

106TH CONGRESS  
2D SESSION

# S. 2042

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

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## 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, and Mr. COVERDELL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## 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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Pardon Attorney Re-

5       form and Integrity Act”.

6       **SEC. 2. REPRIEVES AND PARDONS.**

7       (a) DEFINITIONS.—In this section—

8               (1) the term “executive clemency” means any  
9       exercise by the President of the power to grant re-

1       prieves and pardons under clause 1 of section 2 of  
2       article II of the Constitution of the United States,  
3       and includes any pardon, commutation, reprieve, or  
4       remission of a fine; and

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

8       (b) REPORTING REQUIREMENT.—If the President  
9       delegates to the Attorney General the responsibility for in-  
10      vestigating or reviewing, in any particular matter or case,  
11      a potential grant of executive clemency, the Attorney Gen-  
12      eral shall prepare and make available to the President a  
13      written report, which shall include—

14              (1) a description of the efforts of the Attorney  
15      General—

16                      (A) to make each determination required  
17                      under subsection (c); and

18                      (B) to make the notifications required  
19                      under subsection (d)(1); and

20              (2) any written statement submitted by a victim  
21      under subsection (c).

22      (c) DETERMINATIONS REQUIRED.—In the prepara-  
23      tion of any report under subsection (b), the Attorney Gen-  
24      eral shall make all reasonable efforts to—

1           (1) inform the victims of each offense that is  
2 the subject of the potential grant of executive clem-  
3 ency that they may submit written statements for  
4 inclusion in the report prepared by the Attorney  
5 General under subsection (b), and determine the  
6 opinions of those victims regarding the potential  
7 grant of executive clemency;

8           (2) determine the opinions of law enforcement  
9 officials, investigators, prosecutors, probation offi-  
10 cers, judges, and prison officials involved in appre-  
11 hending, prosecuting, sentencing, incarcerating, or  
12 supervising the conditional release from imprison-  
13 ment of the person for whom a grant of executive  
14 clemency is petitioned or otherwise under consider-  
15 ation as to the propriety of granting executive clem-  
16 ency and particularly whether the person poses a  
17 danger to any person or society and has expressed  
18 remorse and accepted responsibility for the criminal  
19 conduct to which a grant of executive clemency  
20 would apply;

21           (3) determine the opinions of Federal, State,  
22 and local law enforcement officials as to whether the  
23 person for whom a grant of executive clemency is pe-  
24 titioned or otherwise under consideration may have  
25 information relevant to any ongoing investigation or

1 prosecution, or any effort to apprehend a fugitive;  
2 and

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

8 (d) NOTIFICATION TO VICTIMS.—

9 (1) IN GENERAL.—The Attorney General 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 of the following events,  
13 as soon as practicable after their occurrence:

14 (A) The undertaking by the Attorney Gen-  
15 eral of any investigation or review of a potential  
16 grant of executive clemency in a particular mat-  
17 ter or case.

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

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

22 (2) NOTIFICATION OF GRANT OF EXECUTIVE  
23 CLEMENCY.—If the President grants executive clem-  
24 ency, the Attorney General shall make all reasonable  
25 efforts to notify the victims of each offense that is

1 the subject of the potential grant of executive clem-  
2 ency that such grant has been made as soon as prac-  
3 ticable after that grant is made, and, if such grant  
4 will result in the release of any person from custody,  
5 such notice shall be prior to that release from cus-  
6 tody, if practicable.

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

9 (1) prevent any officer or employee of the De-  
10 partment of Justice from contacting any victim,  
11 prosecutor, investigator, or other person in connec-  
12 tion with any investigation or review of a potential  
13 grant of executive clemency;

14 (2) prohibit the inclusion of any other informa-  
15 tion or view in any report to the President; or

16 (3) affect the manner in which the Attorney  
17 General determines which petitions for executive  
18 clemency lack sufficient merit to warrant any inves-  
19 tigation or review.

20 (f) APPLICABILITY.—Notwithstanding any other pro-  
21 vision of this section, this section does not apply to any  
22 petition or other request for executive clemency that, in  
23 the judgment of the Attorney General, lacks sufficient  
24 merit to justify investigation or review, such as the con-  
25 tacting of a United States Attorney.

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

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