

106TH CONGRESS
2D SESSION

H. R. 3626

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2000

Mr. FOSSELLA introduced the following bill; which was referred to the Committee on the Judiciary

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-
10 prieves and pardons under clause 1 of section 2 of

1 article II of the Constitution of the United States,
2 and includes any pardon, commutation, reprieve, or
3 remission of a fine; and

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

7 (b) ESTABLISHMENT OF OFFICE OF THE PARDON
8 ATTORNEY.—There is hereby established in the Depart-
9 ment of Justice the Office of the Pardon Attorney. It shall
10 be the duty of the Pardon Attorney to assist the Attorney
11 General to carry out the responsibilities of the Attorney
12 General under this Act and in advising the President re-
13 garding executive clemency.

14 (c) REPORTING REQUIREMENT.—If the Attorney
15 General investigates or reviews, in any particular matter
16 or case, a potential grant of executive clemency, the Attor-
17 ney General shall prepare and submit to the President a
18 written report, which shall include—

19 (1) a description of the efforts of the Attorney
20 General—

21 (A) to make each determination required
22 under subsection (d); and

23 (B) to make the notifications required
24 under subsection (e)(1); and

1 (2) any written statement submitted under sub-
2 section (d) by a victim or by a Federal, State, or
3 local law enforcement official, investigator, pros-
4 ecutor, probation officer, judge, or prison official.

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

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

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

1 conduct to which a grant of executive clemency
2 would apply;

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

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

15 (e) NOTIFICATION TO VICTIMS.—

16 (1) IN GENERAL.—The Attorney General shall
17 make all reasonable efforts to notify the victims of
18 each offense that is the subject of the potential
19 grant of executive clemency of the following events,
20 as soon as practicable after their occurrence:

21 (A) The undertaking by the Attorney Gen-
22 eral of any investigation or review of a potential
23 grant of executive clemency in a particular mat-
24 ter or case.

1 (B) The submission to the President of
2 any report under subsection (c).

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

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

15 (f) NO EFFECT ON OTHER ACTIONS.—Nothing in
16 this section shall be construed to—

17 (1) prevent any officer or employee of the De-
18 partment of Justice from contacting any victim,
19 prosecutor, investigator, or other person in connec-
20 tion with any investigation or review of a potential
21 grant of executive clemency;

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

24 (3) affect the manner in which the Attorney
25 General determines which petitions for executive

1 clemency lack sufficient merit to warrant any inves-
2 tigation or review.

3 (g) APPLICABILITY.—Notwithstanding any other pro-
4 vision of this section, this section does not apply to any
5 petition or other request for executive clemency that, in
6 the judgment of the Attorney General, lacks sufficient
7 merit to justify investigation or review, such as the con-
8 tacting of a United States Attorney.

9 (h) REGULATIONS.—Not later than 90 days after the
10 date of enactment of this Act, the Attorney General shall
11 promulgate regulations governing the procedures for com-
12 plying with this section.

○