

## State Clemency Provisions Vary Widely

Some person or nonjudicial body in every state has the power to pardon, parole, or reduce criminal sentences. In over half the states (including Illinois) the Governor can grant such clemency with few restrictions. But several other states restrict Governors' clemency powers; still others give the clemency power to a pardons board or other body rather than the Governor. Table 1 on pages 2 to 4 summarizes all states' clemency provisions.

Six states allow their Governors to grant clemency only if recommended by a pardons board or similar body. (A seventh, California, requires a recommendation by its Supreme Court for the pardon of any person convicted of two felonies.) Two other states require approval of any act of clemency by an elected advisory body to the Governor; and Florida requires approval by two members of the Governor's three-member cabinet. Eight states vest the power of clemency in most or all cases in a nonjudicial body such as a pardons board (which includes the Governor in some of those states). Rhode Island gives its Senate a veto over any exercise by the Governor of the "pardoning power."

Two other kinds of clemency provisions are significant. Three states require that, before any act of clemency, notice be given either to the general public or to the prosecutor, judge, and victim or victim's survivors. Sixteen

states require their Governors to report acts of clemency to the legislature; 14 of those require that the reports give reasons for such acts.

### *Illinois Provisions*

The Illinois Constitution's section on clemency says in full:

The Governor may grant reprieves, commutations and pardons, after conviction, for all offenses on such terms as he thinks proper. The manner of applying therefor may be regulated by law.

### *Rhode Island gives its Senate a veto over any exercise by the Governor of the "pardoning power."*

As authorized by that section, the Unified Code of Corrections establishes procedures for applying to the Prisoner Review Board for clemency, and for the Board to make recommendations about such applications to the Governor. Regarding possible commutation of a death sentence, it says:

Application for executive clemency under this Section may not be commenced on behalf of a person who has been sentenced to death without the written

consent of the defendant, unless the defendant, because of a mental or physical condition, is incapable of asserting his or her own claim.

However, another part of that section says:

Nothing in this Section shall be construed to limit the power of the Governor under the constitution to grant a reprieve, commutation of sentence, or pardon. □

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*This article is based on a Legislative Research Unit Research Response which is available to legislators and their staffs. A glossary of clemency-related terms is on p. 4 of this issue.*

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## Table 1: States' Restrictions on Executive Clemency

Note: Unless otherwise stated, each state's Governor has authority to grant clemency, except to persons who have been convicted of treason or impeached—subject only to procedural requirements imposed by statute.

<i>State</i>	<i>Has a death penalty</i>	<i>Must report reasons to legislature</i>	<i>Restrictions on granting clemency</i>
Alabama	<input type="checkbox"/>	<input type="checkbox"/>	Governor must await recommendation from board of pardons unless it fails to advise on application for 60 days.
Alaska	-	-	-
Arizona	<input type="checkbox"/>	-	Clemency power is subject to “restrictions and limitations” provided by law. A statute allows acts of clemency only if recommended by the pardons board.
Arkansas	<input type="checkbox"/>	<input type="checkbox"/>	-
California	<input type="checkbox"/>	<input type="checkbox"/>	State Supreme Court's recommendation is needed to pardon a person convicted of two felonies.
Colorado	<input type="checkbox"/>	<input type="checkbox"/>	-
Connecticut	<input type="checkbox"/>	-	A statute vests pardoning power in a board, not the Governor.
Delaware	<input type="checkbox"/>	<input type="checkbox"/>	Recommendation from pardons board, after a hearing, is required for clemency beyond a 6-month reprieve.
Florida	<input type="checkbox"/>	-	A pardon must have approval by two-thirds of cabinet.
Georgia	<input type="checkbox"/>	-	Pardoning power is in the pardons board, not the Governor. Legislature can prohibit or restrict the board's grant of pardons for repeat felonies punishable by life, or for a series of acts that resulted in consecutive life sentences.
Hawaii	-	-	-
Idaho	<input type="checkbox"/>	-	Clemency power is in the pardons board, not the Governor. Public notice must be given of impending pardons.
<b>Illinois</b>	<input type="checkbox"/>	-	-
Indiana	<input type="checkbox"/>	<input type="checkbox"/>	Legislature has constitutional authority to create a council whose consent would be needed for the Governor to grant some or all kinds of pardons (apparently not done).
Iowa	-	<input type="checkbox"/>	Governor's clemency power is “subject to such regulations as may be provided by law.”
Kansas	<input type="checkbox"/>	-	Governor's clemency power is subject to legislative restriction. A statute requires that the prosecutor, judge, and victim or victim's family get at least 30 days' notice of an application for clemency before it can be granted.
Kentucky	<input type="checkbox"/>	-	A list of reasons for a pardon must be open for public inspection.
Louisiana	<input type="checkbox"/>	-	Recommendation by pardons board is required for clemency.

