of a sentence.

- (e) “Department” means the Department of Law.
- (f) “Pardon Attorney” means a state-employed attorney assigned to review clemency applications pursuant to this Act.

SECTION 4. APPLICATION PROCESS.

- (a) Simplified Application. An individual seeking clemency may apply by submitting a written letter.
- (b) Form of Application. The application:
- (I) may be handwritten, typed, or submitted via an oral recording for applicants with disabilities or literacy barriers;
 - (II) shall be considered filed upon delivery to any state official.
- (c) Required Contents. The application shall not be limited to:
- (I) The applicant’s name and Department of Corrections identification number, if applicable;
 - (II) The type of relief requested; and
 - (III) A brief statement explaining the basis for the request.
- (d) Submission Through Department of Corrections. Applications submitted by incarcerated individuals shall be delivered to Department of Corrections staff.
- (e) Duties of Department of Corrections. The Department of Corrections shall:
- (I) Log receipt of the application;
 - (II) Verify the applicant’s identity and sentence status; and
 - (III) Forward the application to the Department within ten business days;
 - (IV) a statement of support from a community member, employer, or family member; and
 - (V) a description of the applicant’s plans for re-entry, if applicable.
- (f) Applicants shall not be required to submit applications directly to the Governor.

SECTION 5. APPOINTMENT OF PARDON ATTORNEY.

- (a) Upon receipt of an application, the Department shall assign a Pardon Attorney.
- (b) The Pardon Attorney shall:
- (I) Conduct a comprehensive review of the application;
 - (II) Ensure that all relevant information is collected and verified;
 - (III) interview the applicant and, where practicable, the applicant’s family or community supporters; and
 - (IV) Serve as the primary fact-gatherer for the executive clemency process.
- (c) Legal Status. The pardon attorney shall be a non-partisan appointee whose sole duty is to ensure the governor has a complete and accurate record. The appointment shall be for a term of six years to ensure continuity across administrations.
- (d) Reviewing Standards. The pardon attorney shall evaluate every application under a preponderance of the evidence standard regarding the applicant’s rehabilitation and current threat to public safety.

(e) Right to Counsel. Nothing in this section shall be construed to prohibit an applicant from retaining private counsel to assist in the clemency process or to supplement the record compiled by the pardon attorney.

SECTION 6. SCOPE OF REVIEW.

The Pardon Attorney shall compile a complete clemency record, including:

- (a) Case History: Charging documents, plea agreements, trial outcomes, sentencing records, and supervision history;
- (b) Applicant Background: Criminal history, social history, education, employment, and family support;
- (c) Mitigating Factors: Age at the time of the offense, role of coercion or trauma, evidence of accountability, and passage of time;
- (d) Rehabilitation: Institutional conduct, program completion, educational achievements, and community support;
- (e) Public Safety Assessment: An evaluation of the applicant's risk to public safety.

SECTION 6.5. MANDATORY RECORD INCLUSIONS.

THE PARDON ATTORNEY SHALL INCLUDE IN THE DOSSIER:

- (a) A statement from the sentencing judge, if available;
- (b) A statement from the prosecuting attorney who handled the case; and
- (c) Any letters of support from correctional officers or rehabilitative program facilitators.

SECTION 7. JUDICIAL REFERRAL.

- (a) If the pardon attorney identifies a credible claim of innocence or a constitutional violation, the pardon attorney shall immediately refer the matter to the office of the state public defender or the office of alternate defense counsel for evaluation of judicial remedies.
- (b) The governor may grant a reprieve pending the outcome of any judicial proceedings resulting from such referral.

SECTION 8. ELIGIBILITY FOR EXECUTIVE REVIEW.

- (a) Eligibility. Every individual convicted of a crime in this state is eligible for executive review. The pardon attorney shall not utilize any minimum sentence served requirement as a bar to forwarding an application to the governor.
- (b) Only applications grounded in equity shall be forwarded to the Governor.

SECTION 9. SUBMISSION TO THE GOVERNOR.

- (a) The Pardon Attorney shall prepare a clemency dossier including:
 - (I) A factual summary;
 - (II) Legal posture of the case;
 - (III) Mitigating and rehabilitative factors;

- (IV) Public safety assessment; and
- (V) A recommendation.
- (b) The Governor may:
 - (I) Request additional information;
 - (II) Notify and seek input from victims and the prosecuting attorney; and
 - (III) Grant, partially grant, or deny the application.

SECTION 10. EFFECT OF CLEMENCY.

- (a) Clemency does not vacate or invalidate a conviction.
- (b) Clemency does not constitute a finding of judicial error.
- (c) Clemency reflects an exercise of executive discretion based on mercy, equity, and public interest.
- (d) Finality. The governor's decision to grant or deny clemency is final and not subject to judicial or legislative review; however, a denial shall not prevent an applicant from re-applying after three years have elapsed since the date of denial.

SECTION 11. TRANSPARENCY AND NOTICE.

- (a) Applicants shall receive written notice of the final decision.
- (b) Public Reporting. The department shall publish a monthly report on its website listing all pending applications by identification number, the date filed, and the current stage of review to ensure procedural transparency.
- (c) Aggregate data and trends, including data on the racial and socioeconomic demographics of applicants and recipients may be used to inform policy or legislative recommendations.

SECTION 12. RULEMAKING AUTHORITY.

The Department may promulgate rules necessary to implement this Act.

SECTION 13. INDIGENT REPRESENTATION.

- (a) The Department shall establish a program to provide volunteer legal assistance or law student clinical support to indigent applicants to ensure equitable access to the clemency process as declared in section 2 of this act.

SECTION 14. SEVERABILITY.

If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application.