

JAN 19 2022

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 part I to be appropriately designated
3 and to 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 and shall furnish the governor, as soon as may
8 be after the reference, a recommendation regarding whether to
9 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 filed with the Hawaii paroling authority. Each application for
16 pardon shall contain:



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 shall, within forty-five
12 days of receiving the applicant's notarized application and
13 notarized character affidavits, provide the prosecuting attorney
14 of 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, to include 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 paragraph (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 paragraph (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 such
19 information; and



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
19 governor, 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 the
6 application was received; or

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

9 (h) For purposes of this section, "surviving immediate
10 family members of the victim" or "surviving immediate family
11 members" means surviving grandparents, parents, siblings,
12 spouse, reciprocal beneficiary, children, and any legal guardian
13 of a deceased victim; and "victim" means a person against whom a
14 crime has been committed by an adult or a minor waived by family
15 court, who was subsequently tried and found guilty of the
16 offense as a young adult or adult.

17 (i) Nothing in this section shall be construed to limit
18 the power of the governor to grant or refuse a pardon pursuant
19 to the state constitution."

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



1 "**§353-72 Pardons; reference to paroling authority.** The
2 director of public safety and the Hawaii paroling authority
3 shall consider and, if requested, investigate every application
4 for pardon [~~which~~] that may be referred to them by the governor
5 and shall furnish the governor, as soon as may be after [~~such~~]
6 the reference, all information possible concerning the prisoner,
7 together with a recommendation as to the granting or refusing of
8 the pardon."

9 SECTION 4. This Act does not affect any proceedings or
10 applications received by the paroling authority before its
11 effective date.

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

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



S.B. NO. 2091

Report Title:

Honolulu Prosecuting Attorney's Office 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.