Table 1: States' Restrictions on Executive Clemency (cont'd)

<i>State</i>	<i>Has a death penalty</i>	<i>Must report reasons to legislature</i>	<i>Restrictions on granting clemency</i>
Maine	-	-	-
Maryland	<input type="checkbox"/>	-	Must publish notice of application for a pardon before granting it. Must report reasons to either legislative house on its request.
Massachusetts	-	-	Governor may grant pardons “by and with the advice” of the elected Council. For felonies, legislature can prescribe terms and conditions on which pardons can be granted.
Michigan	-	<input type="checkbox"/>	Governor’s pardon power is subject to “procedures and regulations prescribed by law.”
Minnesota	-	-	Pardon power is in a board consisting of the Governor, Attorney General, and Chief Justice of Supreme Court.
Mississippi	<input type="checkbox"/>	-	No pardon for a felony may be granted until the felon has published a petition for pardon for 30 days in the county where the crime was committed, giving reasons.
Missouri	<input type="checkbox"/>	-	-
Montana	<input type="checkbox"/>	-	-
Nebraska	<input type="checkbox"/>	-	Clemency may be granted only by the Governor, Attorney General, and Secretary of State.
Nevada	<input type="checkbox"/>	-	Clemency may be granted only by majority vote of Governor, Attorney General, and Supreme Court justices. Without statutory authority, they may not commute a sentence of death or life without parole to one allowing parole.
New Hampshire	<input type="checkbox"/>	-	Consent of the elected Council is required.
New Jersey	<input type="checkbox"/>	-	-
New Mexico	<input type="checkbox"/>	-	Governor’s clemency power is subject to “such regulations as may be prescribed by law . . . .”
New York	<input type="checkbox"/>	-	Must report pardons to legislature; need not report reasons.
North Carolina	<input type="checkbox"/>	-	-
North Dakota	-	-	-
Ohio	<input type="checkbox"/>	<input type="checkbox"/>	-
Oklahoma	<input type="checkbox"/>	-	Clemency can be granted only if recommended by pardons board. Governor cannot parole persons sentenced to death, or to life with no parole. Pardon power is subject to legislative regulation. Legislature can require minimum mandatory imprisonment for three-time felons. Must report pardons to legislature; need not report reasons.

Table 1: States' Restrictions on Executive Clemency (cont'd)

<i>State</i>	<i>Has a death penalty</i>	<i>Must report reasons to legislature</i>	<i>Restrictions on granting clemency</i>
Oregon	<input type="checkbox"/>	<input type="checkbox"/>	Governor's clemency power is subject to regulation by law. Law requires application for clemency to be served on district attorney and other officials, after which Governor must wait 30 days before granting application.
Pennsylvania	<input type="checkbox"/>	-	Clemency can be granted only if recommended by pardons board (in case of sentences of death or life imprisonment, only on its unanimous recommendation after notice and an open hearing).
Rhode Island	-	-	Governor's exercise of the "pardoning power" (not defined) is subject to the Senate's advice and consent.
South Carolina	<input type="checkbox"/>	-	By constitution, the Governor can grant reprieves and can commute death sentences to life in prison. All other clemency is as provided by law (which vests those powers in a board). Governor must report reasons for not adopting the board's recommendations.
South Dakota	<input type="checkbox"/>	-	-
Tennessee	<input type="checkbox"/>	-	-
Texas	<input type="checkbox"/>	-	Governor may exercise clemency only as recommended by pardons board.
Utah	<input type="checkbox"/>	-	Clemency power is in a board rather than the Governor.
Vermont	-	-	-
Virginia	<input type="checkbox"/>	<input type="checkbox"/>	-
Washington	<input type="checkbox"/>	-	Governor's "pardoning" power is subject to "such regulations and restrictions as may be prescribed by law."
West Virginia	-	<input type="checkbox"/>	-
Wisconsin	-	<input type="checkbox"/>	-
Wyoming	<input type="checkbox"/>	<input type="checkbox"/>	-

**Glossary**

Terms often used in the context of clemency are explained below.

