

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No.: (775) 684-6600



LEGISLATIVE COMMISSION (775) 684-6800
MARILYN K. KIRKPATRICK, *Assemblywoman, Chairman*
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
DEBBIE SMITH, *Senator, Chairman*
Mark Krmpotic, *Fiscal Analyst*
Cindy Jones, *Fiscal Analyst*

RICK COMBS, *Director*
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-6815
DONALD O. WILLIAMS, *Research Director* (775) 684-6825

MEMORANDUM

DATE: March 5, 2014
TO: Senator Tick Segerblom
FROM: Melinda Martini, Principal Research Analyst 
Research Division
SUBJECT: **Commutation Boards**

You requested information concerning commutation boards in Nevada and other states. In researching your request, I communicated with Alison Lawrence, National Conference of State Legislatures (NCSL). Ms. Lawrence has a wealth of information on the topic of pardoning and commutation policies across the states. If you are interested in having a presentation concerning such policies before the Advisory Commission on the Administration of Justice, Ms. Lawrence indicated that she would be happy to make such a presentation and could tailor the presentation to meet your specific interests. I have attached Ms. Lawrence's NCSL profile and contact information under Attachment I.

NOTE: Ms. Lawrence is also knowledgeable of the recent reforms made in the State of Colorado to reduce prison sentences for certain drug related offenses, as well as the status of discussions in Colorado to commute the sentences of prisoners convicted of marijuana crimes. A summary of the reforms made in Colorado is provided at the end of this memorandum.

**PARDONS AND THE COMMUTATIONS OF SENTENCES IN
THE STATE OF NEVADA**

In Nevada, the Constitution (Article 5, Sections 13 and 14) provides for the Governor, justices of the Supreme Court, and the Attorney General to commute punishments, except for a sentence of death or a sentence of life imprisonment without the possibility of parole, which may not be commuted to a sentence that would allow parole (see Attachment II). These entities meet to make such decisions as the State Board of Pardons Commissioners (Board). In addition to commutations of sentences, the Board also considered pardons, remissions of fines, and restoration of civil rights.

Pursuant to Nevada Revised Statutes (NRS) 213.020, any person intending to apply to have a fine or forfeiture remitted, a punishment commuted, a pardon granted or his or her civil rights restored, must submit an application to the Board. Pursuant to NRS 213.010, the Board may meet semiannually or more often to consider such applications for clemency. I have included the provisions of NRS Chapter 213 relating to pardons, remission of fines and commutations of punishments under Attachment III of this memorandum.

Data relating to the various actions granted by the Board since 1996 are provided under Attachment IV. Throughout the report, you can see types of sentences that have been commuted by reviewing the information in the far right column.

PARDONS AND THE COMMUTATIONS OF SENTENCES IN OTHER STATES

The National Association of Criminal Defense Lawyers (NACDL) has partnered with Margaret Colgate Love on the Restoration of Rights Project. Ms. Love served as United States Pardon Attorney between 1990 and 1997, and currently represents applicants for presidential pardons and sentence commutations (see Attachment V). As part of the project, the characteristics of pardon authorities across the states have been compiled in a table (see Attachment VI).

Of particular interest is the information contained in the table concerning the determination of the frequency of grants of pardons by state. According to the information, in states where pardoning is characterized as "frequent and regular," there is a regular pardon process with a high percentage of applications granted (30 percent or more); where pardoning is "sparing," there is a regular process but a low grant rate; where pardons are infrequent, uneven, or rare, the table indicates numbers. The following lists the states by the frequency of grants:

Frequent and Regular (14 States): Alabama, Arkansas, Connecticut, Delaware, Georgia, Idaho, Illinois, Iowa, Nebraska, **Nevada**, Oklahoma, Pennsylvania, South Carolina, and South Dakota.

Sparing (9 States): Florida, Hawaii, Indiana, Maryland, Minnesota, Texas, Virginia, Washington, and Wyoming.

Infrequent, Uneven, or Rare (27 States, the District of Columbia, and the Federal Government): Alaska, Arizona, California, Colorado, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

**RECENT REFORMS IN COLORADO TO REDUCE PRISON SENTENCES FOR
CERTAIN DRUG RELATED OFFENSES**

According to information received from Ms. Lawrence (NCSL), the Colorado Legislature approved reforms in 2010 and 2011, which reduced prison sentences and provided for sealed records for certain drug related offenses. Under Attachment VII is an article written by Ms. Lawrence, which provides a short summary of the reforms. The following provides more detail for each reform:

In 2010, through the passage of House Bill 1352, the Colorado Legislature modified drug sentencing laws by lowering the sentences for many lower-level drug offenses by permitting prison diversion for some and decreasing prison lengths for others. Under Attachment VIII is a copy of H.B. 1352, its fiscal note, and a report entitled, *H.B. 10-1352 Savings Analysis Report: First Two Years of Implementation*, dated March 2013.

In 2011, the Colorado Legislature, through the passage of H.B. 1064, created "presumptive parole," which allowed certain inmates sentenced prior to the 2010 changes to be eligible for an earlier parole date (see Attachment IX). The 2011 Legislature also enacted H.B. 1167 permitting certain drug offenders to petition the sentencing court to have their records sealed (see Attachment X).

CONCLUDING THOUGHTS

I hope this memorandum provides you with information that may assist you in your efforts concerning commutation policies and boards. Because this request may be related to a future presentation before the Advisory Commission of the Administration of Justice, I have copied Nick Anthony, Senior Principal Deputy Legislative Counsel. If you have any questions, or desire additional information, please do not hesitate to contact me via e-mail or at 775-684-6825.

MM/lg:W140495

Enc.

cc: Nick Anthony, Senior Principal Deputy Legislative Counsel, Legal Division, LCB