STATE OF NEW YORK

155

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

Introduced by M. of A. SOLAGES, MITAYNES, EPSTEIN, TAYLOR, GIBBS, L. ROSENTHAL, WALKER, ANDERSON, REYES, CRUZ, MAMDANI, SIMON, JACKSON, KELLES, AUBRY, GONZALEZ-ROJAS, FORREST -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to establishing application processing and review requirements for reprieves, commutations and pardons

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "Clemency Justice Act of 2023".

§ 2. Legislative findings and intent. The legislature hereby finds that families and communities are frequently torn apart due to the United States' overzealous legal system and immigration system, and that one of the predominant tools to mitigate this issue, executive clemency, is grossly underused. Between 2017-2020, the governor's office received 6,405 clemency applications while only granting 81 pardons and 14 commutations. The legislature further finds that the clemency process is convoluted, unequal, and difficult to navigate with no way for applicants to check the status of their application or expedite it in case of an emergency. Meanwhile, an estimated 9,000 people, of which the overwhelming majority are people of color, are serving life sentences while an unprecedented pandemic ravages prisons and detention centers. A simpler, more holistic approach to granting clemency would begin to address the systemic injustices of the immigration and criminal legal systems.

§ 3. The executive law is amended by adding a new section 15-a to read as follows:

§ 15-a. Process and requirements for considering applications and requests for reprieves, commutations and pardons. 1. Upon receipt of an

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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application for a reprieve, commutation or pardon, the governor shall provide to the applicant:

a. a written notification that the application has been received;

b. a receipt number that the applicant can then use to check on his or her application status;

c. guidelines for supplementing the application with additional or updated information; and

d. an electronic or written notification when a decision is made on the application.

2. a. The application for a reprieve, commutation or pardon shall include a section allowing applicants to describe an urgent need for the reprieve, commutation or pardon. For the purposes of this section, an "urgent need" shall include, but not be limited to, a pending deportation proceeding or final deportation order, humanitarian concerns, health issues and the aging status of the applicant.

b. Applicants are permitted to update an application to indicate urgent need due to changed circumstances following the initial submission of the application.

3. The governor shall issue a decision on applications indicating urgent need within ninety days from the date the application is received. All other applications shall be granted or denied, or continued within one year from the date that the application is received. All applicants shall receive written notification of any such action taken on the application. Continued applications shall be left open to allow applicants to submit further supporting materials according to guidelines provided to the applicant by the governor.

§ 4. Section 17 of the executive law, as added by chapter 545 of the laws of 1971, is amended to read as follows:

§ 17. Governor to [~~communicate annually to legislature, reprieves, commutations and pardons. He must annually communicate to the legislature, each case of reprieve, commutation or pardon; stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve~~] submit reports to the legislature on a quarterly basis regarding reprieves, commutations and pardons. 1. The governor shall submit a report to the legislature on a quarterly basis regarding reprieves, commutations and pardons.

2. Such report shall include:

a. The number of applications for reprieves, commutations and pardons submitted pursuant to section fifteen-a of this article; and

b. If a reprieve, commutation or pardon was granted: (i) the date of the commutation, pardon or reprieve; and (ii) the age, gender, race and ethnicity of the approved applicant; or

c. If a reprieve, commutation or pardon was denied, the age, gender, race and ethnicity of the denied applicant.

3. Such reports shall not include any personally identifiable information about applicants.

4. The reports required by this section shall be published on a publicly accessible website.

§ 5. This act shall take effect on the sixtieth day after it shall have become a law and shall apply to applications for reprieves, commutations and pardons received before, on or after the effective date of this act. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.