**Clemency:** A general term for any nonjudicial action reducing or nullifying the penalties imposed for a criminal act.

**Commutation:** A reduction in a death sentence, usually to life in prison with or without possibility of parole.

**Pardon:** The nonjudicial nullification of a conviction, and/or of the punishments resulting from it. Under Illinois law, a person receiving a pardon from the Governor, which states that it is issued because the person is innocent, can seek compensation in the Court of Claims for time unjustly spent in prison.

**Reprieve:** Postponement of a punishment (usually execution of a death sentence).

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## Abstracts of Reports Required to be Filed with General Assembly

The Legislative Research Unit staff is required to prepare abstracts of reports required to be filed with the General Assembly. Legislators may receive copies of entire reports by sending the enclosed form to the State Government Report Distribution Center at the Illinois State Library. Abstracts are published quarterly. Legislators who wish to receive them more often may contact the executive director.

### **Aging, Human Services, Public Health, and Public Aid Depts.**

*Annual report on services for minority senior citizens, FY 2001*

Profiles Illinois' minority elderly and describes state programs for them in FY 2001. Department on Aging provided services under the Older Americans Act to 499,627 persons aged 55 or older. Of those, 69.0% were non-Hispanic white, 26.4% black, 2.7% Hispanic, and 1.8% Asian. Department of Human Services provided money and/or medical assistance to 194,583 seniors, of whom 48.5% were non-Hispanic white, 33.3% black, 10.6% Hispanic, and 7.3% Asian. Department of Public Aid provided \$2.44 billion of services to seniors under medicaid; 32% went to minorities. In 2000 Illinois had 1,500,025 persons 65 or older, of whom 83.8% were non-Hispanic white, 10.4% black, 3.3% Hispanic, and 1.7% Asian. (20 ILCS 105/4.06; Oct. 2002, 39 pp.)

### **Central Management Service**

*Recycling & recycled paper procurement update, FY 2001*

The I-CYCLE program of wastepaper collection and recycling in state offices has 228 sites and 40,240 employees participating. It collected 1,976 tons of paper and cardboard, getting \$77,151 (plus \$22,672 pending) in FY 2001. The state bought \$6.7 million worth of paper and \$2.0 million worth of envelopes; 35% of the paper and 48% of the envelopes had been recycled. (415 ILCS 20/3(j); undated, rec'd Oct. 2002, 7 pp.)

*Business Enterprise Program annual report, FY 2001*

State agencies and universities awarded over \$406 million in contracts to businesses under the Business Enterprise Program for Minorities, Females, and Persons with Disabilities, surpassing its goal of \$351 million. Minority-owned businesses received \$183 million (45%) in state contracts, non-minority women-owned businesses received \$178 million (44%), and disability-owned businesses received \$45 million (11%). Total value of the contracts under this program rose \$39 million since FY 2000. Also lists individual agencies' and universities' goals, and value and number of contracts to firms under the program. (30 ILCS 575/8f; March 2002, 31 pp.)

### **Comprehensive Health Insurance Plan (CHIP)**

*Annual report, 2001*

The "traditional" CHIP program resumed enrolling persons in April 2001 due to a \$10 million appropriation, eliminating the waiting list until April 2002. Enrollment at the end of calendar year 2001 was 5,602; the limit was 5,700. Annual premiums averaged \$4,207.

HIPAA-CHIP (a separate program necessitated by a 1996 federal law) cannot have a waiting list. At the end of calendar 2001, it covered 6,220 people, up 30% since the end of 2000. Annual premiums averaged \$4,696.

The "traditional" CHIP program received \$22.8 million in premiums and

\$4.7 million in investment income, and had \$41.7 million in expenses, leaving \$14.2 million to be paid by appropriation. The HIPAA-CHIP program had \$27.5 million in total income and \$41.8 million in expenses, leaving a \$14.3 million deficit. (215 ILCS 105/3; Sept. 2002, 30 pp.)

### **Corrections Dept.**

*Adult and juvenile facilities quarterly report, April-June 2002*

Early retirement will cause difficulties due to reduced staff. DOC had 42,962 residents in adult institutions on May 31, 2002 vs. rated capacity of 33,274. Adult population was projected at 45,778 by June 2003. Educational or vocational programs enrolled 12,547 adults. Juvenile institutions had 1,761 residents, just over 1,758 rated capacity. (730 ILCS 5/3-5-3.1; July 2002, 24 pp.)

*Statistical Presentation, 2001*

The adult prison population declined 2.1% to 44,348 in 2001, attributed to an increase in percentage of sentences for lower classes of offenses. Although the prison population dropped in 2001, it has risen 40% since 1992. An additional 28,797 ex-prisoners are on Mandatory Supervised Release. The increase in the last decade is primarily due to murder, Class X, and Class 1 sentences imposed since determinate sentencing began in 1978. Adult prison population was 28.3% over rated capacity in 2001, and is expected to rise again as more long-term sentences take effect. Most prisoners are violent offenders. (730 ILCS 5/5-5-4.3; Nov. 2002, 120 pp.)

### **Human Services Dept.**

*Inspector General's report on domestic abuse of adults with disabilities, FY 2002*

The Inspector General received 376 complaints of domestic abuse, neglect, or exploitation. Among the 340

(continued on p. 7)

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# Biographies of Appointed Legislators

Several new legislators have been appointed since the beginning of the 93rd General Assembly to replace those who resigned or have died. Biographical sketches of them are below.

## New Senators



**Pamela Althoff (R-32, Crystal Lake)** was appointed to replace Senator Dick Klemm, who resigned. She has been mayor of the city of McHenry since 2001. She has also been an elementary school teacher and McHenry County Clerk and Collector, and has been active in the McHenry Area Chamber of Commerce and other local organizations. She has a bachelor's degree in education from Illinois State University and a master's in education from Northeastern Illinois University. In the Senate she serves on the Committees on Local Government and State Government.



**Mattie Hunter (D-3, Chicago)** replaced Senator Margaret Smith, who resigned due to illness. She has a bachelor's degree in government from Monmouth College, and a master's degree in sociology from Jackson State University in Mississippi. From 1982 to 2000 she worked at the Human Resources Development Institute, including serving from 1994 to 1996 as managing director of the Center for Health and Human Services in Johannesburg, South Africa and speaking at conferences in that country on alcohol and drug abuse. More recently she has been the Chicago Department of Human Services' director for the Chicago Housing Authority Service Connector program. She is the vice-chairperson of the Senate Health & Human Services Committee, and a member of the Local Government and State Government Committees.



**Kathleen L. "Kay" Wojcik (R-28, Schaumburg)** was appointed to fill the seat of Senator Doris Karpziel, who joined the Pollution Control Board. She had served in the House since 1983. In the Senate she is Republican Spokesperson on the Labor & Commerce Committee, and a member of the Health & Human Services and Intergovernmental Cooperation Committees. She is a licensed real estate broker, and former Schaumburg Township Clerk.

## New Representatives



**Paul D. Froehlich (R-56, Schaumburg)** was appointed to replace Representative Wojcik after she moved to the Senate. He has a bachelor's degree in political science and a master's degree in history. He has been a high school social studies teacher; a member of the District 54 school board; a township school trustee; and a township assessor. He has worked in the Secretary of State's Police on identity theft and fraud, and served on the Illinois State Crime Commission. His legislative committees are Appropriations—Public Safety; Housing & Urban Development; Judiciary I—Civil Law; Local Government; and the special committee on Developmental Disabilities & Mental Illness.



**Ruth Munson (R-43, Elgin)** was appointed to replace the late Representative Douglas Hoeft. She founded EveryWare Inc., a software development firm in Elgin, in 1987 and has been a member of the Elgin City Council since 1999. She is also a member of the board of the Elgin Area Chamber of Commerce and chairs its Government Relations Committee, and is active in the Hispanic Network among other organizations. She has a bachelor's degree in political science from Northern Illinois University. Her legislative committees are Appropriations—Human Services, Computer Technology, Health Care Availability & Access, Housing & Urban Development, and Tourism.



**JoAnn D. Osmond (R-61, Antioch)** was appointed to the seat of her late husband, Representative Timothy Osmond. She has been a legislative aide to Representatives Robert Churchill and Sidney Mathias, and is a licensed insurance broker and owner of Osmond Insurance Services Ltd. She serves on the House Committees on Appropriations—Public Safety; Elections & Campaign Reform; Insurance; Judiciary I—Civil Law; and Tourism.



**Patrick Verschoore (D-72, Moline)** replaced Representative Joel Brunsvold, who became Director of the Department of Natural Resources. He is a business development representative at the Quad City Bank & Trust Company in Moline. He has held several positions with the Plumbers & Pipefitters Local 25, including president, business manager/financial secretary, and fund administrator and trustee. He has also held positions with union councils in the area, and was Vice President of the Illinois Pipetrades Association for 8 years. His House committee assignments are to the Agriculture & Conservation, Appropriations—General Service, Computer Technology, and State Government Administration Committees.

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## Abstracts *(continued from p. 5)*

cases eligible under the law, 151 claims were of abuse, 153 were of neglect, and 36 were of exploitation. Abuse was substantiated in 42 cases, neglect in 24, and exploitation in 2. Lists offices to which reports were referred; discusses outcomes of 8 cases. (20 ILCS 2435/60; Sept. 2002, 12 pp.)

### **Intergovernmental Cooperation Commission**

*Federal funds to state agencies, FYs 2000-2002*

Lists and briefly describes receipts under each of about 350 federal programs, classified by recipient agency.

State agencies received \$10.65 billion from the U.S. in fiscal 2001, and expected to receive \$10.71 billion in fiscal 2002. (Local governments received about \$1.2 billion in fiscal 2001.) Appendices show totals by agency and program. Largest 2002 recipients were Departments of Public Aid (\$4.9 billion) and Human Services (\$1.4 billion); State Board of Education (\$1.3 billion); and Department of Transportation (\$1.1 billion). (25 ILCS 130/4-2; April 2002, 310 pp.)

### **State Employee Suggestion Award Board**

*Annual report, 2001*

The Board received 44 new suggestions and dismissed 63 (some from previous years) in 2001. It approved 23 certificates of merit, and implemented four suggestions for a combined first-year saving of \$40,700. Fifty suggestions await agency response. (20 ILCS 405/405-130(b); undated, rec'd July 2002, 2 pp.) □

## Adjournment Dates of Regular Legislative Sessions, 1998 to 2003

<i>Year</i>	<i>G.A.</i>	<u><i>Senate Adjournment</i></u>		<u><i>House Adjournment</i></u>	
		<i>Date</i>	<i>Time</i>	<i>Date</i>	<i>Time</i>
1998	90th	May 22	11:21 p.m.	May 23	1:52 a.m.
1999	91st	May 27	8:40 p.m.	May 27	6:34 p.m.
2000		April 15	7:40 p.m.	April 15	7:47 p.m.
2001	92nd	May 31	9:45 p.m.	May 31	12:00 midnight
2002		June 2	10:27 p.m.	June 2	11:16 p.m.
2003	93rd	?	?	?	?

Source: Compiled by Legislative Research Unit from Journals of the House and Senate for dates listed.

### FIRST READING

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Composition & Layout

None of the four Illinois Constitutions set a fixed legislative adjournment date. However, the 1870 Constitution established a fiscal biennium starting on July 1 and made that the earliest effective date for bills passed by a simple majority. In practice, this established June 30 as the latest date for adjourning a regular session. The 1970 Constitution originally provided that any bill passed after June 30 needed a three-fifths majority in each house to take effect before July 1 of the next year. A 1994 amendment to the 1970 Constitution changed the June 30 cutoff to May 31, encouraging earlier adjournment.

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